

vant, so to prove the Letter to *Dubois* to be the Bishop's Letter. Who is this to be fix'd upon? *Neynee* was gone; I don't know, unless upon the Committee of the House of Commons; for the Bishop's Letter was taken on his Servant the 26th of *February*, the Committee of the House of Commons made their Report on the 1st of *March*, and the Letter to *Dubois* had long before the 26th of *February*, been in Custody of that Committee. And yet while this Letter is in Custody of a Committee of the House of Commons, they will have it, here is an Impression taken off a broken Seal, and put on this other Letter, in order to shew that these are Letters of the same Person. Who can believe this to be the Case?

An Observation hath been made, that truly the Committee of the House of Commons have not made any Observation of this Kind, with Relation to this Letter to *Dubois*, that it is the Bishop's Letter, which is true; for they had not this Matter relating to the Identity of the Seals, under their Consideration; but this is a new Discovery made since: And therefore, my Lords, they apprehended, that this was a Letter directed to the Bishop by the Name of *Dubois*, it being found amongst his Papers; and nothing to the contrary did appear, 'till after they had made their Report. There are other Things your Lordships would have expected to have had an Account of in Answer to this Evidence. Here is a Letter found amongst my Lord Bishop's Papers, consequently so far we apprehend, this Evidence is a legal Evidence against the Bishop, as being a Letter found in his Custody: This Letter is directed to *Dubois*, and mentions the Hand of *Johnson*. Doth my Lord Bishop of *Rochester* give any Account who *Dubois* is? Who this *Johnson* is? How this Letter came there? No, my Lords, none at all. Doth his Lordship give you any Account of the Seal? And hath his Lordship said, that the Seal that seal'd the Letter taken on his Servant, he hath not? Or that the Letter was not seal'd with his Seal, or that he did not seal it himself? His Lordship did not say one Word to that Purpose, or make any Denial of the Matter, nor give your Lordships any Account who *Dubois* and *Johnson* were; nothing at all, but hath left it to your Lordships on that Foot? that the Letter to *Dubois* had an Impression taken off, after it was in the Custody of the Committee of the House of Commons, and that Im-

pression

pression made Use of on the other Letter; and that this is another Part of the Contrivance in order to charge my Lord Bishop of *Rocheſter* with being concern'd in this Conſpiracy.

As to the Seal's being the ſame on the two Letters, we humbly apprehend, the Evidence given on the other Side, hath ſtrengthened ours. We have produc'd two Engravers, one of them they own to be the top Engraver of *England*, Mr. *Chriſtian*; he gave your Lordſhips an Account, that he verily believ'd theſe two Impreſſions to be taken off from the ſame Seal. Mr. *Rollus* ſaid the ſame Thing, and that he had us'd the Art long, and could judge. They made no Endeavours on the other Side to try the Skill of Mr. *Chriſtian*; but as to Mr. *Rollus*, they hop'd they ſhould be able to puzzle him; and therefore have produc'd ſix ſeveral Impreſſions made on Wax by Seals to try his Art; and after he had look'd upon them, he gives you ſuch an Account, that I believe your Lordſhips are ſatisfied that he is a Man of Skill and Art, and that if theſe Impreſſions had been taken off, as they would inſinuate they were, he muſt have diſcover'd it. My Lords, here is an Artiſt brought to make this Experiment on *Rollus*, to try his Skill; yet notwithſtanding all the Art hath been made Uſe of in the Caſe, that could be, the Man was able not only to diſtinguiſh how many Seals the Impreſſions were made with, but alſo to give an Account that they were caſt Seals, and not grav'd Seals, that made thoſe Impreſſions. This will have ſuch a Weight with your Lordſhips, that we hope your Lordſhips will believe his Evidence is true; and if it is true, what Answer hath been given it, your Lordſhips have heard. Whether therefore any ſatisfactory Answer hath been given to an Evidence ſo ſtrong and convincing, of *Johnſon's* being employ'd in writing Letters for the Biſhop of *Rocheſter*, we muſt ſubmit to your Lordſhips.

The next Evidence they went upon, was in Relation to the Dog: Say they, we will ſhew that this Dog was not for the Biſhop of *Rocheſter*, or any other Perſon but Mrs. *Barnes*. As to that, I beg Leave to remind your Lordſhips of the Evidence given by Mrs. *Barnes*, that Mr. *Kelly* told her, it was for the Biſhop of *Rocheſter*. It is a little improbable, if the Dog had been for Mrs. *Barnes*, that he ſhould come and deliver it to her, and tell her 'tis for the Biſhop of *Rocheſter*. But it appears by Mrs. *Barnes*, that another Dog was deſign'd for her, and

and that this Dog was for the Bishop of *Rocheſter*. They have read in Evidence a Certificate, ſign'd by Mr. *Birmingham*, and likewise an Affidavit, that there was in the Month of *March* a Dog deliver'd to *Kelly* in *France*, for Mrs. *Barnes*. That, my Lords, muſt be another Dog, and not this, which we ſay was for the Bishop of *Rocheſter*; for this was not deliver'd to Mr. *Kelly* in *France*, but was ſent over to him after he was in *England*, as appears by the Letters; and after he had receiv'd it, he writes, that he would inform Mr. *Jones* ſoon of it, to whom any thing from that Quarter would be very acceptable. So that, if there was another Dog, and by Mr. *Kelly* deſign'd for Mrs. *Barnes*, we humbly apprehend it cannot be applied to this; for this Dog was deſign'd for Mr. *Jones*, and Mrs. *Barnes* ſays, that is the Bishop of *Rocheſter*.

The next Evidence given by them is in Relation to the Letters of the 20th of *April*. They have endeavour'd to prove that, as to my Lord Bishop of *Rocheſter*, it is impoſſible that theſe Letters could be written or dictated by him. He came to Town the 11th, and went to *Bromley* again the 12th of *April*; he had a Fit of the Gout ſoon after; had Servants that conſtantly attended him, more than one; and theſe Servants give an Account, that no Perſon whatſoever came near him, or could be employ'd by him to write thoſe Letters.

I beg Leave to obſerve, firſt, that as to the applying their Evidence to the writing of thoſe Letters on the 20th of *April*, it is very poſſible that the Letters were writ on another Day than when they bear Date: Therefore if they prove, that it was impoſſible that theſe Letters ſhould be writ or dictated by the Bishop of *Rocheſter* on the Day they bear Date, yet they might be writ on another Day, and it is very probable they were. Your Lordſhips will obſerve, that theſe Letters are in Cyphers; and, I believe, where a Perſon dictates a Letter to another, he doth not reduce the Letter into Cyphers as it is dictated, but he firſt writes it out in Words at length, and afterwards puts it into Cyphers, and when it is proper to ſend it, then is the Time to date it; and if it be left with the Perſon that puts it into Cyphers, to ſend, as probably it was in this Caſe, it is left to him to date it when he pleaſeth: So that if they ſhould have ſhewn, that upon the 20th of *April* the Bishop was incapable of dictating or writing, it is

no conclusive Answer to the Charge against the Bishop as to these Letters. Your Lordships will please to observe, that upon the 11th of *April* the Bishop of *Rocheſter* came to Town, and on the 12th he went into the Country; notwithstanding what they have attempted to prove as to the Times that *Kelly* was in Town, and the Bishop was in the Country, yet upon the 11th and 12th they were both in Town; for *Kelly* came to Town from *France* the 11th, and the Bishop came to Town the 11th, from *Bromley*. When the Servants came to be examin'd what Time of the Day the Bishop came to Town on the 11th, they could not give any Account of that; when they were asked, What Time of Day it was when he went out of Town on the 12th, they could give no Account of that. There hath been no Account given to your Lordships, who was with the Bishop of *Rocheſter* the 11th and 12th, when he was in Town, or where my Lord Bishop was at that Time: So that, my Lords, it is poſſible from theſe Circumſtances, that theſe Letters might be writ when the Bishop was in Town, and *Kelly* was in Town. But ſuppoſe it ſhould not be ſo; the Queſtion is, Whether they could not be writ at *Bromley*. On the 12th of *April* Mr. *Kelly* was at Mrs. *Barnes's*, he did not lie at Home that Night; on the 13th he did not lie at Home; on the 14th he came, and went to his old Lodgings at Mrs. *Kilburne's*. Theſe two Nights it doth not appear where he was; he might have been at *Bromley*, it is but an Hour's Ride. As to the Servants, ſay they, they ſhould have remember'd his ſetting up his Horſe; — He might ſet up his Horſe at an Inn, and go privately to my Lord Bishop. Notwithſtanding my Lord Bishop was ill, and though he ſhould have proved that after he was ſo, he did not nor could admit of Company, yet we ſubmit it to your Lordships, that it is no Answer; for he was not very bad 'till he had been in the Country two or three Days, and theſe Letters might be dictated or written in thoſe two or three Days before he was ſo ill. I beg Leave to obſerve, what the Servants have ſworn. Here is *Grant*, that is my Lord's Butler, he ſays, that my Lord Bishop went the 11th of *April* to *Bromley*, and he attended him there 'till the 11th, and on the 11th he was ſent to Town upon ſome Matters relating to the *Weſtminſter* Election; and another Servant about him gives an Account, that two or three Days after my Lord Bishop came down, he was taken ſo ill in his Hands

Hands and Feet, as not to be able to help himself. — These are two or three Days beyond the Time that *Kelly* was out of his Lodging, which was the 12th and 13th (and these two or three Days must be the 14th and 15th) it may be my Lord Bishop was so disabled, indeed, as he says: He says he is almost certain that no Stranger was with the Bishop; but, he says, the Apothecary or the Minister might be with him in his Illness, though he did not see them himself. If it is possible for the Apothecary and the Minister to be with him, and he not see them, why is it not as possible that Mr. *Kelly* might be there, and he not see him there?

The next Witness that is called, only speaks to the 18th and 19th; when *Grant* came to the Election another Servant was sent for, and he went, and he says my Lord Bishop was very ill. *Samuel Steele* gives an Account of my Lord Bishop's Illness, and his attending him. They have brought all the Servants of the House, the very Stable Boy, to prove that my Lord Bishop could not see any Body without their Knowledge; even the Nurse that attended his Lady when she was dying. The Servants that were waiting upon his Lady swear, that it was impossible any Body could come to my Lord Bishop, and they not know it; and they are as positive in Relation to any Body's coming to my Lord Bishop, as the Servants that immediately attended him. But there is a Matter which we shall offer in Evidence, that intirely destroys this Evidence of my Lord Bishop's being so ill, that he could not move Hand or Foot, and of his not being in a Capacity of dictating Letters: That he did actually send a Letter the 21st of *April* to a Person in Town; and this very *Grant*, that hath given this Account to your Lordships, brought up the Letter to Town on the 21st of *April*. We have this to give your Lordships in Evidence; then what is the Evidence of all those Servants, who swear, that it is impossible these Letters should be writ on the 20th of *April*, and that no Body was admitted to come to him, in order to write these Letters?

My Lords, as to the Evidence that hath been given, in Relation to *Kelly's* Hand-writing, they have called Witnesses to disprove the Evidence on our Side, who, looking upon the Letter of the 20th of *August*, swear they do not believe it to be *Kelly's* Hand-writing. Our

Witnesses do believe it; their Witnesses do not believe it to be his Hand writing, and say, that it is not like it. There are several Letters shown them, tho' in a less Hand, that are agreed to be *Kelly's* Hand-writing; and your Lordships may judge, by looking on them, whether they are not of the same Hand with the Letter of the 20th of *August*: Besides, there are those Circumstances relating to the Hand-writing of *Mr. Kelly*, that put it beyond all Dispute that it is his Hand, and that is the Answer he hath received to those Letters which we charge to be written by him. We have traced him from Place to Place, where the Letters that came in answer to his Letters, were directed: To *Mr. Andrews* at the *Dog and Duck*, there *Kelly*, employ'd a Person to take them up, and they were deliver'd to him; and at *Barton's* Coffee-House *Kelly* took up the Letters that were directed thither, in answer to those Letters that were of his Hand-writing: So there is not only the Evidence of Witnesses, that knew his Hand, and believe it to be his Hand, but here is the Answer to them actually taken up by *Kelly* himself: And that we humbly apprehend is so strong an Evidence, joined with the other, that, when one or two Witnesses come and say, they do not believe it to be his Hand-writing, their Testimony shall not overthrow it.

My Lords, there is another Piece of Evidence given by them, relating to the Letters of the 20th of *April*, which were inclosed in a Packet sent to *Bologne*; the Packet is directed to *Mr. Alexander Gordon*, Banker at *Bologne*; they have produced a Certificate from *Bologne* upon Oath, wherein it is said, that he is no Banker, and denies that he received any Packet from *Kelly*, or that he knew him: This is a Certificate, and proved by a Person who believes it to be so. Your Lordships will please to observe, what this Paper is, and that it is brought here by a Person that knows nothing of its being sworn, but says, he is used to Transactions of this Kind, and he believes it to be a Certificate from *Bologne*. My Lords, we shall produce a Gentleman who was at *Bologne* at the Time that the printed Report and Appendix of the House of Commons came there, and he was at *Mr. Gordon's* House, when they were discoursing about this Matter; and what they then said, we humbly submit will be believed; for what they then said was spoken as of an indifferent Thing,
and

and they did not then see it could be of any Consequence to disguise the Truth. Mr. William Gordon, the Father, said, that he was at *Paris* when this Packet is supposed to have come; but Mr. Alexander Gordon, the Son, own'd, that he was at Home, and that this Packet came to him; but, said he, what was in it I know not, but I delivered it as is mentioned in the *Appendix*.

There is another Piece of Evidence they have given, with Relation to *James Talbot*, to whom the Packet was deliver'd at *Bologne*. Here is a Witness produced to prove, that he was in Town the 29th of *April* 1722, and he could not be mistaken, because he had paid him Money, and he had enter'd it in his Book. The Evidence goes no farther than to prove, that one *James Talbot*, that was a tall black Man, was then in Town; but it doth not appear, that this was the Person mentioned to have taken this Packet at *Bologne*, and carry'd it to *Paris*; so that their Proof, as to this Matter, is insufficient. But we shall shew your Lordships, from an Account we have here from Mr. *Crawford*, his Majesty's Resident at *Paris*, that this *James Talbot* came to *Paris* that very Day as he is mentioned to have brought those Letters to *Paris*, and was actually there at that Time; and that we humbly apprehend will be a full Answer to them, and take away any Ground of Supposition, that the Evidence they have given concerning *James Talbot*, can be apply'd to that *James Talbot* who received the Packet at *Bologne*.

As to the Evidence relating to Mr. *Kelly*'s being in Town the 20th of *April*, we humbly apprehend from what has been said, it is not material whether he was there or not; but they have not proved it, for Mrs. *Kilburne* and her Maid, the two Witnesses produced by them for this Purpose, say, that he came to Mrs. *Kilburne*'s House the latter End of *April*, they believe the 20th, but they are not positive as to the Day. If he had been at Mrs. *Kilburne*'s the 20th of *April*, it is no Answer at all to our Evidence, and the strong Circumstances there are to induce a Belief, that the Letters might be dated at another Time than really they were written.

My Lords, another Evidence is Mr. *Pope*, a Gentleman of Learning, with whom my Lord Bishop of *Rocheſter* used to converse; and he gives you an Account, that he knew nothing of this Conspiracy; that the

Bishop

' Bishop never open'd his Mouth to him about it, nor
' acquainted him with it; that he was frequently with
' him, and their Discourse was only about Matters of
' Literature No doubt my Lord Bishop hath conversed with Persons on different Subjects, to whom he would communicate nothing of an Affair of this Nature.

Upon the whole Matter, we must submit it to your Lordships, whether we have not made out the Charge against my Lord Bishop of *Rocheſter* to your Lordships Satisfaction, if not by legal Evidence, yet by Evidence that will satisfy and convince any Person that will consider it. My Lords, a great deal of Regard is due to the Character and Function of the Reverend Prelate at the Bar; but if my Lord Bishop of *Rocheſter* hath departed from his Character and Function, and hath gone and engaged in a traiterous Conspiracy, and been guilty of Treason towards his King, and Perjury towards his God, we humbly apprehend, if this be proved, that his Character and Function are so far from being a Mitigation, that they are a great Aggravation of his Crime. We shall submit it to your Lordships to do what your Lordship's think consistent with Justice and Equity.

Mr. *Reeves* having thus made an End of his Reply, Mr. *Wearg*, the other Counsel for the Bill, made a long Speech on the same Side; but what was most remarkable in this Day's Proceeding, was this; the Bishop of *Rocheſter* and his Counsel, having much insisted, and endeavour'd to prove, that he did not dictate the treasonable Letters in Question, because at the Time they were supposed to be written, and for some Time, both before and after, he was disabled in his Chamber; Dr. *John Wyene*, Bishop of *St. Asaph*, acquainted the House, that at that very Juncture of Time he had received a Letter from the Bishop of *Rocheſter*, and of his own Hand-writing. This voluntary Evidence of a Person of so venerable a Character, made a visible, but different Impression on the whole Assembly, and did no less spirit and glad the Bishop's Enemies, than abash and grieve his Friends: But the Bishop himself, conscious of his Innocence in this Respect, rather fir'd with Indignation than daunted by so unexpected a Charge, absolutely deny'd the Fact, challeng'd his Accuser to prove it, and offer'd to put the whole Trial upon that single Point.

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The Bishop of St. Asaph still affirm'd that he receiv'd a Letter which he took to be written by the Bishop of Rochester himself, from the Hands of one of his Servants, then at the Bar; but being somewhat perplex'd as to the Hour, and the Day; and at the same Time, contradicted by Grant, the Bishop of Rochester's Servant, the Prisoner, in an exulting Manner, press'd his Accuser to produce the Letter in Question: Which the other not being able to do, the Bishop of Rochester severely animadverted upon him, for being so forward to give such rash Evidence, and for endeavouring to fix Perjury upon a Man of his holy Function. This unlucky Affair being over, the Lords in a grand Committee, went through the Bill for inflicting Pains and Penalties on Francis Lord Bishop of Rochester; and about Ten a-Clock in the Evening, adjourn'd to Wednesday the 15th of May.

Their Lordships being then sat, the said Bill was read the third Time, and a Motion being made, that the Bill should pass? It occasion'd a very warm and long Debate. The Speakers for and against the Bill, were as follows, the Numerical Figures shewing the Order in which they spoke:

<i>Against the Bill.</i>	<i>For the Bill.</i>
1 Earl Poulet	2 Lord Bp. of Salisbury
3 Lord Bishop of Chester	4 Lord Bp. of London
5 Duke of Wharton	9 Earl of Finlater and Seafield
6 Lord Bathurst	10 Duke of Argyle
7 Earl of Strafford	12 Lord Lechmere
8 Lord Trevor	14 Earl of Peterborough
11 Lord Gower	15 Earl of Cholmondeley.
13 Earl Cowper	

The Earl Poulet, who open'd the Debate, spoke to the Nature of this Bill, shew'd the Danger of such an extraordinary Proceeding, and urg'd, that the swerving from the fixed Rules of Evidence, and consequently from Justice, must inevitably be attended with the most fatal Consequences to our excellent Constitution. The Lord Bishop of Salisbury, in Answer to that, alledg'd, that as extraordinary Diseases require extraordinary Remedies, so in Cases of extream Danger and Necessity, when the very Being of the State lies at Stake, if the Common Law cannot reach great Offenders, the Legislature ought to exert itself. He was reply'd to by the Lord

Lord Bishop of *Chester*, who own'd, that extraordinary Proceedings may, indeed, be recurr'd to, upon extraordinary Occasions, and when they are evidently necessary for the Preservation of the State; but that was very far from the Present Case; since the Conspiracy, in which the Bishop of *Rocheſter* was charg'd to have had a Share, had been discover'd and disappointed long before. He was answer'd by the Lord Bishop of *London*, to whom the Duke of *Wharton* reply'd in a long Speech, wherein his Grace, with a great deal of Skill, Judgment, and Oratory, summ'd up the whole Evidence that had been produc'd against the Bishop of *Rocheſter*, and endeavour'd to shew the Insufficiency of it, to prove the Charge: Concluding, 'That let the Consequences be what they would, he would not have such a heli-
'lish Stainfully the Lustre and Glory of that illustrious
'House, as to condemn a Man without the least legal
'Evidence.' And so he was for rejecting the Bill. His Grace was strongly supported by the Lord *Bathurst*, who, in the first Place, took Notice of the ungracious Distinctions that were fix'd on the Members of that Noble and Illustrious Assembly; who dissend in Opinion from those who happen'd to have the Majority; that for his Part as he had nothing in View but Truth and Justice, the Good of his Country, the Honour of that House, and the Discharge of his own Conscience, he would freely speak his Thoughts, notwithstanding all Discouragements; That he would not complain of the sinister Arts that had been us'd of late to render some Persons obnoxious, and under Pretence of their being so, to open their Letters about their minutest domestick Affairs; For these small Grievances he could easily bear; but when he saw Things go so far, as to condemn a Person of the highest Dignity in the Church, in such an unprecedented Manner, and without any legal Evidence, he thought it his Duty to oppose a Proceeding so unjust and unwarrantable in itself, and so dangerous and dismal in its Consequences. To this Purpose, he begg'd Leave to tell their Lordships a Story he had from several Officers of undoubted Credit, that serv'd in *Flanders* in the late War. A *Frenchman*, it seems, had invented a Machine, which would not only kill more Men at once, than any yet in Use, but also disable for ever any Man that should be wounded by it. Big with Hopes of a great Reward, he apply'd to one of the Ministers who laid his Project before the late *French King*; but that

that Monarch considering that so destructive an Engine might soon be turn'd against his own Men, did not think proper to encourage it; whereupon the Inventor came over into *England*, and offer'd his Service to some of our Generals, who likewise rejected the Proposal with Indignation. The Use and Application of this Story, added his Lordship, is very obvious: For if this Way of Proceeding be admitted, it will certainly prove a very dangerous Engine: No Man's Life, Liberty, or Property will be safe: And if those who were in the Administration some Years ago, and who had as great a Share in the Affections of the People as any that came after them, had made Use of such a political Machine, some of those Noble Persons who now appear so zealous Promoters of this Bill, would not be in a Capacity to serve his Majesty at this Time. His Lordship added, that if such extraordinary Proceedings went on, he saw nothing remaining for him and others to do, but to retire to their Country Houses, and there, if possible, quietly enjoy their Estates within their own Families, since the least Correspondence, the least intercepted Letter, might be made criminal. To this Purpose his Lordship quoted a Passage out of Cardinal *de Retz's* Memoirs, relating to that wicked Politician, Cardinal *Mazarine*, who boasted, that if he had but two Lines of any Man's Writing, with a few Circumstances attested by Witnesses, he could cut off his Head when he pleas'd. His Lordship also shrewdly animadverted on the Majority of the venerable Bench, towards which, turning himself, he said, he could hardly account for the inveterate Hatred and Malice some Persons bore the learned and ingenious Bishop of *Rochester*, unless it was that they were intoxicated with the Infatuation of some of the wild *Indians*, who fondly believe they inherit not only the Spoils, but even the Abilities of any great Enemy they kill. The Earl of *Strafford* spoke on the same Side, as did also the Lord *Trevor*, who, among other Arguments against the Bill in Question, arg'd, That if Men were in this unprecedented Manner, proceeded against without legal Proof, in a short Time Men would be try'd as they were lik'd by Ministers: That for his own Part, he believ'd he stood but indifferently in the Opinion and Liking of some Persons, and therefore he had Reason to think himself more in Danger, because at present, they wanted the Protection of the Law, (meaning the Suspension of the *Habeas Corpus Act*)

and as in short Time, they were like to be so unhappy as to be depriv'd of his Majesty's personal Protection, and were still liable to be confin'd upon Suspicion, which he took to be no more than *Will and Pleasure*, they were consequently at the *Will and Pleasure* of the Ministers : That however, no Apprehension of what he might suffer, should deter him from doing what he thought his Duty ; that consonant to that Principle, he had all along, and still oppos'd these extraordinary Proceedings, which tended to lodge an exorbitant Power in their Fellow Subjects : That if he were to lose his Liberty, he had rather give it up to one single Tyrant, than to many : For a Tyrant, if a Man of common Understanding, would, for his own Sake, be tender of the Lives of his Subjects ; whereas many Tyrants would endeavour to destroy one another, to get one another's Preferments. The Lord *Trevor* having done speaking, the Earl of *Finlater* and *Seafield* took up the Cudgels on the Court Side, and endeavour'd to shew, that the Evidence that had been produc'd before them, being sufficient to convince any reasonable Man, that there had been a detestable Conspiracy, and that the Bishop of *Rochester* had a great Share in it, was likewise sufficient to justify this extraordinary Proceeding against him, especially since they inflicted on him so light a Punishment, considering the Heinousness of his Crime. The Duke of *Argyle* pursu'd the same Argument ; run through and confuted the most essential Parts of the Bishop's Defence ; and, with Vehemence, aggravated his Offence, by which he had debased his Holy Function and Character, and acted contrary to the solemn and repeated Oaths he had taken. The Lord *Gower* spoke afterwards against the Bill ; but what surpriz'd most People, the Lord *Lechmere*, who, on several Occasions, had express'd his Dislike of these extraordinary Proceedings, declar'd it as his Opinion, that there was sufficient Evidence to support the Charge. He was answer'd by Earl *Cropper*, in a long Speech, importing in Substance, That the strongest Argument which had been urg'd for this Bill, was Necessity ; but that for his Part, he saw no Necessity that could justify so unprecedented and so dangerous a Proceeding : That, as already had been suggested, the Conspiracy had above a Twelve-month before been happily discover'd, and the Effects of it consequently prevented : That besides the intrinsic Weight and Strength, of the Government, by the numerous

numerous Offices and Employments, Civil and Military, and the Wealth and Interest of the Well-affected to his Majesty's Person, and the present happy Establishment, the Hands of those at the Helm had still been fortify'd by the Suspension of the *Habeas Corpus* Act, and the additional Troops; so that in his Opinion, there could be no Danger to the Government, if *Plunket* and *Kelly* were not Prisoners for Life, nor the Bishop of *Rocheſter* sent into Banishment: That on the contrary, if that Prelate's Talent and Genius lay in contriving and carrying on State-Intrigues, he thought him less dangerous at Home than abroad: That the other Reasons alledg'd to support this extraordinary Proceeding, had no more Weight in them, than the first: That the known Rules of Evidence, as laid down at first, and establish'd by the Law of the Land, were the Birth-Right of every Subject of this Nation; and ought to be constantly observ'd, not only in the inferiour Courts of Judicature, but also in both Houses of Parliament, 'till alter'd by the Legislature; that much had been said of the Power of Parliaments, which he own'd was very great: But that, in his Opinion, their absolute Power consisted only in making and repealing Laws; and 'till such Time as a Law was repeal'd, every Subject had a Right to it.

That the admitting the precarious and uncertain Evidence of the Clerks of the Post-Office, was a very dangerous Precedent: That in former Times it was thought very grievous, that in Capital Cases, a Man should be affected by Similitude of Hands: But here the Case was much worse; since it was allow'd, that the Clerks of the Post-Office would carry the Similitude of Hands four Months in their Minds; that these Men might be honest, and swear to the best of their Knowledge; but he was sure, they were at least very willing and forward Evidence: For as he ask'd one of them, how he knew such a Paper to be Mr. *Kelly's* Hand? He readily answer'd, *He had seen the same four Months before, and he was sure it could be no other*: Whereas any Man, who has never so little been conversant in the World, knows that Hands may be so well counterfeited, as not to be distinguish'd. After this, his Lordship commended the Bishop of *Rocheſter's* noble and brave Carriage in not answering before the House of Commons, whose Proceeding in this unprecedented Manner, against a Lord of Parliament, was such an Incroachment on

the Prerogative of the Peerage, that if submitted to, by passing this Bill, they might well be said to be the last of Lords : *Ultimus Romanorum*, my Lords, (said his Lordship in the Conclusion) was a Character of Honour and Praise : But to be the last of *British* Peers, by giving up our ancient Privileges, will never, I doubt, admit of such Construction, and therefore I am for rejecting this Bill ! Little was said of any great Weight after this Speech ; and about half an Hour past Nine, the Question being put, it was resolved in the Affirmative, That the Bill should pass, by a Majority of 83 Voices against 43 ; upon which several Lords entered and signed the following Protestation, *viz.*

Dissentient

1. Because the Objection which we thought lay against the Bills of *Plunket* and *Kelly*, that the Commons were thereby let into an equal Share of Judicature with the Lords, does hold stronger, as we apprehend, against the present Bill, since, by Means of it, a Lord of Parliament is in Part try'd and adjudg'd to Punishment in the House of Commons, and reduced to a Necessity, either of letting his Accusation pass undefended in that House, or of appearing there, and, as we take it, derogating from his own Honour, and that of the Lords in general, by answering and making his Defence in the Lower House of Parliament.

2. Because we are of Opinion, that the Commons would be very far from yielding to the Lords, any Part of those Powers and Privileges, which are properly theirs by the Constitution, in any Form, or under any Pretext whatsoever. And it seems to us full as reasonable, that the Lords should be as tenacious of the Rights and Privileges which remain to them, as the Commons are on their Part.

3. We think this Bill against a Lord of Parliament, taking it's Rise in the House of Commons, ought the rather not to have received any Countenance in this House : For that, as it appeared to us by the printed Votes of the House of Commons, that House had voted the Bishop Guilty of all the Matters alledged against him in the Bill, before the Bill was brought into that House, and consequently before the Bishop had any Opportunity of being heard : And altho' there be nothing absurd in such a Vote, in order to their accusing by an Impeachment ; yet it seems to us absolutely contrary to Justice, which ought to be unprejudic'd, to vote any one Guilty
against

against whom they Design to proceed in their Legislative Capacity, or in the Nature of Judges, before the Party has an Opportunity to be heard, or the Bill, which is to ascertain the Accusation, is so much as brought in.

4. We are of Opinion, that no Law ought to be passed on purpose to enact, that any one be Guilty in Law, and punished as such, but where such an extraordinary Proceeding is evidently necessary for the Preservation of the State: Whereas the Crime offered to be proved against the Bishop of *Rockester* is, as we conceive, his partaking in a traiterous Conspiracy against the Government; which Conspiracy, by God's Blessing, is detected, and, as we hope, disappointed, without the Aid of such a dangerous Proceeding, as we conceive this to be.

5. Because there are certain known and established Rules of Evidence, which are Part of the Law of the Land, either introduced by Acts of Parliament, or framed by Reason and the Experience of Ages, adjusted as well for the Defence of the Life, Liberty, and Property of the Innocent Subject, as the Punishment of the Guilty; and therefore these Rules are, or ought to be, constantly adhered to, in all Courts of Justice; and, as we conceive, should be also observed, 'till altered by Law in both Houses of Parliament, whenever they Try, Judge, and Punish the Subject, tho' in their Legislative Capacity. But since, in many Instances, in this and the two other Proceedings by Bill, we have been taught, by the Opinion of the House, that these Rules of Evidence need not be observed by the Houses acting in their Legislative Capacity; we clearly take it to be a very strong Objection to this Manner of Proceeding, that Rules of Law, made for the Security of the Subject, are of no Use to him in it; and that the Conclusion from hence is very strong, that therefore it ought not to be taken up, but where clearly necessary, as before affirmed: And we do desire to explain our selves so far upon the Cases of Necessity excepted, as to say, we do not intend to include a Necessity arising purely from an Impossibility of convicting any other Way.

6. If it be admitted, that traiterous Correspondencies in Cypher and Cant-Words may, to a Degree, be discouraged by this Sort of Proceeding, in which Persons, as we think, are convicted on a more uncertain Evidence than the known Rules of Law admit of; yet we are of Opinion, that Convenient will be much more than out-

out-weigh'd by the Jealousy it must of Necessity, as we conceive, create in the Minds of many of his Majesty's most faithful Subjects, that their Lives, Liberties, and Properties are not so safe, after such repeated Examples, as they were before; and by the natural Consequence of this Apprehension, an Abatement of their Zeal for the Government may ensue, excepting such Persons as have had more than ordinary Opportunities of being well instructed in Principles of the utmost Duty and Loyalty.

7. We cannot be for the passing this Bill, because the Evidence produced to make good the Recital of it, or that the Lord Bishop of *Rochester* is guilty of the Matter he therein stands accused of, is, in our Opinions, greatly defective and insufficient, both in Law and Reason, to prove that Charge: The Evidence consisting altogether, to the best of our Observation, in Conjectures arising from Circumstances in the intercepted Letters, or in a Comparison of Hand-writings resting on Memory only. And there being, as we think, no Proof of the Bishop's knowing of, or being privy to, any of the said Correspondence; and as to the principal Part of the Charge against the Bishop, and on which, as we think, all the rest does depend, viz. the dictating of the Letters of the 20th of *April* 1722, which the House of Lords seem to have determined that *Kelly* wrote, we are of Opinion that the Bishop has, in his Defence, very clearly and fully proved, that he did not, nor possibly could, dictate those Letters, or the Substance of any Part thereof to *Kelly*, either on the Days of the Date, or at any Time during several Days before, or next after the Day of their Date, nor was in any Capacity to write them himself, tho' the Letters must have been wrote within that Compass of Time. And we are, upon the whole, of Opinion, that the Proof and Probability of the Lord Bishop of *Rochester's* Innocence, in the Matters he stood charged with, were much stronger than those of his Guilt.

Stratford,
Scarpsdale,
Denbigh,
Northampton,
Brace,
Salisbury,
Poulet,

Anglesey,
Aylesford,
Ashburnham,
Hay,
Foley,
Bathurst,
Osburn,

Masham,
Guilford,
Berkely de Str.
Powisret,
Middleton,
Willoughby de Br.
Cowper,
Montjoy,

<i>Montjoy,</i>	<i>Trevor,</i>	<i>Brook,</i>
<i>Fran. Cestrien.</i>	<i>Gower,</i>	<i>Hereford,</i>
<i>Dartmouth,</i>	<i>Uxbridge,</i>	<i>Bingley,</i>
<i>Cardigan,</i>	<i>Compton,</i>	<i>Stannell,</i>
<i>Litchfield,</i>	<i>Weslon,</i>	<i>Oxford,</i>
<i>Craven,</i>	<i>Arundel,</i>	<i>Exeter.</i>

The Duke of *Wharton* likewise entered the following Protest.

I Dissent for the 6th and 7th Reasons of the foregoing Protestation, and for the following Reasons.

1. Because this extraordinary Method of Proceeding by Bills of this Nature against Persons who do not withdraw from Justice, but are willing to undergo a legal Tryal, ought in my Opinion, to be supported by clear and convincing Evidence; and I apprehend there has been nothing offered to support the Allegations set forth in the Preamble of the *Bill to inflict Pains and Penalties on Francis Lord Bishop of Rochester*, but what depends on decypher'd Letters, forced Construtions, and improbable *Inuendo's*.

2. I conceive, that the Examination of *Philip Neynoe* taken before the Lords of the Council, not sworn to, nor sign'd, (which appears to me to be the Foundation on which the Charge against the Bishop of *Rochester* is built) has been, in my Apprehension, sufficiently proved, by the positive Oaths of three Persons, two of which have been for several Months in separate Custodies, confirmed by other Circumstances, to have been a false and malicious Contrivance of the said *Neynoe*, to save himself from the Hands of Justice, and to work the Destruction of the Bishop of *Rochester*.

3. I do not apprehend, that the Letters of the 20th of *April*, which are suggested to be wrote by *George Kelly*, alias *Johnson*, and dictated by the Bishop, have been sufficiently proved to be the Hand-writing of the said *Kelly*; but on the contrary it appears, to the best of my Judgment, that the Letter of the 20th of *August* (stop'd at the Post-Office, and from which the Clerks of the Post-Office, on their Memory only, swore they believed the said Letters of the 20th of *April*, to be the same Hand-writing, tho' they never compared two original Letters together during all that Time) has been proved by three credible Witnesses, concurring in every Circumstance of their Testimony, and well acquainted with the Hand-writing of the said *Kelly*, not to be his Hand-writing :

ing: And I conceive that the Difference they have observed in the Hand of the said *Kelly*, upon which they ground their Opinions, is sufficiently supported, by comparing the said Letter of the 20th of *August*, with the Letters wrote by the said *Kelly*, to the Lord *Townshend* and Mr. *De la Faye*, during the Time of his Confinement.

4. I do not apprehend, that any Proof has been offered to support what has been so much insisted on, and justly esteemed essential to the Charge, that the Bishop of *Rocheſter* dictated the Letters of the 20th of *April*; but it has appeared, I conceive, that there has been no Intimacy between the Bishop and the said *Kelly*, and the Testimony of the Bishop's Servants concurring with the Evidence given on that Head, by the Persons that *Kelly* lived in the strictest Correspondence with, leaves to the best of my Judgment, no Room to doubt, but that the Acquaintance between them was slender and publick; and to suggest from thence, that the Bishop dictated the Letters from of the 20th of *April*, when it appeared, that for many Days before he could not possibly see the said *Kelly*, is, in my Opinion, repugnant to Reason, and contrary to Justice.

Wharton.

The Substance of the *Bill to punish the Bishop of Rocheſter*, is as follows.

WHEREAS in the Years 1721 and 1722, a detestable and horrid Conspiracy was formed and carried on by divers Traitors, for invading your Majesty's Kingdoms with Foreign Forces, for raising an Insurrection and Rebellion again your Majesty, for seizing the Tower and City of *London*, and for laying violent Hands upon your Majesty's most Sacred Person, and upon his Royal Highness the Prince of *Wales*, in order to subvert our present happy Establishment in Church and State, by placing a Popish Pretender on your Throne: And whereas, for the better concealing and effecting the said Conspiracy, divers treasonable Correspondencies were, within the Time aforesaid, carried on by Letters written in Cyphers, Cant-Words, and fictitious Names; which Conspiracy, had it not been disappointed by the Goodness of Almighty God, would have deprived your Majesty's Kingdoms of the Enjoyment of their Religion, Laws, and Liberties, involved them in Blood and Ruin, and subjected your People, to the Bondage and Oppression of *Romish* Superstition and Arbitrary Power: For which execrable Treason, *Christopher Layer* has been indicted

indicted, tried, convicted, and attained. And whereas *Francis* Lord Bishop of *Rocheſter*, notwithstanding the many ſolemn Affurances by him given of his Faith and Allegiance to your Maſteſty, by taking the Oaths by Law appointed to be taken, inſtead of the Oaths of Allegiance and Supremacy; which Oaths he had likewiſe taken at ſundry Times, during the reſpective Reigns of their Maſteſties King *William* and Queen *Mary*, and of her late Maſteſty Queen *Anne*; and notwithstanding he had frequently abjured the Pretender, hath, in direct Violation of his ſaid repeated Oaths and Obligations, and to the great Scandal of Religion, and his holy Function, been deeply concern'd in forming, directing, and carrying on the ſaid wicked and deteſtable Conſpiracy, and hath been a principal Actor therein, by traiterouſly correſponding with divers Perſons, to raiſe an Inſurrection and Rebellion againſt your Maſteſty, within this Kingdom, and to procure a foreign Force to invade the ſame, in order to depoſe your Maſteſty, and place the Pretender on your Throne; and by traiterouſly correſponding with the ſaid Pretender, and Perſons employ'd by him, knowing them to be ſo employ'd: Therefore to maniſeſt our juſt Abhorrence of ſo wicked and abominable a Conſpiracy, and our Zeal and tender Regard for the Preſervation of your Maſteſty's Perſon and Government, and of the Proteſtant Succeſſion in your Maſteſty's Royal Family, the ſolid Foundations of our preſent Happineſs and future Hopes; and to the End that no Conſpirators may, by any ſubtle Contrivance or Practice whatſoever, eſcape Punishment, and that all others may, by the Juſtice of Parliament, be for ever hereafter deterr'd from engaging in any traiterous Conſpiracies or Attempts: We your Maſteſty's moſt dutiful and loyal Subjects, the Lords Spiritual and Temporal, and Commons in Parliament aſſembled, do humbly beſeech your Maſteſty, that it may be enacted; and be it enacted, &c. That the ſaid *Francis* Lord Bishop of *Rocheſter*, from and after the 1ſt Day of *June*, in the Year of our Lord 1723, ſhall be and is hereby depriv'd of all and ſingular his Offices, Dignities, Promotions, and Benefices Eccleſiaſtical whatſoever, and that the ſame, and every of them, ſhall from thenceforth be actually void, as if he were naturally dead; and that the ſaid *Francis* Lord Bishop of *Rocheſter* ſhall from thenceforth for ever be diſabled, and render'd incapable of and from taking, holding, or enjoying any

Office, Dignity, Promotion, Benefice, or Employment within this Realm, or any other his Majesty's Dominions; and also of and from using or exercising any Office, Function, Authority, or Power Ecclesiastical or Spiritual whatsoever, and shall and do suffer perpetual Exile, and be for ever banished this Realm, and all other his Majesty's Dominions, and shall depart out of the same on or before the 25th Day of *June*, in the Year 1723. And that if the said *Francis* Lord Bishop of *Rochester* shall return into, or be found within this Realm, or any other his Majesty's Dominions, at any Time after the said 25th Day of *June*, 1723, he, the said *Francis* Lord Bishop of *Rochester*, being thereof lawfully convicted, shall be adjudg'd guilty of Felony, and shall suffer and forfeit as in Cases of Felony, without Benefit of Clergy, and shall be utterly incapable of any Pardon from his Majesty, his Heirs or Successors.

And be it further enacted, that all Persons, who shall, from and after the said Five and Twentieth Day of *June*, 1723, be aiding and assisting to the Return of the said *Francis* Lord Bishop of *Rochester* into this Realm, or any other of his Majesty's Dominions, or shall harbour or conceal him within the same or any of them, being thereof lawfully convicted, shall be adjudg'd guilty of Felony, and shall suffer and forfeit as in Cases of Felony, without Benefit of Clergy.

And be it farther enacted, That if any of the Subjects of his Majesty, his Heirs, or Successors, except such Persons as shall be licensed for that Purpose by his Majesty, his Heirs or Successors, under his or their Sign Manual, shall from and after the said 25th of *June*, 1723, within this Realm, or without, hold, entertain, or keep any Intelligence or Correspondence in Person, or by Letters, Messages or otherwise, with the said *Francis* Lord Bishop of *Rochester*, or with any Person or Persons employ'd by him, knowing such Person or Persons to be so employ'd, such Person so offending, being thereof lawfully convicted, shall be adjudg'd guilty of Felony, and shall suffer and forfeit as in Cases of Felony, without Benefit of Clergy.

And be it farther enacted, That if any Offence against this Act shall be committed out of this Realm, the same shall or may be alleged, laid, enquir'd of, and tried in any County within *Great Britain*.

Thus we have given a fuller Account than has yet been publish'd together, of the Proceedings against the late Bishop of Rochester; an Event of so great Importance, that we presume, we shall not be blamed for employing this whole Register upon it, and leaving Affairs of less Moment to find Place in our future Collections; in which too, we intend to insert, as Opportunity shall offer, some other remarkable Speeches that were made both for and against the Bishop of Rochester.

A List of the Sheriffs of England and Wales, for the Year 1724.

AT the Court at St. James's, the 7th Day of January, 1723.

P R E S E N T,

The King's Most Excellent Majesty in Council.
Sheriffs appointed by His Majesty in Council for the Year 1724.

Berks,	John Rush, Esq;
Bedford,	Thomas Aynscombe, Esq;
Bucks,	Martin Bazill of Beaconsfield, Esq;
Cumberland,	Joseph Dacre Appleby, Esq;
Cantab' & Hunt	Thomas Jenkinson of Elme, Esq;
Devon,	Robert Fry of Yarty, Esq;
Dorset,	Robert Henley, Esq;
Derby,	Sir Thomas Greasley, Bart.
Ebor	Hugh Cholmley of Whitby, Esq;
Essex,	James Braine, Esq;
Gloucester,	Samuel Roach of Sheerhampton, Esq;
Hertford,	Richard Stewens of Leamington, Esq;
Hereford,	Thomas Delahay, Esq;
Kent,	Sir Robert Austin, Bart.
Lancaster,	Richard Titcham, Esq;
Leicester,	Richard Smith of Enderby, Esq;
Lincoln,	Sigismund Trafford, Esq;
Monmouth,	Matthew Powell of Latilio, Esq;
Northumb	John Cotesforth, Esq;
Northampton,	William Thursby, Esq;
Norfolk,	Robert Clough, Esq;
Nottingham,	John Richards, Esq;
Oxford,	John Blewitt, Esq;
Rutland,	George Brushfield, Esq;
Salop,	Richard Oakley, Esq;
Somerset,	Christopher Baker, Esq;

Stafford,

100 *The Historical Register* N^o XXXIII

Stafford,	Zachariah Babington, Esq;
Suffolk,	Gregory Coppinger, Esq;
Southampton,	Sir Richard Mill, Bart.
Surrey,	John Essington, Esq;
Suffex,	Thomas Fuller of Park-Gate, Esq;
Warwick,	John Skipp, Esq;
Worcester,	Charles Craven, Esq;
Wilts,	Joseph Holton, Jun. Esq;
	South-Wales.
Brecon,	Joshua Parry of Tal ylin, Esq;
Carmarthen,	John Allen of Llanelly, Esq;
Cardigan,	David Jones, Esq;
Glamorgan,	James Williams of Cardiffe, Esq;
Pembroke,	William Wogan, of Wiston, Esq;
Radnor,	Hugh Morgan of Coedglayson, Esq;
	North-Wales.
Anglesea,	John Griffith of Carreglwy d, Esq;
Carnarvon,	William Wynn of Llanunda, Esq;
Denbigh,	John Peuleston of Havoddywerne, Esq;
Flint,	Sir Stephen Glynn, Bart.
Merioneth,	Gaunt Lloyd of Hindier, Esq;
Montgomery,	Walter Watring of Oldbury in the County of Salop, Esq;

F I N I S.



THE *Historical Register.*

NUMBER XXXIV.

GREAT BRITAIN.

IN the Accounts of the Proceedings of the Parliament of *Great Britain*, we were oblig'd for Want of Room, to omit some of the remarkable Protests in the House of Peers, during the last Session: Those relating to the Conspiracy and Tryals of the Conspirators, are inserted in their proper Places; the rest are as follows: *

ON the 11th of *October*, 1722, the Amendments in 16th and 17th Lines of the Bill for suspending the *Habeas Corpus* Act, in Relation to the Time of the Continuance of the said Bill, was read a second Time.

And the Question was put, Whether to agree with the Committee, in the said Amendments?

It was resolv'd in the Affirmative.

Dissentient

1. The Act commonly call'd the *Habeas Corpus* Act, is admitted on all Hands, to be the great Bulwark of the Liberty of the Subject; and therefore, although in Cases of actual Rebellion, and intended Invasion, that Act has been at Times before suspended, yet it was done sparingly, and by Degrees; and the utmost Term unto which it has hitherto been suspended at any Time, has been the Term of six Months: Which Consideration puts us under a very melancholy Apprehension for the very Being or Effect of that excellent Law, since the present Suspension of it for a Year or more,

more, will be full as good an Authority, in Point of Precedent, for the suspending it, on another Occasion, for the Term of two Years, as any former Precedent is now for the present Suspension during one Year, or more.

2. The detestable Conspiracy, which occasions the present Suspension, having been discover'd and signify'd to the City of *London* about five Months since, and divers Persons imprison'd for it a considerable Time past, we cannot but conceive it to be highly unreasonable to suppose, that the Danger of this Plot, in the Hands of a faithful and diligent Ministry, will continue for a Year or more yet to come; and that in so high a Degree, as to require a Suspension of the Liberty of the Subject (for so we take it to be) during all that Time.

3. His Majesty not having visited his Dominions abroad these two last Years, will very probably leave the Kingdom the next Spring to that End; in which Time, this great Power of suspecting and imprisoning the Subjects at Will, and detaining them in Prison till the 24th of *October* 1723, and for as much longer Time, as till they can after that, take the Benefit of the *Habeas Corpus* Act (if they can then do it at all) will be lodg'd in the Hands of some of our Fellow-Subjects, who we are not so sure will be above all Prejudices and Partialities, as we are that his Majesty will.

4. This weakens the Provisions made for the Lords and Members of the other House of Parliament, that they shall not be committed, or detain'd, sitting the Parliament, without the Consent of the Houses respectively, since it is very probable the Parliament will not be sitting the greatest Part of the Time for which this Bill, if enacted, will continue a Law: And such is the Weakness of human Nature, that we cannot be assur'd, but that the Apprehension of what may befall any Member of Parliament while the Parliament is not sitting, may have some Influence on the Freedom of acting in Parliament.

5. The Dictatorial Power was always ended, or laid down immediately, when the urgent Occasion for it was over; and it was never continued much longer, 'till a little before the great State, from which all others draw so many Maxims of Government, lost its Liberties.

W. Ebor

<i>W. Ebor.</i>	<i>Scarsdale,</i>	<i>Bathurst,</i>
<i>Craven,</i>	<i>Anglesey,</i>	<i>Aylesford,</i>
<i>Litchfield,</i>	<i>Osborn,</i>	<i>Masham,</i>
<i>Ashburnham,</i>	<i>Trevor,</i>	<i>Uxbridge,</i>
<i>Cowper,</i>	<i>Bingley,</i>	<i>Gower,</i>
<i>Strafford,</i>	<i>Chester,</i>	
<i>Guilford,</i>	<i>Hay,</i>	

* Then the Bill was read a third Time with the said Amendments, and pass'd.

Dissentient

<i>Scarsdale,</i>	<i>Litchfield,</i>	<i>Hay,</i>
<i>Cowper,</i>	<i>Gower,</i>	<i>Ashburnham,</i>
<i>Osborn,</i>	<i>Uxbridge,</i>	<i>Craven,</i>
<i>Anglesey,</i>	<i>Guilford,</i>	<i>Strafford.</i>
<i>Masham,</i>	<i>Bingley,</i>	
<i>Lechmere,</i>	<i>Bathurst,</i>	

On the 26th of October, 1722, the Lord Viscount Townshend having by his Majesty's Command, signify'd to the House, he had just Cause to suspect, that the Duke of Norfolk was engag'd in the Conspiracy now carrying on, and did therefore desire the Consent of the House to his being committed, and detain'd on Suspicion of High Treason, according to the Act lately pass'd for suspending the Habeas Corpus Act.

The House (upon the Question) resolv'd to consent that the said Duke may be committed and detain'd.

Dissentient

Anglesey.

1. Because we apprehend it to be one of the ancient undoubted Rights and Privileges of this House, That no Member of the House be imprison'd or detain'd during the Sitting of Parliament, on Suspicion of High Treason, until the Cause and Grounds of such Suspicion be communicated to the House, and the Consent of the House thereupon had to such Imprisonment or Detainer; which ancient Right and Privilege is recognized and declar'd in plain, express, and full Terms, in the Act pass'd this Session of Parliament, to which the Message from his Majesty refers.

2. Because it appears clear to us, not only from former Precedents, even when no such Law was in Being, as that abovemention'd, but also from the very necessary

necessary Construction of the Proviso therein, concerning the Privileges of Parliament, that the House is intitled to have the Matter of the Suspicion communicated to them in such Manner as is consistent with the Dignity of the House, and will enable them to deliberate and found a right Judgment thereupon, for or against the Imprisonment, or Detainer of the Person concern'd: But to maintain that, while that Law shall be in Force, it shall be sufficient in order to obtain the Consent of the House, to communicate a general Suspicion, that a Member of the House is concern'd in a traiterous Conspiracy, without discovering any Matter or Circumstance to warrant such Suspicion, is, in our Opinion, an unjustifiable Construction of the said Proviso, and such as wholly deprives the House of the Liberty of giving their free and impartial Advice to the Throne on this Occasion; and such a Construction being made upon a Law so plainly intended by the Wisdom of this Parliament, to assert the Privileges of both Houses, appears to us to pervert the plain Words and Meaning of it, in such a Manner, as renders it wholly destructive to those very Privileges intended to be preserv'd.

3. Because his Majesty having in Effect, requir'd the Judgment and Advice of the House, touching the Imprisonment and Detainer of the Duke of Norfolk, we ought not, as we conceive, either in Duty to his Majesty, or in Justice to the Peer concern'd, to found our Opinions concerning the same, on any Grounds, other than such only as his Majesty has been pleas'd to communicate in his Message: And his Majesty, in his Message, having communicated only a general Suspicion, we think, we cannot without the highest Injustice to the Duke, and the most palpable Violation of the most valuable Privilege belonging to every Member of this House, give our Consent to his Imprisonment or Detainer, and thereby make our selves Parties, and, in some Degree, the Authors of such his Imprisonment, until we have a more particular Satisfaction touching the Matter of which he stands suspected; more especially considering the long and unprecedented Duration of the Act abovemention'd, whereby the Benefit, not only of the Act commonly call'd the *Habeas Corpus Act*, but of *Magna Charta* itself, and other valuable Laws of Liberty, are taken from the Subjects of this Realm, and extraordinary Powers are given to the Persons therein mention'd,

mention'd, over the Liberties of the People, for a Twelvemonth and upwards.

4. Because we think it inconsistent, as well with the Honour and Dignity, as with the Justice of this House, in the Case of the meanest Subjects, to come to Resolutions for depriving them of their Liberty, upon other than clear and satisfactory Grounds: But as the Members of both Houses of Parliament are, by the Laws and Constitution of this Kingdom, invested with peculiar Rights and Privileges, of which the Privilege beforemention'd, is a most essential one, as well for the Support of the Crown itself, as for the Good and Safety of the whole Kingdom, we cannot, as we conceive, without betraying these great Trusts which are repos'd in us, as Peers of the Realm, agree to a Resolution which tends to subject every Member of this House, even sitting the Parliament, to unwarrantable and arbitrary Imprisonments. And we have the greater Reason to be jealous of an Infringement of this Privilege on this Occasion, because it had been easy, as we think, for those who had the Honour to advise the framing the said Message, to have communicated to this House, the Matters of which the Duke of Norfolk stands suspected, in such a Manner as might be consistent with the Privileges of this House, and at the same Time, to have avoided any Danger or Inconvenience to the Crown, with Regard to the future Prosecution of the said Duke, (if any such shall be.)

5. It is the known Usage and Law of Parliament, that this House will not permit any Peer to be sequestred from Parliament on a general Impeachment of the Commons, even for High Treason, 'till the Matter of the Charge be specify'd in Articles exhibited to this House, which explains to us the Nature of the Privilege intended to be secur'd by the Proviso, and is the highest Instance of the Care of this House to preserve it, from being violated on any Pretence whatsoever. But, in our Opinions, it must create the greatest Inconsistence and Repugnancy in the Proceedings of the House, to consent, that a Peer of the Realm should be imprison'd or detain'd, sitting the Parliament, on a Suspicion of High Treason only, not warranted, for ought appears to us, by any Information given against him, upon Oath, or otherwise, and no particular Circumstance of such Suspicion being communicated to the House.

6. Because

6. Because a Resolution so ill grounded as this appears to us, may produce very ill Effects in the present unhappy Conjunction of Affairs, by creating fresh Jealousies in the Minds of his Majesty's Subjects, who cannot fail of entertaining certain Hopes of the Safety of his Majesty's Person and Government, against all his Majesty's Enemies, from the Advice and Assistance of both Houses of Parliament, whilst they continue in the full Enjoyment and free Exercise of their ancient and legal Rights and Privileges; but on the other Hand, may be alarm'd with new Fears for the Honour and Safety of his Majesty and his Government, by a Resolution taken by this House for the Imprisonment of a Peer of the Realm, in such Manner, as in our Opinion, is highly injurious to his Person, and also to the Privileges of every other Peer of the Realm, and which may prove of fatal Consequence to the Constitution of both Houses of Parliament.

<i>W. Ebor</i>	<i>Strafford,</i>	<i>Bathurst,</i>
<i>Fran. Cestrien</i>	<i>Cowper,</i>	<i>Bingley,</i>
<i>Scarsdale,</i>	<i>Trevor,</i>	<i>Foley,</i>
<i>Bristol,</i>	<i>Lechmere,</i>	<i>Compton,</i>
<i>Uxbridge,</i>	<i>Ashburnham,</i>	<i>Osborn,</i>
<i>Oxford,</i>	<i>Guilford,</i>	<i>Hay.</i>

On the 21st of January, 1723, a Motion was made, that the Judges of the King's Bench be order'd to cause the Tryal of *Christopher Layer*, Esq; to be forthwith printed and publish'd, the same being first perus'd by the King's Counsel.

And a Question being stated thereupon, after Debate, the previous Question was put, Whether the said Question shall now be put?

It was resolv'd in the Negative.

Not content 53.

Content 32.

Dissentient

1. Because it appear'd to us, on the Debate of the main Question, that there has been an unnecessary and affected Delay in the Printing and Publishing the said Tryal, it being full two Months since *Christopher Layer* was tried; and Direction having been given for the speedy publishing thereof, so long since as the 27th of November last, as appears by an Advertisement printed by Authority in the *Gazette*: And it having been allow'd in the Debate, that the Delay was extraordinary,

and

and no Fact having been laid before the House, sufficient, as we apprehend, to excuse such Delay, we think, that the main Question ought to have been put, as the only Security, in our Opinion, against any further Neglect, and to prevent any Imputation on the Honour of the House for countenancing or conniving at such Delay.

2. This House having receiv'd no Manner of Satisfaction, since his Majesty's most gracious Speech from the Throne, touching the horrid Conspiracy therein communicated; and no Step having been taken, for ought appears to us, either in Parliament, or elsewhere, for obtaining the Justice due by the Laws of the Land to any of the Conspirators, except the said *Layer*, tho' his Majesty was pleas'd to assure this House, in his Speech from the Throne, that some of the Conspirators were then taken up and secur'd; we think, that the main Question ought to have been put, whereby the Publication of the said Tryal might have been quickned, and thereby the Nation receiv'd such Satisfaction concerning the said execrable Conspiracy, as could be collected from the said Proceeding, and this House have been enabled to make such Use thereof as should appear necessary, in their Wisdom, for the Honour, Interest, and Safety of his Majesty and his Kingdoms.

3. Because we are apprehensive, that the Delay in publishing the said Tryal, may have contributed to create Jealousies concerning the said Conspiracy, and may have encourag'd ill-affected Persons to foment the same, to the great Prejudice of his Majesty's Government: And as, in our Opinion, the speedy Publishing the said Tryal, if the same had been done, might have conduc'd to the preventing of those Mischiefs, we also conceive, that the further Growth of them might have been check'd, if the main Question had been put, and carried in the Affirmative.

4. Because we think it of great Consequence to his Majesty's Service, that the Publication of the said Tryal should have been made under the strictest Security against all Partiality, or other Abuse relating thereto; and therefore we think, the main Question ought to have been put, whereby the Care and Inspection thereof would have been lodged, by the Authority of this House, in the Hands of the Judges, to whom it properly belongs, and its falling into any other Hands not so proper, or not

so immediately responsible to this House, would have been prevented.

Anglesey,
Trevor,
Bathurst,
Strafford,
Osborn,
Fr. Cestrien

Lechmere,
Cowper,
Foley,
Aylesford,
Compton,
Gower,

Craven,
Hereford,
Ashburnham,
Weston.

Then a Motion being made, and the Question being put, That the Judges of the King's-Bench do attend in their Places, on Thursday next, and that the King's Counsel who were concern'd in the Tryal of *Christopher Layer*, and also the Counsel for the said *Layer* at the said Tryale, and Mr. *Samuel Buckley*, and the Person or Persons who took the said Tryal in Short-Hand, do attend at the Bar of this House at the same Time.

It was resolv'd in the Negative.

Dissentient

1. Because the House having resolv'd, That the Question for ordering the Printing the Tryal of *Christopher Layer* should not now be put, we are of Opinion, that it is thereby made necessary, for the Honour of the House, that the Occasion of the Delay should be enquir'd into; for without such Enquiry, we are apprehensive that the Proceedings of this House may be misconstru'd, as tending to countenance such Delay.

Because we think it the Right of this House to enquire into all Neglects or Abuses which concern the Publick; and though it was objected in the Debate, that such Enquiry might carry some Imputation on the Judges, or other Persons concern'd, we think, that that Objection may be equally assign'd against all Enquiries, but is inconsistent with the Honour and Dignity of the House, and ought not, as we conceive, be put in the Balance with the Honour of the House, and the publick Service, to which the Question, in our Opinion, has an apparent Tendency.

Anglesey,
Strafford,

Brook,
Gower,

Craven,
Aylesford,
Bathurst,

Bathurst,
Compton,
Osborn,
Fr. Cestrien'

Foley,
Trevor,
Lechmere,
Weston,

Ashburnham,
Conquer.

On the 29th of January, 1722, the House, according to Order, proceeded to take into Consideration the Protestation entred upon Monday the 21st of this Instant, touching the Motion for ordering the Judges to cause the Tryal of *Christopher Layer* to be printed; And it being mov'd to resolve, That it is a groundless Assertion in the said Protestation (*That it appear'd on the Debate, there had been an unnecessary and affected Delay in printing and publishing the Tryal of Christopher Layer*) and the utmost Indignity to this House to suggest, that any Question was necessary to have been put, for preventing an Imputation on the Honour of this House, for countenancing or conniving at such Delays; and a Question being stated thereupon, it was propos'd, after the Word [*Debate*] to add these Words [*to the Lords who sign'd the Protestation*] which being objected to,

The Question was put, Whether these Words shall be made Part of the Question?

It was resolv'd in the Negative.

Content 34.

Not content 64.

Then it was propos'd, after the Word [*Question*] to insert [*in the Opinion of the same Lords*] before the Words [*was necessary.*]

It was resolv'd in the Affirmative.

Content 65.

Not content 35.

A Motion was made to resolve, That the Tryal had been printed and publish'd with as much Expedition as the Length and Nature of the said Tryal, and the careful Perusal and Examination thereof, by the Judges, could admit of, and in as little Time as has generally been accustomed in the like Cases, and that it is an unjust Insinuation, that the Authority of this House was wanting, for lodging the Care and Inspection of the said Tryal in the Hands of the Judges, or that there was any Danger of its falling into any other Hands, or that the same had been under the Direction of any other besides the Judges.

After Debate, it was propos'd to leave out the Words [and that it is an unjust Insinuation] and to the End of the Question.

The Question was put, That these Words do stand Part of the Question.

It was resolv'd in the Affirmative.

Contempt 58.

Not Content 32.

The Protestation to the first Resolution of January 29, 1722.

Dissentient

1. **B**ECAUSE the Assertion and Suggestion in the Protest, intended to be censur'd by the Resolution, are qualify'd, as the Amendment offer'd would have stated them, if admitted, by being restrain'd to the Opinion of the Lords who sign'd the Protestation. But those Restrictions are wholly omitted in the Resolution, and we are clearly of Opinion, That if the Assertion and Suggestion had been set forth in the Resolution, as they stand in the Protestation, they could not have been censur'd with any Colour of Justice; but that the said Omission, being, as we conceive, of a Circumstance extremely material, we think, the Censures contain'd in the Resolution, are not applicable to the Assertion and Suggestion found in the Protestation, but to such as are of a different Nature.

2. The restraining the Assertion us'd in the Protestation to the Apprehension or Opinion of the Lords Protesting, where it contradicts the Opinion of the House, is, as we conceive, so much of the Essence of the Protestation with Reasons, that of the great Number of Instances of such Protestations standing in the Journals of this House, not one would be found regular among them, if that due Caution and Respect to the Opinion of the Majority was omitted: And therefore it seems clear to us, that the like Censure might be as justly pass'd on all the Protestations with Reasons, that were ever entred, if they were recited and represented in the same Manner as we conceive this to be.

Litchfield,
Fr. Cestrien,
Ashburnham,
Hereford,
Brook,
Bathurst,
Gower,
Montjoy,

Foley,
Strafford,
Exeter,
Bingley,
Uxbridge,
Osborn,
Anglesey,
Cowper,

Trevor,
Guilford,
Aberdeen,
Scarsdale,
Craven,
Lechmere,
Hay,
Compton.

The

The Protestation to the second Resolution of January 29,
1722.

Dissentient

BECAUSE we conceive it to be contrary to the Nature and Course of Proceedings in Parliament, that a complicated Question, consisting of Matters of a different Consideration, should be put, especially if objected to, that Lords may not be depriv'd of the Liberty of giving their Judgments on the said different Matters, as they think fit.

Sign'd by the same Lords as that above.

The Protestation to the third Resolution of January 29,
1722.

Dissentient

1. **B**ECAUSE when the Question was mov'd on the 21st of this Instant, in order to appoint a Day for the House to enquire if the Printing of *Layer's* Tryal had been dispatch'd with all proper Expedition; or if not, where the Fault lay; which would naturally have led us to have seen, if it had fallen into any other Hands than it should have done: Tho' we thought it highly reasonable, the Majority of the House then did not; and we were yet willing to have given into the same Examination. But we cannot conceive it to be fit or agreeable to the Dignity or regular Course of Proceedings in this House to vote or resolve on such Matters of Fact as are contain'd in this Resolution, without any Examination at all, or any Evidence given to support them, and which, in their Nature, as we think, cannot be within the Knowledge of any Lord present in the Debate.

2. As for the Insinuation with which the Protest is charg'd by this Resolution, we do not apprehend the Protestation to be justly liable to that Charge. But supposing it to be so, we cannot yet but be of Opinion, that the permitting that Matter to have been fully enquir'd into, would have been the properest and best Method of preventing or answering that insinuation.

Litchfield,
Fr. Gestrin

Foley,
Hay,
P 2

Anglesey,
Gowper,
Hereford,

Hereford,
Brook,
Lechmere,
Bathurst,
Gower,
Montjoy,

Strafford,
Exeter,
Bingley,
Uxbridge,
Compton,
Osborn,

Trevor,
Guilford,
Aberdeen,
Scarfdale,
Craven.

A Motion was made, That this House, not capable of doubting of the Truth of the traiterous Conspiracy communicated to them by his Majesty, in his most gracious Speech from the Throne, has even since that Time, receiv'd very great Satisfaction from some convincing Proofs touching the same, and is firmly perswaded, that such farther Satisfaction will be yet in due Time given, as must render it impossible for any one to doubt thereof. Upon this Resolution, a Protest was made by twenty-two Lords, for the Reasons following.

Dissentient

1. Because to the best of our Apprehension, no Part of the Protestation gave Occasion for the putting such a Question: For it was, as we conceive, admitted in the Protestation, that his Majesty's most gracious Speech from the Throne, had given Satisfaction as to the Truth of the Conspiracy in general; and the excepting *Laver's* Tryal therein, did plainly allow, that the said Tryal had, as far as it went, open'd the Particulars: And yet the Resolution, as we take it, carries with it an Insinuation, that the Protestation had rais'd a Doubt concerning the Truth of the said traiterous Conspiracy; which Insinuation is, in our Opinion, entirely groundless.

2. The said several Resolutions importing censuring, as we conceive, the said Protestation, and being not warranted by more than one Precedent, that we can find, in the Journals of this House; and the Liberty of protesting with Reasons being an unquestionable Right, and essential Privilege of the whole Peerage, we are of Opinion, that the said Resolutions tend to discourage and discountenance the due Liberty of protesting, and, in that Respect, may be, as we apprehend, of dangerous Consequence.

Litchfield,
Aberdeen,

Gower,
Strafford,

Guilford,
Craven,

Osborn,

Osborn,
Compton,
Exeter,
Uxbridge,
Cowper,
Bathurst,

Anglesey,
Bingley,
Scarsdale,
Foley,
Fr. Cestrien,
Lechmere,

Hay,
Hereford,
Brook,
Montjoy.

On the 16th of February, 1722, the Amendments in the Bill for punishing Mutiny and Desertion, were, according to Order, reported, and the Amendment for inserting the Number of Forces thought proper to be kept on Foot for the ensuing Year, consisting of 16449 effective Men, Officers included, and 1815 Invalids, being read a second Time,

The Question was put, Whether to agree with the Committee in this Amendment?

It was resolv'd in the Affirmative.

Dissentient

1. Because, as we conceive, the keeping an Army of regular Troops in this Kingdom under Martial Law, consisting of a greater Number than what we take to be necessary for the Guard of the King's Person, and Defence of the Government, is of the most dangerous Consequence to the Constitution of this Kingdom, and, in our Opinion, may bring a total Alteration of the Frame of our Government, from a Legal and Limited Monarchy, to a Despotick. And we are induc'd to be of this Judgment, as well from the Nature of Armies, and the Inconsistence of so great a Military Power and Martial Law with the Civil Authority, as from the known and universal Experience of other Countries in Europe, which, by the Influence and Power of Standing Armies, in Time of Peace, have from Limited Monarchies (like ours) been chang'd into Absolute; for which Reason we can't give our Consent to this Amendment, whereby the present Number of Troops, amounting in the whole (Invalids included) to fourteen thousand odd hundred Men (which we think abundantly sufficient for all good Purposes) will be increas'd to near four thousand more, altho' there be at this Time no Ground to apprehend an Invasion from a foreign Enemy, or, as we believe, any Insurrection or Rebellion at Home.

2. Because that which seems to have given Rise to this Augmentation of the Army, is the late treasonable Conspiracy,

Conspiracy, which his Majesty, at the opening of this Session, acquainted his Parliament with; and that Conspiracy having been discover'd above eight Months since, and the further Detecting and Punishing the Conspirators having been ever since in the Hands of a faithful and diligent Ministry, we cannot think it at all probable the Conspiracy should still be carrying on; or if any Dregs of it should be yet remaining, that the Government cannot be easily secur'd by a Civil Authority, assisted by so great a Number of Troops as are at present on Foot: And therefore we cannot think ourselves justifiable to the Kingdom (whose Rights and Privileges we are entrusted to preserve) had we given our Votes for this Augmentation of Troops, when no evident Necessity, or just Occasion appear'd to us for such an Increase.

3. Because the Act pass'd this Session, to enable his Majesty to apprehend and detain in Custody any Person (suspected of being engag'd in any treasonable Conspiracy) for above twelve Months, tho' that Power had never been granted to the Crown before, for half that Time at once (and that when there was an actual Rebellion, or expected Invasion) was so great a Power added to the former Authority of the Crown, that we cannot but think it altogether sufficient to prevent any Mischief from treasonable Plots or Practices, which may be carry'd on by any rebellious or discontented Persons, without encreasing the Army, which, in its present State, is not submitted to, but as necessary for avoiding a greater Evil.

4. Tho' the intended Augmentation by this Bill, is intended only for one Year, yet we fear this will be a Means of continuing them in Perpetuity; for we think it probable, there will at all Times hereafter, be easily found as good Reasons for continuing this Increase, as there is now for making it.

5. Because we think, the greatest, and only lasting Security to his Majesty, and his Government, is in the Hearts and Affections of his Subjects; and if the Disaffection or Discontents which have of late happen'd from some unfortunate Proceedings, are thought by any to be an Argument for raising more Forces, we think it the Duty of all good Subjects, who wish well to his Majesty, and our present happy Establishment, to use their best Endeavours for curing those Discontents, by removing or lessening the Occasions of them, and consequently

sequently, that there should not be an Augmentation of the Army, which is already sufficiently burdensome to the Subjects, both by the great Charge of maintaining them, and by the Uneasiness to the Places where they are quarter'd; because thereby the Charge to the Subject will be considerably increas'd, which, as we apprehend, ought most carefully to be avoided in our Circumstances, when the Load of Taxes is already so very great, and the Kingdom involv'd in so immense a Debt, that nothing but the most prudent Economy and good Husbandry, can give us any probable Prospect of easing it; and therefore not being convinc'd of any real or just Ground for such Increase of Troops, do fear that this will not take away or lessen, but rather increase the Discontents and Disaffection of the People; and in that Respect, weaken his Majesty's Government, in a greater Degree than it will be strengthened by this Addition of Forces, allowing something for the Possibility of false Musters.

W. Ebor'
Poulet,
Uxbridge,
Aberdeen,
Oxford,
Scarsdale,

Gower,
Trevor,
Compton,
Strafford,
Fr. Cestrien'
Hay,

Cowper,
Osborn,
Litchfield,
Ashburnham,
Foley,
Montjoy.

On the 20th of May, the Lords read a second Time a Bill from the Commons, intitled, *An Act for granting an Aid to his Majesty, by laying a Tax upon Papists, and for making such other Persons, as upon due Summons shall refuse or neglect to take the Oaths therein mention'd, to contribute towards the said Tax, for reimbursing to the Publick, Part of the great Expences occasion'd by the late Conspiracy; and for discharging the Estates of Papists from the Two Third Parts of the Rents and Profits thereof for one Year, and all Arrears of the same, and from such Forfeitures as are therein more particularly describ'd: And a Motion being made, That the said Bill be committed, it occasion'd a long Debate, but the Question being put thereupon, it was carry'd in the Affirmative, by a Majority only of 15 Voices, viz. 57 against 42; nine of which last enter'd their Dissent, viz. the Earls of Scarsdale, Litchfield, Strafford, and Pomfret; and the Lords Kingley, Foley, Uxbridge, Gower, and Ashburnham.*

The

The next Day the Lords went into a Committee upon the said Bill, and the opposing Peers offer'd a Rider to be added to it, for making the Scotch Roman Catholics and Nonjurors, to contribute towards the said Tax; but the same was rejected.

On Wednesday the 22d of May, the Bill was read the third Time, and a Motion being made, that it should pass, the same was strongly oppos'd:

Those who spoke for and against it, were as follows:

For the Bill.

Lord Vis. Townshend,
Lord Carteret,
Earl Cadogan,
Ld. Bp. of Hereford,
Lord Chancellor,
Earl of Ilay,
Duke of Newcastle.

Against the Bill.

Earl of Strafford,
Lord Trevor,
Earl Cowper,
Lord Bathurst,
Lord Bingley.

One of the Opposers represented, that this Bill was downright Persecution; another call'd it a *Fourth Bill to inflict Pains and Penalties*, in an unprecedented Manner: But they were answer'd by the Court Lords, *That the Papists had incur'd far greater Penalties, so that this Bill was rather an Indulgence than a Persecution.* They were reply'd to by the Earl Cowper, who, among other Reasons, suggested, *That whatever Gloss was put upon this Law, it would always be look'd upon as Persecution, by those, at least, who were to be affected by it, and be punish'd for other People's Crimes; and what Hardships the Protestants abroad might suffer, when we persecuted the Roman Catholics at Home, he left to their Lordships Consideration.* That he was inform'd, that the King of Spain and the Regent of France had us'd their good Offices in Behalf of those of their own Religion amongst us, and as on the other Hand, these two powerful Princes had given undoubted Proofs of their firm Friendship to his Majesty, in the Discovery and quashing of the late Conspiracy, so they could not but think themselves but indifferently requited for it, if this Bill should pass into a Law. His Lordship added, *That no State ever got any thing by persecuting its Subjects, of which he gave several Instances, and in particular, shew'd the ill Effects of Persecution in France, which had driven away the wealthiest*

of their Merchants and most industrious Artificers; urging, That this Bill might in like Manner, force the *English Roman Catholics* to leave the Kingdom, and carry eight or nine hundred thousand Pounds into foreign Countries. For all these Reasons his Lordship was for rejecting the Bill; but the Question being put upon the Motion for passing the same, it was resolv'd in the Affirmative, by 48 Voices and 21 Proxies, in all 69, against 37 Voices, and 18 Proxies, in all 55: Upon which several Lords enter'd their Dissent, viz.

*Uxbridge,
Bingley,
Gower,
Foley,
Ashburnham,
Lechmere,
Litchfield,*

*Scarfsdale,
Mantjoy,
Pomfret,
Illy,
Fran. Cestrien,
Willoughby de Br.
Strafford,*

*Cowper,
Weston,
Coventry,
Bathurst,
Tadcaster,*



I R E L A N D.

HAVING in the Course of our *Registers*, related the Proceedings of the *Irish Parliaments*, we will now give as short an Account as possible, of the most material Transactions of the last Session in that Kingdom.

The Proceedings of the Parliament of Ireland.

ON the 5th of September, 1723, the Parliament of Ireland met at *Dublin*, pursuant to their last Prorogation, and his Grace the Duke of Grafton, Lord Lieutenant of that Kingdom, being come to the House of Peers with the usual State and Solemnity, and the Commons sent for up, and attending, his Grace made the following Speech to both Houses.

My Lords and Gentlemen,

I AM fully perswaded, from the Experience I have of your unshaken Loyalty and Fidelity to his Majesty's Person and Government, that I meet you with Hearts full of Joy for the timely Discovery of a most dangerous

gerous Conspiracy lately form'd and carry'd on by inveterate Enemies to our Religion and Liberty, in order to subvert the happy Constitution of these Kingdoms. As the Providence of God has been most conspicuous in this Event, so the incessant Care of his Majesty for the Good of his Subjects, and the vigilant Endeavours of his Ministers, were most seasonably exerted in that Juncture for the Preservation of all that is dear and valuable to us. Your Duty to the King, your Love of your Country, and your just Detestation of such wicked and unnatural Contrivances, will, I am confident, animate you to convince the World how sensible you are of the many Blessings you enjoy under a Prince whose Justice is duly temper'd with Mercy, and who makes the Laws the only Rule of his Government. I am on his Majesty's Part to assure you by his Royal Commands, that the Prosperity of this Nation, both in Church and State, shall always be his peculiar Care, and that he has nothing more at Heart, than to make you a happy Protestant People.

Gentlemen of the House of Commons,

You cannot but be sensible that the necessary Means us'd for preserving you from two dreadful Evils that lately threatned his Majesty's Dominions, Rebellion and the Plague, must have occasion'd an extraordinary Expence, as well as some Interruption to your Trade and Commerce; however, I have the Satisfaction to observe to you, that such has been the Frugality of those entrusted with the Administration of Affairs, that (notwithstanding those Exceedings) there appears to me no Occasion to burthen the Nation on that Account, with any new Taxes.

The traiterous Projects that were near ripe for Execution the last Year, made it advisable to call for six Regiments of Foot from *Ireland*; and as the Scene of Blood and Confusion that was then opening in *Great Britain*, must soon have reach'd this Country, His Majesty could not more effectually shew his tender Regard for his Subjects, than by ordering that seasonable Reinforcement for securing Peace in that Part of his Dominions. The impending Danger was no sooner by God's Blessing averted, but his Majesty, upon the same Motive, caus'd that Body of Troops to return into this Kingdom.

I have directed the proper Officers to make up and prepare the several Accounts and Estimates, in order to
be