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Supposed to be writ by the Queen

A Just and Modest Vindication of the proceedings of the Two last PARLIAMENTS.

THE Amazement which seiz'd every good Man, upon the unlook'd for Dissolution of two Parliaments within three Moneths, was not greater than at the sight of a Declaration pretending to justifie, and give Reasons, for such extraordinary proceedings.

It is not to be denyed but that our Kings have in a great measure been Intrusted with the Power of calling & declaring the Dissolutions of Parliaments. But least through defect of Age, Experience, or Understanding, they should at any time forget, or mistake our Constitution; or by-Passion, private Interest, or the influence of ill Counsellors, be so far misled as not to Assemble Parliaments, when the Publick Affairs require it; or to Declare them Dissolved before the ends of their Meeting were Accomplished: The Wisdom of our Ancestors has provided, by divers Statutes, both for the holding of Parliaments Annually, and that they should not be Prorogued or Dissolved till all the Petitions, & Bills before them were answered and Redressed. The Constitution had been equally Imperfect and Destructive of it self, had it been left to the choice of the Prince, whether he would ever Summon a Parliament, or put into his power to dismiss them Arbitrarily at his pleasure.

4 Edw. 3 c. 14.
36 Ed. 3. c. 10.
2 R. 2. N^o. 28.

That Parliaments should thus Meet, and thus Sit, is secured to us by the same Sacred Tye, by which the King at his Coronation does Oblige himself, to let his Judges Sit to distribute Justice every Term, and to preserve Inviolably all other Rights and Liberties of his Subjects. Therefore abruptly to Dissolve Parliaments at such a time, when nothing but the Legislative Power, and the United Wisdom of the Kingdom could Relieve us from our Just Fears, or secure us from our certain Dangers, is very unsuitable to the great Trust reposed in the Prince, and seems to express but little of that Affection which we will always hope His Majesty bears towards His People & the Protestant Religion. But 'tis not onely of the Dissolution it self that we Complain. The manner of doing it, is unwarranted by the Precedents of former Times, & full of dangerous Consequents. We are taught by the Writ of summons, that Parliaments are never called without the advice of the council, and the usage of all Ages has been never to send them away without the same Advice. To forsake this safe method is to expose the King Personally to the Reflections and Censures of the whole Nation for so ungrateful an Action. Our Laws have taken care to make the King always dear to his People, and to preserve his Person Sacred in their esteem, by wisely preventing him from appearing as Author of any thing which may be unacceptable to them. 'Tis therefore that he doth not Execute any considerable Act of Regal Power, till it be first Debated and Resolved in Council, because then 'tis the Counsellors must answer for the Advice they Give, and are Punishable for such Orders as are Irregular and Illegal. Nor can his Ministers justify any unlawful action under the color of the Kings Commands, since all his Commands that are contrary to Law, are void; (which is the true Reason of that well known Maxim, that the King can do no wrong.) A Maxim just in it self and alike safe for the Prince, and for the Subject, there being nothing more absurd, then that a Favorite should excuse his enormous Actings by a pretended Command, which we may reasonably suppose he first procured to be laid upon himself. But we know not whom to charge with Advising this last Dissolution: It was a work of Darknes, and if we are not Misinform'd, the Privy Council was as much surpriz'd at it as the Nation.

Nor will a future Parliament be able to Charge any Body as the Author or Adviser of the late Printed Paper, which bears the Title of *His Majesties Declaration*, though every good Subject ought to be careful how he calls it so. For His Majesty never speaks to his People as a King, but either Personally in his Parliament, or at other times under his Seal, for which the Chancellor or other Officers are Responsible, if what passes them be not Warranted by Law. Nor can the direction of the Privy Council enforce any thing upon the People unless that Royal and Legal stamp gives it an Authority. But this Declaration comes abroad without any such Sanction, and there is no other ground to ascribe it to His Majesty, than the uncertain Credit of the Printer, whom we will easily suspect of an Imposture, rather than think the King would deviate from the approved course of His Illustrious Ancestors, to pursue a New and Unsuccessful Method.

The first Declaration of this sort, which I ever met with, being that which was published in the Year, 1628. Which was so far from answering the ends of its coming out, that it fill'd the whole Kingdom with Jealousies, and was one of the first sad Causes of the ensuing Unhappy War.

The Truth is, Declarations to justify what Princes do, must always be either needless or ineffectual. Their Actions ought to be such as may recommend themselves to the World, and carry their own Evidence along with them of their usefulness to the Publick, and then no Arts to justify them will be necessary. When a Prince descends so low as to give his Subjects Reasons for what he has done, he not only makes them Judges whether there be any weight in those Reasons, but by so unusual a submission gives cause to suspect, that he is conscious to himself that his Actions want an Apology. And if they are indeed unjustifiable, if they are Opposite to the inclinations, & apparently destructive of the Interests of his Subjects, it will be very difficult for the most Eloquent or Insinuating Declaration, to make them in Love with such things. And therefore they did certainly undertake no ealie task in pretending to persuade Men who see themselves exposed to the restless Malice of their Enemies, who observe the languishing condition of the Nation, & that nothing but a Parliament can provide Remedies for the great Evils which they Feel and Fear; that two several Parliaments,

ments, upon whom they had placed all their hopes, were so suddenly broken out of kindness to them, or with any regard to their Advantage. It was generally believed that this age would not have seen another Declaration, since *Colemans* was so unluckily published before its time: Not only because thereby the World was taught how little they ought to rely upon the sincerity of such kind of Writings, but because that was a Master-piece, which could hardly be equall'd, and our present Ministers may well be out of countenance, to see their Copy fall so very much short of the Original.

But should this Declaration be suffered to go abroad any longer under the Royal Name, yet it will never be thought to have proceeded from His Majesties inclination or his Judgment, but to be gained from him by the Artificies of the same ill Men, who not being content to have prevailed with him to Dissolve two Parliaments only to protect them from Publick Justice, do now hope to excuse themselves from being thought the Authors of that Counsel by making him Openly to Avow it. But they have discovered themselves to the Kingdom, and have told their own Names, when they number amongst the great Crimes of the House of Commons, their having *Declared divers Eminent Persons to be Enemies to the King and Kingdom.* 'Tis our happiness that the Cunning of these *Eminent Persons* is not equal to their Malice, in that they should thus unwarily make themselves known when they had so secretly and with so much Caution given the Pernicious Advice. None could be offended at the proceedings of the Parliaments but they who were obnoxious, none could be concern'd to vindicate the Dissolution but they who had Advised it. But they have perform'd this last undertaking after such a sort that they have left themselves not only without a Justification but without all pretence hereafter. The People were willing to think it the Unfortunate effect of some suddain and precipitate Resolution, but since they have now publickly assured us, that it was the result of Counsel and Deliberation, they cannot blame us for hoping one day to see Justice done upon such Counsellors.

But though to the dishonour of our Country it does appear that some English men were concern'd in the unhappy Advice, of breaking the two last Parliaments, and setting out this pretended defence of it, yet the Gallicisms which are found in the
Paper

Paper shew the Writer to have been of another Nation, or at least to have had his thoughts so much taken up for the interests of *France*, (whilst he was laboring this way to heighten and perpetuate the differences between the King and his People,) that he could not express himself in any other idiom then theirs, he would not otherwise have introduced the King saying, That *it was a matter extremely sensible to Us*; a form of speech peculiar to the French, and unknown to any other Nation. The Reader (who understands that Language) will observe so many more of this Kind as will give him just cause to doubt, whether the whole Paper was not a Translation, and whether the English one, or that which was published in French was the Original.

Let us then no longer wonder that the time of Dissolving our Parliaments is known at *Paris* sooner then at *London*, since 'tis probable the Reasons now Given for it were formed there too. The Peers at *Oxford* were so totally ignorant of the Council, that they never once thought of a Dissolution, till they heard it pronounced; but the Dutcheſs of *Mazarine* had better Intelligence, and published the News at *St. James's* many hours before it was done. This Declaration was not Communicated to the Privy Council till Friday the 8. of *April*, when His Majesty (according to the late method) did Graciously declare to them his pleasure to set it forth, without desiring from them any Advice in the matter, but Monsieur *Barillon*, the French Ambassador did not only Read it to a Gentleman the fifth of *April*, but advised with him about it and demanded his Opinion of it, which his Excellency will the better remember because of the great liberty which the Person took in Ridiculing it to his Face. *Good God, to what a Condition is this Kingdom reduced, when the Ministers and Agents of the only Prince in the World, who c. w. have Designs against us, or of whom we ought to be afraid, are not only made acquainted with the most secret Passages of State, but are made our Chief Ministers too, and have the Principal Conduct of our Affairs.* And let the World judge if the Commons had not Reason for their Vote, when they Declared those *Eminent Persons* who manage things at this rate, *to be Enemies to the King and Kingdom, and Promoters of the French Interest.*

Whoſoever considers the Actions of our Great Men, will not think it strange that they should be hard put to it to find out Reasons

Reasons which they might give for any of them, and they have had very ill luck when ever they went about it. That Reason which they have given for Dissolving three several Parliaments successively is now grown ridiculous, *that the King was resolved to meet his People and to have their Advice in frequent Parliament*, since every Man took notice that as soon as the Ministers began to suspect that His Majesty was inclined to hearken to and pursue their Advice, those very Parliaments were presently Dissolved. This was all the *Ground and Cause*, which was thought of for breaking the last Parliament at *Westminster*, when the Proclamation of the 8th. of *Jan. 1680* was published, but, they have now considered better and have found out faults enough to swell into a Declaration, and yet as much offended as they are with this Parliament, they seem more highly Angry with that which followed at *Oxford*. Nor is it at all strange that it should fall out so, for the Court did never yet Dissolve a Parliament abruptly and in a heat, but they found the next Parliament more Averse, and to insist upon the same things with greater eagerness than the former. English Spirits resent no Affronts so highly as those which are done to their Representatives; and the Court will be sure to find the Effects of that Resentment in the next Election. A Parliament does ever participate of the present temper of the People. Never were Parliaments of more different Complexions than that of 1640. And that of 1661. Yet they both exactly answered the humors which were predominant in the Nation, when they were Respectively chosen. And therefore while the People do so universally Hate and Fear *France* and *Popery*, and do so well understand who they are who promote the French and Popish Interest, the Favourites do but Cozen themselves to think that they will ever send up Representatives less Zealous to bring them to Justice, than those against whom this Declaration is published. For surely this Declaration (what great things soever may be expected from it) will make but very few Converts, not only because it represents things as high Crimes, which the whole Kingdom has been Celebrating as Meritorious Actions, but because the People have been so often deceived by former Declarations, that whatsoever carries that Name, will have no Credit with them for the future. They have not yet forgotten the Declaration from *Breda*, though others forgot it so soon,
and

and do not spare to say, that if the same diligence, the same earnest solicitations had been made use of in that Affair, which have been since exercised directly contrary to the Design of it, there is no doubt but every part of it would have had the desired success, & all His Majesties Subjects would have enjoyed the fruits of it, and have now been extolling a Prince so careful to keep Sacred His promises to His People. If we did take notice of the several Declarations Published since that which we have last mentioned, we should find they signified as little; & therefore we will only remember the last made the 20th. of *April. 1679.* And Declared in Council, and in Parliament, & after published to the whole Nation: Wherein His Majesty owns that he is *sensible of the ill posture of his affairs, and the great jealousies and Dissatisfaction of his good Subjects, whereby the Crown and Government was become too weak to preserve it self, which proceeded from his use of a single Ministry and of private Advices; and therefore professes his Resolution to lay them wholly aside for the future, and to be Advised by those Able and Worthy Persons, whom he had then chosen for his Council, in all his Weighty and Important Affairs.* But every man must Acknowledge that either His Majesty has utterly forgotten this Publick and solemn Promise, or else that nothing *Weighty and Important* has happened from that time to this very Day.

As for the Declaration read in our Churches the other day, there needs no other Argument to make us doubt of the reality of the promises which it makes, then to consider how partially, & with how little sincerity the things which it pretends to relate are therein represented. It begins with telling us in His Majesties name, That *it was with exceeding great trouble that he was brought to Dissolve the Two last Parliaments, without more benefit to the People by the calling of them.* We should question His Majesties Wisdom, did we not believe him to have understood that never Parliament had greater *Opportunities* of doing good to himself and to his People. He could not but be sensible of the Dangers, and of the Necessities of His Kingdom, & therefore could not without *exceeding great Trouble* be prevailed upon for the sake of a few desperate men, (whom he thought himself concern'd to love now, only because he had loved them too well, & Trusted them too much before;) not only to disappoint the Hopes and Expectations of his own People, but of all most

Europ. His Majesty did indeed do *His Part*, so far, in giving Opportunities of provid^{ng} for our good, as the calling of Parliaments does amount to, and it is to be *Imputed* to the Ministers only that the success of them did not answer His and Our Expectations. 'Tis certain it cannot be imputed to any of the Proceedings of either of those Parliaments; which were composed of Men of as good Sence, and Quality as any in the Nation, and proceeded with as great moderation, and managed their Debates with as much temper as was ever known in any Parliament. If they seem'd to go too far in any thing, His Majesties Speeches or Declarations had misled them, by some of which they had been invited to enter into every one of those Debates, to which so much exception has been since taken. Did he not frequently recommend the prosecution of the Plot to them, with a strict and impartial inquiry. Did he not tell them, That he neither thought himself nor them safe, till that matter was gone through with? Did he not in his Speech of the 30th. of April, 1679. Assure them that it was his constant care to secure our Religion for the future in all Events, and that in all things which concern'd the Publick security he would not follow their Zeal but lead it? Has he not often wish'd that he might be enabled to exercise a Power of Dispensation in Reference to those Protestants, who through tenderness of misguided Conscience did not Conform, to the Ceremonies, Discipline and Government of the Church: And promised that he would make it his special Care to encline the wisdom of the Parliament to concur with him, in making an Act to that Purpose? And least the malice of ill men might Object, that these Gracious inclinations of His continued no longer, then while there was a possibility of giving the Papists equal benefit of a Toleration. Has not His Majesty since the Discovery of the Plot, since there was no hopes of getting so much as a connivence for them, in His Speech of the 6th. of March, 1679. Express'd His Zeal not only for the Protestant Religion in general, but for an Union amongst all sorts of Protestants. And did he not Command My Lord Chancellor, at the same time, to tell them that it was necessary to distinguish between Popish and other Recusants, between them that would destroy the whole Flock, and them that onely wander from it? These things considered we should not think the Parliament went too far, but rather that they did not follow His Majesties Zeal with an equal pace. The Truth is if we observe the

Speech, 21
Oct. 1680

Speech, 30
Apr. 1679

Speech, 26
Oct. 1662

Speech, 26
Dec. 1662

Speech, 6
March,
1679

The daily provocations of the Popish Faction, whose Rage and Insolence were only increased by the Discovery of the Plot, (so that they seemed to defy Parliaments, as well as inferior Courts of Justice, under the Protection of the Duke, their publicly avowed head ;) who still carried on their designs by new and more detestable methods than ever, and were continually busy by Perjuries and Subornations, to charge the best and most considerable Protestants in the Kingdom with Treasons, as black as those of which themselves were Guilty. If we observe what vile Arts were used to hinder the further discovery, what Liberty was given to Reproach the Discoverers, what means used to destroy or to Corrupt them ; how the very Criminals were encouraged and allowed to be good Witnesses against their Accusers : We should easily excuse an English Parliament thus beset, if they had been carried to some little excesses. But yet all this could not provoke them to do any thing not justifiable by the Laws of Parliament, or unbecoming the Wisdom and Gravity of an English Senate.

But we are told that His Majesty *Opened the last Parliament, which was held at Westminster, with as Gracious Expressions of His readiness to satisfy the desires of his Subjects, and to secure them against all their just Fears, as the weighty consideration, either of preserving the Established Religion and Property of His Subjects at Home, or of supporting His Neighbors and Allies abroad could fill His Heart with.* We must own that His Majesty has Opened all His Parliaments at *Westminster*, with very *Gracious Expressions* ; nor have we wanted that Evidence of His *readiness to satisfy the desires of His Subjects*, but that sort of Evidence will soon lose it's force if it be never followed by Actions correspondent, by which only the World can judge of the sincerity of Expressions or Intentions. And therefore the Favourites did little Consult His Majesties Honor, when they bring him in solemnly *declaring* to His Subjects, *that His Intentions were as far as would have consisted with the v. r. being of the Government, to have Complied with any thing that could have been proposed to him to Accomplish those Ends* ; when they are not able to produce an instance wherein they suffered him to comply in any One thing. Whatsoever the House of Commons Address'd for was certainly denied, though it was only for that Reason ; and there was no surer way of intituling ones self to

the favor of the Court, then to receive a Censure from the Representative Body of the People. Let it for the present be admitted that some of the things desired by that Parliament were exorbitant, and (because we will put the Objection as strong as is possible) inconsistent with the very being of the Government, yet at least some of their Petitions were more reasonable. The Government might have subsisted though the Gentlemen put out of the Commission of the Peace, for their Zealous acting against the Papists, had been restor'd; nor would a final Dissolution of all things have ensued, tho Sir *G. Jefferies* had been removed out of publick Office, or my Lord *Hallifax* himself from His Majesties Presence and Councils. Had the Statute of the 35th. of Queen *Elizabeth* (which had justly slept for 80 years, and of late, unseasonably revived) been repealed, surely the Government might still have been safe. And though the Fanatics perhaps had not deserved so well as that in favor to them, His Majesty should have passed that Bill, yet since the Repeal might hereafter be of so great use to those of the Church of *England*, in case of a Popish Successor, (which blessing His Majesty seems resolv'd to bequeath to His People;) one would have thought he might have Complied with the Parliament in that proposal. At least we should have had less Reason to complain of the refusal, if the King would have been but Graciously pleas'd to have done it in the Ordinary way. But the Ministers thought they had not sufficiently triumphed over the Parliament by getting the Bill rejected, unless it were done in such a manner as that the Precedent might be more pernicious to posterity, by introducing a new Negative in the making of Laws, then the losing of any Bill, how useful soever, could be to the present Age. This we may affirm, that if the success of this Parliament did not answer expectation, whoever was guilty of it, the House of Commons did not fail of *doing their Part*. Never did men Husband their time to more advantage. They opened the eyes of the Nation, they shewed them their danger with a freedom becoming Englishmen. They asserted the Peoples Right of Petitioning, they proceeded vigorously against the Conspirators discovered and heartily endeavored to take away the very Root of the Conspiracy. They had before them as many great and useful Bills as had been seen in any Parliament, and it is not to be laid at their

their doors that they proved Abortive. This Age will never fail to give them their grateful acknowledgments, and posterity will remember that House of Commons with Honor.

We come now to the particular enumeration of those Gracious things which were said to the Parliament at *Westminster*. His Majesty askt of them *the Supporting the Alliances he had made for the preservation of the General Peace in Christendom*. 'Tis to be wish'd H's Majesty had added to this Gracious asking of Money, a gracious Communication of those Alliances, and that such blind obedience had not been exacted from them, as to contribute to the support of they knew not what themselves; nor before they had considered whether those Alliances which were made, were truly design'd for that end which was pretended, or any way likely to prove effectual to it. Since no precedent can be shown, that ever a Parliament, (not even the late long Parliament, tho filled with *Danby* his Pensioners) did give Money for Maintaining of any Leagues till they were first made acquainted with the particulars of them. But besides this the Parliament had reason to consider well of the General Peace it self, and the Influence it might have, and had, upon our Affairs, before they came to any Resolution, or so much as to a Debate about preserving it; since so wise a Minister as my *L. Chancellor* had so lately told us, that it was *fitter for Meditation than Discourse*. He informed us in the same Speech, that the peace then was but the effect of Despair in the Confederates, and we have since learn't by whose means they were reduced to that despair; and what price was demanded of the *French King* for so great a service. And we cannot but be sadly sensible how by this Peace, that Monarch has not only quite Dissolv'd the Confederacy form'd against him, enlarged his Dominions, gain'd time to Refresh his Soldiers harrassed with long service, settled and composd his Subjects at Home, increased his Fleet, and replenish'd his Exchequer for new and greater designs; but his Pensioners at our Court have grown insolent upon it; and presuming that now he may be at leisure to assist them in Ruining *England*, and the Protestant Religion together, have shaken off all dread of Parliaments, and have prevail'd with His Majesty to use them with as little respect, and to disperse them with as great Contempt, as if they had been a Conventicle, and not the great Representative of the Nation,

*Lord
Chancel-
lors
Speech* : 3.
M 10
1678.

whose Power and Wisdom only could save Him and Us, in our present exigencies.

But whatever the design of them was, or the effect of them is like to be, yet Alliances have a very good sound, and a Nation so encompassed with Enemies abroad, and Traitors and Pensioners to those Enemies at home, must needs be glad to hear of any new Friends. But alas if we look into the Speech made at the opening of that Parliament, we shall find no mention of any new Ally except the *Spaniard*, whose Affairs at that time, through the defects of his own Government, and the Treachery of our Ministers, were reduced to so desperate a state, that he might well be a Burden to us, but there was little to be hoped from a Friendship with him; unless by the name of a League to recommend our Ministers to a new Parliament, & couzen Country Gentlemen out of their Money. But upon perusal of that League it appears by the third, fourth and fifth Articles, that it was like to create us Troubles enough, for it engages us indefinitely to enter into all the Quarrels of the *Spaniards*, tho they happened in the *West-Indies* or the *Philippine Islands*, or were drawn upon himself by his own injustice or causeless provocations. By this we shall be obliged to espouse his difference with the Duke of *Brandenburg*, tho all that Duke did, was according to the Law of Nations, to Reprize *Spanish* Ships for a just Debt frequently demanded in vain. By this we shall be obliged to engage in his present War with the *Portuguese*, tho he by his violent seizing of the Island of *St. Gabriel*, which had been long in their peaceable possession, without once demanding it of them, has most justly provoked the *Portuguese* to invade *Spain*. Nor are we bound only to assist him in case of an Invasion, but in case of any disturbance whatsoever, which must be intended of intestine Troubles, (and it is so directly explained in the secret Article which all *Europe* says was signed at the same time.) So that if the present King of *Spain* should imitate his great Grand-father *Philip* the second, & oppress any of his Subjects as cruelly as he did those of the *Low Countries*, and so force them to a necessary self defence; we have renounced the policy of our Ancestors, who thought it their interest as well as their Duty to succor the distressed, and must not only aid him with 8000 Men for three Months to make those People slaves, but if the matter cannot
be

be compos'd in that time make War upon them, with our whole force both by Land and Sea. But that which concerns us yet nearer in this League, is, that this obligation of assistance was mutual, so that if a disturbance should happen hereafter in *England* upon any attempt to change our Religion or our Government, though it was in the time of his Majesty Successors, the most Catholick King is oblig'd by this League, (which we are still to believe was entred into, for the security of the Protestant Religion, and the good of the Nation) to give aid to so Pious a Design, and to make War upon the people with all his Forces both by Land and Sea. And therefore it was no wonder that the Ministers were not forward in shewing this League to the Parliament, who would have soon observ'd all these inconveniencies, and have seen how little such a League could contribute to the preserving the general Peace, or to the securing of *Flanders*, since the French King may within one months time possess himself of it, and we by the League are not oblig'd to send our Succors till 3 Months after the Invasion. So that they would upon the whole matter, have been inclin'd to suspect, that the main end of this League was only to serve for a handsom pretence to raise an Army in *England*, and if the people here should grow discontented at it, and any little disorders should ensue, the *Spaniard* is thereby oblig'd to send over Forces to suppress them.

The next thing recommended to them was the farther examination of the Plot, and every one who has observ'd what has pass'd for more than two years together, cannot doubt that this was sincerely desired by such as are most in credit with his Majesty, and then surely the Parliament deserv'd not to be censur'd upon this account, since the examination of so many new Witnesses, the Trial of the Lord *Stafford*, the great preparations for the Trial of the rest of the Lords, and their diligent inquiry into the Horrid Irish Treasons, shew that the Parliament wanted no diligence to pursue his Majesties good intentions in that affair. And when His Majesty desired from the Parliament their Advice and Assistance concerning the preservation of *Tangier*, the Commons did not neglect to give its due consideration. They truly represented to him how that important place came to be brought into such exigencies, after so vast a Treasure expended to make it useful, and that nothing better could

Address
presented,
21 Dec.
1680.
Address
presented
29 Nov.
1680.

could be expected of a Town, for the most part put under Popish Governours; and always fill'd with a Popish Garrison. These were evils in His Majesties own power to redress, and they advised him to it; nor did they rest there, but promise to assist him in defence of it, as soon as ever they could be reasonably secured, that any Supply which they gave for that purpose, should not be used to Augment the strength of our Popish Adversaries, and to encrease our Dangers at home. They had more than once seen Money imployed directly contrary to the end for which it was given by Parliament, & they had too good cause of fear it might be so again, and they knew that such a misemployment would have been fatal at that time. But above all they considered the eminent dangers which threatned them with certain Ruine at home; and therefore justly thought, that to leave the consideration of *England* to provide for *Tangier*, would be to Act like a Man that should send his Servants to mend a gap in his hedge, when he saw his House on Fire, and his Family like to be consumed in it. We are next told that His Majesty, Offered to concur in any Remedies that could be proposed for the security of the Protestant Religion, and we must own that he did indeed make such an Offer, but he was pleased to go no further, for those Remedies which the Commons tendred were rejected, and those which they were preparing, were prevented by a Dissolution.

We have seen the great things which the King did on his part, let us now reflect on those instances which are singled out as so many *unsuitable returns of the Commons*. They are complained of for presenting *Addresses in the nature of Remonstrances rather than Answers*. Under what unhappy circumstances do we find our selves, when our Representatives can never behave themselves with that caution, but they will be misinterpreted at Court. If the Commons had return'd Answer to His Majesties Messages, without shewing upon what grounds they proceeded, they had then been accused as men acting peremptorily & without reason; if they modestly express the reasons of their Resolutions, they are then said to Remonstrate. But what the Ministers would have this word Remonstrance signifie, what Crime it is they mean thereby, to charge the Commons with, is unknown to an English Reader. Perhaps they who are better Critics and more French-men, know some pernicious thing which

which it imports. If they mean by a Remonstrance, a *declaring the Causes and Reasons* of what they do; it will not surely be imputed as a fault in them, since 'tis a way of proceeding which His Majesties Ministers have justified by their own Example, having in His Majesties name vouchsafed to *declare the Causes and Reasons of his Actions* to his People.

But the Commons made *Arbitrary Orders for taking Persons into Custody, for matters that had no Relation to Priviledges of Parliament.* The Contrivers of this Declaration, who are so particular in other things, would have done well to have given some instances of these Orders.

If they intend by these general words, to reflect on the Orders made to take those degenerate wretches into Custody, who published under their hands their Abhorrence of Parliaments, and of those who in an humble and Lawful manner Petitioned for their Setting, in a time of such extream necessity. Surely they are not in good earnest, they cannot beleive themselves when they say, that *these matters had no Relation to Pr. viledges of Parliament* if the Priviledg of Parliament be concern'd when an injury is done to any particular Member, how much more is it touched when men strike at Parliaments themselves, & endeavor to wound the very Constitution? if this be said with Relation to *Sheridon*, who has since troubled the World with so many idle impudent Pamphlets upon that account, 'tis plain that his Commitment was only in order to examine him about the Popish Plot, and his indeavors to stifle it, (though his contemptuous behaviour to the House deserved a much longer Confinement) and 'twas insolence in him to Arraign their Justice, because they did not instantly leave all their great Debates to dispatch the business relating to him.

Thompson of Bristol, was Guilty of divers great Breaches of Priviledge, but yet his Commitment was only in order to an Impeachment, and as soon as they had gone through with his Examination, they ordered him to be set at Liberty, giving security to answer the Impeachment which they had Voted against him. But is it a thing so strange & new to the Authors of the Declaration, that the House of Commons should order men to be taken into Custody for matters not relating to Priviledge. Have they not heard, that in the 4 *Edw. 6. Criketoff* was Committed for confederating in an Escape; that 18. *Jac.*

Sir

Sir Francis Michel was Committed for Misdemeanors, in procuring a Patent for the forfeitures of Recognizances, together with *Fowles, Gerrard*, and divers others, (none of which were Members of Parliament) that 20. *fac.* *Dr. Harris* was taken into Custody for Misbehaving himself in Preaching ; and that 3 *Car.* *Burgeffe* was Committed for faults in Catechizing, and *Levet* for presuming to exercise a Patent, which had been adjudged a Grievance by a Committee of the Commons in a former Parliament.

There would be no end of giving instances of those Commitments, which may be observed in almost every Parliament, so that the House of Commons did but tread in the steps of their Predecessors, and these sorts of Orders were not new, though the Declaration take the Liberty to call them Arbitrary. The Commons had betray'd their Trust, if they had not Asserted the Right of Petitioning, which had been just before shaken, by such a *strange Illegal and Arbitrary Proclamation.*

But now we come to the Transcendent monstrous Crimes, which can never be forgiven by the Ministers, the giving them their due Character, which every man of understanding had fix'd upon them long before ; the whole current of their Councils being a full proof of the Truth of the Charge. But what colour is there for calling these Votes illegal? is it illegal for the Commons to Impeach Persons, whom they have good reason to judge Enemies to the King and Kingdom? Is it illegal to determine by a Vote (which is the only way of finding the sense of the House) who are wicked Counsellors & deserve to be Impeached? Could the Commons have called the parties accused to make their answer before themselves? Had they not a proper time for their defence when they came to their Trials, & might they not have cleared their innocence much better, (if they durst have put that in issue,) by a Tryal, then a Dissolution of the Parliament? But should we grant that these Votes were not made in order to an Impeachment, yet still there is nothing illegal, nothing extraordinary in them. For the Commons in Parliament have ever used 2 ways of delivering their Country from pernicious & powerful Favourites, the one is in a Parliamentary course of Justice by Impeaching them, which is used when they Judg it needful to make them publick Examples, by Capital, or other high Punishments, for the terror of others :

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The other is by immediate Address to the King to remove them as unfaithful or unprofitable Servants. Their Lives their Liberties or Estates are never endangered, but when they are proceeded against in the former of these ways. Then legal evidence of their Guilt is necessary, then there must be a proper time allowed for their defence. In the other way the Parliament Act as the Kings great Council, and when either House observe that Affairs are ill administr'd, that the advice of Parliaments is rejected or slighted, the Course of Justice perverted, our Councils betray'd, Greivances multiplyed, & the Government weakly and disorderly managed, (of all which our Laws have made it impossible for the King to be guilty). They necessarily must, and always have charg'd those who had the Administration of Affairs, and the Kings Ear, as the Authors of these mischeifs, and have from time to time applyed themselves to him by Addresses for their Removal from his Presence and Councils. There be many things plain and evident beyond the Testimony of any Witnesses, which yet can never be proved in a legal way. If the King will hearken to none but two or three of his Minions, must we not conclude that every thing that is done comes from their Advice? And yet, if this way of representing things to the King were not allowed, they might easily frustrate the enquiries of a Parliament. It is but to whisper their Counsels, and they are safe. The Parliament may be busied in such great Affairs, as will not suffer them to pursue every Offender through a long Process; and besides there may be many reasons why a man should be turn'd out of a service, which perhaps would not extend to subject him to punishment. The People themselves are highly concern'd in the great Officers and Ministers of State, who are Servants to the Kingdom as well as to the King. And the Representatives of the People, the Commons, whose business it is to present all Greivances, as they are most likely to observe soonest the Folly and Treachery of those publick Servants, (the greatest of all Greivances) so this Representation ought to have no little weight with the Prince. This was understood so well by *H. 4.* a Wise and brave Prince, that when the Commons complain'd against four of his Servants, and Councillors, desiring they might be removed, he came into Parliament and there declared openly that though he knew nothing against them in particular, yet he was

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assured that what the Lords and Commons desired of him, was for the good of himself and his Kingdom; and therefore he did comply with them, and banish'd those four Persons from his Presence and Councils, declaring at the same time, that he would do so by any others who should be near His Royal Person, if they were so unhappy to fall under the Hatred and Indignation of his People. The Records and Histories of the Reigns of *Edward* the first, *Edw.* II. *Edw.* III. and indeed of all other succeeding Kings are full of such Addresses as these; but no History or Record can shew that ever they were called illegal or Un-Parliamentary till now.

Then the Ministers durst not appeal to the People against their own Representatives, but ours at present have either got some new Law in the point, or have attained to a greater degree of Confidence, than any that went before them. The best of our Princes have with thanks acknowledged the Care and Duty of their Parliaments, in telling them of their Corruption and Folly of their Favourites. *E.* I. *E.* II. *H.* VI. *H.* V. and *Q. El.* never fail'd to do it, and no Names are remembered with greater Honour in the English Annals. Whilst the disorderly, the Troublesom and Unfortunate Reigns of *H.* III. *Ed.* II. *R.* II. and *H.* the VI. ought to serve as Land Marks to warn succeeding Kings from preferring secret Councils to the Wisdom of their Parliaments.

But none of the Proceedings of the House of Commons, have been more censured at Court, and with less Justice, than their Vote about the Anticipation of several Branches of the Revenue. An objection which could proceed from nothing, but a total ignorance of the Nature of Publick Treasure in our own, & all other Nations, which was ever esteem'd Sacred & Un-alienable. All the Acts of resumption in the times of *H.* IV. *H.* VI. & other of our Kings were founded upon this Maxim, otherwise there could not be conceived any grosser injustice, than to declare Alienations to be void, which Kings had lawful power to make. It was upon this Maxim that the Parliament declar'd the Grant to the Pope of the yearly summe of 1000 marks, where-with King *John* had charg'd the Inheritance of the Crown, to be Null. It was for this cause that in the year 1670. His Majesty procured an Act of Parliament, to enable him to sell the Fee-Farm Rents; and it is the best excuse that can be made

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for those Ministers who in the year 1672. Advised the postponing of all payments to the Bankers out of the Exchequer, that they judged all securities by way of Anticipation of the Revenue, illegal and void in themselves.

Resumptions have been frequent in every Kingdom, the King of *Sweden* within these few Moneths, has, by the Advice of the States, resumed all the Lands which His Predecessors had in many years before, Granted from the Crown. No Country did ever believe the Prince, how absolute soever in other things, had power to sell or give away the Revenue of the Kingdom, and leave his Successor a Beggar. All those Acts of the Roman Emperors, whereby they wasted the Treasure of the Empire, were rescinded by their Successors; and *Tacitus* observes, that the first of them that look't upon the publick Treasure as his own, was *Claudius* the weakest and most foolish of them all. The present King of *France* did within these twelve years, by the consent of his several Parliaments, resume all the Demesnes of the Crown, which had been Granted away by himself or his Predecessors. That haughty Monarch, as much power as he pretends to, not being ashamed to own that he wanted power to make such Alienations, and that Kings had that happy inability, that they could do nothing contrary to the Laws of their Country. This notion seems founded in the reason of mankind, since Barbarism it self cannot Efface it. The *Ottoman* Emperours dispose Arbitrarily of the Lives and Estates of their Subjects, but yet they esteem it the most detestable wickedness, to employ the Tributes and Growing Revenues of the Provinces, (which they call the Sacred blood of the People;) upon any other then publick occasions. And our Kings *H. IV.* and *H. 7.* understood so well the different power they had in using their private Inheritances and those of the Crown, that they took care, by Authority of Parliament, to separate the Dutchy of *Lancaster* from the Crown, and to keep the descent of it distinct. But our present Courtiers are quite of another Opinion, who speak of the Revenue of the Crown as if it were a private Patrimony, and design'd only for domestic uses, and for the Pleasures of the Prince

The Revenues of the Crown of *England* are in their own nature appropriated to Publick Service, & therefore cannot without injustice be diverted or Anticipated. For either the Publick

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Revenue is sufficient to answer the necessary Occasions of the Government, and then there is no color for Anticipations, or else by some extraordinary accident the K. is reduced to want an extraordinary supply, and then he ought to resort to his Parliament. Thus wisely did our Ancestors provide, that the K. and His People should have frequent need of one another, & by having frequent opportunities of mutually relieving one anothers wants, be sure ever to preserve a dutiful affection in the Subject, and a fatherly tenderness in the Prince. When the King had occasion for the Liberality of his People, he would be well inclin'd to hear and redress their Grievances, and when they wanted ease from Oppressions they would not fail with alacrity to supply the occasions of the Crown. And therefore it has ever been esteem'd a crime in Counsellors who perswaded the King to Anticipate his Revenue, and a Crime in those who furnish Money upon such Anticipations in an Extraordinary way, however extraordinary the Occasion might be. For this cause it was that the Parliament in the 35th. of *H. 8.* did not only discharge all those debts which the K. had contracted, but enacted that those Lenders who had been before paid again by the King, should refund all those summs into the Exchequer, as Judging it a reasonable punishment, to make them forfeit the Money they lent, since they had gone about to introduce so dangerous a Precedent.

The true way to put the King out of a possibility of supporting the Government, is to let him wast in one year that Money, which ought to bear the charge of the Government for seven. This is the direct method to destroy the *Credit of the Crown both Abroad and at Home*. If the King resolve never to pay the Money which he Borrows, what Faith will be given to Royal Promises, and the Honor of the Nation will suffer in that of the Prince, & if it must be put upon the People to repay it, this would be a way to impose a necessity of giving Taxes without end, whether they would or no. And therefore (as Mercenary as they were) the Pensioners would never discharge the Revenue of the Anticipations to the Bankers. Now the Commons having the inconvenience of this before their Eyes in so fresh an instance, & having their Ears fill'd with the daily cries of so many Widows and Orphans; were obliged in duty to give a Public Caution to the people, that they should not run again into the

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the same error. Not onely because they Judged all Securities of that kind absolutely void, but because they knew no future Parliament could without breach of Trust repay that Money which was at first borrowed onely to prevent the Sitting of a Parliament, and which could never be paid without Countenancing a method so destructive to our Constitution. Nor have former Parliaments been less careful & nice, in giving the least allowance to any unusual ways of taken up Money, without Common Consent, having so very often declar'd that the King cannot supply his most pressing Necessities, either by Loans or by the Benevolence of his Subjects, which by the exprefs words of the Statute are damned and annulled for ever. But the House of Commons were so Cautious of giving any just occasion of Cavil, that they restrain'd their Votes much more than they needed to have done: For they extended them only to three Branches of the Revenue, all which were by several Acts of Parliament given to his present Majesty. And surely every one will agree, that when the King receives a Gift from his People, he takes it under such conditions, and ought to imploy it in such a manner, and for such purposes as they direct. We must therefore consult the several Acts by which those Branches were settled; if we would Judge rightly whether the Commons had not particular reasons for what they did. The Statute 12 Car. 2. c. 4. says, That *the Commons reposing Trust in his Majesty, for Guarding the Seas against all Persons intending the disturbance of Trade, and the Invaiding of the Realm: so that intent do give him the Tonnage and Poundage, &c.* This is as direct an Appropriation as Words can make, and therefore as it is manifest wrong to the Subject, to divert any part of this Branch to other uses; So for the King to Anticipate it, is plainly to disable himself to perform *the Trust reposed in Him.* And the late long Parliament, thought this matter so clear, that about two years before their Dissolution, they passed a Vote with Relation to the Customs, in all most the same Words. The Parliament which gave the Excise were so far from thinking, that the King had power to charge or dispose of it as his own, that by a special clause in the Act, whereby they give it, they were careful to *Impower him to dispose of it, or any part of it by way of Farms,* and to Enact that *such contracts shall be effectuat in Law, so as they be not for a longer time then three years.* The Act,

1. R. 3.
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12 Car. 2.
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Cap. c. 10.

Act, whereby the Hearth-money was given, declares that it was done to the end, *that the public Revenue might be proportioned to the public Charge*, and 'tis imposible that should ever be, whilst it is lyable to be pre-ingag'd and anticipated. And the Parliament were so careful to preserve this Tax always clear and uncharg'd, that they made it penal for any one so much as to accept of any Pension or Grant for years, or any other Estate, or any summe of Money out of the Revenue arising by vertue of that Act, from the King, His Heirs or Successors. Surely if the Pen-ners of this Declaration had not been altogether ignorant of our own Laws, and of the Policy of all other Countries & Ages they would never have Printed those Votes, in hopes thereby to have exposed the Commons to the World. They would not have had the face to say, that thereby the King was *Exposed to Danger, deprived of a possibility of supporting the Government, and reduc'd to a more helples condition then the meanest of His Subjects*. This we are sure of, that if the inviolable observing of these Statutes, will reduce His Majesty to a more helples Condition then the meanest of His Subjects, he will still be left in a better condition then the Richest and Greatest of his Ancestors, none of which were ever Masters of such a Revenue.

The H. of Commons are in the next place accused of a very high Crime, the assuming to themselves a power of suspending Acts of Parliament, because they declared that it was their Opinion, *That the prosecution of Protestant Dissenters upon the penal Laws, is at this time grievous to the Subject, a weakning of the Protestant interest, an incouragement to Popery, and dangerous to the Peace of the Kingdom*. The Ministers remembered that not many years ago, the whole Nation was justly Alarm'd upon the assuming an Arbitrary power of suspending penal Laws, & therefore they thought it would be very popular, to accuse the Commons of such an Attempt. But how they could possible misinterpret a Vote at that Rate, how they could say the Commons pretended to a power of repealing Laws, when they only declare their Opinion of the inconveniency of them, will never be understood till the Authors of this are pleased to *show their Causes and Reasons* for it in a second Declaration. Every impartial man will own, that the Commons had reason for this opinion of theirs. They had with Great anxiety observed

served that the present design of the Papists was not against any one sort of Protestants, but universal, and for extirpating the Reform'd Religion. They saw what advantages these Enemies made of our Divisions, & how cunningly they diverted us from persecuting them, by fomenting our jealousies of one another. They saw the strength and nearness of the King of *France*, and Judged of his inclinations by his usage of his own Protestant Subjects. They considered the number, & the Bloody Principles of the *Irish*, and what Conspiracies were form'd there, and even Ripe for Execution; and that *Scotland* was already delivered into the hands of a Prince, the known head of the Papists in these Kingdomes, and the Occasion of all their Plots and Insolencies, as more then one Parliament had declared. They could not but take notice into what hands the most considerable Trusts both Civil and Military were put, and that notwithstanding all Addresses, & all Proclamations for a strict Execution of the penal Laws against Papists, yet their Faction so far prevailed, that they were eluded, and only the dissenting Protestants smarted under the edge of them. In the midst of such circumstances was there not cause to think an Union of all Protestants necessary, and could they have any just ground to believe that the Dissenters, whilst they lay under the pressures of severe Laws, should with such Alacrity and Courage as was requisite, undertake the defence of a Countrey where they were so ill treated? A long and sad Experience had shew'd, how vain the endeavours of former Parliaments had been to force us to be all of one Opinion, and therefore the House of Commons resolv'd to take a sure way to make us of one Affection. They knew that some busie men would be striking whilst there were weapons at Hand, and therefore to make us live at Peace, they meant to take away all occasions of provoking or being provoked. In order to a general Repeal of these Laws, they first came to a Vote declaring the necessity of it, to which there was not one Negative in the House: A Vote of this nature does for the most part precede the bringing in of a Bill, for the Repeal of any General Law. And it had been a great presumption in a particular Member to have asked leave, to have brought in a Bill for Repealing so many Laws together, till the House had first declar'd that in their opinion they were *Grievous & Inconvenient*. No *English man* could be so ignorant of our Laws, none

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but a *French-man* could have confidence to declaim against a proceeding so regular and Parliamentary as this. Where was the *disregard to the Laws Established*, for the Commons to attempt the abrogating of a Law that is *Grievous to the Subject, and dangerous to the Peace of the Kingdom? Is it a suspending Acts of Parliament*, if they declare a Law to be *Grievous and dangerous* in their *Opinion*, before they set about the Repeal of it? And is there any ground to doubt but that a Bill would have pass'd that House, pursuant to this Vote, had it not been prevented by a Dissolution? Nor was there the least direction or signification to the *Judges*, which might give any occasion for the Reflection which follows in the Declaration. The due and impartial Execution of the Laws is the unquestionable Duty of the Judges, & we hope they will always remember that duty so well, as not to necessitate a H. of Commons to do theirs, by calling them to Account for making private Instructions the rule of their Judgments, and acting as men who have more regard to their Places than their Oaths. 'Tis too well known who it is that solicites and manages in favor of Judges, when a H. of Commons does demand Justice against them, for breaking their Oaths. And therefore the Publishers of this Declaration had said something well, if when they tell us the Judges ought not to break their Oaths in Reverence to the Votes of either H. they had been pleas'd to add, not in respect of any Command from the K. or Favorites. Then we should have no more Letters from Secretaries of State to Judges sitting upon the Bench. Then we should have no more Proclamations like that of the 14th Oct. 1662. Forbidding the Execution of the Laws concerning Highways. Nor that of the 10th. of May, 1672. Dispensing with divers clauses in the Acts of Parliament for increase of Shipping; Nor any more Declarations like that of the 15. of March, 1672. Suspending the penal Laws in matters Ecclesiastical.

But the Judges are sworn to execute all Laws, yet their is no obligation upon any man to inform against another. And therefore though the Ministers prevented the Repeal of those Laws, 'tis to be hop'd that this Vote will restrain every Englishman from prosecuting Protestants, when so wise and great a body have declared the pernicious effects of such a prosecution. 'Tis most true that in *England* no Law is abrogated by desuetude, but it is no less true that there are many Laws still unrepealed

peal'd which are never Executed, nor can be without publick detriment. The Judges know of many such dormant Laws, & yet they do not quicken the People to put them in Execution, nor think themselves Guilty of Perjury that they do not, such are the Laws for wearing Caps, for keeping Lent, those concerning Bowes and Arrows, about killing Calves, and Lambs, and many others. And those who vex men by Information on such antiquated Laws, have been ever lookt upon as Infamous, and Disturbers of the publick quiet. Hence it is that there are no Names remembred with greater detestation than those of *Empson* and *Dudley*, the whole Kingdom abhor'd them as Monsters in the time of *H. VII.* and they were punish'd as Traitors in the Reign of his Son.

The alteration of the circumstances whereupon a Law was made, or if it be against the genius of the People, or have effects contrary to the intent of the makers, will soon cause any Law to be disus'd, and after a little disuse, the reviving of it will be thought Oppression. Especially if experience has shewn that by the non Execution, the quiet, the safety, and Trade of the Nation have been promoted; of all which the Commons, who are sent from every part of the Kingdom, are able to make the clearest Judgment. Therefore after they have declared their Opinions of the Inconvenience of reviving the Execution of these Laws, which have lain asleep for divers years, tho the Judges must proceed, if any forward Informers should give them the trouble, yet they would not act wisely or honestly if they should Encourage Informers, or quicken Juries by strict and severe charges. Especially if it be considered that the Lords also were preparing Bills in favor of Dissenters, and that the King has wish'd often it was in his power to ease them. So that tho there be no Act of Repeal formerly passed, we have the consent and desire of all who have any share in making Acts. But let this Vote have what consequence it will, yet sure the Ministers had forgot that the Black Rod was at the door of the House, to require them to attend His Majesty at the very time when it was made, otherwise they would not have numbred it amongst the causes, *which occasioned the King to part with that Parliament.* And those that knew His Majesty was putting on his Robes before that Vote passed, might imagine a Dissolution thus foreseen, might occasion it, but cannot be brought to

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believe, that the Vote which was not in being, could occasion the Dissolution. These are the *proceedings* which the Ministers judg *unwarrantable* in the Parliament at *Westminster*, and for which they prevailed with His Majesty to *part with it*. But since it is evident upon Examination, that the principles of our Constitution, the method of Parliaments, and the precedents of every Age, were their Guide and Warrant in all those things; surely the K. must needs be alike offended with the Men about him, for perswading him to Dissolve that Parliament without any Cause; and for setting forth in his Name a Declaration of such pretended cause as every man almost sees through, & contrived only to cover those Reasons which they durst not Own. But with what face can they object to the House of Commons their *strange Illegal Votes declaring divers Eminent Persons to be Enemies to the King and Kingdom*, when at the same time they arrogate to themselves an unheard of Authority to Arraign one of the three Estates in the face of the World, for *usurping power over the Laws, Imprisoning their fellow Subjects Arbitrarily, exposing the Kingdom to the greatest dangers, and endeavoring to deprive the King of all possibility of supporting the Government*, and all this without any order or process of Law, without hearing of their defence, and as much without any reason, as Precedent. We have had Ministers heretofore so bold, (yet ever with ill success) as to accuse a pretended Factious party in the House, but never did any go so high as openly to Represent the whole H. of Commons as a Faction, much less, to cause them to be denounced in all the Churches of the Kingdom, that so the People might lock upon it as a kind of Excommunication. But if they erred in the things they judged rightly in the choice of the Persons who were to publish it. Blind Obedience was requisite, where such unjustifiable things were imposed, and that could be no where so entire, as amongst those Clergy men whose preferment depended upon it. Therefore it was ordered that this Declaration should be read by them, being pretty well assured that they would not unwillingly read in the Desk, a Paper so suitable to the Doctrin wch some of them had often declared in the Pulpit. It did not become them to enquire whether they had sufficient Authority for what they did; since the Printer called it the *Ks. Declaration*, & whether they might not one day be call'd to account for publishing it; nor once to ask if
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what His Majesty singly ordered when he sat in Council, and came forth without the stamp of the great Seal, gave them a sufficient warrant to read it publicly.

Clergy-men seldom make Reflections of this kind, least they should be thought to dispute the commands of their Superiors. It hath been observed, that they who allow unto themselves the liberty of doubting, advance their fortunes very slowly, whilst such who obey without scruple, go on with a success equal to their ambition. And this carries them on without fear or shame, and as little thought of a Parliament, as the Court Favorites who took care to Dissolve that at *Oxford*, before they durst tell us the faults of that at *Westminster*.

We have already answer'd the miscarriages objected to the first, and may now take a view of those imputed to the other, which they say *was Assembled as soon as that was Dissolved*, and might have added *Dissolved as soon as Assembled*. The Ministers having employ'd the People forty days in chusing Knights and Burgeses, to be sent home in eight, with a Declaration after them, as if they had been called together only to be affronted. The Declaration doth not tell us of any gracious expressions used at the opening of that Parliament, perhaps because the store was exhausted by the abundance which His Majesty was pleased to bestow on them in his former Speeches. But we ought to believe that His Majesties Heart was as full of them as ever, and if he did not express them, it is to be imputed unto the Ministers, who diverted him from his own inclinations, and brought him to use a language until that day unknown unto Parliaments. The Gracious Speech then made, & the Gracious Declaration that followed, are so much of a piece, that we may justly conclude the same Persons to have been Authors of both. How ever His Majesty failed not to give good advice unto them, who were called together to advise him. The Parliament had so much respect for their King as not particularly to complain of the great invasion, that was made upon their liberty of proposing & debating Laws, but his telling them before hand what things they should meddle with, and what things, no reasons they could offer, should persuade him to consent unto.

But every man must be moved to hear it charged up on them as an unpardonable disobedience, that they did not obediently submit to that irregular Command, of not touching on the business

lines of the succession. Shall two or three unknown Minions take upon them, like the Lords of the Articles of *Scotland*, to prescribe unto an English Parliament what things they shall treat off? Do they intend to have Parliaments *inter instrumenta servitutis*, as the Romans had Kings in our Country? This would quickly be, if what was then attempted had succeeded, and should be so pursued hereafter, that Parliaments should be directed what they were to meddle with, and threatned if they do any other thing. For the loss of Liberty of Freedom of debate in Parliament, will soon and certainly be followed by a general loss of Liberty. Without failing in the respect which all good Subjects owe unto the King, it may be said that His Majesty ought to divest himself of all private inclinations, and force his own Affections to yeild unto the publick concerns: And therefore His Parliaments ought to inform him impartially, of that which tends to the good of those they represent, without regard of personal passions, and might worthily be blam'd, if they did not believe, that he would forgo them all for the safety of his people, Therefore if in it self it was lawful to propose a Bill for excluding the Duke of *York* from the Crown, the doing it after such an unwarrantable signification of his pleasure would not make it otherwise. And the unusual stiffness which the King hath shown upon this occasion, begins to be suspected not to proceed from any fondnes to the Person of his Brother, much less from any thought of danger to the English Monarchy by such a Law, but from the influence of some few ill men upon his Royal Mind, who being Creatures to the Duke, or Pensioners to *France*, are restless to prevent a good understanding between the King and his people; justly fearing that if ever he comes to have a true sense of their affections to him, he would deliver up to justice these wicked wretches, who have infected him with the fatal notion, that the interests of his people are not only distinct but opposite to his.

His Majesty does not seem to doubt of his power in conjunction with his Parliament, to exclude his Brother. He very well know's this power hath been often exerted in the time of his Predecessors. But the reason given for his refusal to comply with the interests and desires of his Subjects, is, because it was a *point which concerned him so near in Honour, Justice and Conscience*. Is it not honourable for a Prince, to be True and Faith-

Faithful to his Word and Oath? To keep and maintain the Religion and Laws established? Nay can it be thought dishonourable unto him, to love the safety & well-fare of his People and the true Religion established among them, above the Temporal Glory and Greatness of his personal Relations? Is it not just, in conjunction with his Parliament, for his Peoples safety, to make use of a power warranted by our English Laws, & the examples of former Ages? Or is it just for the Father of his Countrey, to expose all his Children to ruine out of fondness unto a Brother? May it not rather be thought unjust to abandon the Religion, Laws and Liberties of his People which he is sworn to maintain and defend, and expose them to the Ambition and Rage of one that thinks himself bound in Conscience to subvert them? If His Majesty is pleased to remember what Religion the Duke professeth, can he think himself obliged in *Conscience* to suffer him to ascend the Throne, who will certainly endeavor to overthrow it, and set up the worst of Superstitions and Idolatry in the room of it? Or if it be true that all obligations of Honor, Justice and Conscience, are comprehended in a grateful return of such benefits as have been received, can His Majesty believe that he doth duly repay unto his Protestant Subjects, the kindness they shewed him, when they recalled him from a miserable helpless banishment, and with so much dutiful affection placed him in the Throne, enlarged his Revenue above what any of his Predecessors had enjoyed, and gave him vaster sums of Money in twenty years, than had been bestowed upon all the Ks. since *William* the *first*; should he after all this deliver them up to be ruin'd by his Brother? It cannot be said that he had therein more regard unto the Government, than to the Person, seeing it is evident the Bill of exclusion had no ways prejudiced the legal Monarchy, w^{ch} his Majesty doth now enjoy with all the Rights and Powers which his wife and brave Ancestors did ever claim, because many Acts of the like nature have passed heretofore upon less necessary occasions.

The preservation of every Government depends upon an exact adherence unto its Principles, & the essential principle of the English Monarchy, being that well proportioned distribution of Powers, whereby the Law doth at once provide for the greatness of the King, and the safety of the People, the Government can subsist no longer, than whilst the Monarch enjoying
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the Power which the Law doth give him, is enabled to perform the part it allows unto him and the People are duly protected in their Rights and Liberties. For this reason our Ancestors have been always more careful to preserve the Government inviolable, than to favour any Personal pretences, and have therein conformed themselves to the practice of all other Nations, whose examples deserve to be followed. Nay, we know of none so slavishly addicted unto any Person or Family, as for any reason whatsoever, to admit of a Prince who openly professed a Religion contrary to that which was established amongst them. It were easie to alledge multitude of examples of those who have rejected Princes for reasons of far less weight then difference in Religion, as *Robert of Normandy, Charles of Lorrain, Alphonso a d Sberadado of Spain*; but those of a latter date, against whom there was no other exception than for their Religion, suiteth better with our occasion. Among whom it is needles to name *Henry of Bourbon*, who though accomplished in all the vertues required in a Prince, was by the general Assembly of the Estate at *Blois* declared incapable of succession to the Crown of *France*, for being a Protestant. And notwithstanding his valour, industry, reputation and power increased by gaining four great Battails, yet he could never be admitted King, till he had renounced the Religion, that was his obstacle. And *Sigismund* Son of *John of Sweden*, King of that Country by Inheritance, and of *Poland* by Election, was deprived of his Hereditary Crown, and his Children disinherited only for being a Papist, & acting conformably to the Principles of that Religion, though in all other respect he deserved to be a King and was most acceptable unto the Nation.

But if ever this Maxim deserved to be considered surely it was in the case of the Duke of *York*. The violence of his natural temper is sufficiently known: His vehemence in exalting the Prerogative (in his Brothers time) beyond its due bounds and the principles of his Religion which carry him to all imaginable excesses of cruelty, have convinced all mankind that he must be excluded, or the Name of King being left unto him, the power put into the hands of another. The Parliament therefore considering this, and observing the precedents of former ages, did wisely choose rather to exclude him, than to leave him the Name, and place the power in a Regent. For they could

could not but look upon it as folly, to expect that one of his temper, bred up in such principles in politicks, as made him in love with Arbitrary power, and bigotted in that Religion, which allewise propagates it self by Blood, would patiently bear these shackles, which would be very disgustful unto a Prince of the most meek disposition. And would he not thereby have been provok't to the utmost fury and revenge, against those who laid them upon him? This would certainly have bred a contest, and these limitations of power propos'd to keep up the Government, must unavoidably have destroyed it, or the Nation, (which necessity would have forced into a War in its own natural defence) must have perished either by it or with it. The success of such controversies are in the hand of God, but they are undertaken upon too unequal terms, when the People by victory can gain no more, than what without hazard may be done by Law, and would be ruin'd if it should fall out otherwise. The Duke with Papists might then make such a peace, as the *Romans* are said to have made once in our desolated Country, by the slaughter of all the inhabitants able to make War, & *ubi solitudinem faciunt pacem appellant*. This is the happy state Taci2. they present unto us, who condemn the Parliament for bringing in a Bill of Exclusion. This is the way to have such a peace as the *Spaniards*, for the propagation of the Gospel made in the *West Indies*, at the instigation of the Jesuites, who govern'd their Councils. And seeing they have the Duke no less under their power and directions, we may easily believe they would put him upon the same methods. But as it is not to be imagin'd, that any Nation that hath vertue, courage and strength equal unto the English, will so tamely expect their ruine, so the passing a Bill to exclude him may avoid, but cannot (as the Declaration phraseth it) establish a War. But if there must be a War, let it be under the Authority of Law, let it be against a banished excluded pretender. There is no fear of the consequence of such a War. No true Englishman can joyn with him, or countenance his Usurpation after this Act; and for his Popish and forreign adherents, they will neither be more provok'd, nor more powerful by the passing of it. Nor will his Exclusion make it at all necessary to maintain a standing force, for preserving the Government, and the peace of the Kingdom. The whole People will be an Army for that purpose, and every

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Heart and Hand will be prepared to maintain that so necessary, so much desired Law. A Law for which three Parliaments, have been so earnest with His Majesty, not only in pursuance of their own judgments, but by the direction of those that sent them. It was the universal Opinion of the Papists, that *Mary* Queen of *Scots*, was excluded only by an Act of Parliament, and yet we see Queen *Elizabeth* Reigned Gloriously and Peaceably forty years, without any standing force. But our Ministers do but dissemble with us, when they pretend to be so much afraid of a standing Army. We know how eagerly they have desired, and how often they attempted to establish one. We have seen two Armies raised with no other design, as has been since undenyably proved, and one of those they were so loath to part with, that more than one Act of Parliament was necessary to get it disbanded. And since that, they have increased the Guards to such a degree, that they are become a formidable standing force. A thing so odious to a free People, that the raising of one single Regiment in *Spain*, within these six years, under colour of being a guard for the Kings Person, so inflamed the Nation, that a Rebellion had ensued, if they had not been disbanded speedily. The Nobility and Gentry of that Kingdom, looking upon themselves as their Kings natural Guard, scorned that so honorable a Name should be given to Mercenaries.

But as His Majesty was perswaded to resolve against the expedient proposed, to secure our peace by excluding the Duke, so it is evident that nothing was intended by those other ways, which were darkly and dubiously intimated in His Majesties Speech unto the Parliament at *Oxford*, and repeated in the Declaration; and His Majesty in his Wisdom could not but know that they signified nothing. And those who spake more plainly in proposing a Regency as an expedient, did in publick and private declare, they believed the Duke would not consent unto it, nor unto any unusual restriction of the Royal Power. So that they could have no other design therein, than a plausible pretence to delude the Parliament and People. Some such consideration induced them to revive the distinction between the Kings personal and politick capacity, by separating the power from the Person, which we have reason to believe they esteemed unfeasible. However it is more than probable that the *Jesuits*,

Suites, Casuists, and Popish Lawyers would reject it, as well as anything else that might preserve us from falling under his power. And the *Pope* who could absolve King *John, Henry* the third and others, from the Oaths they had taken, to preserve the Rights and Liberties of their Subjects, might with the same falicity dissolve any that the Duke should take. And as our Histories testify what bloody Wars were thereby brought upon the Nation, we have reason to believe, that if th. like should again happen, it would be more fatal unto us, when Religion is concerned which was not then in question. Would not his *Confessor* soon convince him, that all Laws made in favour of Heresie are void? And would he not be liable to the heaviest Curses, if he suffered his power to be us'd against his Religion? The little regard he hath to Laws whilst a Subject, is enough to instruct us what respect he would bear to them if he should be a King. Shall we therefore suffer the Royal Dignity to descend on him, who hath made use of all the power, he has been entrusted with hitherto, for our destruction? And who shall execute this great Trust? The next Heir may be an Infant, or one willing to surrender it into his hands. But should it be otherwise, yet still there is no hope of having any fruit of this expedient without a War, and to be obliged to swear Allegiance to a Popish Prince, to own his Title, to acknowledge him Supream Head of the Church, and defender of the Faith, seems a very strange way of Entitling our selves to fight with him.

The two reasons which the Declaration pretends to give against the exclusion, are certainly of more force against the expedient. *A standing Force* would have been absolutely necessary, to have plac'd and kept the Administration in Protestant hands; and the Monarchy it self had been destroy'd by a Law, which was to have taken all sort of Power from the King, and made him not so much as a *Duke of Venice*. How absurdly and incoherently do these men discourse? Sometimes the Government is so Divine a thing, that no human Law can lessen or take away his Right, who only pretends in Succession, and is at present but a Subject. But at other times they tells us of Acts of Parliament to banish him out of his own Dominions, to deprive him of all power, of his whole Kingdom after he shall be in possession of the Throne. The cheat of this expedient appear'd so gross in the House of Commons, that one of the Dukes pro-

feſſed Vaffals, who had a little more Honour than the reſt, was aſham'd of it, and openly renounced the project which they had been forming ſo long, and thought they had ſo Artificially diſguiſed. But though it was ſo well expoſed in the Houſe, yet the Miniſters thought the men without doors might be ſtill deceived, and therefore they do not bluſh to value themſelves again upon it in their Declaration.

As for the inſinuation which follow's, that there was reaſon to believe that *the Parliament would have paſſed further to attempt other great and important Changes at preſent.* If it be meant any change of the Conſtitution of the Government, 'tis a malicious ſuggeſtion of thoſe men, who are ever inſtilling into His Maſties mind ill thoughts of his Parliament, ſince no Vote nor Propoſition in either Houſe could give any ground for ſuch ſuſpicion, and therefore in this matter the People may juſtly accuſe the Court, (who ſo often cry out againſt them for it) of being moved by cauſeleſs Fears and Jealouſies. And for His Maſty to be perſwaded to Arraign the whole Body of his Poeple, upon the ill grounded ſurmises, or malicious and falſe ſuggeſtions of evil and corrupt men about him, doth neither well become the Juſtice of a Prince, nor is agreeable to the meaſures of Wiſdom, which he ſhould Govern himſelf, as well as Rule his Poeple by. And if an attendance to the ſlanderous accuſations of Perſons, who hate Parliaments, becauſe their Crimes are ſuch that they have reaſon to fear them, govern and ſway his Royal mind, there can never want grounds for the Diſſolution of any Parliaments. But if they mean *by attempting great and important Changes,* that they would have beſought His Maſty, that the Duke might no longer have the Government in his hands, that his dependents ſhould no longer preſide in his Councils, no longer poſſeſs all the great Truſts and Offices in the Kingdom, that our Ports, our Garrifons, and our Fleets ſhould be no longer governed by ſuch as are at his Devotion, that Characters of Honour and Favour ſhould be no longer plac'd on Men, that the Wiſdom of the Nation hath judg'd to be Favourers of Popery, or Penſioners of France. Theſe were indeed *great and important Changes,* but ſuch as it becomes English men to believe were deſigned by that Parliament. Such as will be deſigned and preſt for by every Parliament, and ſuch as the People will ever pray may at laſt find ſucceſs with the King. Without theſe

these *Changes*, the Bill of Exclusion would only provoke, not disarm our Enemies, nay the very Money which we must have paid for it, would have been made use of to secure and hasten the Dukes return upon us.

We are now come to the consideration of that only fault which was peculiar to the Parliament at *Oxford*, and that was their behaviour in relation to the business of *Fitz-Harris*. The Declaration says, *he was impeached of High-Treason by the Commons*, and they had cause to think his Treasons to be of such an extraordinary Nature, that they well deserved an Examination in Parliament. For *Fitz-Harris* a known *Irish* Papist appear'd by the Informations given in the House, to be made use of by some very great persons to set up a counterfeit Protestant Conspiracy, and thereby not only to drown the noise of the Popish Plot, but to take off the Heads of the most eminent of those, who still refused to bow their knees to *Baal*. There had been divers such honest contrivances before, which had unluckily fail'd, but the principal contrivers avoided the discovery, as the others did the punishment; in what manner, and by what helps, the whole Nation is now pretty sensible. Being warned by this experience they grew more cautious than ever, and therefore that the Treason which they were to set on Foot, might look as unlike a Popish Design as was possible, they fram'd a Libel full of the most bitter invectives against Popery and the Duke of *York*, It carried as much seeming zeal for the Protestant Religion, as *Coleman's Declaration*, and as much care and concern for our Laws, as the *Penners* of this *Declaration* would seem to have. But it was also filled with the most subtle insinuations, and the sharpest expressions against His Majesty that could be invented, and with direct and passionate incitements to Rebellion. This Paper was to be conveyed by unknown Messengers, to their hands who were to be betray'd, and then they were to be seiz'd upon, and those Libels found about them, were to be a confirmation of the Truth of a Rebellion, which they had provided Witnesses to swear was designed by the Protestants, and had before prepared men to believe by private whispers. And the credit of this Plot should no doubt have been soon confirmed, by speedy Justice done upon the pretended Criminals. But as well laid as this contrivance seems to be, yet it spoke it self to be of a Popish extraction. 'Tis a policy the Jesuites have often used,

to divert a storm which was falling upon themselves. Accordingly heretofore they had prepared both Papers and Witnesse, to have made the *Puritans* guilty of the Gunpowder Treason, had it succeeded as they hoped for.

The hainous nature of the Crime, and the greatness of the Persons supposed to be concern'd, deserved an extraordinary examination, which a Jury, who were only to enquire whether *Fitz-Harris* was guilty of framing that Libel, could never make; and the Commons believed none but the Parliament was big enough to go through with. They took notice that the zeal or courage of inferiour Courts was abated, and that the Judges at the Trial of *Wakeman* and *Gascoign* (however it came to pass) behaved themselves very unlike the same men they were, when others of the Plotters had been Tryed. They had not forgot another Plot of this nature discovered by *Dangerfield*, which though plainly proved to the Council, yet was quite stifled by the great deligence of the Kings Bench, which rendered him as an incompetent Witnesse. Nor did they only fear the perversion of Justice, but the misapplication of Mercy too. For they had seen that the Mouths of *Gadbury* and others, as soon as they began to confesse, were suddenly stop't by a gracious Pardon. And they were more jealous than ordinary in this case, because when *Fitz-Harris* was inclined to Repentance and had begun a Confession, to the surprize of the whole Kingdom, without any visible cause, he was taken out of the lawful Custody of the Sheriffs, and shut up a close Prisoner in the *Tower*. The Commons therefore had no other way to be secure that the Prosecution should be effectual, the judgment indifferant, and the Criminal out of all hopes of a Pardon (unless by an ingenuous Confession he could engage both Houses in a powerful Mediation to His Majesty in his behalf) but by impeaching of him. They were sure no Pardon could stop their suit, though the King might release his own Prosecution by his Pardon.

Hitherto the Proceedings of the Commons in this business could not be lyable to exception, for that they might lawfully Impeach any Commoner before the Lords, was yet never doubted. The Lords themselves had agreed that point, when the day before they had sent down the Plea of *Sir William Scroggs* to an Impeachment of Treason, then depending before them.

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And they are men of strange confidence, who at this time of day take upon them to deny a Jurisdiction of the Lords, which hath been practis'd in all times without controul, and such a fundamental of the Government, that there could be no security without it, Were it otherwise, it would be in the power of the King, by making Commoners Ministers of State, to subvert the Government by their contrivances when he pleased. Their greatness would keep them out of the reach of ordinary Courts of Justice, and their Treasons might not perhaps be within the Statutes, but such as fall under the cognisance of no other Court than the Parliament; and if the People might not of Right demand Justice there, they might without fear of punishment, act the most destructive villanies against the Kingdom.

As a remedy against this evil, the *Mirroure of Justice* tells us, Cap. 1.
Sect. 2.
pag. 8. that Parliaments were ordained to hear and determine all Complaints of wrongful Acts, done by the King, Queen, or their Children, and such others against whom common Right cannot be had elsewhere. Which as to the King, is no otherwise to be understood, than that if he erre by illegal personal Commands or Orders, he is to be admonished by Parliament, and Addressed unto for remedy, but all others being but Subjects, are to be punished by Parliaments, according to the Laws of Parliaments.

If the ends were well considered for which Parliaments were ordained, as they are declared in the Statute; *Item for maintenance of the said Articles and Statutes, (viz. Magna Charta, &c.)* a Parliament shall be holden every year, by them as well as by the forgoing ancient Authority, none could be deceived by the Parliament *Rot. of 4 Ed. 3.* Where it is mentioned as accorded between the King and his Grands (that is his Lords) that Judgement of death, given by the Peers against Sir *Simon de Beresford, Mautrever,* and others, upon the Murder of King *Ed. 2.* and his Uncle, should not be drawn into example, whereby the Peers might be charged to judge others than their Peers, *contrary to the Law of the Land, if such a case should happen.* For whereas from this Record, some would perfwade us that the Lords are discharged from judging Commoners, and that our ancient Government is alter'd in this case by that Record, which they say is an Act of Parliament.

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The stile and form of it is so different from that which is used in Acts of Parliament, that many are inclined to believe it to be no other thing, than an agreement between the King and the Lords. But to remove all future scruples in the case, let it be admitted to be an Act of Parliament, and if there be nothing accorded in it, to acquit the Lords from trying Commoners Impeached before them by the Commons in Parliament, then we hope that shame will stop their mouths, who have made such a noise against the Commons with this Record. *First*, it is evident from the Roll it self with other Records, that the Lords did judge those Commoners contrary to the Law of the Land, that is, at the instance of the King, and the Prosecution of their Enemies, without the due course of the Law; or calling them to make their defence, and (for ought appears) without legal Testimony. *Secondly*, it is evident, that they were driven upon this illegal proceeding, by the Power and Authority of the King, and some Prosecutors, who earnestly pressed the Lords thereunto, upon pretence of speedily avenging the blood of the former King and his Uncle. So that the judgement was given at the Kings suit, in a way not warranted by the Law and Custom of Parliament, or any other Law of the Kingdom. Surely when the Lords blood was suffered to cool, they had reason to desire something might be left upon Record, to preserve them for the future from being put upon such shameful work, though such a case as the Murder of a King should again happen, as it seems they did not fear to be pressed in any other, so to violate the Laws. But *Thirdly*, There is not a word in the Record, that imports a restriction of that lawful Jurisdiction, which our Constitution placeth in the Lords to try Commoners, when their cases should come before them lawfully, at the suit of the Commons by Impeachment. There is no mark of an intention to change any part of the ancient Government, but to provide against the violation of it, and that the Law might stand as before notwithstanding the unlawful Judgment they had lately given. So that the question is still the same, whether by the Law of the Land, that is the Law and Custom of Parliament, or any other Law, the Lords ought to try Commoners Impeached by the Commons in Parliament, as if that Record had never been. And we cannot think that any man of sense, will from that Record make an argument in this point, since it could be no better

better than to infer, that because the Lords are no more to be pressed by the King, or at his suit, to give Judgement against Commoners contrary to the Law of the Land, when they are not Impeached in Parliament, therefore they must give no Judgement against them at the suit of the Commons in Parliament, when they are by them Impeached, according to the Laws and Customs of Parliament. But if such as delight in these cavils had searched into all the Records relating unto that of the 4 *Edw. 3.* They might have found in the 19 of the same King, a Writ issued out to suspend the Execution of the Judgment against *Mattrevers*, because it had been illegally passed. And the chief reason therein given, is, that he had not been Impeached, and suffered to make his defence. But it was never suggested nor imagined, that the Lords who judged him, had no Jurisdiction over him because he was a Commoner, or ought not to have exercised it, if he had been Impeached. Nor was it pretended that by *Magna Charta* he ought to have been tryed only by his Peers; the Laws of the Land therein mentioned, and the Laws and Customs of Parliaments, being better known and more revered in those dayes, than to give way to such a mistake. They might also have found by another Record of the 26. of the same King, that by undoubted Act of Parliament *Mattrevers* was pardon'd, and the Judgment is therein agreed by the Lords and Commons to have been illegal, and unjustly passed by the violent Prosecution of his Enemies, but it is not alledged that it was *coram non iudice*, as if the Lords might not have judged him, if the proceedings before them had been legal. But as the sence and proceedings of all Parliaments, have ever been best known by their practice, The objectors might have found by all the Records since the 4 *Edw. 3.* that Commoners, as well as Lords; might be, and have been Impeached before Lords, and judged by them to Capital or other punishments, as appears undenyably to every man that hath read our Histories or Records. And verily the concurrent sence and practice of Parliaments for so many Ages, will be admitted to be a better interpretation of their own Acts, than the sence that these men have lately put upon them to encrease our Disorders. But to silence the most malicious in this point, let the famous Act of the 25 of *Edw. 3.* be considered, which hath ever since limited all inferior Courts in their Jurisdiction, unto the Tryal of such

Rot. Parl.
 19 Edw.
 3. M. 18.

Rot Parl.
 26 Edw.
 3. M. 25.

such Treasons only as are therein particularly specified, and referred all other Treasons to the tryal and judgment of Parliament. So that if any such be committed by Commoners, they must be so Tryed, or not at all. And if the last should be allowed, it will follow that the same fact which in a Peer is Treason, and punishable with death, in a Commoner is no Crime, and Subject to no punishment.

C. 2. 17.
29.

Nor doth *Magna Charta* confine all Trials to common Juries, for it ordains that they shall be Tryed by *the Judgement of Peers, or by the Law of the Land*. And will any man say the Law of Parliament is not the Law of the Land? Nor are these words in *Magna Charta* superfluous or insignificant, for then there would be no Tryal before the *Constable* or *Marshal*, where is no Jury at all. There could be no Tryal of a Peer of the Realm upon an Appeal of Murder, who according to the Law, ought in such cases to be tried by a common Jury and not by his Peers. And since the Records of Parliaments are full of Impeachment of Commons, and no instance can be given of the rejection of any such Impeachment, it is the Commons who have reason to cite *Magna Charta* upon this occasion, which provides expressly against the denial of Justice. And indeed it looks like a denial of Justice, when a Court that hath undoubted Cognisance of a Cause regularly brought before them, shall refuse to hear it. But most especially, when (as in this case) the Prosecutors could not be so in any other Court, so as a final stop was put to their suit, though the Lords could not judicially know, whether any body else would prosecute else-where.

This proceeding of the Lords looks the more odly, because they rejected the Cause, before they knew as Judges what it was, and referred it to the ordinary Course of Law, without staying to hear, whether it were a matter whereof an inferior Court could take Cognisance. There are Treasons which can only be adjudged in Parliament, and if we may collect the sense of the House of Commons from their debates, they thought there was a mixture of those kind of Treasons in *Fitz-Harris's* case. And therefore there was little reason for that severe suggestion, that the Impeachment was only designed to delay a Trial, since a complete examination of his Crime could be had no where but in Parliament. But it seems somewhat strange, that the delaying of a Tryal, and that against a professed Papist charged with Treason,

son, should be a matter so extremely sensible: For might it not be well retorted by the People, that it had been long a *matter extremely sensible to them*, that so many Prorogations, so many Dissolutions, so many other Arts had been used to delay the Trials, which His Majesty had often desired, and the Parliament prepared for against five *professed Popish Lords charged with Treasons of an extraordinary nature*. But above all, that it was a matter *extremely sensible to the whole Kingdom*, to see such Un-Parliamentary & mean Solicitations, used to promote this pretended Rejection of the Commons Accusation, as are not fit to be remembered. 'Tis there that the *delay of the Tryal is to be laid*; for had the impeachment been proceeded upon, and the Parliament suffered to Sit, *Fitz-Harris* had been long since executed, or deserved Mercy by a full Discovery of the secret Authors of these malicious designs against the King & People. For though the Declaration says a *Tryal was directed*, yet we are sure nothing was done in order to it, till above a month after the Dissolution. And it hath since raised such questions, as we may venture to say, were never talk't of before in *Westminster Hall*. Questions which touch the judicature of the Lords, & the Priviledges of the Commons in such a degree, that they will never be determined by the decision of any inferior Court, but will assuredly at one time or other have a farther Examination.

We have seen now that the Commons did it not without some ground, when they Voted the *Refusal of the Lords to proceed upon an Impeachment, to be a denial of Justice, and a violation of the Constitution of Parliaments*; and the second Vote was but an application of this Opinion to the present case. The third Vote made upon that occasion, was no more than what the King himself had allowed, and all the Judges of *England* had agreed to be Law, in the case of the five impeached Lords, who were only generally impeached, & the Parliament Dissolved, before any Articles were sent up against them. Yet they had been first indicted in an Inferior Court, and preparations made for their tryal, but the Judges thought at that time, that a prosecution of all the Commons was enough to stop all prosecutions of an Inferior Nature. The Commons had not Impeached *Fitz Harris*, but that they judged his case required so publick an Examination, and for any other Court to go about to try & condemn him, tho it should be granted to be for another Crime, is as far as in them lies to stifle that Examination.

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By this time every man will begin to question, whether *the Lords did themselves, or the commons Right, in the refusing to countenance such a proceeding.* But one of the penmen of this Declaration has done himself and the Nation Right, and has discovered himself by using his ordinary phrase upon this occasion. The Person is well known without naming him, who always tells men they have done themselves no Right, when he is resolved to do them none. As for the Commons, nothing was *carried on to extremity by them*, nothing done but what was Parliamentary? They could not desire a conference, till they had first stated their own case, and asserted by Votes the matter which they were to maintain at a conference. And so far were those Votes from putting the Two Houses *beyond a possibility of Reconciliation*, that they were made in order to it, and there was no other way to attain it. And so far was the House of Commons from thinking themselves to be out of a capacity of transacting with the Lords any farther, that they were preparing to send a Message for a conference to accommodate this difference, at the very instant that the Black Rod called them to their Dissolution. If every difference in Opinion or Vote, should be said to put the two Houses out of capacity of transacting business together, every Parliament almost must be dissolved as soon as called. However our Ministers might know well enough, that *there was no possibility of Reconciling the Two Houses*, because they had before resolved to put them out of a capacity of transacting together by a sudden Dissolution. But that very thing justifies the Commons to the world, who cannot but perceive that there was solemn and good ground for them to desire an inquiry into *Fitz. Harris's Treason*, since they who influence our affairs were so startled at it, that in order to prevent it, they first promoted this difference between the two Houses, and then broke the Parliament lest it should be composed.

There is another thing which must not be past over without observation, that the Ministers in this Paper take upon them to decide this great dispute between the two Houses, and to give judgment on the side of the Lords. We may well demand what Person is by our Law Constituted a Judge of their Privileges, or hath authority to censure the Votes of one House, made with reference to matters wherein they were contesting with the other House, *as the greatest violation of the Constitution of Parliaments.*

Liaments. They ought certainly to have excepted the power which is here assumed of giving such a judgment, and publishing such a Charge, as being not only the highest violation of the Constitution, but directly tending to the destruction of it.

This was the Case, and a few days continuance being like to produce a good understanding between the Two Houses, to the advancing all those great and publick ends, for which the Nation hop'd they were called, the Ministers found it necessary to put an end to that Parliament likewise.

We have followed the Writers of the Declaration through the several parts of it, wherein the House of Commons are Reproached with any particular Miscarriages, and now they come to speak more at large, and to give caution against two sorts of ill Men. One sort they say, are men fond of their old beloved Common-wealth Principles; and others are angry at being disappointed in designs they had for accomplishing their own Ambition and Greatness. Surely if they know any such Persons, the only way to have prevented the mischiefs which they pretend to fear from them, had been to have discovered them, and suffered the Parliament to sit to provide against the evils they would bring upon the Nation, by prosecuting of them. But if they mean by these lovers of *Common-wealth Principles*, men passionately devoted to the Publick good, and to the common service of their Country, who believe that Kings were instituted for the good of the People, and Government ordained for the sake of those that are to be governed, and therefore complain or grieve when it is used to contrary ends, every Wise & Honest man will be proud to be ranked in that number. And if *Common-wealth* signifies the Common Good, in which sense it hath in all Ages been used by all good Authors, and which *Bodin* puts upon it, when he speaks of the Government of *France* which he calls a *Republick*, no good man will be ashamed of it. Our own Authors, *The Mirror of Justice*, *Bracton*, *Fleta*, *Fortescue*, and others in former times. And of latter years, *Sir Thomas Smith*, Secretary of State in the Reign of *Queen Elizabeth*, in his Discourses of the Common-wealth of *England*, *Sir Francis Bacon*, *Cook* and others, take it in the same sense. And not only divers of our Statutes use the Word, but even King *James* in his first Speech unto the Parliament, acknowledgeth himself to be the *Scrivant* of the *Commonwealth*,

and King *Charles* the I. both before and in the time of the War, never expresseth himself otherwise. To be *fond* therefore of such *Commonwealth Principles*, becomes every Englishman; and the whole Kingdom did hope, and were afterwards glad to find, they had sent such men to Parliament. But if the Declaration would intimate that there had been any design of setting up a *Democratical* Government, in opposit on to our legal *Monarchy*, it is a calumny just of a peice with the other things which the penners of this Declaration have vented, in order to the laying upon others the blame of a design to overthrow the Government, which only belongs unto themselves.

It is strange how this *Word*, should so change its signification, with us in the space of twenty years. All *Monarchies* in the World, that are not purely Barbarous and Tyrannical, have ever been called *Commonwealths*. *Rome* it self altered not that name, when it fell under the Sword of the *Cæsars*. The proudest and cruellest of Emper. or disdained it not. And in our days, it doth not only belong to *Venice*, *Genova*, *Switzerland*, and the *United Provinces* of the *Netherlands*, but to *Germany*, *Spain*, *France*, *Sweden*, *Poland* and all the Kingdoms of *Europe*. May it not therefore be apprehended that our present Ministers, who have so much decryed this *Word* so well known to our Laws, so often used by our best Writers, and by all our Kings untill this day, are Enemies to the thing? And that they who make it a brand of Infamy to be of *Commonwealth Principles*, hat is, devoted to the good of the People, do intend no other than the hurt and mischief of that People? Can they in plainer terms declare their *fondness* of their *belov'd* Arbitrary Power, and their design to set it up, by subverting our Ancient Legal Monarchy instituted for the benefit of the Commonwealth, than by thus casting reproach upon those who endeavour to uphold it.

Let the Nation then to whom the Appeal is made, judge who are the men that endeavour to *Poison* the People, and who they are who are guilty of designing innovations. *Bracton* tells us that *potestas Regis* is *potestas Legis*: It is from the Law that he hath his Power, it is by the Law that he is King, and for the good of the people by whose consent it is made. The Liberty and welfare of a great Nation, was of too much importance to be suffered to depend upon the will of one Man. The best and wisest might be transported by an excess of Power trusted with them, and the experience of all times showeth, that

that Princes as men are subject to Errors, and might be misled. Therefore (as far as mans Wit could foresee) our Constitution hath provided by Annual Parliaments, 36. *Edw. 3. cap. 10.* that the Commonwealth might receive no hurt ; and it is the Parliament, that must from time to time correct the mischiefs which dayly creep in upon us. Let us then no longer wonder, when we see such frequent Prorogations and Dissolutions of Parliaments ; nor stand amazed at this last unparalell'd effort of the Ministers by this Declaration to render two Parliaments odious unto the People. They well know that Parliaments were ordain'd to prevent such mischiefs as they design'd, and if they were suffer'd to pursue the ends of their institution, would endeavor to preserve all things in their due order. To unite the King unto his People, and the Hearts of the People unto the King : To keep the Regal Authority with'in the bounds of Law, and perswade His Majesty to direct it to the publick good which the Law intends. But as this is repugnant to the introduction of Arbitrary Power and Popery, they who delight in both, cannot but hate it, and chuse rather to bring matters into such a state as may suit with their private interests, than suffer it to continue in its right Channel. They love to fish in troubled Waters, and they find all disorders profitable unto themselves. They can flatter the humor of a misguided Prince, and encrease their Fortunes by the excesses of a wastful Prodigal. The phrensie of an Imperious Woman is easily rendered propitious unto them, and they can turn the zeal of a violent bigot to their advantage. The Treacheries of false Allies agree with their own corruptions, and as they fear nothing so much as that the King should return unto his People, and keep all things quiet, they almost ever render themselves subservient to such as would disturb them. And if these two last Parliaments according to their duty, and the trust reposed in them, have more steddily than any other before them, persisted in the Pious and Just endeavors of easing the Nation of any of its Grievances, the Authors of the Declaration found it was their best course, by false colors put upon things, & subtle misrepresentations of their actions to delude the People into an abhorrence of their own Representatives, but with what candor and ingenuity they have attempted it, is already sufficiently made known. And if we look about us, we shall find the few who design a change, on either hand fomenting a misunderstanding between the King, His Parliament and People, whilst persons who love the legal Monarchy both out of Choice and Conscience, are they who desire the frequent and successful meetings of the great Council of the Nation.

As for the other sort of peevish men, of whom the Declaration gives us warning, *who are angry at the disappointment of their Ambitious designs ;*

signs; if these words are intended to reflect on those men of Honor and Conscience, who being qualified for the highest employments of State, have either left, or refused, or been removed from them, because they would not accept or retain them at the price of selling their Country, and Enslaving posterity: And who are content to Sacrifice their safety as well as their interest for the publick, and expose themselves to the malice of the men in power, and to the dayly Plots, Perjuries, and Subornations of the Papists. I say, if these be the *ambitious men* spoken off, the people will have consideration for what they say, and therefore it will be wisdom, to give such men as these no occasion to say, that they intend to *lay aside the use of Parliaments*.

In good earnest the behavior of the Ministers of late, gives but too just occasion to say, that the *use of Parliaments is already laid aside*. For tho His Majesty has owned in so many of His Speeches and Declarations, the great danger of the Kingdom, and the necessity of the Aid and Countel of Parliaments, he hath nevertheless been prevailed upon to Dissolve four in the space of 26 Months without making provision by their advice suitable to our dangers or wants. Nor can we hope the Court will ever love any Parliament better, than the first of those four, wherein they had so dearly purchased such a number of fast Friends; Men who having first sold themselves, would not stick to sell any thing after. And we may well suspect they mean very ill at Court, when their designs shock't such a Parliament. For that very *Favourite* Parliament no sooner began in good earnest to examin what had been done, and what was doing, but they were sent away in hast and in a fright, though the Ministers know they lost thereby a constant Revenue of extraordinary Supplies. And are the Ministers at present more innocent, than at that time: The same interest hath the ascendant at Court still, and they have heightned the Resentments of the Nation, by repeated affronts; and can we beleive them that they dare suffer a Parliament now to Sit.

But we have gain'd at least this one Point by the Declaration, that it is own'd to us, *that Parliaments are the best Method, for healing the distempers of the Kingdom, and the only means to preserve the Monarchy in credit both at home and abroad*. Own'd by these very men who have so maliciously rendred many former Parliaments ineffectual, and by this Declaration have done their utmost to make those which are to come as fruitless, and thereby have confessed that they have no concern for *healing the distempers of the Kingdom, and preserving the credit of the Monarchy*; which is in effect to acknowledge themselves, to be what the

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Commons called them, *Enemies to the King and Kingdom*. Nothing can be more true, then that the Kingdom can never recover it's *strength and reputation abroad*, or its ancient Peace and Settlement at home, His Majesty can never be releiv'd from his fears and his domestick wants, nor secure from the Affronts which he dayly suffers from abroad, till he resolves not only to *call Parliaments*, but to Harken to them when they are called. For without that, it is not a Declaration, it is not repeated promises, nay it is not the frequent calling of Parliaments which will convince the world, that the *use of them is not intended to be laid aside*.

However we rejoyce, that His Majesty seems *resolved to have frequent Parliaments*, and hope he will be just to Himself, and us, by continuing constant to this Resolution. Yet we cannot but doubt in some degree, when we remember the Speech made 26 Jan. 1679. to both Houses, wherein he told them, that he was *Unalterably of an Opinion, that long intervals of Parliaments were absolutely necessary, for composing & quieting the minds of the People*. Therefore, which we ought rather to beleive, the *Speech or the Declaration*; or which is likely to last longest, a *Resolution or an unalterable opinion*, is a matter too Nice for any but Court Criticks to Decide. The effectual performance of the last part of the promise, will give us assurance of the first. When we see the real fruits of these *utmost endeavours to extirpate Popery out of Parliament*; when we see the D. of York no longer first Minister, or rather Protector of these Kingdoms, and his Creature's no longer to have the whole direction of Affairs; when we see that Love to our Religion and Laws is no longer a crime at Court; no longer a certain forerunner of being Disgrac'd and Remov'd from all Offices and Employments in their Power when the word Loyal (which is faithful to the Law,) shall be restored to its old meaning, & no longer signifie one who is for subverting the Laws; when we see the Commissions fill'd with hearty Protestants, & the Laws executed in good earnest against the Papists, the Discoverers of the Plot countenanc'd, or at least heard, and suffered to give their Evidence, the Courts of Justice steady and not Avowing a Jurisdiction one day, which they Disown the next; no more Grand Juries discharg'd, lest they should hear Witnesses, nor Witnesses hurried away, lest they should inform Grand Juries, when we see no more instruments from Court labouring to raise jealousies of Protestants at home, and some regard had to Protestants abroad; when we observe somewhat else to be meant by *Governing according to Law*, then barely to put in Execution against Dissenters, the Laws made against Papists; then we shall promise our selves not only *frequent Parliaments*, but all the blessed effects of pursuing Parliamentary Councils, the

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Extirpation of Popery, the Redress of Grievances, the flourishing of Laws, and the perfect Restoring the Monarchy to the Credit, which it ought to have, (but which the Authors of the Declaration confels it wants) both at Home and Abroad. There needs no time to open the Eyes of His Majesties good Subjects, and their Hearts are ready prepared to meet him in Parliaments, in order to Perfect all the good Settlements and Peace, wanting in Church and State.

But whilst there are so many little Emissaries employed to sow and increase Divisions in the Nation, as if the Ministers had a mind to make His Majesty the Head of a Faction, and joyn himself to one Party in the Kingdom, who has a just right of Governing all (which *Thuanus lib. 28.* says, was the notorious folly, and occasioned the Destruction of his great Grand Mother *Mary Queen of Scots*) whilst we see the same Differences promoted industriously by the Court, which *gave the rise and progress to the late troubles*, and which were once thought fit to be buried in an Act of Oblivion, VVhilst we see the Popish interest to pass my Countenance, which was then done with Caution; when every pretence of Prerogative is strained to the utmost Height, when Parliaments are used with contempt and indignity, and their judicature, & all their Highest Priviledges brought in Question in Inferior Courts, we have but too good cause to believe, that though every Loyal and Good man does, yet the Ministers and Favourites, do but little consider the Rise and Progress of the late Troubles, and have little desire or care to preserve their Country from a Relapse. And who as they never yet shewed regard to Religion, Liberty or Property, so they would be little concern'd to see the *Monarchy shaken off*, if they might escape the vengeance of Publick Justice, due to them for so long a Course of pernicious Counsels, and for Crowning all the rest of their faults by thus Reflecting upon that High Court, before which we do not doubt but we shall see them one Day brought to Judgment.

Thus have we with an English plainness; expressed our thoughts of the late Parliaments and their Proceedings, as well as of the Court in Relation to them, and hope this Freedom will offend no man. The Ministers, who may be concern'd through their appealing unto the People, cannot in Justice deny unto any one of them the Liberty of weighing the reasons which they have thought fit to publish in vindication of their actions. But if it should prove otherwise, and these few sheets be thought as weak and full of errors, as those we endeavour to confute, or be held injurious unto them, we desire only to know in what we transgress, and that the Press may be open for our justification; Let the People to whom the Appeal is made judge then between them and us; and let Reason and the Law be the Rules, according unto which the Controversie may be decided. But if by denying this, they shall like Beasts recur to force; they will thereby acknowledge that they want the Arms which belong to rational Creatures. VVhereas if the Liberty of Answering be left us, we will give up the Cause, and confels, that both Reason and Law are wanting unto us, if we do not in our Reply satisfie all reasonable and impartial men that nothing is said by us, but what is just, and necessary to preserve the interests of the King and his People. Nor can there be any thing more to the Honour of His Majesty; than to give the Nations round about us to understand, that the King of *England*, doth neither Reigne over a Base, servile People, who hearing themselves Arraign'd, and Condemned, dare not speak in their own Defence and Vindication; nor over so silly, foolish and weak a People, as that ill designed, and worse supported Paper might occasion the VVorld to think, but that there are some Persons in his Dominions, not only of true English Courage, but of greater intellectuals as well as better Morals, than the Advisers unto, and Penners of the Declaration have manifested themselves to be.



