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KINGSTON ONTARIO CANADA



Martis 24 Die Junii, 1701.

Ordered,

THAT all the Proceedings, with Relation to the Impeachments, and what happened between the House of Lords and House of Commons, be Examined by the Journals, and Printed.

Paul Jodrell, Cl' Dom' Com'

A
S T A T E
O F T H E
P R O C E E D I N G S
I N T H E
House of Commons,
With Relation to the
I M P E A C H E D L O R D S :
And what happened thereupon between the
T W O H O U S E S .



L O N D O N,
Printed for *Edward Jones*, and *Timothy Goodwin*.
M D C C I .



*A STATE of the Proceedings in
the House of Commons, with Rela-
tion to the Impeached Lords.*

Sabbati 15 die Februarii, 1700.

Resolved,
THAT an Humble Address be presented to His Majesty, That He will be pleased to Order all the Treaties that have been made between His Majesty and any other Prince or State since the late War, to be laid before this House.

Ordered, That the said Address be presented to His Majesty, by such Members of this House as are of His Majesty's most Honourable Privy-Council.

Martis 18 die Februarii, 1700.

MR. Secretary *Vernon* acquainted the House, That their Address having been presented to His Majesty, That He would be pleased to Order all the Treaties that have been made between His Majesty and any other Prince or State since the late War, to be laid before this House, His Majesty had been pleased to give Order, That they should be copied, and that then either the Originals or Copies, as the House pleased, should be laid before them.

Martis 4 die Martii, 1700.

MR. Secretary *Vernon* presented to the House Copies of several Treaties, and Translations thereof.

And the Schedule or List of them was read, and is as follows, *viz.*

1. A Copy of the *French King's* Ratification of the Treaty of Partition.
2. The Translation of the same.
3. A Copy of the Ratification of the Separate Article.
4. The Translation of the same.
5. A Copy of the Ratification of the Secret Article.
6. A Translation of the same.
7. A Copy of the *French King's* Declaration upon the Treaty of Partition.
8. A Translation of the same.
9. A Copy of the *Dauphin's* Declaration upon the said Treaty.
10. A Translation of the *Dauphin's* Declaration.

Ordered, That the said Copies do lie upon the Table, to be perused by the Members of the House.

Jovis 6 die Martii, 1700.

MR. Secretary *Hedges* presented to the House (according to Order) Copies of several Treaties.

Ordered, That the said Copies do lie upon the Table, to be perused by the Members,

June 17 die Martii, 1700.

A Message from the Lords by Sir John Franklyn and Sir Leon William Child, That the Lords do desire, that this House will give Leave to Mr. Secretary Vernon, a Member of this House, to come to a Committee of the Lords now Sitting in the Prince's Lodgings, to give an Account of some Matters relating to the Treaty of Partition which their Lordships have now under Consideration.

Ordered, That Mr. Secretary Vernon have Leave to go to the Lords as desired, if he think fit.

Mercurii 19 die Martii, 1700.

Resolved,
THAT this House will, upon *Saturday* come Sevennight, resolve it self into a Committee of the whole House, to consider of the State of the Nation.

Veneris 21 die Martii, 1700.

Resolved,
THAT the Treaty of Partition be read :
And the same was read accordingly.

Resolved, That an Humble Address be presented to His Majesty, to return the Thanks of this House for his Gracious Message, wherein He is pleased to Communicate his Royal Intentions to acquaint this House from time to time with the State and Progress of those Negotiations into which His Majesty has entred, pursuant to the Address of this House.

And also to lay before His Majesty the ill Consequencies of the Treaty of Partition (pass'd under the Great Seal of *England*, during the Sitting of Parliament, and without the Advice of the same) to this Kingdom, and the Peace of *Europe*, whereby such large Territories of the King of *Spain's* Dominions were to be delivered up to the *French* King.

Ordered, That a Committee be appointed to draw up the said Address : And a Committee was appointed accordingly.

June 24 die Martii, 1700.

SIR *Edward Seymour* reported from the Committee, to whom it was referred to draw up an Humble Address to be presented to His Majesty, That they had drawn up an Address accordingly, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerk's Table, where the same was read, and with an Amendment, agreed unto by the House, and is as followeth, *viz.*

Most Gracious Sovereign,

WHEREAS nothing can more conduce to the Safety and Honour of Your Majesty and this Nation, than taking the Advice of Your English Councils, we your Majesty's most Dutiful and Loyal Subjects the Commons in this Parliament Assembled, do, with all Humility, return Your Majesty our hearty Thanks for Your Gracious Message, wherein You are pleased to communicate Your Royal Intentions to acquaint this House with the State and Progress of those Negotiations into which Your Majesty was entred, pursuant to the Address of this House ; which Method had Your Majesty been advised to take before the Treaty of Partition was perished (which was passed under the Great Seal of *England* during the Sitting of Parliament, and without the Advice of the same) we had been prevented from laying before Your Majesty what we are now bound in Duty (though with Grief) to do, the ill Consequencies of that Treaty to this Kingdom, and the Peace of *Europe*, which so directly tended to increase the Power and Greatness of *France*, by delivering up to the *French* King such large Territories of the King of *Spain's* Dominions, and to the Destruction of the Trade of this Kingdom, to which Treaty may justly be ascribed the Dangers which now threaten both this Kingdom, and the Peace of *Europe*.

Resolved, That the said Address be presented to His Majesty by the whole House.

Ordered, That such Members of this House as are of His Majesty's most Honourable Privy Council, do humbly know His Majesty's Pleasure when He will be attended by this House.

Ordered, That it be an Instruction to the Committee of the whole House, who are upon *Saturday* next to take into Consideration the State of the Nation, That they do take into further Consideration the Treaty of Partition.

Ordered, That a Committee be appointed to Search the Journals of the House of Lords, what Proceedings are therein, with relation to the Treaty of Partition, and Report the same to the House : And a Committee was appointed accordingly.

Mercurii

Mercurii 26 die Martii, 1701.

SIR *Edward Seymour* reported from the Committee appointed to search the Journals of the House of Lords, what Proceedings are therein, with relation to the Treaty of Partition, and report the same to the House, That they had searched the Journals of the House of Lords accordingly, and taken Copies thereof, which he read in his Place, and afterwards delivered in at the Clerk's Table, where the same were read, and are as followeth, *etc.*

A Copy of the Lords Journal.

THE House being moved, that a day may be appointed for taking into Consideration the Treaties now lying before this House, it is Ordered by the Lords Spiritual and Temporal in Parliament Assembled, That the said Treaties shall be taken into Consideration on *Wednesday* next at 11 a Clock in the Forenoon.

THE Order being read for taking into Consideration the Treaties now lying before this House, the several Translations of Treaties were read, as follow, *viz. Martii.*

1. The Treaty of Defensive Alliance between *England* and *Holland*, *March 3, 1672.*
2. The Renewal of the Treaties between *England* and the States General of the United Provinces, *August 17, 1685.*
3. The Renewal of the Treaties of Alliance between *England* and *Holland*, *August 24, 1689.*
4. Ratification of the Treaty of *Kjersick.*
5. Convention between *England, Sweden, and Holland*, *May 2, 1698.*
6. Treaty between *England, Sweden, and States General*, in *January, 1699.*
7. Separate Articles between *England, Sweden, and Holland.*
8. Ratification of the Treaty, *January 14, 1700.*
9. The Ratification of the Separate Article.
10. The Ratification of the Secret Article.
11. The King's Declaration.
12. The Dauphin's Declaration.

After which, the House came to this Agreement, That the Lord Chamberlain do humbly move His Majesty, That all Matters or Papers any way relating to the Negotiations of the Treaties, be laid before this House.

THE Order being read for taking into further Consideration the Treaties; The House was acquainted, That *Mr. Yms* Attended with the Papers as agreed on yesterday; he was called in, and delivered the Papers following at the Table, and then withdrew *Veneris 14 die Martii.*

1. *Copie du plein Pouvoir touchant Succession d'Espagne*, *January 2, 1699.*
2. A Copy of the King's Warrant for Affixing the Great Seal to the full Powers.
3. A Copy of the Ratification of Partition.
4. A Copy of the King's Ratification of the Separate and Secret Articles.
5. A Copy of the King's Warrant for Affixing the Great Seal to the Treaty of Partition, Separate and Secret Articles.

These Papers were all read by the Clerk.

Lords Committees appointed to draw up and state the Fact as to the Treaty now in debate, and all Things and Circumstances relating thereunto, and to draw an Address to be presented to His Majesty thereupon, and report to the House.

Dux Devon Dom. Senescaul	Com. Rochester.	Dom. Mohun.
Dux Exton.	Com. Abington.	Dom. Culpeper.
Dux Leeds,	Com. Marlborough	Dom. Lexington.
March Normant,	Com. Romney.	Dom. Berkley.
Com. Peterborough	Com. Oxford.	Dom. Craven.
Com. Stamford.	Visc. Weymouth.	Dom. Guilford.
Com. Thurst.	Visc. Longueville.	Dom. Godolphin.
Com. Kingston.	Dom. Willoughby	Dom. Cholmondeley.
Com. Burlington.	Dom. Lowar.	Dom. Herbert.
Com. Shaftsbury.	Dom. Ferrers.	Dom. Maffox.
Com. Nottingham.	Dom. Wearcon.	

Their Lordships, or any Five of them, to meet to-morrow at Eleven of the Clock in the Prince's Lodgings near the House of Peers, and to adjourn as they please.

The

*Sabbati 15 die
Martii.*

THE Earl of Nottingham reported from the Lords Committees appointed to draw up and state the Facts, as to the Treaty now in debate,

That the Committee had met, and thought it proper to set down such Facts as appeared to them, *viz.*

1. That by the Treaty of Partition, Naples, Sicily, &c. were to be given to the *Duchess*.

2. That the Emperor was not a Party to this Treaty, though principally concerned.

3. That no Minister of the States General met with the Plenipotentiaries of *England* and *France*, as were required by the Powers at the making the Treaty in *London*.

4. That there were no Instructions in writing to our Plenipotentiaries, though the Powers were unlimited, and that if there were verbal Orders given, yet it appears not to us they were considered in any Council.

5. That the Treaty, when perfected, was not considered in any Council before it was ratified.

6. That it appears, That the Warrant for Ratification was countersigned by one of the Plenipotentiaries.

7. That the Treaty was transacted and signed, and the Great Seal affixed to it during the sitting of a Parliament.

Then the 11th Title, upon Consideration of the 1st Head in the said Report, agreed to the same, with the Alterations following, *viz.*

Instead of (*given to*) put into the hands of.

Then the Second Head was read.

After debate thereupon,

The Question was put, Whether this Paragraph shall stand ?

It was resolved in the Negative.

Dissentient,

First, Because it is manifest by the Treaty it self, that the Matter of Fact is true.

Secondly, Because the Emperor, as we conceive, had been the most proper to have been treated with on this occasion, for 'twas more prudent and safe to have treated with the Emperor to have restrained the Pretensions of *France*, than with *France* to lessen the Dominions of the House of *Austria*, which in its full Strength, and in Conjunction with the most considerable Powers in *Europe*, and with the Expence of more than Sixty Millions Sterling to our Share, was scarce able to withstand the Arms of *France*.

Thirdly, But admitting that the Emperor was not the most proper to be treated with; yet to prevent the Umbrage which might be taken by uniting too many Dominions under one Prince, especially such a Prince as without any Additions was formidable to all *Europe*, of all others the Emperor was the most improper to be left out of such a Treaty, for he was most concerned in it; and our Ministers could not, or at least did not sufficiently support his Interests, or the just Balance of *Europe*: But on the contrary, as we are informed by one Lord who signed this Treaty, it was concluded against the express Desire of the Emperor.

De Lottreucille,

Granville,

Alengon,

Jeffreys,

Cusford,

The Roffin.

Normanby,

Thames,

Hersford,

Weymouth,

Paulet,

Leeds.

Nottingham,

Howard,

Scarsdale,

Craven.

2^d Head. That no Minister of the States General met with the Plenipotentiaries of *England* and *France*, as were required by the Powers at the making the Treaty in *London*.

After the Debate, the Question was put, Whether this Paragraph shall stand ?

It was resolved in the Negative.

Dissentient,

First, Because the Truth of this Proposition is Reason enough for asserting it, and it must certainly be of fatal Consequence if Ministers, without any Directions by Instructions in Writing, shall presume to Act contrary to the very Commission that empowers them; and in this Case the Assistance of the *Dutch* Ministers was the more necessary, because the Emperor was no Party to this Treaty, and the States General are more immediately concerned than we are to promote his Interests.

Secondly, But if this Treaty was Concerted with the *Dutch* Ministers in 1699, before His Majesty's Return into *England*, as was asserted by one of the Lords who Signed it afterwards in *London*,

1. This Treaty was made by those who had no Authority to Transact it; for the Power was not granted by His Majesty till the 2^d of *January* following.

2. As they Acted without Power, so without Instructions too in Writing, which never was practised in any former Transaction Abroad

Lesfig,

Lastly, We conceive, that neither of the foregoing Facts ought in Reason, or according to the Method of Parliament, to be Ordered to be omitted, because, till the Committee had formed the Address pursuant to the Order, 'twas impossible to know what use would be made of those Facts; for as they might have been improperly applied, and then would have been justly rejected, so there might have been so great use made of them, and so apposite to the Design of the House in the intended Address, that 'twill be improper to omit them.

Leeds.
Howard.
Weymouth.
Arlington.
T. Annet.

Craven.
Nottingham.
Hersford.
Granville.
Normanby.

Jeffries.
De Longueville.
The. Ruffin.

After Consideration of the Report made from the Lords Committee, appointed to State Matters of Last upon the Treaty in Debate, and to draw an Address thereon, It is Ordered by the Lords Spiritual and Temporal in Parliament Assembled, that the Debate in the 4th Paragraph in the Report, shall be, and is hereby Adjourned till *Monday* next at Eleven of the Clock, and all the Lords Summoned.

THE Order being read for resuming the Adjourned Debate upon the 4th Paragraph in the Report from the Committee appointed to State Matters of Fact, *Monday*, and draw an Address to His Majesty upon the Partition Treaty;

Some Lords of the Council having His Majesty's Leave, were heard relating to the Treaty: And Mr. Secretary *Vernon* being mentioned in a Message was sent to the House of Commons by Sir *John Franklin* and Sir *Leon William Child*, to desire that they would give Leave to Mr. Secretary *Vernon*, a Member of both Houses, to come to a Committee of the Lords now sitting in the *Prince's Lodgings*, to give an Account of those Matters relating to the Treaty of Partition, which their Lordships have now under their Consideration.

Ordered, That it be the same Committee as Stated the Matters of Fact.

After some time the Messengers sent to the House of Commons returned this Answer:

That the Commons have given Leave to Mr. Secretary *Vernon* to attend the Committee as desired, if he thinks fit.

Hereupon the House was Adjourned during Pleasure, and the Lords went to the Committee, which being ended, the House was resumed, and the Earl of *Nottingham* gave the House an Account, that the Lords had been at the Committee, and heard Mr. Secretary *Vernon* to the Treaty of Partition.

Then after reading the 4th Paragraph, or Matter of Fact, reported from the Committee, and Debate thereupon, the House agreed as follows:

Whatever Verbal Orders or Instructions were given, yet it appears not to us, that the Draught of the Treaty when perfected was Considered at any Council, when the King was present, or that it was Advised or Approved by any Council or Committee of Council.

Ordered, by the Lords Spiritual and Temporal in Parliament Assembled, That the further Consideration of Matters of Fact in the Transacting the Partition Treaty, shall be Adjourned till to Morrow at Eleven a Clock.

THE House went into Debate pursuant to the Order yesterday concerning the Treaty of Partition; And it being proposed, *Monday 18th Dec^r*
Monday.

That it appears that there were Powers dated the 1st of *July* to Treat with the Emperor, the *Dutch* and *French* Ministers, for Securing the Mutual Friendship, upon Terms most suitable to the Circumstances at that time, and we are informed, that accordingly there was some Progress made in that Negotiation: But afterwards there were new Powers granted the 1st of *January* to Treat with the *French* and *Dutch* Ministers only, and the Treaty for the Partition of the *Spanish* Monarchy was concluded without the Emperor.

And after Debate thereupon,

This Question was put, Whether the said Proposal shall go to the Committee to be one of the Heads for the Address?

It was resolved in the Negative.

Dissentient,

Normanby.
Granville.

Nottingham.
Weymouth.

Arlington.
Gulford.

Then it was farther proposed,

That it appears, That the *French* King's Acceptance of the Will of the King of *Spain* is a manifest Violation of the Treaty; and humbly to advise the King, That in all future

future Treaties with the French King, His Majesty do proceed with such Caution as may carry along with it a real Security.

After Debate thereupon,

This Question was put, Whether the said Proposal shall go to the Committee to be one of the Heads for the Address?

It was resolved in the Affirmative.

Deficient,

1. Because it may be construed to be an Approbation of the Treaty, which, as we conceive, was not intended by the House.

2. Because 'tis impossible to know the full Meaning and Extent of *Real Security*.

Normandy.
Abingdon.
Gulford.

Nottingham.
Gravelle.
Godolphin.

Rocheſter.
Weymouth.

The Lord Chamberlain acquainted the House, That he had a Message from His Majesty in Writing, which was read by the Lord Keeper, as followeth:

WILLIAM R.

HIS Majesty having directed Mr. Stanhope, His Envoy Extraordinary, and Plenipotentiary at the Hague, to enter into Negotiations in Concert with the States-General of the United Provinces, and other Potentates, for the mutual Security of England and Holland, and the Preservation of the Peace of Europe: And the said Mr. Stanhope having transmitted to His Majesty Copies of his Demands, made by himself and the Deputies of the States, upon that Subject, to the French Ambassador there, His Majesty has thought fit to communicate the same to the House of Lords, it being His Majesty's Gracious Intention to acquaint them from time to time with the State and Progress of those Negotiations.

Kennington, March 17. 1707.

1. The Proposals made to the French Ambassador by Mr. Stanhope were read.
2. Translation of the Resolution of the States-General for treating with Monsieur D'ANAX, the Two and twentieth of March, 1707.

70000, 20 dit
March.

THE Earl of Nottingham reported from the Lords Committees, appointed to state Matter of fact upon the Treaty of Partition, and to draw an Address thereupon, That the Committee had accordingly drawn an Address to be presented to His Majesty; which was read, and with one Amendment agreed to, as follows, *viz.*

WHE Your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, having read and considered the Treaty, *3rd Martii, 1700.* made with the French King, together with the separate and secret Articles which Your Majesty has been pleased to communicate to us, do with all Humility represent to Your Majesty, That to our great Sorrow we find the Matters thereof to have been of very ill Consequence to the Peace and Safety of Europe: for besides the Occasion it may have given to the late King of Spain to have made his Will in Favour of the Duke of Anjou, if this Treaty had taken effect, the Prejudice to Your Majesty and Your Subjects, and indeed to all Europe, by the Addition of Sicily, Naples, several Ports in the Mediterranean, the Province of Guipuzcoa, and the Duchy of Lorraine, had been not only very great, but contrary to the Pretence of the Treaty it self, which was, To prevent any Umbrage which might be taken by uniting too many States and Dominions under one Head.

And by all the Informations we have yet had of the Progress of this Fatal Treaty, we cannot find, That the verbal Orders and Instructions, if any were given to Your Majesty's Plenipotentiaries, were ever considered in any of Your Majesty's Councils, or that the Draught of this Treaty was ever laid before Your Majesty at any Meeting of Your Council, much less that it was advised or approved by any Council or Committee of Council: We therefore think our selves obliged in Duty to Your Majesty, and Justice to our Country, most humbly to beseech Your Majesty, That for the future Your Majesty will be pleased to require and admit in all Matters of Importance the Advice of Your natural born Subjects, whose known Probity and Fortunes may give Your Majesty and Your People a just Assurance of their Fidelity in Your Service; and in order hereunto, to constitute a Council of such Persons, to whom Your Majesty may be pleased to impart all Affairs both at home and abroad, which may any way concern Your Majesty and Your Dominions; for as Interest and natural Affection to their Country will incline them to wish the Welfare and Prosperity of it much more than others who have not such Tyes upon them, and as their Experience and Knowledge of their Country will also render them more capable than Strangers of advising Your Majesty in the true Interests of it; so we are very confident, That after such large and repeated Demonstrations of Your Subjects Duty and Affections, Your Majesty cannot doubt of their Zeal in Your Service, nor want the Knowledge of Persons fit to be employed in all Your most secret and arduous Affairs.

And since it appears, That the French King's Accepting of the King of Spain's Will is a manifest Violation of this Treaty, we humbly advise Your Majesty, in future Treaties with the French King, to proceed with such Caution as may carry along with it a real Security

It being proposed to send to the House of Commons for their Concurrence to the said Address,

And Debate thereupon;

The Question was put, Whether this Address shall be communicated to the House of Commons for their Concurrence?

It was resolved in the Negative.

Dissentient,

Rochester.

W. Oxon.

Devonshire.

1. Because we Conceive, that the last Clause in the Address does necessarily imply a War, and that a very long one, by reason of the extent unintelligible (at least to us) of a *real Security*, and the great improbability of obtaining any Terms of that kind; and since this necessarily implies great Supplies, which can't be granted without the House of Commons, we think their Concurrence in this Address absolutely necessary; and that 'tis very improper for us to desire that of the King, which for want of such Concurrence of the Commons, we conceive His Majesty will not think fit or prudent for him to Grant.

2. We Conceive all the other Parts of the Address very fit to be Communicated to the House of Commons; for upon the Success of it depends the future Happiness of this Nation; and as we cannot doubt of the readiness of the Commons to join in any proper Measures towards it, so we think their Concurrence in it would highly contribute towards the obtaining a Gracious Answer from His Majesty; and we cannot but think it reasonable, that the Advice of the whole Nation Assembled in Parliament, should be made known to His Majesty upon this Occasion.

3. Having desired the House of Commons to permit Mr. Secretary *Vernon*, a Member of their House, to come to a Committee of Lords, to inform them of some Matters relating to this Treaty, we apprehend that the House of Commons may think it Extraordinary, and not suitable to the good Correspondence which is highly necessary between the Two Houses, not to Acquaint them with the Things which have come to our Knowledge partly by the Information of their own Member.

4. And having been otherwise Informed of some Transactions relating to this Treaty, between the Earl of *Portland* and Mr. Secretary *Vernon*, by Letters, of which we have not had a full Account, we think it may be very Useful to the Publick to Communicate this Address to the Commons, who have better Opportunity than we have had of Enquiring into this Matter, which seems to be yet in the dark, and which their own Member may help to Explain to them.

Leeds.

Normanby.

De Longueville.

Nottingham.

Gravelle.

Craven.

Thanett.

Kent.

H. London.

Bath.

Abingdon.

Guilford.

Willoughby.

Scarfsdale.

Cornwall.

Weymouth.

Jeffreyes.

Hunsdon.

N. Dursfme.

Tho. Russell.

Peulert.

Ordered, That the whole House do Attend His Majesty with the Address.

Ordered, By the Lords Spiritual and Temporal in Parliament Assembled, That the Lords with White Staves do Attend His Majesty, humbly to know what time His Majesty will be pleased to Appoint for this House to Attend him with the Address.

THE Lord Keeper Reported His Majesty's Answer to the said Address.

Martii 25 die Martii.

My LORDS,

THis Address contains Matters of very great Moment; I will always take Care, that all Treaties I make, shall be for the Honour and Safety of England.

Ordered, That the foregoing Report of the Lords Journal do lie upon the Table to be Perused by the Members.

Sabbati 29 die Martii, 1701.

THE Order of the Day being Read for the House to Resolve it self into a Committee of the whole House, to Consider of the State of the Nation, and of the Treaty of Partition.

Ordered, That the Treaty of Partition, and the Report from the Committee appointed to Inspect the Journals of the House of Lords, what Proceedings were therein relating to the Treaty of Partition, be referred to the Consideration of the said Committee of the whole House.

Then

Then the House Resolved it self into the said Committee, and after some time spent there, Mr. Speaker returned the Chair, Colonel *Granville* Reported from the said Committee, that they had come to a Resolution, which they had directed him to Report when the House will please to receive the same.

Ordered, That the Report be made upon *Friday* Morning next.

Martis 1 die Aprilis, 1701.

Colonel *Granville* (according to Order) reported from the Committee of the whole House, to whom it was directed to consider of the State of the Nation, and of the Treaty of Partition, the Resolution, which they had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Clerk's Table, where the same was read, and agreed unto by the House, and is as followeth, *viz.*

Resolved, That *William* Earl of *Portland*, by Negotiating and Concluding the Treaty of Partition (which was destructive to the Trade of this Kingdom, and dangerous to the Peace of Europe) is guilty of an High Crime and Misdemeanor.

Resolved, That *William* Earl of *Portland* be Impeached of High Crimes and Misdemeanors.

Ordered, That *Sir John Leveson Gower* do go up to the Lords, and at their Bar, in the Name of the House of Commons, and of all the Commons of *England*, impeach *William* Earl of *Portland* of High Crimes and Misdemeanors, and acquaint them, That this House will, in due time, Exhibit particular Articles against him, and make good the same.

Ordered, That a Committee be appointed to draw up Articles of Impeachment against *William* Earl of *Portland*:

And a Committee was accordingly appointed.

And *Sir John Leveson Gower* went up to the Lords with the said Impeachment.

Sir John Leveson Gower reported, That he had been at the Lords (according to Order) and at their Bar had Impeached *William* Earl of *Portland* of High Crimes and Misdemeanors, and acquainted them, That this House will, in due time, Exhibit particular Articles against him, and make good the same.

Resolved, That a Conference be desired with the Lords, upon Matters relating to the Treaty of Partition.

Ordered, That *Mr. St. John* do go to the Lords, and desire the said Conference.

Mr. St. John reported, That he having (according to Order) been at the Lords to desire a Conference, the Lords do agree to a Conference accordingly to morrow at One a Clock, in the Painted Chamber.

Ordered, That the Committee who are appointed to draw up the Articles of Impeachment, do manage the said Conference.

Mercurii 2 die Aprilis, 1701.

Ordered,

THAT the Managers appointed for the Conference with the Lords, do withdraw into the Speaker's Chamber, and draw up what is to be offered at the said Conference.

Colonel *Granville* reported, That the Managers appointed to withdraw into the Speaker's Chamber, and draw up what is to be offered at the Conference with the Lords, had drawn up the same accordingly, and directed him to report the same to the House, which he read in his Place, and afterwards delivered in at the Clerk's Table, where the same was read, and agreed unto by the House, and is as followeth, *viz.*

It appearing by your Lordships Journal, That your Lordships have received Information of some Transactions between the Earl of *Portland* and *Mr. Secretary Vernon*, relating to the Partition of the Spanish Monarchy, the Commons having the said Matter under their Consideration, desire your Lordships will be pleased to Communicate to the Commons what Informations your Lordships have had of any Transactions relating to any Negotiations or Treaties of Partition of the Spanish Monarchy by Letters or otherwise: And the Commons are fully assured, That your Lordships will readily concur in supplying them in this Inquiry, which they conceive absolutely necessary for the Safety and Honour of this Kingdom, and the Preservation of the Peace of Europe.

Then the Managers went to the Conference, and being returned, Colonel *Granville* reported, That they had attended the Conference, and offered what the House had directed.

Martis 8 die Aprilis, 1701.

Resolved,

THAT an humble Address be presented to His Majesty, That He will please to give Order, That the Grand Alliance of One thousand six hundred eighty nine with the two Secret Articles, may be laid before this House.

Resolved, That an humble Address be presented to His Majesty, That He will please to give Order, That the Treaty made in the Year One thousand six hundred ninety eight,

eight, with relation to the Electoral Prince of *Barbaria's* having part of the Territories of the Crown of *Spain*, may be laid before this House.

Resolved, That an humble Address be presented to His Majesty, That He will please to give Order, That the Powers and Instructions for making the late Treaties may be laid before this House.

Ordered, That the said Addresses be presented to His Majesty by such Members of this House as are of His Majesty's most Honourable Privy-Council.

Mercurii 9 die Aprilis, 1701.

MR. Secretary *Fernon* acquainted the House, That their Address having been presented to His Majesty, That His Majesty would be pleased to give Order, that the Grand Alliance of One thousand six hundred eighty nine, and the Treaty of One thousand six hundred ninety eight, and also the Powers and Instructions for making the late Treaties, might be laid before this House, His Majesty had been pleased to give Order for the Treaties and Power to be laid before this House; But that there were no Instructions for either of those Treaties in Writing.

A Message from the Lords by Sir *Richard Holford* and Mr. *Pitt*,

Mr. Speaker,

“ The Lords do desire a Conference with this House to morrow at One a Clock in the Painted-Chamber, upon the subject Matter of the last Conference.

To which the House agreed: And the Messengers were called in, and Mr. Speaker acquainted them therewith.

Jovis 10 die Aprilis, 1701.

O*rderea*, That the Members who managed the last Conference with the Lords, do manage the Conference this day.

And the Managers went to the Conference, and being returned, Colonel *Granville* reported, That the Managers appointed had attended the Conference; That on the Part of the Lords the Lord Marquis of *Normanby* managed the Conference, and acquainted them, That the Lords had ordered to be laid before this House Two Powers, and also a Paper, which (although not signed by the Earl of *Portland*.) yet was laid before the Lords by him, and that there being some Questions asked him by the Lords, there were his Answers also; which Powers and Paper Colonel *Granville* read in his Place, and afterwards delivered in at the Clerk's Table, where the same were read, and are as follow, *viz.*

G**ULIELMUS** Tertius Dei Gratia Magnae Britanniae, Franciae, & Hiberniae Rex, Fidei Defensor, &c. Omnibus ad quos praesentes Literae pervenerint Salutem. Quoniam ad conservandam universae Europae Quietem plurimum conducere arbitramur, ut de officiosissimo Medius quibus redintegratae Pacis Beneficia confirmari ac conservari possint sedulo & opportuno providentur, neque ullum Publicae Tranquillitati immutandae periculum evidenter incurreatur, quomodo si eveniat ut Rex Catholicus, nullam Sobolem superstitem relinquens, moriatur, (idem vero Regem aut Imperatorem exoptamus) ac proinde Principes, illam Successionem non tam jure quam viribus vindicantes, credidissimum Bellum per tota florentia Regna, Provincias, Ditionesq; excitent; quoniam Nobis spes maxima eluceat, haec Bella averti posse, atque omnia amice & feliciter componi, si de cunctis Rationibus & Commodis in medium providi consuleretur: Quoniam Nobis denique, immotescat, Serenissimum Principem & Dominum Dominum Ludovicum Decimum Quartum Regem Christianissimum, ac Praepotentes Dominos Dominos Ordines Generales Federatarum Belgii Provinciarum, in eodem profusus Animo esse. Sciat is igitur, Quod Nos fide prudenti ac in Rebus gerendis usu perfidelis & perquam dilecti Consanguinei & Consilarii nostri Gulielmi Comitis Portlandiae Vicecomitis de Cirencester, Baronis de Woodstock, Ordinis Nobili Ferseldis Equitis; necnon perfidelis & perquam dilecti Consanguinei & Consilarii Nobili Edwardi Comitis Jersey, unius Primariorum Serenissimum Nostrorum Status; plurimum confisi eosdem fecimus, ordinavimus & deputavimus, ac per Praesentium facimus, ordinamus & deputamus veros & indubitatos Commissarios & Plenipotentiarios Nostros, amicos & concedentes iisdem aut eorum alteri plenam & omnimodam Potestatem atque Auctoritatem, pariter & Mandatum generale & speciale, ut pro Nobis & Nostro Nomine, cum Praefatorum Serenissimi Regis Christianissimi, ac Dominorum Ordinum Generalium Federatarum Belgii Provinciarum Commissario ac Plenipotentiario, sive Commissariis ac Plenipotentiariis, de & super Praemissis conveniant, colloquantur & tractent, eaque omnia perficiant & concludant, quae ad Belli de Successione Hispanica avertendam, stabilendamque; Europae Pacem omni meliori modo faciant & conducant; Promittentes bona fide & in Verbo Regio, Nos omnia & singula quae a dictis Commissariis ac Plenipotentiariis Nostriis, vel eorum altero, vi Praesentium conclusa fuerint, grata, rata & firma habituros, nec contra eorum aliquid contraveniuros, sed eadem sancte & inviolabiliter observaturos. In quorum omnium majorem Fidem ac Robur, haec Literae Manu Nostra Regia signatas, Magni Nobili Angliae Sigillo muniti fecimus: Quae dabantur in Palatio Nostra apud Kensington Die Secundo Mensis Januarii, Anno Domini 1703 Regniq; Nobili Undecimo.

GULIELMUS R.

GULIELMUS Tertius Dei Gratia Magna Britannie, Francie & Hibernie Rex, Fidei Defensor, &c. Omnibus & singulis ad quos presentes Literae pervenerint Salutem. Quoniam ad conferendam Quietem Publicam plurimum conducere arbitramur, ut de efficacissimis Mediis quibus redintegratae Pacis Beneficia confirmari & augeri possint sedulo & opportune providatur: Quare; Nobis immoletat Serenissimum Principem & Dominum Dominum Leopoldum Romanorum Imperatorem, tum Serenissimum Principem & Dominum Dominum Ludovicum Decimum Quartum Regem Christianissimum, ac Praepotentes Dominos Dominos Generales Federatarum Belgii Provinciarum, in eo Animo esse, ut Consilia sua Nobiscum invicem communicare, & de iis quae ad mutuam Amicitiam firmius asringendam, quaeque presentis temporis Rationibus maxime accommodata sint in commune consulere velint. Sciatis igitur, Quod Nos fide prudentia & in Rebus gerendis usque perallecti & perquam fidelis Consanguinei & Consilarii Nostri Gulielmi Comitis de Portland, Oracis Nostrae Periselidis Equitis; ac Consilarii Nostri Edwardi Comitis de Jersey, unius Primariorum Secretariorum Nostrorum Status, plurimum confici eosdem fecimus, ordinavimus ac deputavimus, sicut per Praesentes facimus, ordinamus & deputamus, aereos & indubitatos Commissarios & Deputatos Nostros, dantes & concedentes iidem Commissariis & Deputatis Nostri, aut eorum alteri, plenam & omnimodam Potestatem atque Autoritatem, pariter & Mandatum generale ac speciale, ut pro Nobis & Nostris Nominis, cum praesertim Serenissimi Romanorum Imperatoris, Serenissimi Regis Christianissimi, ac Dominorum Ordinum Generalium Federatarum Belgii Provinciarum Commissariis ac Deputatis, plena etiam Potestate munitis, de & super Praemissis conveniant, colloquantur & tractent, eaque perficiant & concludant quae ad praedictam finem omni meliori modo faciant & conducant: Prouittentes bona fide & in Verbo Regio, Nos omnia & singula quae a dictis Commissariis Nostri, aut ab eorum altero, in Praesentium conclusa fuerint, grata, rata & firma habituros, nec contra eorum aliquid contraveniuros aut contraveniri passuros. In quarum omnium maiorem Fidem ac Robur, haece Literas Manu Nostra Regis signatas, Magna Nostra Angliae Sigillo muniti fecimus: Quae dabantur in Palatio Nostris apud Londoniam, Primo Die Mensis Julii, Anno Domini Millelesimo sexcentesimo nonagesimo nono, Regniq; Nostri Undecima.

The Lord Portland's Paper is as follows, viz.

‘ **A**T the beginning of the Summer of the Year 99. when I was in *Holland* at my Country House, and when the King would have me be concerned in the Negotiating of this Treaty with the Emperor, the French King, and the States; being very unwilling to meddle with Business again, from which I was retired, before I would engage my self I advised with my Friends in *Holland*, and writ into *England* to Mr. Secretary *Vernon*, as my particular Friend, Whether it was advisable for me to engage in any Business again? To which Mr. *Vernon* answered in substance, That this would not engage me but for a little while; that I being upon the Place, and generally acquainted with the Foreign Ministers, it would be easier for the King, and properer for me to be employed in it than any body else, that must be otherwise sent for on purpose.

The Earl of *Portland* being desired by the Lord *Somers*, with the Leave of the House, to declare if he pleased, Whether the Lord *Somers's* Name was mentioned in the Letter he received from Mr. Secretary *Vernon*;

The Earl of *Portland* declared, That if he had remembered any such thing in the Letter, and had not inserted it in the Paper which he had delivered to the House, he should have thought he had deceived the House.

Ordered, That the Consideration of the said Report be Adjourned till to morrow Morning.

Veneris 11 die Aprilis, 1701.

MR. Secretary *Vernon* presented to the House (pursuant to their Address to His Majesty) several Treaties and Translations of them, and of the Powers for them, and a Schedule of them;

And the Schedule was read.

Mr. Secretary *Hedges* presented to the House (pursuant to their Address to His Majesty) the Translation of the Treaty between the Emperor and the States General, called the Grand Alliance, with the Separate Articles, dated May 12. 1689. and acquainted the House, That he had the Original in his Custody for the Service of the House.

The Title of the said Treaty was read.

Then the Report of the Conference with the Lords yesterday was read.

Ordered, That Mr. Secretary *Vernon* do lay before this House all the Letters and Copies of Letters which have passed between himself and the Earl of *Portland* in the Years 1698. 1699. or at any other time, with relation to any Treaty concerning the Partition of the Spanish Dominions.

Ordered, That the said Letters and Copies of Letters be laid before this House to morrow morning.

Sabbat

Sabbati 12 die Aprilis, 1701.

MR. Secretary *Vernon* (according to Order) presented to the House the Letters and Copies of Letters between him and the Earl of *Portland* relating to the Treaty of Partition, with a List of them;

And the List was read.

Ordered, That a Committee be appointed to Translate the said Letters, and report the same to the House; And a Committee was appointed accordingly, and they are to sit *de die in diem*.

Lune 14 die Aprilis, 1701.

SIR *Gustave Copley* reported from the Committee appointed to Translate the Letters between Mr. Secretary *Vernon* and the Earl of *Portland*, relating to the Treaty for the Partition of the *Spanish* Dominions, That they had Translated them accordingly, and he delivered them in at the Clerk's Table, where the same, and the Copies of the Letters sent by Mr. Secretary *Vernon* to the Earl of *Portland*, were read, (all of them dated in the Year 1698.)

And the Treaty in the Year 1698. with the Secret and Separate Articles: And also

The Treaty called the Grand Alliance, with the Separate Articles, dated *May* 12. 1689. were read.

Ordered, That the Serjeant do go with the Mace into *Westminster-hall*, and the Court of Requests, and Places adjacent, and summon the Members there to Attend the Service of the House immediately;

And he went accordingly;

And being returned;

And a Debate being in the House touching the Lord *Somers*:

The House was informed, That the Lord *Somers* had heard, that the House was upon a Debate concerning him, and that he desired he might be admitted in, and heard

Resolved, That the Lord *Somers* be admitted in, and heard.

Ordered, That Candles be brought in;

And Candles were brought in accordingly.

Then a Chair was set by the Serjeant, a little within the Bar on the left Hand coming in; and the Serjeant had Directions to acquaint the Lord *Somers*, That he might come in; and the Door being opened, his Lordship came in, and Mr. Speaker acquainted his Lordship, That he might repose himself in a Chair provided for him, and his Lordship was heard what he had to offer to the House; and after his Lordship withdrew, the House came to this Resolution;

Resolved, That *John* Lord *Somers*, by Advising His Majesty in the Year One thousand six hundred ninety eight to the Treaty for Partition of the *Spanish* Monarchy, whereby large Territories of the King of *Spain's* Dominions were to be delivered up to *France*, is guilty of a High Crime and Misdemeanor.

Resolved, That *John* Lord *Somers* be Impeached of High Crimes and Misdemeanors.

Ordered, That Mr. *Harcourt* do go up to the Lords, and at their Bar, in the Name of the House of Commons, and of all the Commons of *England*, Impeach *John* Lord *Somers* of High Crimes and Misdemeanors, and acquaint them, That this House will, in due time, exhibit particular Articles against him, and make good the same.

Resolved, That *Edward* Earl of *Oxford*, by Advising His Majesty in the Year One thousand six hundred ninety eight to the Treaty of Partition of the *Spanish* Monarchy, whereby large Territories of the King of *Spain's* Dominions were to be delivered up to *France*, is guilty of a High Crime and Misdemeanor.

Resolved, That *Edward* Earl of *Oxford* be Impeached of High Crimes and Misdemeanors.

Ordered, That Colonel *Byerly* do go up to the Lords, and at their Bar, in the Name of the House of Commons, and of all the Commons of *England*, Impeach *Edward* Earl of *Oxford* of High Crimes and Misdemeanors; and acquaint them, That this House will, in due time, exhibit particular Articles against him, and make good the same.

Resolved, That *Charles* Lord *Hallifax*, by Advising His Majesty in the Year One thousand six hundred ninety eight, to the Treaty of Partition of the *Spanish* Monarchy, whereby large Territories of the King of *Spain's* Dominions were to be delivered up to *France*, is guilty of a High Crime and Misdemeanor.

Resolved, That *Charles* Lord *Hallifax* be Impeached of High Crimes and Misdemeanors.

Ordered, That Mr. *Bruges* do go to the Lords, and at their Bar, in the Name of the House of Commons, and of all the Commons of *England*, Impeach *Charles* Lord *Hallifax* of High Crimes and Misdemeanors, and acquaint them, That this House will, in due time, exhibit particular Articles against him, and make good the same.

Martis

Martis 15 die Aprilis, 1701.

MR. *Harcourt* reported, That he had (according to Order) been at the Lords; and in the Name of this House, and of all the Commons of *England*, Impeached *John Lord Somers* of High Crimes and Misdemeanors, and acquainted the Lords, That this House will, in due time, exhibit particular Articles against him, and make good the same.

Colonel *Byerly* reported, That he had (according to Order) been at the Lords, and Impeached *Edward Earl of Orford* of High Crimes and Misdemeanors, and acquainted the Lords, That this House will, in due time, exhibit particular Articles against him, and make good the same.

Mr. *Bruges* reported, That he had (according to Order) been at the Lords, and Impeached *Charles Lord Halifax* of High Crimes and Misdemeanors, and acquainted the Lords, That this House will, in due time, exhibit particular Articles against him, and make good the same.

Ordered, That it be referred to the Committee (appointed to draw up Articles of Impeachment against *William Earl of Portland*) to draw up Articles of Impeachment also against the said *John Lord Somers*, *Edward Earl of Orford*, and *Charles Lord Halifax*; and that they do Sit *de die in diem*.

Ordered, That the Letters, and Copies of the Letters presented to the House by Mr. Secretary *Vernon*, relating to the Partition-Treaty, and the Translation of the said Letters, be referred to the Consideration of the said Committee.

A Copy of the Letter from the Lord *Somers* to His Majesty (which his Lordship delivered in to the House yesterday) dated the Twenty eighth of *August*, One thousand six hundred ninety eight, was read.

Ordered, That the said Copy of the said Letter, be referred to the Consideration of the said Committee.

Ordered, That Mr. *Bruges* and Mr. *How* do withdraw into the Speaker's Chamber, and Translate a Letter from His Majesty to the Lord *Somers*, dated *August* $\frac{1}{2}$, One thousand six hundred ninety eight, which his Lordship also yesterday delivered in to the House; and report the same to the House.

Resolved, That an humble Address be presented to His Majesty, That He will be pleased to remove *John Lord Somers* from His Council and Presence for ever.

Resolved, That an humble Address be presented to His Majesty, That He will be pleased to remove *Edward Earl of Orford* from His Council and Presence for ever.

Resolved, That an humble Address be presented to His Majesty, That He will be pleased to remove *Charles Lord Halifax* from His Council and Presence for ever.

Resolved, That an humble Address be presented to His Majesty, That He will be pleased to remove *William Earl of Portland* from His Council and Presence for ever.

Resolved, That an Address be drawn up, upon the said Resolutions, and upon the Debate of the House, to be presented to His Majesty.

Ordered, That it be referred to the Committee, (who are to draw up the Articles of Impeachment) to draw up the said Address.

Resolved, That the said Address be presented to His Majesty by the whole House.

Mr. *Bruges* reported, That he and Mr. *How* had (according to Order) Translated the Letter from His Majesty to the Lord *Somers*; and he delivered the same in at the Clerk's Table, where the said Translation was read.

Ordered, That the said Letter and Translation be referred to the Consideration of the said Committee.

Mercurii 16 die Aprilis, 1701.

MR. *Bronley* reported from the Committee, to whom it was referred to draw up an Address upon the Resolutions yesterday, and upon the Debate of the House to be presented to His Majesty, That they had drawn up an Address accordingly, which they had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Clerk's Table, where the same was read, and (with an Amendment) agreed unto by the House, and is as follows, *viz.*

The Humble Address of the House of Commons to the KING.

Most Gracious Sovereign,

WHE Your Majesty's most Dutiful and Loyal Subjects, the Commons in Parliament Assembled, do humbly crave Leave to represent to Your Majesty the great Satisfaction we have from our late Enquiry concerning the Treaty of Partition made in the Year One thousand six hundred ninety eight, (on which the Treaty in One thousand six hundred ninety nine was Founded) to see Your Majesty's great Care of Your People and this Nation, in not entering into that Negotiation without the Advice of Your English Councillors: And finding, That John Lord Somers, (on whose Judgment Your Majesty did chiefly rely in that so important Affair) did, in Concert with Edward Earl of Orford, and Charles Lord Hallifax, Advise Your Majesty to enter into that Treaty of so dangerous Consequence to the Trade and Welfare of this Nation; and who, to avoid the Censure which might justly be apprehended to fall on those who Advised the same, endeavoured to insinuate, That Your Majesty, without the Advice of Your Council, entered into that Treaty, and under Your Sacred Name to seek Protection for what themselves had so Advised, of which Treatment of Your Majesty, we cannot but have a just Resentment: And that they may be no longer able to Deceive Your Majesty, and Abuse Your People, We do humbly beseech Your Majesty, That You will be pleased to remove John Lord Somers, Edward Earl of Orford, and Charles Lord Hallifax, from Your Council and Presence for ever; as also William Earl of Portland, who Transacted those Treaties, so Unjust in their own Nature, and so Fatal in their Consequences to this Nation, and the Peace of Europe. And we humbly crave Leave, upon this Occasion, to repeat our Assurances to Your Majesty, That we will always Stand by and Support Your Majesty to the Utmost of our Power, against all Your Enemies both at Home and Abroad.

Ordered, That such Members of this House, as are of His Majesty's most Honourable Privy-Council, do humbly know His Majesty's Pleasure, when He will be attended by this House.

Mercurii 23 die Aprilis, 1701.

MR. Secretary *Hedges*, acquainted the House, That His Majesty had been pleased to appoint to be attended by this House this Afternoon at Five a Clock at *Kensington*.

Jovis 24 die Aprilis, 1701.

MR. Speaker Reported, That he with the House did yesterday present to His Majesty their humble Address; and that His Majesty was pleased to give a most Gracious Answer thereunto as follows, *v. z.*

GENTLEMEN,

I Am willing to take all Occasions of Thanking you very heartily for the Assurances you have frequently given Me, and now Repeat, of Standing by and Supporting Me against all Our Enemies, both at Home and Abroad, towards which, nothing, in my Opinion, can contribute so much as a good Correspondence between Me and My People; And therefore you may depend upon it, That I will Employ none in My Service, but such as shall be thought most likely to improve that Mutual Trust and Confidence between Us, which is so necessary in this Conjunction, both for Our Own Security, and the Defence and Preservation of Our Allies.

Resolv'd, Nemine Contradicente,

That the Humble Thanks of this House be given to His Majesty for His Majesty's most Gracious Answer to the said Address.

Ordered, That such Members of this House as are of His Majesty's Most Honourable Privy Council, do give His Majesty the said Humble Thanks of this House.

Martis 29 die Aprilis, 1701.

MR. Secretary *Hedges* reported to the House, That their Thanks for His Majesty's most Gracious Answer to their Address had been presented to His Majesty; and that His Majesty receive dthe same very Graciously.

Lunæ 5 die Maii, 1701.

A Message from the Lords by Sir Robert Legard and Sir Richard Holford

Mr. Speaker,

“ The Lords have Commanded us to acquaint this House, That they having on the First day of April last sent up to their Lordships an Impeachment against *William Earl of Portland*, of High Crimes and Misdemeanours; And having also on the 15th day of the same Month severally Impeached *John Lord Somers*, *Edward Earl of Orford*, and *Charles Lord Halifax*, of High Crimes and Misdemeanours; their Lordships think themselves obliged to put this House in mind, That as yet no particular Articles have been Exhibited against the said Lords; which after Impeachments have been so long depending, is due in Justice to the Persons concerned, and agreeable to the Methods of Parliament in such Cases.

Resolved, That an Answer be returned to the Lords, That the Articles against the Lords Impeached are preparing, and in a short time this House will send them up to the House of Lords.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Mercuri 7 die Maii, 1701.

SIR *Bartholomew Shower* acquainted the House from the Committee appointed to draw up the Articles of Impeachment against the Lords Impeached, That they had drawn up Articles of Impeachment accordingly against the Earl of *Orford*.

Ordered, That the said Articles be Reported to Morrow Morning.

Jouis 8 die Maii, 1701.

SIR *Bartholomew Shower* (according to Order) reported from the Committee to whom it was referred to draw up Articles of Impeachment against the Lords Impeached, the Articles of Impeachment against *Edward Earl of Orford*, which he read in his place, and afterwards delivered in at the Clerk's Table, where the same were once read.

Resolved, That the said Articles be read a second time Article by Article; And the same were severally read a Second time; and upon the Question severally put thereupon, agreed unto by the House, to be the Articles of Impeachment against the Earl of *Orford*, and are as follow, viz.

ARTICLES Exhibited by the Knights, Citizens and Burgeses in Parliament assembled, in the Name of themselves, and of all the Commons of England, against Edward Earl of Orford, in Maintenance of their Impeachment against him for High Crimes and Misdemeanours.

I. **T**HAT, Whereas for many Years past there hath been a long and expensive War both by Sea and Land, carried on by His Majesty and His Allies against the French King, for the preserving the Ballance of *Europe*, and for preventing the Growth of the immoderate Power of the said French King; towards the Prosecution of which War great Sums of Money have been given and levied by Authority of Parliament, and many Debrs have been contracted, which remain a very heavy Burthen upon the People of *England*; the said Earl being then of His Majesty's most Honourable Privy Council, but always preferring his private Interest to the Good of the Publick, and taking advantage of the ready Access he had to His Majesty's Person during the Continuance of the said War, in violation of his Duty and Trust, hath procured from His Majesty one or more Grant or Grants of several Manors, Messuages, Lands, Tenements and Hereditaments, within the Kingdom of *England* or *Ireland*, or elsewhere within His Majesty's Dominions, of a great yearly Value; and also of exorbitant Sums of Money, to be made to him or others in Trust for him, but to his use, the Profits whereof he now enjoys; whereby the standing Revenues of the Crown of *England*, which ought to be applied to the Service of the Publick, are greatly diminished, and the People of *England* thereby burthened with Debrs, and subjected to grievous Taxes.

II. *Tha*

II. ' That in breach of the Trust reposed in him whilst he was Commander in chief of the Navy Royal of *England*, in or near the *Straits* of *Gibraltar*, and within the time aforesaid, he the said Earl did receive great Sums of the publick Money, issued out to him for the Service of the Navy, which he hath converted to his own private use, and unlawfully and unjustly procured a Privy Seal, or Privy Seals, to discharge him from accounting to the Publick for the same; and also hath received other great Sums of Money from His Majesty's Exchequer, as Paymaster or Receiver General of the Navy, without giving a due and legal Account thereof; whereby he hath occasioned great Clamours and Discontents among the Seamen and others belonging to His Majesty's Navy, who are thereby reduced to great Miseries and Necessities for want of their just Dues, to the great Discouragement and Discredit of the publick Service.

III. ' That he the said Earl, whilst he was in several Ports belonging to the King of *Spain's* Dominions, did receive from the said King of *Spain*, and others, considerable Sums of Money, and great quantities of Wine, Oyle and other Provisions for the Fleet, to a very great Value; for all which he ought to have accounted: But the said Earl did convert the same to his own use, and did either imbezel those Provisions, or reckon them as bought with the Money allowed for furnishing the Navy with fresh Provisions. And that for the advancing his own private Interest, and securing himself from rendering any account to the Publick, he the said Earl, during the said War, procured, enjoyed and possessed divers great Offices, which were inconsistent, and in their nature improper to be executed by one and the same Person, and which ought to be, and by the Laws and Usage of this Realm were and are appointed and designed as Checks one upon the other, in Breach of the said Laws, to the Dishonour of His Majesty and Prejudice of His People.

IV. ' That he the said Earl, within the time aforesaid, hath clandestinely, contrary to the Law of Nations, sold and disposed of several Vessels with their Ladings and Cargo, taken under pretence of Prize by His Majesty's Ships of War, without Condemnation or Judicial Proceedings, and converted the Money to his own Use, well knowing, if they had been condemned, as by Law they ought to have been, One Tenth after Customs allowed, and One Third Part of the Value thereof (the Customs and the said Tenth being deducted) are by Act of Parliament appropriated to especial Uses. By which Proceedings the Publick has been greatly endamaged and defrauded, and the Debts of the Nation encreased.

V. ' And whereas Complaints were made to the Commissioners for Executing the Office of Lord High Admiral of *England*, (where the said Earl at that time presided) by the Company Trading to the *East-Indies*, of divers Piracies committed in the *South-Seas* to the Destruction of their Trade, delivring they might have Letters of Marque granted to them, whereby to be Impowered (though at their own Charge) to Suppress such Piracies;

' But the said Earl, preferring his own Interest, discouraged and rejected their Request and Proposal, and in some short time after, joyntly with others, did procure a Commission for one *William Kidd*, as likewise a Grant under the Great Seal of *England*, to and for the use of him the said Earl, and others, of the Ships and Goods of certain Persons therein Named, and also of all Goods found on Board the said Ships; And the said Company having intimation of a Commission granted to the said *Kidd*, being Apprehensive of the ill Consequences of the same, did Apply themselves to the said Board of Admiralty, desiring to know what Powers and Instructions were given; but such their Reasonable Request was denied, and *Kidd*, who was known to be a Person of Ill Fame and Reputation, ordered to pursue the intended Voyage, in which he did commit divers Piracies and Depredations on the High Seas, being thereto encouraged through the Hopes of being protected by the high Station and Interest of the said Earl, in Violation of the Law of Nations, and the Interruption and Discouragement of the Trade of *England*.

VI. ' That the said Earl, within the time aforesaid, when an Horrid Conspiracy was discovered against His Majesty's Sacred Person, and the Kingdom was under an Apprehension of an immediate Invasion from *France*, and divers Ships of War (particularly the Ship *Dutchess*) were Armed out, and Equip'd and Mann'd in Defence of the Realm, to oppose the intended Invasion, did his utmost Endeavour to Prejudice and Weaken the Navy Royal of *England*, for that he the said Earl, by Colour of his Office (being then First Commissioner for Executing the Office of Lord High Admiral of *England*) without the Privity of the other Commissioners, contrary to his Oath and Duty, and preferring his Hopes of Gain to himself to the Safety of the Publick, did Order Capt. *Steward*, Commander of the Ship *Dutchess*, to deliver over, and put on Board the said *Kidd* mentioned in the foregoing Article, out of the said Ship the *Dutchess*, a great number of Able Seamen, levied and provided at the

Expence

Expence of the Publick, and then discharging their Duty in Defence of their Country, and against their own Consent, to the Prejudice of the Publick Security, and to the Endangering the said Ship the *Dutchess* if it had been Attacked by the Enemy.

VII. That the said Earl, during the said War, and at a time of the greatest Exigency and Necessity, when Ships, Men and Money were wanting to Guard the Seas, and Protect our Trade, did by Misrepresentations, and contrary to his bounden Duty, and the Trust reposed in him, procure a Grant or Order for His Majesty's Ship the *Dolphin*, then Fitted out, Manned and Equipped for the Service of the Publick, to be Employed in a Private Voyage and Undertaking for the Advantage of himself and others Concerned with him; in pursuance whereof, and for their Private Gain, the said Ship was at the Publick Expence continued in Foreign Parts for several Months, to the Destruction and Loss of His Majesty's Subjects on Board the same, to the Weakening the Navy, by Rendering the said Ship Unserviceable, and the increasing the Debts of the Publick.

VIII. That the said Earl, during the time of his Commanding the Navy Royal of *England*, did through Neglect and in Contempt of Orders, unnecessarily Hazard and Expose to Eminent Danger the said Navy; and that during the time aforesaid, having had many Opportunities of Taking or Destroying the Ships belonging to the *French King*, the said Earl, contrary to Advice, in Dilobedience to Orders, and in Neglect of his Duty, did suffer and permit the said Ships to return safe into their Harbours.

IX. That the said Earl, well knowing our Sovereign Lord the King to have been Engaged in several Alliances with the Emperor of *Germany*, and other Princes and States, particularly in a Treaty concluded with his Imperial Majesty in the Year of our Lord One thousand six hundred eighty nine; the End and Intention of all which Leagues, and Treaties were to prevent the Growth of the Power of the *French King*, and to secure *England*, and the ancient Allies of *England* against the same, did, notwithstanding, in concert with other False and Evil Councillors, Advise our said Sovereign Lord the King in the Year One thousand six hundred ninety eight, to enter into one Treaty for dividing the Monarchy and Dominions of *Spain*; in pursuance whereof, in the Year One thousand six hundred ninety nine, one other Treaty was entered into to the like purpose; by which Treaties great Injustice was done to the Emperor, an ancient Ally of our said Sovereign Lord the King, and a large Part of the said *Spanish* Dominions were to be added to the Crown of *France*: Both which Treaties were Prejudicial to the Interest of the Protestant Religion all over *Europe*, Ruinous to the Trade of *England*, and Dishonourable to our Sovereign Lord the King, and the People of these Kingdoms.

All which Crimes and Misdemeanors were committed and done by him the said Earl against our Sovereign Lord the King, His Crown and Dignity, the Peace and Interest of this Kingdom, and in the Breach of the several Trusts reposed in him the said Earl.

X. And he the said Earl of *Orford* was one of the Lords-Justices during His Majesty's Absence beyond the Seas, the First Commissioner for Executing the Office of Lord High-Admiral of *England*, Commander in Chief of His Majesty's Navy Royal, one of His Majesty's Privy-Council, and Treasurer of His Majesty's Navy, or in some or one of the said Stations during the time that all and every the Crimes before set forth were done and committed.

That the said Commons, by Protestation, saving to themselves the Liberty of Exhibiting at any time hereafter any other Accusation or Impeachment against the said Earl, and also of Replying to his Answers, or any of them, and of offering Proofs to all the said Premises or any of them, or any other Impeachment or Accusation that shall be Exhibited by them, as the Case shall, according to the Course of Parliament require, do Pray and Demand, That the said Earl may be put to Answer for all and every of the Premises; and that such Proceedings, Examinations, Tryals, and Judgments may be upon every of them had and used, as is Agreeable to Law and Justice.

Ordered, That the said Articles of Impeachment be Engrossed.

Resolved, That such Witnesses as are necessary to be made use of in relation to the said Impeachment, have the Protection of this House during their Attendance upon that Service.

Veneris 9 die Maii, 1701.

TH E Engrossed Articles of Impeachment against *Edward* Earl of *Orford* were read.

Ordered, That the said Articles of Impeachment be carried up to the Lords.

Ordered, That Colonel *Byerly* do carry the said Articles of Impeachment to the Lords, and that he do also demand, That the Earl of *Orford* do give sufficient Security to abide the Judgment of the House of Lords.

Colonel *Byerly* reported, That he had (according to Order) carried up to the Lords the Articles of Impeachment against the Earl of *Orford*, and had demanded, That the said Earl do give sufficient Security to abide the Judgment of the House of Lords.

Martis 13 die Maii, 1701.

RE S O L V E D, That a further humble Address be presented to his Majesty, That he will be graciously pleased effectually to answer the Address of this House for removing *John* Lord *Somers*, *Edward* Earl of *Orford*, *Charles* Lord *Hallifax*, and *William* Earl of *Portland* from his Council and Presence for ever.

Ordered, That the said Address be presented to his Majesty, by such Members of this House, as are of his Majesty's most Honourable Privy Council.

Jovis 15 die Maii, 1701.

A Message from the Lords by Sir *Richard Holford* and Mr. *Titt*.

Mr. Speaker, We are Comanded by the Lords to deliver to this House the Answer of *Edward* Earl of *Orford*, to the Articles Exhibited against him by the Knights, Citizens, and Burgesses in Parliament Assembled, in the Name of themselves, and of all the Commons of *England* in Maintenance of their Impeachment against the said Earl for high Crimes and Misdemeanors, supposed to be committed by him: And they delivered the same accordingly.

Ordered, That the said Answer be read to morrow Morning.

A Message from the Lords by Sir *Richard Holford* and Mr. *Pitt*.

Mr. Speaker, The Lords have Comanded us to acquaint this House, That on the first day of *April* last this House being sent up to their Lordships an Impeachment against *William* Earl of *Portland*, for high Crimes and Misdemeanors; and having also on the fifteenth day of the same Month severally impeached *John* Lord *Somers*, and *Charles* Lord *Hallifax* of high Crimes and Misdemeanors; their Lordships think themselves obliged to put this House in mind, That as yet no particular Articles have been Exhibited against the said Lords, which after Impeachments have been so long depending, is due in Justice to the Persons concerned, and agreeable to the Methods of Parliament in such Cases.

Resolved, That an Answer be returned to the Lords, That the Articles against *William* Earl of *Portland*, *John* Lord *Somers*, and *Charles* Lord *Hallifax* are preparing, and in a short time this House will send them up to the House of Lords.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Veneris 15 die Maii, 1701.

THE Answer of Edward Earl of Orford, to the Articles of Impeachment against him, was (according to Order) read, and is as follows, viz.

The Answer of Edward Earl of Orford, to the Articles Exhibited against him by the Knights, Citizens, and Burgeses in Parliament Assembled, in the Name of themselves, and of all the Commons of England, in Maintenance of their Impeachment against the said Earl for high Crimes and Misdemeanors, supposed to be committed by him.

THE said Earl, saving to himself all Advantages of Exception to the said Articles, and of not being prejudiced by any Words or want of Form in this his Answer; and saving to him all Priviledges and Rights belonging to him, as one of the Peers of this Realm, for Answer to the said Articles, humbly saith;

I. 'To the First Article, That he having for severall Years render'd his Majesty his utmost Service and Duty, as a Good and Loyal Subject ought to do; his Royal Majesty was graciously pleas'd upon severall Occasions to take notice of the same, and out of his wonted Bounty, and of his free Will was pleas'd to give the said Earl two Grants, one whereof was a Reversionary Grant for years of some Houses, depending upon a then precedent Estate for about nine and twenty years, which being a Reversionary Interest of so great a distance, altho' the said Earl thankfully received the same from his Majesty, as his Grace and Bounty, yet the same was of no great value; and the other of them was a Grant of the Remainder of a gross Sum, amounting to about 2000 l. a year for five years, which are the only Grants of any Mannors, Messuages, Lands, Tenements, Hereditaments, or Sums of Mony whatsoever, which he or any in Trust for him hath had from his Majesty, and which said two Grants his Majesty was graciously pleas'd, after many years Service, freely to bestow upon him, the said Earl, without any surprize, sinister, or indirect Means of the said Earl in obtaining the same; and which Grants he humbly conceives were not unusual in like Cases: The Accepting whereof he humbly hopes, was not any violation of his Duty, or of any Trust in him the said Earl repos'd.

II. 'To the Second Article the said Earl answereth, and denieth that he at any time converted to his own private use, any publick Mony issued to him for the Service of the Navy; or, that he the said Earl ever procur'd, or had any Privy Seal, or Privy Seals to discharge him from accounting for the same: But saith, that he the said Earl did make up, and upon Oath pass his Accounts for the Monies imprest to him for the Service in this Article mentioned, which Account was legally declared and pass'd upon very strict and great Examination, by the Lords Commissioners of the Treasury; and he the said Earl hath his *quietus est* in due Course of Law upon the same, but the Commissioners of the Victualling Office, making some unusual Objections to part of the said Account, concerning some Provisions furnished to the Fleet, by the said Earl in the King of Spain's Dominions, altho' the same were truly and really had and spent by the Seamen in the Fleet, and paid for by him the said Earl; and which Objections in like Cases had not been made, or stood upon, nor could be reasonably expected, his Majesty was pleas'd to direct and order a Privy Seal, to dispence with the form in that particular. But the said Earl did make no Advantage to himself thereby, nor was his Majesty or the Government in the least defrauded therein. It appearing upon a very strict Examination, that less Rates were allowed for the said Provisions, than had been allowed before in like Cases, or as the said Earl is inform'd hath been since allowed. And to the latter part of the said Article saith, That for the Monies by him received as Treasurer, or Receiver General of the Navy, he hath already deliver'd in his Accounts, and is ready to perfect the same according to the ordinary method; some of them lying ready with the Auditors to be declared, and the rest of them being made up, and deliver'd in to be Examined in order to be pass'd; and saith, after just Allowances had, he does not believe he shall appear to be indebted upon the said Accounts, and also denies, That any Persons are Sufferers for want of their dues in respect of the said Accounts, or that the Publick Service is, or hath been any ways discourag'd or discredit'd thereby, as in the said Article is alleg'd.

III. 'To

III. To the Third Article the said Earl answereth, and denies that he received any Monies whatsoever from the King of Spain, or any other Person, as in the Article is alleged; and saith, That what Wine, Oyl, or other Provisions were received from the King of Spain, or any others for the Fleet, were duly delivered and distributed amongst the Officers and Seamen thereof; and denies he did convert the same to his own use, or did imbezle any of the Provisions, or reckoned them, or any part of them, as bought with the Money allow'd for furnishing the Navy with fresh Provisions; and does also deny, That he, the said Earl, did enjoy any Offices inconsistent in their Nature (as he is advised) one with the other, or which were or ought to be Checks one upon the other; or that he any ways secured, or pretended to secure himself from rendering any Account to the Publick by any Office or Offices whatsoever; or that he is guilty of the Breach of any Laws, to his knowledge, by executing any Office or Offices, or ever executed the same to the Dishonour of his Majesty, or to the Prejudice of his People, as in the said Article is alleged.

IV. To the Fourth Article the said Earl answereth, and saith, He believes that the Prizes taken in the late War were appropriated, as by the Act of Parliament in that behalf is provided; but denies that he did at any time sell or dispose of any Vessel or Vessels, or their Ladings or Cargo, taken as or under the Presence of Prize by any of his Majesty's Ships of War, without Condemnation or Judicial Proceedings; or converted the Monies arising by sale of any Vessel or Vessels, or their Lading or Cargo, taken as or under presence of Prize by any of his Majesty's Ships of War, to his own use; but on the contrary, did from time to time in his Station give Orders, That the Prizes taken should be carefully preserved without Imbezlement, and duly proceeded against, and the Product answered as the Law directs: And therefore humbly insisteth, that the Publick hath been no ways endangered, or the Debts of the Nation increased by any Neglect or Default of the said Earl.

V. To the Fifth Article the said Earl saith, That the *East-India* Company, about the beginning of *March*, 1696. did apply to the Admiralty Board, of which the said Earl was one, to empower their Ships and Officers to seize and take all Pirates infesting the Seas within the Limits of their Charter; and likewise to erect a Court of Admiralty in those Parts, to try and condemn such Pirates as they should take. Upon which Application, the Board of Admiralty did take Advice, and were informed they had no Authority to grant the same; and denies he the said Earl ever discouraged or rejected the Company's Request therein, unless it were by telling them, that the Admiralty by Law could not grant the same; and denies that the Company was ever denied Letters of Marque in common form, to the knowledge of the said Earl: And saith, as to the matter of *Kid*, in this Article mention'd, he was gone upon his Expedition about twelve Months before that time; and as to he is Commissioned, and the Grant in the said Article mentioned, the said Earl humbly conceives and is advised the same were not contrary to Law, but sure he is the said Expedition was intended for the Publick Good and Service; and saith the said *Kid* had no Powers or Instructions from the Board of Admiralty, other than the ordinary and common Letters of Marque, the Contents whereof are common, and well known to Merchants; and the said Earl doth deny that he knew the said *Kid* to be of ill Fame and Reputation; but in case the said *Kid* had committed any Piracies, he, the said *Kid*, is answerable, and ought to answer for the same, he never being order'd by the said Earl so to do, nor had he ever any the least Encouragement given him by the said Earl, or any other to his knowledge, to expect or hope for any Protection therein, or in any illegal Action done or committed by him.

VI. To the Sixth Article the said Earl saith, He believes it to be true that there was a horrid and barbarous Plot and Conspiracy against his Majesty's Sacred Person, and that there was an apprehension of an immediate Invasion; but the said Earl hopes no neglect of Duty in his Station can be imputed to him to prevent the same; and as for the Ship *Dutchess*, which was amongst many others armed and equipped in defence of the Realm, the said Earl saith, That the Men, in the said Article mention'd to be taken from on board her, were but some of the very Persons that were just before taken from on board of Captain *Kid*, and returned by their own Consent on board Captain *Kid* again, not being above 20 in number; and saith, all fears of the Invasion were then over and at an end; and denies that the same was intended to weaken, or did weaken the said Ship or the Navy Royal, or that the said Seamen returning on board the said *Kid* were levied or provided at the Expence of the Publick, or did return or were put on board the said *Kid* against their own Consent, or to the Prejudice of the Publick Security; or that the Ship *Dutchess* was thereby endangered, if she had been attacked, as in the said Article is alleged.

VII. To the Seventh Article the said Earl answereth, and denies that he did, by Misrepresentation or otherwise, obtain or procure a Grant or Order for his Majesty's Ship the *Dolphin*, to be employed in a private Voyage or Undertaking; but what

what was done therein, was done after the Peace concluded, and by his Majesty's Command, at the Instance and Request of other Persons, and not of the said Earl, but contrary to his Opinion: Nor was the said Earl any way concerned in Interest therein, till after his Majesty's Orders were given about the said Ship; and then, and not before, some of the Persons concerned in the said Adventure desired the said Earl to take some Shares therein, (the number whereof he doth not remember) which the said Earl accordingly did; but humbly insists, that his Actings therein were not contrary to his Duty, or the Trust in him reposed, or the Debts of the Nation thereby increased.

VIII. 'To the Eighth Article the said Earl Answereth, and denies that at any time while he commanded the Navy Royal, he did thro' neglect or Contempt of Orders unnecessarily hazard or expose to danger the said Navy; and also denies, That upon any Opportunity of taking or destroying the Ships of the French King, he did, contrary to Advice, or in Disobedience to Orders, neglect to do the same; and also denies, that he did suffer or permit any of the French King's Ships to return into their own Harbours, when he had Opportunity to prevent the same; and humbly insists he is not Guilty of any Neglect or Omission of his Duty herein, nor did expect in this particular to be charged therewith, considering his faithful Services render'd against the French Fleet.

IX. 'To the Ninth Article the said Earl saith, He believes it to be true, That his Majesty hath been engaged in several Alliances with several Princes, and particularly with the Emperor, in the Year 1689. and that the end of those Alliances was to prevent the Growth and Power of France, and to secure this Kingdom and its Allies: But the said Earl does deny that he did advise his Majesty to enter into the Treaty of Partition, charged upon the said Earl in this Article; and so far as the said Earl was any ways acquainted therewith, he objected to, and gave his Opinion against the same.

X. 'To the Tenth Article the said Earl Answereth, and saith, That true it is his Majesty was pleased to employ and intrust him in the several Offices and Stations in this Article mentioned for several Years, as his Majesty's Occasions required, altho' not for all the time in the said Article mention'd; and hopes, and humbly insisteth upon it, that he, the said Earl, did from time to time, according to his Duty, and the Trusts in him reposed, discharge the said Offices and Employments with Loyalty, Faithfulness, and Zeal to his Majesty and his People.

And having thus laid his Case before your Lordships, he the said Earl, does humbly insist and answer to the said Impeachment, and all and every the Articles aforesaid, exhibited against him, that he is not Guilty of all or any of them, or of all or any the Matters or Things by the said Articles charged, in Manner and Form as the same are therein and thereby alledged against him; and that the Matters by him before set forth to be done and transacted, or any of them, were not done or committed by him, the said Earl, against our Sovereign Lord the King, his Crown or Dignity, or the Peace or Interest of this Kingdom, or in breach of the Trusts reposed in him, the said Earl; and humbly submits himself herein to your Lordships Judgment.

ORFORD.

Vera Copia,
Matth. Johnson, Cl. Parl.

Ordered, That the said Answer be referred to the Committee appointed to draw up the Articles of Impeachment.

Ordered, That the said Committee do prepare a Replication to the said Answer; and that the said Committee do sit *de die in diem*.

Mr. Harcourt Reported from the Committee appointed to draw up Articles of Impeachment, That they had drawn up Articles accordingly against John Lord Somers, Baron of Evesham, in maintenance of the Impeachment against him for high Crimes and Misdemeanors: And he read the same in his Place, and afterwards delivered them in at the Clerks Table, where they were read, Article by Article, and upon the Question severally put thereupon, agreed unto by the House, to be Articles of Impeachment of high Crimes and Misdemeanors against the said Lord Somers; and are as follow, *viz.*

Articles

Articles exhibited by the Knights, Citizens, and Burgeſſes in Parliament Aſſembled, in the Name of themſelves, and of all the Commons of England, againſt John Lord Somers, Baron of Eſſham, in maintenance of their Impeachment againſt him for high Crimes and Miſdemours.

I. ' THAT a Treaty and Alliance between *Leopold* the Emperor of *Germany*, and the States General of the United Provinces, was made and concluded in the Year of our Lord 1689: upon their Conſideration of the greatneſs of the common Danger which then threatned all Chriſtendom, from the exceſſive Power of *France*, and the unconstant Faith of the *French* in the Obſervance of Treaties; whereby 'twas agreed, That there ſhould be, and remain for ever, a conſtant, perpetual, and inviolable Friendſhip and good Correſpondence between his Imperial Maſteſty and the States General; That each of them ſhould be obliged to promote the others Intereſt, and as much as in them lay, prevent all Damages and Inconveniencies to each other.

' That during the Continuance of the War, there ſhould be not only a Deſenſive; but alſo an Offenſive Alliance between the ſaid Parties; by virtue whereof, they ſhould both of them act in an hoſtile manner with all their Forces by Sea and Land againſt the *French* King, and ſuch of his Allies as ſhould reſuſe to ſeparate themſelves from him.

' That after the War ſhould be ended, and a Peace concluded, there ſhould remain between his Imperial Maſteſty, his Heirs and Succeſſors, and the States General, a perpetual deſenſive Alliance againſt the Crown of *France* and its Adherents.

' That if the Crown of *France* ſhould again attack either of the ſaid Confederate Parties, at what time ſoever the ſame ſhould be done they ſhould faithfully aſſiſt each other.

' That his Imperial Maſteſty and the States General ſhould at all times, by all means, and with all their Forces, protect and defend all the Rights of each other againſt the Crown of *France* and its Adherents.

' And other Proviſions were thereby made for their mutual Security, as well during the Continuance of the War, as after the Concluſion of a Peace.

' That certain ſeparate Articles were alſo at or about that time made, whereby the States General, maturely conſidering that *France* had openly declared in ſeveral Courts that (notwithſtanding the moſt ſolemn Renunciation) they continued their Pretenſions by force of Arms to aſſert for the *Duchess* the Succeſſion of the *Spaniſh* Monarchy, in caſe the King of *Spain* ſhould die without Iſſue; and alſo conſidering what a Blow their State would receive, and what a Prejudice might happen thereby to the Publick Affairs and Quiet, did promiſe that in caſe his ſaid Catholick Maſteſty ſhould die without lawful Iſſue, they would with all their Forces aſſiſt his ſaid Imperial Maſteſty, or his Heirs, in taking the Succeſſion of the *Spaniſh* Monarchy, lawfully belonging to that Houſe, together with its Kingdoms, Provinces, Dominions and Rights, and in their obtaining and ſecuring the quiet Poſſeſſion thereof, againſt the *French* and their Adherents, who ſhould directly or indirectly oppoſe that Succeſſion, and with Force repel the Force which ſhould be brought againſt them.

' That at the Inſtance of the States General, in purſuance of the ſaid Treaty and ſeparate Articles, our moſt Gracious Lord and Sovereign, his moſt Excellent Maſteſty King *William* the Third, was invited to enter into the Alliance of the aforeſaid Treaty, and into the Agreement of the ſaid ſeparate Articles; and thereupon, for reſtoring and preſerving the Publick Peace and Quiet, did afterwards, in the ſaid Year of our Lord, 1689. enter into, and under the Great Seal of *England* accept, approve and ratifie, and in the moſt ſolemn manner engage and promiſe religiously and inviolably to obſerve the ſame, without violating the ſaid Treaty or ſeparate Articles in any Article, or ſuffering the ſame to the utmoſt of his Power to be violated.

' That in the Year of our Lord, 1693. a Treaty was projected and contriv'd in *France*, to be let on foot between his Maſteſty, the *French* King, and the States General, for a Partition of the *Spaniſh* Monarchy, whereby many large Territories thereunto belonging were to be allotted and delivered up to *France*.

' That the Tenor and Deſign of the ſaid laſt mentioned Treaty, whiſt the ſame was in Negotiation, was communicated to the ſaid *John* Lord *Somers*, then one of the Lords Juſtices of *England*, Lord Chancellor of *England*, and one of his Maſteſty's moſt Honourable Privy Council.

That the said Lord *Somers*, well knowing the most apparent evil Consequences, as well as the Injustice of the said Partition, did not, according to the Trust and Duty of his said several Offices, did waive or endeavour to obstruct its taking effect; but on the contrary, having neither regard to his Majesty's Honour engaged by the said Treaty with the Emperor and States General as aforesaid, to the Trade and known Interest of this Kingdom, or the Peace of *Europe*, did advise his Majesty to enter into the said Treaty; and did so far encourage and promote the same, that the said Treaty was concluded, and ratified under the Great Seal of *England*, then in the Custody of the said Lord *Somers*; and thereby the Kingdom of *Naples* and *Seville*, the Places depending on the Monarchy of *Spain*, situate on the Coast of *Tuscany*, or the adjacent Islands, comprehended under the Name of *Santo Stephano Porto, Hercules, Orbetello, Talamone, Porto Longone Piambrino*, the Town and Marquissat of *Final*, the Province of *Guipuzcoa*, particularly the Towns of *Pontarabia* and *St. Sebastian* situate in that Province, and especially the Port of the Passage which is therein comprised, with several other Parts and Things of or belonging to the said Kingdom of *Spain*, were allotted to the *Dauphin* for his Share: And the Crown of *Spain*, and the other Kingdoms, Islands, States, Countries and Places depending thereon (except such Part as aforesaid, which was thereby allotted to the *Dauphin* for his Share, and the Duchy of *Milan* herein after mentioned) was given and assigned to the Electoral Prince, eldest Son to the Elector of *Bavaria*, for his Share, to enjoy the same, to him, his Heirs and Successors for ever; never to be molested therein on any pretence of Rights or Claims, on the part of the *French* King or the *Dauphin* or his Issue, Heirs or Successors, nor of the part of the Emperor, the King of the *Romans*, the Arch-Duke *Charles* his second Son, and other Children, or his Heirs and Successors; and the Duchy of *Milan* was thereby agreed to be given to the said Arch-Duke for his Share; and in execution of all Pretensions and Rights which the said Emperor, the King of the *Romans*, the said Arch-Duke *Charles*, all his other Children, Successors and Heirs might have to the said Succession of *Spain*.

By which Treaty 'twas also further agreed, That if any Prince whatsoever should oppose the taking Possession of the Shares thereby agreed on as aforesaid, his Majesty, the *French* King, and the States General, should assist one another against such Opposition, and hinder the same with all their Power.

That by a secret Article of the said Treaty, in like manner ratified under the Great Seal of *England*, 'twas provided, That if the King of *Spain* should die without Issue, and the Electoral Prince of *Bavaria* should afterwards die without Issue, his Electoral Highness of *Bavaria* his Father, should succeed him in all the Kingdoms, Islands, States, Countries and Places assigned to the Electoral Prince as aforesaid, and enjoy the same to him and his Children, Successors and Heirs then born, or to be born, so as neither the Emperor, his Children, nor any other Person should or might under any Pretext form the least Pretension to that Succession, his Majesty, the *French* King, and States General thereby engaging themselves to employ all their Power by Land and by Sea, for maintaining the Order established by the said secret Article relating to the Succession of the Monarchy of *Spain*.

That the said Treaty was ratified under the Great Seal of *England*, then in the Custody of the said Lord *Somers*, as an Agreement between his Majesty, the *French* King, and States General; notwithstanding the said Lord *Somers* well knew that the same had been concluded between his Majesty's Commissioners and the *French* Ambassador, or the Commissioner of the *French* King only, and that the Purport thereof had never been communicated to the States General, at the time of the Ratification thereof under the Great Seal of *England*, notwithstanding the Negotiation thereof in *Holland*.

II. That for the more effectual carrying on the said Treaty, one or more Commission or Commissions was or were prepared, amended, enlarged or altered by the said Lord *Somers*, without any lawful Warrant for his so doing: Whereunto the said Lord *Somers*, contrary to the Duty of his said several Offices, and in violation of the great Trusts reposed in him, in or about the Month of *September*, 1693, without communicating the same to the rest of the then Lords Justices of *England*, or advising in Council with his Majesty's Privy Council thereupon, did presume to affix the Great Seal of *England*.

That no certain Persons of known Honour, Fidelity and Experience were therein nominated Commissioners at the time of affixing the Great Seal of *England* thereto, but a blank or empty space was left in the said Commission or Commissions at the time of the sealing thereof, wherein the Commissioners Names were to be afterwards inserted beyond the Seas; notwithstanding which, an unlimited Power was thereby granted to the Commissioners, whose Names were therein afterwards to be inserted as aforesaid, or to either of them, without any written Instructions whatsoever to restrain, guide, or direct them in the Exercise thereof, in his Majesty's Name to confer

confer and treat with the Commissioner or Deputy, or Commissioners or Deputies of the French King, and also with the Commissioners or Deputies of the States General, for preserving the Publick Peace, and touching the Succession to the Crown of Spain. And his Majesty did thereby engage himself to approve, ratifie and confirm whatsoever should be thereupon concluded by them, or either of them.

III. That the said Lord Somers contrary to the Duty of his said Office of Lord Chancellor, did affix the Great Seal of England to the said Commission, or Commissions, not having first received any lawful Warrant for that purpose, in hopes of concealing which evil and most dangerous Practice, the said Lord Somers after he had sealed the said Commission, or Commissions, used his Endeavour to procure a Warrant to be transcribed to him for affixing the Great Seal to the said Commission, or Commissions, and that it might not be known but that he had it in due time.

IV. That the said Lord Somers contrary to the Duty of his said several Offices, affixed the Great Seal of England to the Ratification of the said Treaty, made in the year of our Lord 1698. not having first Communicated the same to the rest of the then Lords Justices of England, or advised in Council with his Majesty's Privy Council thereupon. And at the time of his affixing the Great Seal thereto, one entire blank Sheet, and many other blanks were left in the said Ratification, with an intent to be afterwards filled up by other Persons beyond the Seas, as should be thought fit.

V. That in the year of our Lord 1699. another Treaty was entered into in pursuance of the said Treaty made in the year 1698. and concluded by and between his Majesty, the French King, and the States General, and also ratified under the Great Seal of England, then in the Custody of the said Lord Somers; whereby the Kingdom of Spain, in case his Catholick Majesty should die without Issue, was agreed to be divided, and many large Territories thereof were allotted to the Dauphin for his share, which Treaties were evidently destructive of the Trade of this Realm, dishonourable to his Majesty, highly injurious to the Interest of the Protestant Religion, and manifestly tended to disturb the general Peace of Europe, by altering the Ballance of the Power therein, and strengthening France against the good Friends and ancient Allies of our Sovereign Lord the King.

VI. That whereas by the Laws and Usages of this Realm, all Commissions under the Great Seal of England, for the making any Treaty or Alliances with any Foreign Princes, States, or Potentates, and all Ratifications under the said Great Seal, of all such Treaties or Alliances, ought to be inrolled and entered of Record in the Court of Chancery, with or by the Prothonotary of the said Court, for a perpetual memorial thereof; and that the Merchants and other Subjects of England, having Commerce or Correspondence in Foreign Parts, may not thro' ignorance of the same, incur the Pains and Penalties by the Law due to those who shall any ways infringe, break, or act contrary to such Treaties, He the said Lord Somers not minding the Duty of his Office, did not in any manner inrole or enter of Record, or cause to be inrolled or entered of Record, any of the said Commissions or Ratifications in the foregoing Articles mentioned, as by the Duty of his Place he should and ought to have done, but so to do did totally neglect and omit, in breach of his said Duty, and in Violation of the Laws of this Realm.

VII. That the said Lord Somers when the Custody of the Great Seal of England was committed to him, did swear well and truly to serve our Sovereign Lord the King, and his People poor and rich after the Laws and Usages of this Realm, and truly to Counsel the King and his Council to keep, and not to know or suffer the hurt or dishonouring of the King, or that the Rights of the Crown should be decreased, as far forth as he might let it, and if he could not let it, that he would make it clearly and expressly to be known unto the King, with his true Advice and Counsel. And that he should do and purchase the Kings Profit in all he reasonably might, or to that Effect. And the said Lord Somers afterwards took the said Oath, as Lord Chancellor of England.

That the said Lord Somers being Lord Keeper of the Great Seal, or Lord Chancellor of England, and one of his Majesty's most Honourable Privy Council, whilst this Nation was engaged in a tedious and most expensive War against the French King, for preserving the Ballance and Liberties of Europe, and almost exhausted with Supplies and Taxes for carrying on the same, and under such heavy Debts, as without the utmost frugality, or laying insupportable Taxes on the Commons of England, were impossible to be satisfied, contrary to his said Oath, did pass many great unreasonable and exorbitant Grants under the Great Seal of England, of divers Mannors, Lordships, Lands, Tenements, Hereditaments, Revenues, and Interests belonging to the Crown of England, amounting to a most prodigious and excessive value, and did advise, promote and procure divers great unreason-
able

‘ble and exorbitant Grants, to be made of several of the late Forfeited Estates in
 ‘Ireland, in contempt of the advice of his Majesty’s most Dutiful and Loyal Subjects,
 ‘the Commons of *England* in Parliament Assembled, and without any regard to his
 ‘Majesty’s most gracious assurance thereupon to both his Houses of Parliament, And
 ‘engaged to procure, and accordingly did procure divers Acts prepared for confirm-
 ‘ing the said Grants in Parliament in *Ireland*, to be approved in Council in *Eng-
 ‘land*, and afterwards renitted the same under the Great Seal of *England*, to be pas-
 ‘sed into Laws in *Ireland*.

VIII. ‘That the said Lord *Somers* during the time of his being Lord Keeper of the
 ‘Great Seal, and Lord Chancellor of *England*, did not only receive and enjoy the
 ‘Fees, Profits, and Perquisites of or belonging to the Great Seal established by Law,
 ‘as a sufficient and ample Recompence and Reward for the faithful discharge of that
 ‘high Station, but also as a further Encouragement through his Majesty’s most abun-
 ‘dant Grace and Bounty, received an annual Pension or Allowance from the Crown
 ‘of 4000*l.* and many other Profits and Advantages; notwithstanding which, the said
 ‘Lord *Somers* not being contented therewith, contrary to his said Oath begged and pro-
 ‘cured for his own Benefit, many great unreasonable and exorbitant Grants of several
 ‘Manors, Lands, Tenements, Rents, Hereditaments, and Revenues belonging to
 ‘the Crown of *England*.

‘That in or about the Month of *April*, 1697. the said Lord *Somers* being then
 ‘Lord Chancellor of *England*, and one of his Majesty’s most Honourable Privy Coun-
 ‘cil, contrary to his said Oath did procure and pass a Grant under the Great Seal of
 ‘*England*, without any real Consideration whatsoever, to *Joseph Fekyll* Esq; and his
 ‘Heirs for ever, of the Mannor or Mannors of *Rygate* and *Howleigh*, withal and sin-
 ‘gular their Rights, Members and Appurtenances, situate and being in the Parish
 ‘of *Rygate* or elsewhere within the County of *Surrey*, and of all Qu t-Rents, Rents
 ‘of Assize, free Rents, Conventiary Rents, Coppinghold and Customary Rents, and
 ‘all other Rents whatsoever, to the said Mannor or Mannors belonging or apper-
 ‘taining, with the seite of the ruined Cattle, and of all other Demefine Lands of
 ‘the said Mannor or Mannors, with the Rents reserved on any Leases then in be-
 ‘ing of any Parts thereof, and of all other Lands, Meadows, Feedings, Pastures,
 ‘Messuages, Houses, Edifices, Buildings, Barns, Stables, Dove-Houses, Tolls of
 ‘Market, or Fairs, with the Market-Houle there, and also of all Warrens, Chaces,
 ‘Parks, Commons, Woods, Underwoods, Wood-Lands, waste Grounds, Courts Leet,
 ‘Courts Baron, and other Courts Services, Franchises, Herriots, Fines, Lises, Amercia-
 ‘ments, and all other Profits and Perquits of the said Courts, Rights, Royalities, and
 ‘Jurisdiction, and of divers other Marters, Hereditaments and Appurtenances to
 ‘the said Mannor or Mannors, or either of them, or to the Royalities thereof belong-
 ‘ing, or in any wise appertaining, which Premises were parcel of the Demefnes
 ‘and Revenues of the Crown, and of the value of twelve thousand Pounds and
 ‘upwards.

‘That under pretence of purchasing divers Fee Farm Rents, and other Rents vested
 ‘in Trustees for Sale thereof, in pursuance of several Acts of Parliament made in the
 ‘Reign of his late Majesty King *Charles* the Second, The said Lord *Somers* in the
 ‘year of our Lord, 1697. procured a Warrant from his Majesty under his Sign
 ‘Manual, to the Commissioners of the Treasury then being, to Contract or give
 ‘Warrant to the Trustees for Sale of Fee Farm Rents, to Contract with *Humphry
 ‘Hetherington* Esq; or such as he should nominate, for as many Fee Farm and other
 ‘Rents then remaining unsold, (except such Rents as were set apart for payment of
 ‘Pensions in the Pension Deed) as should amount unto 800*l.* per Ann. at the
 ‘rate of sixteen years Purchase. And that upon such Contract, the said Commis-
 ‘sioners of the Treasury should give Warrant for conveying the said Rents to the said
 ‘*Humphry Hetherington*, or such as he should appoint, and his Heirs.

‘That under the like pretence, and at or about the same time, the said Lord
 ‘*Somers* procured another Warrant from his Majesty under his Sign Manual to the
 ‘said Commissioners of the Treasury, to Contract or give Warrant to the said
 ‘Trustees, to Contract with *Richard Adny* Esq; or such as he should nominate for
 ‘as many Fee Farm and other Rents then remaining unsold, (except as aforesaid) as
 ‘should amount to 700*l.* per Ann. at th rate of sixteen years Purchase, and that
 ‘upon the said Contract, the said Commissioners should give Warrant for convey-
 ‘ing the said Rents unto the said *Richard Adny*, or such as he should nominate, and
 ‘his Heirs. That under the like pretence, and at or about the same time, the said
 ‘Lord *Somers* procured another Warrant from his Majesty under his Sign Manual,
 ‘to the said Commissioners of the Treasury, to contract or give Warrant to the said
 ‘Trustees to Contract with *Samuel Newton* Esq; or such as he should nominate, for
 ‘as many Fee Farm and other Rents then remaining unsold, (except as aforesaid)
 ‘as should amount unto 600*l.* per Ann. at the rate of sixteen years Purchase. And that

that

that upon such Contract the said Commissioners should give Warrant for conveying the said Rents unto the said *Samuel Newton*, or such as he should nominate, and his Heirs.

That in pursuance of Warrants of the said Commissioners of the Treasury thereupon, certain Contracts were made or pretended to be made with the said *Humphrey Hetherington*, *Richard Adny*, and *Samuel Newton*, for the real Sale of divers Fee Farm Rents, and other Rents of the several and respective yearly values aforesaid. By Virtue whereof the said *Humphrey Hetherington*, *Richard Adny*, and *Samuel Newton*, became obliged to pay into the Receipt of his Majesty's Exchequer at *Westminster*, for the purchase of the several and respective Rents to them respectively to be conveyed as aforesaid, the sums herein after mentioned, that is to say, the said *Humphrey Hetherington* 12800 *l.* the said *Richard Adny* 11200 *l.* and the said *Samuel Newton* 9600 *l.*

That in pursuance of such Contracts or pretended Contracts, through the Power of the said Lord *Somers*, and by his means and procurement, divers Fee Farm Rents, and other Rents, were by certain Indentures Tripartite of Bargain and Sale, bearing date on or about the sixth day of *January*, 1697. in Consideration of 3200 *l.* therein mentioned, to have been paid by the said *Humphrey Hetherington*, unto his Majesty at the Receipt of his Exchequer at *Westminster*, or by other assurance in the Law granted, and conveyed by the said Trustees, by the appointment of the said *Humphrey Hetherington* to *Leonard Hancock* of *Chestnut* in the County of *Hertford*, Esq; and *John Warner* of the Parish of *St. Clements Dunes* in the County of *Middlesex*, Goldsmith, and their Heirs.

And by other Indentures of Bargain and Sale, of the same date, 10th assurance in the Law, divers other Fee Farm Rents, and other Rents therein mentioned, in Consideration of 9600 *l.* therein mentioned, to have been paid by the said *Humphrey Hetherington* to his Majesty at the Receipt of his Exchequer at *Westminster* (being the residue of the said Sum of 12800 *l.*) were by the said Trustees granted, and conveyed to the said *Humphrey Hetherington* and his Heirs; which Fee Farm and other Rents so conveyed unto, or by the appointment of the said *Humphrey Hetherington*, amount to the full yearly value of 800 *l.*

And by other Indentures of Bargain and Sale, of the same date, or other assurance in the Law, and in Consideration of 2400 *l.* therein mentioned, to have been paid by the said *Richard Adny* unto his Majesty at the Receipt of his Exchequer at *Westminster*, other Fee Farm Rents, and other Rents were by the appointment of the said *Richard Adny* granted, and conveyed by the said Trustees to the said *Leonard Hancock* and *John Warner*, and their Heirs. And by other Indentures of Bargain and Sale, of the same date, or other assurance in the Law, in Consideration of 8800 *l.* in the same Indentures mentioned, to have been paid by the said *Richard Adny* unto his Majesty at the Receipt of his Exchequer at *Westminster* (being the residue of the said Sum of 11200 *l.*) divers other Fee Farm Rents, and other Rents therein mentioned, were granted and conveyed by the said Trustees to the said *Richard Adny* and his Heirs; which Fee Farm and other Rents so conveyed to or by the appointment of the said *Richard Adny*, amount to the full yearly value of 700 *l. per Ann.*

And by other Indentures of Bargain and Sale, bearing date on or about the 25th day of *April*, 1698. or other assurance in the Law, in Consideration of 2400 *l.* therein mentioned, to have been paid by the said *Samuel Newton* to his Majesty at the Receipt of his Exchequer at *Westminster*, other Fee Farm Rents, and other Rents therein mentioned, were by the appointment of the said *Samuel Newton* granted, and conveyed by the said Trustees to the said *Leonard Hancock* and *John Warner*, and their Heirs.

And by other Indentures of Bargain and Sale, of the same date, or other assurance in Law, in Consideration of 7200 *l.* therein mentioned, to have been paid by the said *Samuel Newton* to his Majesty at the Receipt of his Exchequer at *Westminster*, (being the residue of the said Sum of 9600 *l.*) divers other Fee Farm Rents, and other Rents therein mentioned, were granted and conveyed by the said Trustees to the said *Samuel Newton* and his Heirs; which said several Rents so conveyed unto, or by the appointment of the said *Samuel Newton*, amount to the yearly value of 600 *l.*

That the said several Mannors and Rents aforesaid, were granted to the said *Joseph Fekyll*, *Humphrey Hetherington*, *Richard Adny*, and *Samuel Newton*, and their Heirs respectively as aforesaid, in trust only for the said Lord *Somers* and his Heirs.

IX. That the said Lord *Somers* in order to procure a Grant of the said Fee Farm Rents for his own Benefit, whilst he was Lord Chancellor of *England*, and one of his Majesty's most Honourable Privy Council, whilst his Majesty was engaged in the said War, and the Nation under such heavy Debts as aforesaid, did enter into several Treaties, and had many Communications with divers Persons entrusted

‘ trusted with the Care and Management of the said Fee Farm Rents, and particular-
 ‘ ly with *Reginald Marriot* of the Parish of *St. Clement Danes*, in the County of *Mid-*
 ‘ *diefex*, Auditor of the Rates, or acting as Auditor, and with *John Digby* of the
 ‘ Parish of *St. Bridges*, *London*, Clerk of the Trustees for Sale of the said Fee Farm
 ‘ Rents, and other Evil disposed Persons, and for encouraging the said *Marriot*, *Dig-*
 ‘ *by* and others, to discover to him such particular Fee Farm and other Rents, as they
 ‘ remained undisposed of, to the intent the said Lord *Somers* might beg the same; he
 ‘ the said Lord *Somers* contracted and agreed with the said *Marriot*, to give the said
 ‘ *Marriot* for himself and his accomplices, as a Reward for the said Discovery, one
 ‘ full fourth part of all such Rents so discovered; whereof the said Lord *Somers*
 ‘ should procure a Grant from the Crown, and accordingly the said several Grants
 ‘ from the said Trustees to the said *Hancock* and *Warner*, being together of the
 ‘ yearly value of 500*l. per Ann.* and upwards, were so made by the direction of

X. ‘ That notwithstanding the said pretended Contracts and Payments, there was
 ‘ not any sum of Money whatsoever really, and *bona fide*, paid as the Consideration of
 ‘ the Conveyances of the said Rents from the said Trustees, but such Contracts and
 ‘ Payments of the said several Considerations (amounting in the whole to 33600*l.*)
 ‘ were colourably and fraudulently contrived, and made by direction of the said Lord
 ‘ *Somers*, contrary to his said Oath, in deceit of his Majesty, and Elusion of the said
 ‘ Acts of Parliament.

XI. ‘ That many Quit Rents, and Coppyhold Rents standing in Charge, as parcel
 ‘ of or belonging to several Mannors, or reputed Mannors, Rents reserved upon Leafes
 ‘ or Estates, the Reversion whereof was in his said Majesty King *Charles* the Second,
 ‘ at the making the said Acts, Rents conveyed before in Lease, or granted to other
 ‘ Persons, Rents appropriated by or in pursuance of Act or Acts of Parliament, for
 ‘ payment of Pensions, Stipends, Salaries, Annuities, Alms, and Allowances for the
 ‘ Maintenance of Grammar-Schools or Schollars, or for or towards the Reparation of
 ‘ Churches, Chappels, High-ways, Causeys, Bridges, Schools, Alms-houses, Castles,
 ‘ or other Uses; and many Quit Rents of Mannors, and other Rents by Act of
 ‘ Parliament united and annexed to the Castle of *Windsor*, with intent to support
 ‘ and maintain the yearly Reparations and Charges of the said Castle, and discharge and
 ‘ pay the Fees and Wages of the Officers, Servants and Attendants in the same Castle,
 ‘ and the Forrests, Chaces and Parks to the same belonging, and for many years ap-
 ‘ plied according to the intention of the said Act, and also many Quit Rents of or
 ‘ belonging to divers ancient Mannors heretofore, and yet parcel of the Demesnes or
 ‘ Possessions of the Crown, as if the same had been entire Fee Farm Rents, issuing
 ‘ out of those Mannors, were by the aforesaid several Indentures of Bargain and
 ‘ Sale, thro’ the Direction and Power of the said Lord *Somers*, conveyed by the
 ‘ said Trustees, for Sale of Fee Farm Rents to the said *Humphry Hetherington*,
 ‘ *Richard Adny* and *Samuel Newton*, and to the said *Hancock* and *Warner*, and their
 ‘ Heirs, or unto some of them, contrary to the true intent and meaning of the said
 ‘ Acts of Parliament, to the great Vexation and Oppression of many of his Majesty’s
 ‘ good Subjects, and creating many new and unreasonable Charges on other Revenues
 ‘ of the Crown

XII. ‘ That by the Direction of the said Lord *Somers*, the said *Humphry Hethering-*
 ‘ *ton*, *Richard Adny*, *Samuel Newton*, *Leonard Hancock*, and *John Warner*, surrendered
 ‘ several of the said Rents to them granted as aforesaid, amounting to the yearly value
 ‘ of 347*l. 11 s. 5 d. 4.* on suggestion, that the same were either conveyed before in
 ‘ Lease set apart for payment of Pensions, old Supers bad or illeivable, or part
 ‘ thereof bad or illeivable, or wrong conveyed, and the said Lord *Somers*, in the year
 ‘ of our Lord, 1699. being then Lord Chancellor of *England*, and one of his Majes-
 ‘ ty’s most Honourable Privy Council, in breach of his Duty, and contrary to the
 ‘ Laws and Statutes of this Realm, procured other Rents of the yearly value of
 ‘ 391*l. 3 d. 3.* to be allowed by way of Reprize, and to be conveyed to the said
 ‘ *Richard Adny* and his Heirs, in trust for the said Lord *Somers* and his Heirs, as if
 ‘ the said yearly Rents of 347*l. 11 s. 5 d. 4.* so surrendered had been really, and
 ‘ *bona fide*, purchased in pursuance of the said Acts for Sale of Fee Farm Rents.

XIII. ‘ That in the year of our Lord, 1695. the said Lord *Somers*, being then
 ‘ Lord Keeper of the Great Seal of *England*, and also one of his Majesty’s most
 ‘ Honourable Privy Council, together with *Edward Earl of Orford*, then first Com-
 ‘ missioner for executing the Office of Lord High Admiral of *England*, and Com-
 ‘ mander in Chief of his Majesty’s Navy Royal, and one of his Majesty’s most
 ‘ Honourable Privy Council, *Richard Earl of Bellmont* in the Kingdom of *Ire-*
 ‘ *land*, Governour of *New-York* and *New-England*, and others then in high Stations,
 ‘ and in great Power and Authority, procured a Commission to be granted unto one
 ‘ *William Kid*, a Person of Evil Fame and Reputation, and since that time Convicted of
 ‘ Piracy,

Piracy, to apprehend and take into his Custody divers Persons therein named, and all such Pirates as the said *Kid* should meet with upon the Coasts or Seas of *America*, or in any other Seas or Parts, with their Ships and Vessels, and also such Merchandises, Goods and Wares as should be found on board or with them. And afterwards the said Lord *Somers*, in the Year of our Lord, 1697, with the Assistance of the said Earl of *Oxford* and other Persons aforesaid, procured a Grant from his Majesty, and the said Lord *Somers* passed the same under the Great Seal of *England*, whereby all and whatsoever Ships, Vessels, Goods, Merchandises, Treasure, and other things whatsoever, which since the thirtieth day of *April*, 1696, had been taken or seized upon or with, or did belong to, or which should be taken or seized upon or with, or did or should belong to *Thomas Tooe*, *John Ireland*, *Thomas Wake*, and *William Mize*, (in the said Letters Patents mentioned to have been complained of and informed against for committing many Robberies, Piracies and Depredations upon the Seas in the Parts of *America* and other Places, but never Convicted or Attainted for the same) or which since the said 30th day of *April*, 1696, had been taken or seized upon, or which did or should belong to any of the Adherents of the said *Thomas Tooe*, *John Ireland*, *Tho. Wake*, and *William Mize*, or any other Pirates, Free Booters and Sea Rovers, by the said *William Kid*, or other Commander of the Adventure Galley, or which by or by means of the said Ship or Galley should be taken or forced on board in any of his Majesty's Plantations of *America*, were granted unto the said *Richard Earl of Billamont*, and unto *Edmond Harrison*, Merchant, *Samuel Newton*, Gent. *William Revely*, Gent. *George Watson*, Gent. and *Thomas Reynolds* of *St. Martins*, their Executors, Administrators and Assigns, to their own sole Use and Benefit, and as their own proper Goods and Chatties, without any Account thereof or therefore to be made: In which Grant the Name of the said *Samuel Newton* was used in Trust and for the only Benefit and Advantage of the said Lord *Somers*. Which said Grant under the Great Seal of *England*, manifestly tended to the Obstruction and Discouragement of Trade and Navigation, the great Loss and Prejudice of Merchants and others, being his Majesty's Subjects, or Subjects of the Friends and Allies of his Majesty, and the Dishonour of the King and Kingdom; and the said Lord *Somers* was, by procuring and passing the said Grant, guilty of a notorious Breach of his Duty.

XIV. That the said *John Lord Somers*, to the great Oppression of the Subject, and contrary to *Magna Charta*, and divers good Statutes of this Realm, and in manifest Breach and Violation of his Oath, as Lord High Chancellor of *England*, hath in several Causes depending before him, by many extraordinary Methods and unwarrantable Practices, for several Years delayed Proceedings in the said Causes; and by colour of his Office hath made divers Arbitrary and Illegal Orders, in subversion of the Laws and Statutes of this Realm, and hath of his own Authority reversed Judgments given in the Court of Exchequer, and without calling before him the Barons of the Exchequer to hear their Informations, and the Causes of their Judgments, as the Statute in those Cases expressly directs, assuming thereby to himself an Arbitrary and Illegal Power: And hath declared and affirmed in Publick Places of Judicature, that particular Subjects might have Rights and Interests, without any Remedy for Recovery of the same, unless by Petition to the Person of the King only, or to that effect; which Position was highly dangerous to the Legal Constitution of this Kingdom, and absolutely destructive to the Property of the Subject.

And the said Knights, Citizens, and Burghesses, by Proclamation, saving to themselves the Liberty of exhibiting at any time hereafter any further Articles, or other Accusation or Impeachment against the said Lord *Somers*; and also of replying to his Answers which he shall make unto the said Articles, or any of them; and of offering Proofs to all and every the aforesaid Articles, and to all and every other Articles, Impeachment or Accusation which shall be Exhibited by them, as the Cause shall according to the Course of Parliament require, do pray that the said *John Lord Somers* may be put to answer the said Crimes and Misdemeanors, and that such Proceedings, Examinations, Trials and Judgments may be thereupon had and given, as is agreeable to Law and Justice.

Ordered, That the said Articles of Impeachment be Engrossed.

Luna 19 die Maii, 1701.

THE Engrossed Articles of Impeachment against *John Lord Somers* were read, and some Amendments were made by the House to one of them.

Ordered, That Mr. *Harcourt* do carry the said Articles up to the Lords.

Ordered, That Mr. *Harcourt* do also pray and demand, That the said *John Lord Somers* do give sufficient Security to abide the Judgment of the House of Lords.

Mr. *Harcourt* reported, That he had (according to Order) carried up to the Lords the Articles of Impeachment against *John Lord Somers*, and prayed and demanded that the said

John Lord Somers do give sufficient Security to abide the Judgment of the House of Lords thereupon.

Mercurii 21 die Maii, 1701.

A Message from the Lords by Sir *Robert Legard* and Mr. *Gery*.
Mr. Speaker, The Lords command us to acquaint this House, That their Lordships having been desired by the Earl of *Orford* that a Day may be appointed for his speedy Trial, their Lordships finding no Issue joyned by Replication of this House, think fit to give notice thereof to this House.

They also command us to acquaint this House, That they having on the first Day of *April* last sent up to their Lordships an Impeachment against *William* Earl of *Portland*, for high Crimes and Misdemeanors; and having also, on the fifteenth Day of the same Month, impeached *Charles* Lord *Hallifax*, for high Crimes and Misdemeanors, and there being as yet no particular Articles exhibited against the said Lords, their Lordships think themselves obliged to put this House in mind thereof; which after Impeachments have so long depended is a hardship to the Persons concerned, and not agreeable to the usual Methods and Proceedings of Parliament in such cases.
Resolved, That this House will send an Answer to the said Messages relating to the said Impeachments by Messengers of their own.
And the Messengers were called in, and Mr. Speaker acquainted them therewith.

Veneris 23 die Maii, 1701.

SIR *Bartholomew Skower* reported from the Committee appointed to draw up the Articles of Impeachment, That they had considered of the Answer of *Edward* Earl of *Orford*, and had drawn up a Replication thereunto, which they had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same was read, and (with an Amendment) agreed unto by the House: And is as followeth, *viz.*

THE Commons have considered the Answer of *Edward* Earl of *Orford*, to the Articles of Impeachment exhibited against him by the Knights, Citizens, and Burgesses Assembled in Parliament, and do aver their Charge of High Crimes and Misdemeanors against him to be true, and that the said Earl is guilty in such manner as he stands accused and impeached; and that the Commons will be ready to prove their Charge against him, at such convenient Time as shall be appointed for that Purpose.

Ordered, That the said Replication be Engrossed.

Sir *Bartholomew Skower* also Reported from the said Committee, That they had directed him to move that they may have Power to send for Persons, Papers and Records that shall be thought necessary to be used at the Trial of the said Earl; and to proceed in the most speedy and secret way they can for the advantage of the Prosecution.

Ordered, That the said Committee have Power to send for Persons, Papers and Records that shall be thought necessary to be used at the Trial of the said Earl; and to proceed in the most speedy and secret way they can for the advantage of the Prosecution.

Ordered, That the said Committee have Power to send some of their Number to examine Mr. *Samuel Shepherd* in the Tower.

Ordered, That the said Committee do consider of the Messages from the Lords relating to the Impeachments, and inspect the Precedents of Messages in relation to former Impeachments, and report the same to the House.

Sabbati 24 die Maii, 1701.

A Message from the Lords by Sir *John Hoskins* and Sir *Robert Legard*.
Mr. Speaker, The Lords have commanded us to deliver to this House a Copy of the Answer of *John* Lord *Somers*, Baron of *Evesham*, to the Articles exhibited by the Knights, Citizens, and Burgesses in Parliament Assembled, in the Name of themselves and of all the Commons of *England*, in maintenance of their Impeachment against him for high Crimes and Misdemeanors, supposed to be by him Committed; and they delivered the same in accordingly.

Luna 26 die Maii, 1701.

Ordered,
THAT the Answer of the Lord *Somers* to the Articles of Impeachment exhibited against him, be read to Morrow Morning at Eleven a Clock.

Marti

Martis 27 die Maij, 1701.

THE Answer of the Lord Somers to the Articles of Impeachment Exhibited against him was, according to Order, Read, and is as follows, viz.

The ANSWER of John Lord Somers, Baron of Evelham, to the Articles Exhibited by the Knights, Citizens, and Burgeses in Parliament Assembled, in the Name of themselves, and of all the Commons of England, in Maintenance of their Impeachment against him for high Crimes and Misdemeanors supposed by him to be Committed.

THE said Lord Somers, saving to himself all Advantages of Exception to the said Articles, and of not being prejudiced by any Words, or want of Form in this his Answer: And also saving to himself all Rights and Privileges belonging to him as one of the Peers of this Realm, for Answer to the said Articles humbly saith,

I. "To the first Article, That he believes the now Emperor of *Germany* and the *States General* of the *United Provinces*, being in the Year 1689. engaged in a War with *France*, a Treaty and Alliance was concluded between them, and a separate Article then made to the effect in this Article mentioned, and that his Sacred Majesty did afterwards enter into, ratifie and approve the same; to which Treaty, separate Article, and Ratification, for more certainty thereof he referreth himself: And further saith, That in the Year 1693. his Majesty, before he left *England*, was pleased to tell him, that some Intimation had been given to the Earl of *Portland*, when in *France*, that the French King inclined to come to an Agreement with His Majesty concerning the Succession to the Crown of *Spain*; and afterwards in the Year 1698. his Majesty being then in *Holland*, and the said Lord Somers at *Tunbridge-Wells*, by his Majesty's Permission, for Recovery of his Health, Mr. Secretary *Vernon* communicated to him a Letter he had then received, written by the Earl of *Portland*, by his Majesty's Order, wherein it was mentioned, that Count *Tallard*, who was then Ambassador from the French King to his Majesty, had declared an Accommodation might be found out in relation to the Succession of *Spain*, in case of that King's Death; and that his Majesty had sounded *France* upon what Terms an Agreement might be made; and the Conditions were near of this Nature, viz. That the Electoral Prince of *Bavaria* should have the Kingdoms of *Spain*, the *Indies*, the *Low Countries*, and all that depends upon the Spanish Dominions, except the Kingdom of *Naples* and *Sicily*, *Sardinia*, the Province of *Guipuzcoa* on this side of the *Pyreneans*, *Fontarabia*, and *St. Sebastian*, *Final*, and the Places in *Tuscany* of which *Spain* then stood possess'd; in Consideration of which, *France* was absolutely to renounce the Right it pretended to the Succession of *Spain*, and *Milan* was to be given to the Arch-Duke, Second Son to the Emperor: And that his Majesty commanded the said Mr. Secretary to speak to him the said Lord Somers touching that matter, and that his Lordship should discourse it with those he thought he might trust with that Secret, which to keep with the utmost Care was by the said Letter mentioned to be of the highest Importance; and at the same time the said Lord Somers received a Letter from his Majesty, Signed by himself, intimating, that Count *Tallard* had made some Propositions touching an Agreement with his Majesty concerning the Succession of the Kingdom of *Spain*, the which the said Earl of *Portland* would write to Mr. Secretary *Vernon*, to the end his Majesty might have some Opinions upon that Affair, which required the greatest Secrecy, and in which no Time was to be lost, if that Negotiation were to be carried on; and for that end his Majesty thereby commanded the said Lord Somers to send full Powers to him under the Great Seal of *England*, with Blanks for the Names of Commissioners to treat with Count *Tallard*, which his Majesty by his said Letters was pleased to say, he believed might be done Secretly; that none but the said L. Somers, and Mr. Secretary *Vernon*; and those to whom the said L. Somers and Mr. Secretary should communicate it, might have Knowledge thereof; and the Clerks who were to write the full Powers might not know what they were, or to the like Effect: And the said Lord Somers did immediately return the Earl of *Portland*'s said Letter to Mr. Secretary *Vernon*, and de-

fired him to communicate the Contents thereof to the E. of *Orford*, and the now L. *Hallifax*, two of the then Lords Justices, who, as he was assured, were then in Town; and also to such others as they and Mr. Secretary *Vernon* should think fit, who, in regard of the King's Command to have that Affair kept a Secret, thought fit to impart it to the D. of *Shrewsbury* only, as the said Mr. Secretary afterwards acquainted the said Lord *Somers*; and sometime afterwards the said Lord *Hallifax* came down to the said Wells, and Mr. Secretary *Vernon* coming thither also about the same time, they and the said Lord *Somers* had Discourse together concerning the said Proposal; and the said Lord *Somers*, by Letter dated the 28th Day of *August* 1698. did, as his own Thoughts, and as what he apprehended to be the Result of their Consideration, humbly represent to his Majesty, first, That the entertaining of such a Proposal, as was mentioned by Count *Tallard*, seemed to be attended with very many ill Consequences, if the *French* did not act a sincere Part; but that they were soon at Ease as to any Apprehension of that sort, being fully assur'd his Majesty would not act but with the utmost Niceness in an Affair, where- in his Glory, and the Safety of *Europe* was so highly concerned: That the second thing they considered was the very ill Prospect of what was like to happen upon the Death of the King of *Spain*, in case nothing was done previously towards the providing against that Accident, which seemed probably to be very near, the King of *France* then having so great a Force in such a Readiness, that he was in a Condition to take Possession of *Spain*, before any other Prince could be ready to make a Stand: That his Majesty was the best Judge whether that was the Case, who was so perfectly informed of the Circumstances of all Parts abroad; but so far as related to *England*, it would be want of Duty not to give his Majesty this clear Account, that there was a Deadness and want of Spirit in the Nation universally, so as not at all to be disposed to the Thoughts of entering into a new War, and that they seemed to be tired out with Taxes, to a degree beyond what was discerned, until it appeared upon the occasion of the then late Elections, that that was the Truth of the Fact; upon which his Majesty would determine what Resolutions were proper to be taken: The remaining Consideration was, What would be the Condition of *Europe*, if the Proposal took place; but of that they thought themselves little capable of Judging; but it seemed that if *Sicily* was in the French Hands, they would be entirely Masters of the *Levant* Trade; that if they were possessed of *Final*, and those other Sea-Ports on that side, whereby *Milan* would be entirely shut out from Relief by Sea, or any Commerce, that *Dutchy* would be of little signification in the Hands of any Prince; and that if the King of *France* had Possession of that part of *Guipuscoa*, which is mentioned in the Proposal, besides the Ports he would have in the Ocean, it did seem he would have as easie a way of invading *Spain* on that side, as he then had on the side of *Catalonia*: But it was not to be hoped that *France* should quit its Pretensions to so great a Succession without considerable Advantages; and they were assured his Majesty would reduce the Terms as low as could be done, and make them, as far as was possible in the then present Circumstances of things, such as might be some Foundation for the future Quiet of *Christendom*, which all his Majesties Subjects could not but be convinced was his true Aim: And if it could be brought to pass, that *England* might be some way a Gainer by that Transaction, whether it was by the Elector of *Bavaria*, who was the Gainer by his Majesty's Interposition in that Treaty, his coming to an Agreement to let the *English* into some Trade to the Spanish Plantations, or in any other manner, it would wonderfully indear his Majesty to his English Subjects; That it did not appear, in Case the Negotiation should proceed, what was to be done on his Majesty's part, in order to make it take place, whether any more was required, than that the *English* and *Dutch* should sit still, and *France* it self was to see it executed; and if that were so, what Security ought to be expected, that, if by their being Neuters, the *French* should be more successful, they would confine themselves to the Terms of the Treaty, and not attempt to make further Advantages of their Successes? And the said Lord *Somers* saith, That after writing of his said Letter he had no Account whatsoever, nor heard any thing of the said Treaty, or knew or heard whether the same was proceeded upon, or not, until towards the latter end of *September* following, when he was acquainted by Mr. Secretary *Vernon*, that he had received an Account, that a Treaty relating to the Succession of the Crown of *Spain* had been adjusted, concluded, and signed by the Commissioners named by his Majesty for that purpose, and the Ambassador and Plenipotentiary of the French King: And the said Lord *Somers* doth deny that the said Treaty of Partition, or any Propouition for such Treaty, or the Transactions thereof, was communicated to him the said Lord *Somers*, nor was he acquainted with the same, or the Design thereof, or any other matter relating thereto; at any other time, or in any other manner, before he was told of the

Concluding

Concluding and Signing thereof as aforesaid, then as is herein before mentioned to be done by his Majesty as aforesaid, and by his and the said Earl of *Portland's* Letter here- in before mentioned : And the said Lord *Somers* doth deny he did at any time whatsoever advise his Majesty to enter into the said Treaty, or any way encourage or promote the same ; but having made the Objections before mentioned in his said Letter to his Majesty against the Propositions so communicated to him as aforesaid, and clearly laid open such Thoughts and Observations as occurred to him upon the said matter ; he did thereby, as he conceived, fully and faithfully discharge his Trust, and the Duty incumbent on him : And the said Lord *Somers* further saith, That afterwards Mr. Secretary *Vernon* did acquaint him, that he had received by his Majesty's Command, a Copy of the Treaty relating to the Succession of the Crown of *Spain*, and of two secret Articles relating to the matter of that Treaty ; and that he had likewise his Majesty's Command to prepare the Instruments for the Ratification of the same, and to leave Blanks therein for the Names of the Commissioners of the *States General* ; and accordingly the said Mr. Secretary did prepare the said several Instruments, and did bring the same so prepared to the said Lord *Somers*, to pass the same under the Great Seal, which was done accordingly, the said Lord *Somers* having a good and lawful Warrant so to do ; and the said Ratification was transmitted to his Majesty, to have the same perfected in his Presence ; which Treaty and Secret Articles were to such or the like Effect as in this Article is set forth ; but for more certainty he refers himself to the said Treaty and Articles : And the said Lord *Somers* not being privy in any other manner than as aforesaid to the said Treaty, or the Transactions thereof, doth not know when, or in what manner the same was communicated to the *States General*.

II, III. To the Second and Third Articles, the said Lord *Somers* saith, That he having receiv'd his Majesty's Express Commands by his Letter mentioned in his Answer, to the first Article, to send to his Majesty full Powers under the Great Seal of *England* for negotiating the said Treaty with Blanks for his Majesty's Commissioners Names, which he humbly conceives and is advised, was a sufficient Warrant for him to pass a Commission under the great Seal for that Purpose, and the same being prepared in usual Form of Commissions of full Powers, with Blanks for Commissioners Names ; according to his Majesty's Direction he did affix the Great Seal to the same, and the said Commission was sent to his Majesty, then in *Holland*, to be perfected in his Presence by inserting the Names of such Persons as his Majesty should think fit to Comissionate therein, as he conceives might legally be done ; which Commissioners were to receive their Instructions from his Majesty for the Execution of their said Power, together with the said Commission, in usual manner ; but what Instructions, or whether any Instructions in writing were given to the Commissioners in relation to Executing the said Power, the same no ways concerning the said Lord *Somers*, he knows not : And the said Lord *Somers* saith, he did desire his Majesty, that a particular Warrant for the said Commission, which had been before sent by Mr. Secretary *Vernon* to his Majesty, as he informed the said Lord *Somers*, for his signing, might be signed and returned, not that he doubted his Majesty's said Letter to be a sufficient Warrant, but for that such Warrant might be more proper to be produced, if occasion should require, than his Majesty's said Letter, which by Reason of other Matters therein contained, ought not to be produced without his Majesty's Permission, and which is now made use of by his Majesty's Gracious Leave. And the said Lord *Somers* further saith, that his Majesty having by his own, and the Earl of *Portland's* Letter before mentioned, directed that his Majesty's said Commands should be kept Secret, he did not communicate the making of the said Commission, otherwise than to the Persons mentioned in his Answer to the said first Article.

IV. To the fourth Article he saith, That Mr. Secretary *Vernon* having prepared by his Majesty's Commands, the Instruments for Ratification of the said Treaty, with Blanks therein, as is before set forth, he did affix the Great Seal to the said Ratification with such Blanks (which he conceives, and is advised he might lawfully do) and having also his Majesty's Command, that the said Treaty should be kept Secret, he did not communicate the same to the rest of the then Lords Justices, or His Majesty's Privy Council ; which besides, he conceives was unnecessary to be done, in regard his Majesty had then by his Commands perfected the said Treaty, so that the same could not be altered.

V. To the fifth Article the said Lord *Somers* saith, He believes that in the Year 1699. another Treaty was entered into and concluded between his Majesty, the *States General*, and the *French King*, to such or such like Effect as in this Article is mentioned, to which Treaty for more certainty thereof he referreth himself, and denyeth that he had any

any Knowledge of such Treaty, or any Transaction in order thereunto, save only that a Draught of the said Treaty was read over in the Presence of divers of the Lords of his Majesty's Privy-Council, whereof the said Lord Somers was one, to which Draught the said Lord Somers, as well as others, then Present, did make several Objections; but they were informed by his Majesty's Plenipotentiaries, for transacting this Treaty, who were also then present, that the said Treaty was so far perfected, that nothing could then be altered therein; and his Majesty afterwards by his Warrant requiring the ratifying of the said Treaty under the Great Seal, he did affix the Great Seal to such Ratification, being, as he conceives, obliged so to do.

VI. To the sixth Article he saith, He conceives it was not Incumbent upon him as Lord Chancellor, to see the Commissions or Ratifications in this Article mentioned, inrolled, the same being prepared and brought to the Great Seal by the Secretaries of State, ready engross'd; and when sealed, taken away by them; and the Original Treaties remaining in their Custody; but the care of inrolling the same, if necessary, doth, as he conceives, belong to the Prothonary of the Court of Chancery.

VII. To the seventh Article he saith, that when the Great Seal was committed to his Custody, he took the Oath of the Office to the Effect in that Article set forth, and during the time he had the Custody thereof, he did carefully, diligently and honestly endeavour to keep the said Oath, and hopes and believes he hath duly observed the same, and doth acknowledge that during the time he was Lord Keeper and Lord Chancellor, he did pass several Grants to divers Persons of several Lands, Tenements and Hereditaments belonging to his Majesty, in right of his Crown of England; but saith, that before any of them came to the Great Seal, the same were regularly passed through the proper Offices, and brought with sufficient Warrants for the Great Seal, and believes more considerable Grants have passed in the like Number of Years in most of his Predecessors times, and conceives and is advised, that being required by his Majesty by proper Warrants to pass the same, he ought so to do; and denies that he did ever advise, promote, or procure any Grant to be made to any Person whatsoever of any forfeited Estate in Ireland, or did procure any Act or Bill prepared for confirming any such Grant in the Parliament in Ireland, to be approved in the Privy-Council in England: And saith, That what Bills of this Nature were remitted under the Great Seal of England, to be passed into Laws in Ireland, the same were first approved and passed in the Privy Council in England, according to the usual Form in such Cases, and being so approved, were by order of Council sent to the said Lord Somers, who was by the said Order required to affix the Great Seal thereto.

VIII. To the eighth Article he saith, He did, during the time he had the Custody of the Great Seal, receive the Profits and Perquisites thereto belonging, which before his time were become very Inconsiderable, and did also receive an Annual Pension or Allowance from his Majesty of 4000 *l.* being the like Pension that had been allowed to several of his Predecessors, but denies he did ever beg, or use any means to procure any Grant whatsoever from his Majesty for his own Benefit: But saith, That what his Majesty was pleas'd to give him, proceeded from his Majesty's own Motion, and of his meer Bounty; and as his Majesty was pleas'd to declare upon that Occasion, as an Evidence of his Gracious Acceptation of the said Lord Somers's zealous Endeavours for his Service, and the same was done without any previous Solicitation by him the said Lord Somers, or any other to his Knowledge or Belief; and that in the Year 1697. His Majesty, of his own Motion, did Grant, for the Benefit of the said Lord Somers, the Mannor or Mannors of *Rigate* and *Howley*, as in the said Article is mentioned, but the same was and is far short of the Value thereby suggested; and the said Lord Somers further saith, He never pretended to purchase, in his own Name, or in the Name or Names of any other Person or Persons in Trust for him, any of the Fee Farm Rents, or other Rents vested in Trustees for Sale, but his Majesty taking notice, that several of the said Fee-Farm Rents, and other Rents so vested in Trustees, were unsold, and the said Trustees being by the Acts of Parliament vesting in them the said Rents, declared to hold the same for the Benefit of his Majesty, his Heirs, and Successors, his Majesty did in the Year 1697. of his own Motion, without any Solicitation, Procurement, or Means, used by the said Lord Somers, acquaint the then Lords Commissioners of the Treasury, or some or one of them, that it was his Majesty's Pleasure that 2100 *l.* per Annum of those Rents should be Granted to, or for the Benefit of the said Lord Somers, and his Heirs, and that all proper Methods should be used for vesting the same for his Benefit, as of his Majesty's free Gift; and the said Acts of Parliament having directed, that the said Trustees on Sale, should convey the said Rents pursuant to

Contracts

Contracts, to be signed by the Lord Treasurer, or Lords Commissioners of the Treasury, for the time being, or any two of them, for the Satisfaction of the said Trustees only, and according to the Method that had been used from the time of making the said Acts, in passing Grants of any of the said Rents, even such as were merely of the Bounty of his Majesty's Predecessors, and of his Majesty; such Warrants were made by his Majesty to the Lords Commissioners of the Treasury, to contract or give Warrants to the Trustees to contract for the said Rents, and such Contracts were pursuant thereunto made, and such Grants of the said Rents were passed, as in the said Article is mentioned: and the Money mentioned in such Contracts was for the purchasing of his Majesty's said intended free Gift, discharged by Tallies struck for that purpose; and the said Lord *Somers* saith, the said Contracts were not intended or designed to make the Grantees of the said Rents appear to be Purchasers; but the said Lord *Somers* always acknowledged he received the said Grants of his Majesty's Bounty, and he humbly conceives it was lawful for him so to accept the same.

IX, X. To the ninth and tenth Articles the said Lord *Somers* saith, That after his Majesty had given such Direction to the Lords of the Treasury for Granting Fee-Farm Rents, and other Rents, to the yearly Value aforesaid, for the Benefit of the said Lord *Somers* and his Heirs, and after Warrants were signed by the Lords of the Treasury to the said Trustees for making Contracts for conveying Rents, of the said yearly Value, for the Benefit of the said Lord *Somers*, it did appear that the said intended Contracts and Grants could not be perfected, for that neither the Lords of the Treasury, nor the said Trustees, were sufficiently informed what Fee-Farm Rents, or other Rents remained undisposed of; so that the whole Benefit of his Majesty's intended Bounty would have been lost, without Information could be gained of such particular Rents; and the said Lord *Somers* being informed, that *Reginald Marriott* and *John Digby* in this Article named, were the most likely, if not the only Persons capable to give Information therein, Application was made to them for that Purpose; and the said *Marriott* and *Digby* being so applied to after the said Warrants of his Majesty, and the said Lords of the Treasury, were executed as aforesaid, did refuse to give any Account of such Rents, unless they might have, as a Reward for their so doing, Rents amounting to near a fourth Part of such Rents, whereof they should give such Account, convey'd in Trust for them in such manner as in the said Article is mentioned, which the said Lord *Somers* did, as he conceives he lawfully might, it being only to his own Loss and Prejudice, comply with, not in order to any such End as is suggested in the said Article, but that he might perfect the Grant before designed and appointed to be made to him by his Majesty, of his own Free Will, and not at the said Lord *Somers*'s Solicitation, the discovery of any of the said Rents not being made by the said *Marriott* and *Digby*, or any other Person, till after the said Warrants of his Majesty, and the Lords of the Treasury, as aforesaid; and accordingly the several Grants in this Article mentioned were made to *Hancock* and *Warner* in Trust for the said *Marriott* and *Digby*, as was affirmed to the said Lord *Somers*: And the said Lord *Somers* saith, there was not any Sum of Money paid as the Consideration of the Grants of the said Rents, but the Contracts were made, and the Payment of the several Considerations thereof were discharged in the Manner, and for the Reasons herein before set forth, and were not colourably or fraudulently contrived in deceit of his Majesty, or Elusion of the said Acts of Parliament.

XI. To the Eleventh Article the said Lord *Somers* saith, He believeth that several of the Rents mentioned to be granted in Trust for him as aforesaid, had been before granted to other Persons by the said Trustees, and that others of them were not in the Power of the said Trustees to Grant, which was, and is very much to his Prejudice, and believes the same were inserted by mistaken Informations given touching the same, and not out of any Design; and the like Mistakes have frequently happened in other Grants of other of the said Rents; and denies, that to his Knowledge or Belief any of the said Rents so granted for his Benefit were ever united or annexed to the Castle of *Windsor* for any Purpose whatsoever; or that any Oppression or Vexation hath happened to any of his Majesty's Subjects by Reason of the granting of any of the said Rents; and as he believes, little or no new charge to the Crown.

XII. To the twelfth Article the said Lord *Somers* saith, That his Majesty having designed of his Bounty to him the said Lord *Somers*, and his Heirs, Fee-Farm and other Rents, to the Annual Value in the said Grants mentioned, and the said Trustees having covenanted, as was usual for them to do, that they had not made any former or other Grant or Conveyance of the said Rents, or any of them, and 347 l. 11 s. 3 d. $\frac{1}{2}$. per Annum of the said Rents so granted as aforesaid, having appeared to be granted before,

or not to be grantable by the said Trustees, or not Leviable on Surrenders of such Rents, the said Trustees, by Warrant of the Lords Commissioners of his Majesty's Treasury, who were thereunto sufficiently Authoriz'd, in Lieu and Satisfaction of the said Rents and Arrears thereof, and in discharge of the Covenants of the said Trustees, did the 21 Day of October 1699. grant divers other Rents, amounting to the yearly Value of 391 l. 0 s. 3 d. $\frac{1}{2}$. to Richard Ainey and his Heirs, as in the said Article is mentioned, which were not for granted, as if the said yearly Rents of 347 l. 11 s. 3 d. $\frac{1}{4}$. had been *bona fide* purchased, but was in Lieu and Reprize for the same, as granted of his Majesty's Bounty for the Benefit of the said Lord Somers and his Heirs, as aforesaid, which he conceives might be and was lawfully done.

XIII. 'To the Thirteenth Article the said Lord Somers saith, He doth admit that in the Year 1695. he then being Lord-Keeper of the Great Seal of England, his Majesty being informed, as the Truth was, that *Thomas Too, John Ireland, Thomas Wale,* and *William Mize,* and several other of his Majesty's Subjects in his Plantations of *America,* had associated themselves, and did frequently commit great Pyracies, Robberies, and Depredations on the Seas in the parts of *America,* and other parts, to the Hindrance and Discouragement of Trade and Navigation, for preventing the said Mischiefs, did grant a Commission, as in this Article is mentioned, unto *William Kidd,* in this Article named, who was then Commander of the Ship called the *Adventure Galley,* and was not then, to the Knowledge or Belief of the said Lord Somers, esteemed a Person of ill Fame or Reputation, to apprehend, seize and take into his Custody the said *Thomas Too, John Ireland, Thomas Wale,* and *William Mize,* and all such other Pyrates as he should meet with in the Seas of *America,* or any other seas, with their Ships and Vessels, and such Merchandizes, Moneys and Wares as should be found on Board or with them, and to cause such Pyrates to be brought to a Legal Tryal; the granting of which Commission was then apprehended to be necessary for the Preservation of Trade and Navigation; and the said Lord Somers doth also admit, that a Grant, dated the 27th Day of May, 1697. did pass under the Great Seal of England, as in this Article is mentioned; whereby, reciting the said Commission to granted to the said *William Kidd,* and that the said *Adventure Galley* was, with his Majesty's Knowledge and Royal Encouragement, bought and fitted out to Sea for the Execution of the said Commission at the Charge of the Earl of Bellmont, *Edmond Harrifon, Samuel Newton, William Rowley, George Watson,* and *Thomas Reynolds,* in this Article named, his Majesty, for encouraging and rewarding the said Undertaking, did grant unto the said Earl of Bellmont, *Edmond Harrifon, William Rowley, George Watson, Thomas Reynolds,* and *Samuel Newton,* who was named by and in trust for the said Lord Somers, their Executors and Administrators, all and whatsoever Ships, Vessels, Goods, Merchandizes, Treasure, and other things whatsoever, which since the Thirtieth Day of April, 1696. had been taken or seized upon, or with, or did belong to, or should happen to be taken or seized upon, or with, or which did or should belong to the said *Thomas Too, John Ireland, Thomas Wale,* and *William Mize,* or their Adherents, or any other Pyrates, by the said *William Kidd,* or other Commanders of the said *Adventure Galley,* or which, by, or by means of the said Ship or Galley should be taken or forced on Shore on any of his Majesty's Plantations in *America,* so far as the said I remises, or any of them, did, should, or might belong to his Majesty, or could or might be granted or grantable by him, or was or were in his Power to dispose of; which Grant was not intended to be without an Account; for the said Lord Somers saith, That by Indenture bearing Date the 22th day of May, 1697. made after the Warrant for the said Grant was signed, and before it was pass'd, between his Majesty of the one part, and the said Earl of Bellmont, *Edmond Harrifon, William Rowley, Geo. Watson, Tho. Reynolds,* and *Samuel Newton,* of the other part; they the said Earl of Bellmont, *Edmond Harrifon, William Rowley, George Watson, Tho. Reynolds,* and *Samuel Newton,* did Covenant, Promise and Agree with his Majesty, his Heirs and Successors, well and truly to accomplish, and deliver upon Oath to the use of his Majesty, his Heirs and Successors, or the Commissioners of his or their Treasury, or his or their High Treasurer, a clear tenth Part, the whole in Ten equal Parts to be divided, of all and every such Ships, Vessels Goods, Merchandizes, and other things whatsoever, which in and by the said Grant should be given, or which should from time to time be taken or seized or secured by them, or any of them, their, or any of their Executors or Administrators, Officers, Agents, Servants or Assignes, by Virtue or Colour thereof, to which Grant and Indenture the said Lord Somers for more certainty referreth himself: And further saith, he conceives and is advifed, that the said Grant did not any way tend to the Obstruction or Discouragement of Trade, or Navigation, or to the Loss or Prejudice

Prejudice of Merchants, or others his Majesty's Subjects, or the Subjects of his Friends or Allies, nor to the Dishonor of his Majesty or the Kingdom; nor was the passing of the same any Breach of the Duty of the said Lord Somers; but the said Grant was for, and as a Recompence to the said Grantees, who at their own Charge had provided and fitted out the said Ship, to enable the said *William Kidd* to execute the Powers in the said Commission mentioned, whereby the Publick might have received great Benefit, had the said *William Kidd* faithfully discharged the Trust in him reposed by his Majesty and the said Grantees, which he failing to do, the Owners of the said Ship have lost all their Expences, and have not received any Benefit of his Majesty's said Grant.

XIV. To the fourteenth Article the said Lord Somers saith, He did not delay any Proceedings in any Cause or Causes depending before him as Chancellor of *England*, longer, or otherwise, than as the Circumstances and Justice of each Cause required; but did, to the very manifest Impairing of his Health, constantly apply himself to the Dispatch of the Causes depending before him; and denies that he did ever make, by Colour of his Office, any Arbitrary or Illegal Order, to the Subversion of any Law or Statute of this Realm, or did ever assume to himself any Arbitrary or Illegal Power, or ever reverse any Judgment given in the Court of Exchequer, otherwise than as is warranted and allowed by the Law, and in the Presence of the Barons of the Court of Exchequer, who were always present in the Court of Exchequer Chamber when their Judgments were examined, as the Statute in such Cases directs; nor did ever deliver in any Court of Judicature, or other place whatsoever, any Position whatsoever, dangerous to the Legal Constitution of the Kingdom, or destructive to the Property of the Subject, as is charged by the said Article.

Vera Copia, Math. Johnston, Cler. Parliamenti
 And as to all other Matters and Things in the said Articles contained, and not herein before particularly Answered unto, the said Lord Somers saith, he is not Guilty of them, or any of them, in Manner and Form as the same are Charged upon him in and by the said Articles, and humbly submitte himself to your Lordship's Judgment.

Somers.

Ordered, That the said Answer be referred to the Committee appointed to draw up the Articles of Impeachment.

Ordered, That it be referred to the said Committee to prepare a Replication thereunto.

The Engroiled Replication to the Answer of the Earl of *Orford* to the Articles of Impeachment Exhibited against him, was read.

Sabbati 31 die Maii, 1701.

MR. Bromley reported from the Committee, to whom it was referred, to draw up the Articles of Impeachment, and who were to consider of the Messages from the Lords relating to the Impeachments, and inspect the Precedents of Messages in Relation to former Impeachments, and report the same to the House; That they had considered the said Messages, and inspected the Precedents; and that they had drawn up an Answer to the Message from the Lords the 21 Instant, and had directed him to report the same to the House, which he read in his Place, and afterwards delivered in at the Table, where the same was Read, and is as followeth, *viz.*

In Answer to your Lordships Message of the 21 Instant, the Commons have prepared a Replication to the Earl of *Orford's* Answer to the Articles of Impeachment of High Crimes and Misdemeanors, exhibited against him, and at present defer bringing it up to your Lordships, because in the Tryal of the several Impeachments now depending the Commons think it most proper from the Nature of the Evidence, that will be given at the said Tryals, to begin with the Tryal of the Impeachment of *John Lord Somers* of High Crimes and Misdemeanors.

And as to your Lordships other Message, the Commons take it to be without Precedent, and Unparliamentary; They, as Prosecutors, having a Liberty to exhibit their Articles of Impeachment in due time, of which they, who are to prepare them, are the proper Judges; and therefore, for your Lordships to assert, that having not yet exhibited particular Articles against *William Earl of Portland* and *Charles Lord Halifax* is a Hardship to them, and not agreeable to the usual Methods and Proceedings in Parliament in such Cases, does, as they conceive, tend to the Breach of that good Correspondence betwixt the two Houses, which ought to be mutually preserved.

Resisted,

Resolved, That the House doth agree, that the said Answer be returned to the Lords, to their Lordships said Messages.

Ordered, That Mr. *Bramley* do carry the said Answer to the Lords.

Sir *Bartholomew Shower* also reported from the said Committee, That they had drawn up a Replication to the Answer of the Lord *Somers* to the Articles of Impeachment exhibited against him, which they had directed him to Report to the House which he read in his Place, and afterwards delivered in at the Clerks Table, where the same was read and agreed unto by the House. And is as follows, *viz.*

The Commons have considered the Answer of *John Lord Somers* to the Articles of Impeachment exhibited against him by the Knights, Citizens, and Burgeses assembled in Parliament, for high Crimes and Misdemeanors. The said Commons do Avert their Charge against the said Lord *Somers* to be true, and do say, that he is guilty in the Manner as he stands accused and Impeached, and the said Commons will be ready to prove the same at such convenient time as shall be appointed for that purpose.

Ordered, That the said Replication be engrossed.

A Message from the Lords by Sir *John Hopkins* and Sir *Robert Legend*.

Mr. Speaker, The Lords have commanded us to acquaint this House, that their Lordships have appointed *Monday* the 9th Day of *June* next, for the Tryal of *Edward Earl of Oxford*, upon the Articles brought up against him by this House, in *Westminster-Hall*, and that this House may reply, if they think fit.

They also have commanded us to acquaint this House, that this House having, on the first Day of *April* last, sent up to their Lordships an Impeachment against *William Earl of Portland*, for high Crimes and Misdemeanors; and having also, on the 15th Day of the same Month Impeached *Charles Lord Halifax* for high Crimes and Misdemeanors: and there being as yet no particular Articles Exhibited against the said Lords, their Lordships think themselves obliged to put this House in mind thereof, which after Impeachments have so long depended, is a Hardship to the Persons concerned, and not agreeable to the usual Methods of Parliament in such Cases.

Resolved, That an Answer be returned to the said Message, relating to the appointing a time for the Tryal of the Earl of *Oxford*, and to the Articles of Impeachment against the Earl of *Portland*, and Lord *Halifax*; that this House will return an Answer by Messengers of their own: And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Resolved, That a Committee be appointed to consider of the said Messages, and to search Precedents in relation therunto, and to draw up an Answer to be returned to the Lords, and a Committee was accordingly appointed, and they to sit *de Die in Diem*.

Mercurii 4 die Junii, 1701.

A Message from the Lords by Sir *Richard Holford* and Mr. *Pitt*.

Mr. Speaker, The Lords do think fit, upon occasion of the Message from this House of the 31th of *May*, to acquaint this House, That having been desired by the Lord *Somers*, that a Day may be appointed for his speedy Tryal, and their Lordships finding no Issue joined, by Replication of the House of Commons, judge it proper to give them Notice thereof, that the Commons may reply, if they think fit; and at the same time their Lordships let the Commons know, That they will proceed to the Tryal of any of the Impeached Lords, whom the Commons shall be first ready to begin with, so as there may be no occasion taken from thence for any unreasonable Delay in the Prosecution of any of them: And further to acquaint them, That having searched their own Journals, they do not find that after a General Impeachment, there has ever been so long a Delay of bringing up the particular Articles of Impeachment, sitting the Parliament: And therefore the Lords do think they had Reason to alert, That it was a Hardship to the two Lords concerned (especially after their Lordships had put the House of Commons in mind of Exhibiting such Articles) and not agreeable to the usual Proceedings in Parliament; and as the Lords do not controvert what Right the Commons may have of Impeaching in General Terms if they please, so the Lords, in whom the Judicature does intirely reside, think themselves obliged to assert, That the Right of limiting a convenient Time for bringing the particular Charge before them for the avoiding Delay in Justice is lodged in them.

The Lords hope the Commons on their part will be as careful not to do any thing that may tend to the Interruption of the good Correspondence between the two Houses, as the Lords shall ever be on their part; and the best way to preserve that, is, for neither of the two Houses to exceed those Limits which the Law and Custom of Parliament have already established.

Mr. *Harcourt*, according to Order, reported from the Committee, who were appointed to consider of the Message from the Lords of *Sunday* last, and search Precedents in relation therunto, and prepare an Answer to the said Message, That they had considered the said Message, and searched Precedents, and had drawn up an Answer accordingly, which they had directed him to report to the House, which he read in his place, and afterwards delivered in at the Clerks Table, where the same was read, and, with some Amendments, agreed unto by the House, and is as followeth, *viz.*

The Commons, on Consideration of your Lordship's Message to them of the 21th of *May*, concerning the Earl of *Oxford*, think it their undoubted Right, when several Persons stand impeached before your Lordships, to bring to Tryal such of them in the first place, as the Commons apprehend from the Nature of the Evidence, ought first be proceeded against, to the intent all such Offenders may in due time be brought to Justice, and that no Day ought to be appointed by your Lordships for the Tryal of any Impeachment by the Commons, without some previous Signification to your Lordships from the Commons of their being ready to proceed thereon.

The Commons could not receive this Message from your Lordships without the greatest Surprise, your Lordships Proceedings in this Case, being neither warranted by Precedents nor (as the Commons conceive) consistent with the Methods of Justice, or with Reason: Wherefore the Commons cannot agree to the Day appointed by your Lordships for the Tryal of the Earl of *Oxford*.

As to your Lordship's Message at the same time relating to the Earl of *Portland* and *Charles Lord Halifax*, the Commons take the same to be without Precedent and Unparliamentary, and conceive your Lordship's frequent Repetition thereof in so short a time after the Commons had transmitted to your Lordships their Articles against two of the Impeached Lords, and were daily preparing their Articles against the others, manifestly tends to the Delay of Justice, in obstructing the Tryals of the Impeached Lords, by introducing Disputes in Breach of that good Correspondence between the two Houses, which ought inviolably to be preserved.

Ordered, That Mr. *Harcourt* do carry the said Answer to the Lords.

A Motion being made, and the Question being put, That the engross'd Replication to the Answer of the Lord *Somers* to the Articles of Impeachment exhibited against him, be now read,

It passed in the Negative.

Ordered, That the Message from the Lords this Day touching the Impeachments be taken into Consideration to Morrow Morning.

Jovis 5 die Junii, 1701.

THE House, according to Order, proceeded to take into Consideration the Message Yesterday from the Lords relating to the Impeachments and the same being read,

Resolved, That a Conference be desired with the Lords upon the Subject matter of the said Message.

Ordered, That the said Message be referred to the Committee appointed to draw up the Articles of Impeachment, and that they do draw up what is to be offered to the Lords at the said Conference.

Veneris 6 die Junii, 1701.

MR. *Harcourt* reported from the Committee appointed to draw up Articles of Impeachment, and who were to consider of the Message from the Lords the 4th of *June* Instant, and to draw up what shall be offered at a Conference with the Lords upon the Subject matter of the said Message, that they had drawn up the same accordingly, and had directed him to report the same to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same was read, and agreed unto by the House, and is as followeth, *viz.*

The Commons have desired this Conference upon your Lordships Message of the 4th of *June*, in order to preserve a good Correspondence with your Lordships, which will always be the Endeavour of the Commons, and is at this time particularly necessary, in order to bring the Impeached Lords to a speedy Tryal; and because the Messages which your Lordships have thought fit to send to the Commons, and the Answers thereunto, seem not to tend towards expediting the Tryals, which the Commons so much desire, but may rather furnish matter of Dispute between the two Houses, the Commons therefore choose to follow the Methods formerly used with good Success upon the like Occasion; and for the more speedy and easy adjusting and preventing any Differences which have already happened or may arise previous to, or upon these Tryals, the Commons do propose to your Lordships, That a Committee of both Houses be nominated to consider of the most proper Ways and Methods of proceeding on Impeachments, according to the Usage of Parliament.

Ordered, That Mr. *St. John* do go to the Lords, and desire the said Conference.

Mr. *St. John* reported, that he having (according to Order) been at the Lords, to desire a Conference, the Lords do agree to a Conference accordingly, and appoint the same presently in the Painted Chamber.

Ordered, That the Committee who were appointed to draw up Articles of Impeachment, do manage the said Conference.

And the Managers went to the Conference, and being returned,

Mr. *Harcourt* Reported, That they had been at the Conference, and delivered to the Lords what the House had directed, and that the Impeached Lords were not at the Conference.

Luna 9 die Junii, 1701.

MR. *Bruges* reported from the Committee to whom it was referred to draw up Articles of Impeachment, that they had drawn up Articles accordingly against *Charles Lord Halifax*, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same were read and agreed unto by the House, and are as follow, viz.

ARTICLES Exhibited by the Knights, Citizens, and Burgessees in Parliament Assembled, in Maintenance of their Impeachment, against Charles Lord Halifax, of high Crimes and Misdemeanours.

I. **W**HEREAS several Persons contrary to their Duty and Allegiance to His Majesty and his late Royal Consort of Ever Blessed Memory, Traiterously adhering to their Majesties Enemies, did levy and maintain within their Majesties Realm of *Ireland* a desperate and bloody War and Rebellion against their Majesties, and were by his Majesties Conduct and Courage at the great Expence of his *English* Subjects reduc'd to their due Obedience to the Crown of *England*. And whereas upon the 4th day of *April* in the Year of our Lord 1690. 'twas Resolv'd by the Commons of *England* in Parliament Assembled, That a Bill should be brought in to Attain all Persons guilty of Rebellion in *Ireland* or elsewhere against their Majesties King *William* and Queen *Mary*; and to enact and declare their Estates to be forfeited and to be sold for reducing of that Kingdom: And whereas His Majesty in His Gracious Speech to both Houses of Parliament did upon the 5th day of *January* 1690. assure them, That he would not make any Grant of the forfeited Lands in *Ireland* till there should be another Opportunity of settling that Matter in Parliament in such Manner as should be thought most expedient, and whereas the Commons of *England* in Parliament Assembled, by their Humble Address to his Majesty upon the 4th day of *March* 1692. did humbly beseech His Majesty that (according to the Assurance his Majesty had been pleas'd to give them) no Grant might be made of the forfeited Estates in *Ireland* till there should be an Opportunity of settling that Matter in Parliament in such Manner as should be thought most expedient, to which his Majesty was pleas'd to give a most Gracious Answer; whereby, and by many other Endeavours of the Commons in the following Sessions of Parliaments, it appears, That what has since been declar'd by Act of Parliament was the continued Sense of the Commons of *England*, That it was highly reasonable that the forfeited Estates of Rebels and Traytors in *Ireland* should be apply'd in Ease of his Majesty's faithful Subjects of the Kingdom of *England*. And whereas 'twas the apparent Duty of every Officer or Minister of State to have had so much regard to the Resolutions and Address of the House of Commons to the publick Good and his Majesty's Honour, as to have dissuaded and prevented as much as in them lay the procuring or passing any Grant or Grants of the said forfeited Estates in *Ireland*: YET *Charles* (now) Lord *Hallifax*, then the Honourable *Charles Mountague* Esq; being a Member of the Honourable House of Commons, one of the Lords of the Treasury, Chancellor of the Exchequer, and one of his Majesty's most Honourable Privy Council, hath since the aforesaid 4th day of *March* 1692. presum'd to advise, pass or direct the passing a Grant to *Thomas Raiton* Esq; in Trust for himself, of several Debts, Interests, Sums and Sums of Money, amounting in the whole to the Sum of 13000 *l* or thereabouts, due, owing, and which ought to have accrew'd to his Majesty by reason of the Attainders, Outlawries; or other Forfeitures of the respective Persons for whom the same was entred on Record; whereby he hath much contributed to the contracting great Debts upon the Nation, the laying heavy Taxes upon the People, hath highly reflected on his Majesty's Honour, and fail'd in the Performance of his Trust and Duty.

II. Whereas by an Act of Parliament made in the 11th and 12th Years of his Majesty's Reign, Entituled; An Act for granting an Aid to his Majesty by Sale of the forfeited and other Estates and Interests in *Ireland*, and by a Land-Tax in *England* for the several Purposes therein mention'd: 'Tis amongst other things enacted, That all and every Person or Persons whatsoever who had by Virtue of any Grant or Disposition from his Majesty, or from his Majesty and the late Queen, receiv'd for his or their

own

own Use or Benefit any Debt or Debts, or Sum or Sums of Money whatsoever due from any Debt or Debts of any forfeiting Persons mention'd or describ'd in the said Act; or from any Person or Persons subject or liable to the Payment of any Sum of Money whatsoever to any of the said forfeiting Persons, should be and they are thereby declar'd to be respectively liable and are requir'd to repay every such Debt or Debts, Sum or Sums of Money whatsoever so by him, her or them respectively receiv'd into the Receipt of his Majesty's Exchequer in *Ireland*, on or before the 24th day of *August* 1700. And whereas the said *Charles* Lord *Hallifax* had before the making of the aforesaid Act procur'd for *Thomas* *Railton* Esq; in Trust for himself, a Grant of several Debts by Judgments and otherwise to several of the said forfeiting Persons, amounting to the Sum of 13000 *l.* or thereabouts, forfeited to his Majesty by the Attainder, Outlawries, or other Forfeitures of the respective Persons to whom such Debts were originally due, and by virtue of the said Grant the said Lord *Hallifax* actually receiv'd to his own Use the Sum of 10000 *l.* part of the beforemention'd Sum of 13000 *l.* which said Sum of 10000 *l.* he the said *Charles* Lord *Hallifax* ought to have repaid before the 24th of *August* 1700. into the Receipt of his Majesty's Exchequer in *Ireland*, as by the Act he was requir'd to have done. Yet the said *Charles* Lord *Hallifax* did not repay the said Sum of 10000 *l.* as by the said Act he was requir'd to do, but has hitherto in Contempt of the Act remis'd or neglected to repay the same; which Neglect or Refusal of him the said *Charles* Lord *Hallifax* to repay the said Sum of 10000 *l.* is a manifest Wrong to his Majesty and the Publick, and a Misapplication of that Sum to other Uses and Purposes than by the Act 'tis appropriated, and ought to have been apply'd.

III. That the said *Charles* Lord *Hallifax* being a Member of the Honourable House of Commons, one of the Commissioners for executing the Office of Lord Treasurer of *England*, Chancellor of the Exchequer, and one of his Majesty's most Honourable Privy Council, not contented with the many Employments and Places of Honour bestow'd upon him by his Majesty, nor with the large and excessive Gains by him made by the Incomes and Profits arising from such Offices and Preferments, did in opposition to what he well knew to be the true Interest of *England*, and contrary to his Oath as a Privy Councillor, and his Duty as a Publick Minister, at a time when the Nation was engag'd in a tedious and expensive War against *France* for preserving the Balance and Liberties of *Europe*, and under such heavy Debts, as without laying unupportable Taxes on the People, were impossible to be satisfi'd, advise, procure and assent nor only to the passing of divers Grants to others in *England* and *Ireland*, but did obtain and accept of several beneficial ones, to or in trust for himself, which said Practices of him the said Lord *Hallifax* were a most notorious Abuse of his Majesty's Goodness, a great Breach of his Trust, and a very high Vexation and Oppression of his Majesty's other Subjects.

IV. Whereas by the common Law, and by many Statutes and Ordinances of this Realm, it appears to be the great Care of our Ancestors, That the Kings Forests should be preserved, and in particular, the Timber therein growing, for the building and repairing of the Navy Royal, which has ever been accounted (as it undoubtedly is) the great security of this Realm: And whereas *Charles* Lord *Hallifax* was, in the Year of our Lord 1697. One of the Commissioners of the Treasury, Chancellor of the Exchequer, and one of his Majesty's Privy Council, and obliged, as well by repeated Oaths, as by the Duty he owed to his Majesty and his Country, to have advis'd, consult'd and promoted such matters and things as should, or at least were most likely to redound to his Majesty's Honour and the Nations safety.

Yet the said *Charles* Lord *Hallifax*, not regarding the Laws and Ordinances of this Realm, nor his said Duty to his Majesty, and the Publick, but pursuing his private Interest, did by Letters of Privy-Seal, bearing date on or about the Sixth day of *May*, which was in the Year of our Lord 1697. (the Kingdom being then engaged in an expensive War, and the Debts of the Nation requiring the best and most frugal Management) procure from his Majesty a Grant to *Henry* *Seeger*, Gentleman, in Trust for himself, of the Sum of 14000 *l.* of so much Scrubbed Beech, Birch, Holly, Hazle, Thorns; and Orle, as should by sale raise the said Summ of 14000 *l.* to be fallen in his Majesty's Forest of *Dean*, in the County of *Glocester*, within the space of seven Years, from the 25th Day of *December*, 1697. under Colour of which Grant, Beech of a much greater value, great number of sapling Oaks, which might and would have been serviceable to the Realm, and also many Tunns of well grown Timber, fit for the present use of the Navy, have been cut and fallen, and sold and disposed of for the Benefit of the said Lord *Hallifax*.

V. ' Whereas there is not any thing that fo much conduceth to his Majesty's and the Nations Honor and Safety, as the due ordering and management of the King's Treasurie, and the Publick Revenues, for the receiving and issuing forth of which, the Wisdom and Policy of this Nation has provided and appointed severall and distinct Officers, with beneficial Salaries, in order that they may be a Check to each other, and that no Loss may accrue to his Majesty, or the Publick, by the Corruption, Unskillfulness, or Negligence of any particular Officer: Yet he the said *Charles* Lord *Halifax*, being one of the Lords of the Treasurie, when by the Death of the Honourable Sir *R. Howard*, the Office of the Auditor of the Receipts, and Writer of the Talleys, became vacant, not regarding the ancient Constitution and approved Methods in ordering his Majesty's Treasurie and the Publick Revenues, did grant, or procure to be granted, to *Christopher Mountague* Esq; the Brother of him the said *Charles* Lord *Halifax*, and then one of the Commissioners of the Excise, the said Place and Office of Auditor of the Receipts, and Writer of the Talleys; which said Grant was so made and procured by the said Lord *Halifax*, in Trust, as to the Profits thereof, for himself; so that from and after the passing of the said Grant, he the said Lord *Halifax* was in effect at the same time one of the Commissioners of the Treasurie, Chancellor of the Exchequer, and Auditor of the Receipts, and Writer of the Talleys; and enjoy'd the Profits of the said severall Offices, which by the Constitution of the Treasurie, are manifestly inconsistent, and never were or ought to be trusted in the same Person; the making and procuring of which said Grant by him, the said *Charles* Lord *Halifax*, as aforesaid, was a manifest Violation of the established Course and Constitution of the Exchequer, a Breach of his Trust, of evil Example, and tending very much to the great Loss and Prejudice of his Majesty and the Publick, by opening a way to all manner of corrupt Practices in the future Management of the Revenues.

VI. ' Whereas a Treaty and Alliance between *Leopold* the Emperor of *Germany* and the *States General* of the *United Provinces*, was made and concluded in the Year of our Lord 1689. upon the Consideration of the greatness of the common Danger which then threatned all Christendom, from the excessive Power of *France*, and the unconstant Faith of the *French* in the Observance of Treaties; whereby 'twas agreed, that there should be and remain for ever, a constant, perpetual, and inviolable Friendship and good Correspondence between his Imperial Majesty and the *States General*. That each of them should be obliged to promote the others Interest, and, as much as in them lay, prevent all Damages and Inconveniences to each other. And whereas certain separate Articles were also at or about that time made and annex'to the aforesaid Treaty, whereby the *States General*, maturely considering, that *France* had openly declared in several Courts (that notwithstanding the most solemn Repunciation) they continued their Pretensions by Force of Arms, to assert for the Dauphin the Succession of the Spanish Monarchy, in case the King of *Spain* should die without Issue; and also considering what a Blow their State would receive, and what Prejudice might happen thereby to the Publick Affairs and Quiet, did promise, that in case his said Catholic Majesty should die without Issue, they would with all their Force, assist his said Imperial Majesty, or his Heirs, in taking the Succession of the Spanish Monarchy, lawfully belonging to that House, together with its Kingdoms, Dominions, and Rights; and in their obtaining and securing the quiet Possession thereof against the *French* and their Adherents, who should directly or indirectly oppose that Succession, and with Force repel the Force which should be brought against them.

' That at the Instance of the *States General*, in pursuance of the said Treaty and separate Articles, our most Gracious Lord and Sovereign his most excellent Majesty King *William* the Third, was invited to enter into the Alliance of the aforesaid Treaty, and into the Agreement of the said separate Articles, and thereupon for restoring and preserving the publick Peace and Quiet, did afterwards, in the said Year of our Lord 1689. enter into, and under the Great Seal of *England* accept, approve, and ratifie, and in the most solemn manner engage and promise Religiously and inviolably to observe the same, without violating the said Treaty or separate Articles in any Article, or suffering the same to the utmost of his Power to be violated.

That

“ That in the Year of our Lord 1698. a Treaty was Projected and Contrived
 “ in *France* to be set on Foot between his Majesty, the French King, and the States
 “ General, for a Partition of the Spanish Monarchy, whereby many large Territor-
 “ ries thereunto belonging, in Case of the Decease of the King of *Spain* without
 “ Issue, were to be allotted and delivered up to *France*.

“ The Tenour and Design of which last mentioned Treaty, whilst the same was
 “ in Negotiation, was Communicated to the said *Charles* Lord *Halifax*, then one of
 “ the Commissioners for executing the Office of Lord Treasurer, Chancellor of the
 “ Exchequer, and one of his Majesty’s most Honourable Privy Council. That the
 “ said *Charles* Lord *Halifax* well knowing the most apparent evil Consequences,
 “ as well as the Injustice of the said Partition, did not, according to the Trust and
 “ Duty of his said several Offices, dissuade or endeavour to obstruct its taking ef-
 “ fect; but on the contrary, having neither regard to his Majesty’s Honour, en-
 “ gaged by the above-mentioned Treaty with the Emperor and the States General,
 “ to the Trade and known Interest of these Kingdoms, or the Peace of *Europe*, did
 “ Advise his Majesty to enter into the said Treaty, and did so far encourage and
 “ promote the same, that the said Treaty was Concluded and Ratified under the
 “ Great Seal of *England*: Which said Treaty was evidently destructive of the
 “ Trade of this Realm, a Breach of the former Treaty made with the Emperor in
 “ 1689. dishonourable to his Majesty, highly Injurious to the Interest of the Prote-
 “ stant Religion, and manifestly tended to disturb the General Peace of *Europe* by
 “ altering the Ballance of Power therein, and strengthening *France* against the good
 “ Friends and ancient Allies of our Sovereign Lord the King.

“ And the said Knights, Citizens and Burgeses by Protestation, saving to them-
 “ selves the Liberty of Exhibiting at any time hereafter any further Articles,
 “ or other Accufation or Impeachment against the said Lord *Halifax*, and also
 “ of replying to his Answers which he shall make unto the said Articles, or
 “ any of them; and of offering Proofs to all and every the aforesaid Articles,
 “ and to all and every other Articles, Impeachment or Accufation, which
 “ shall be exhibited by them, as the Case shall, according to the Course of
 “ Parliament, require, do pray, That the said *Charles* Lord *Halifax* may be
 “ put to Answer the said Crimes and Misdemeanors, and that such Proceed-
 “ ings, Examinations, Tryals and Judgments may be thereupon had and
 “ given, as is agreeable to Law and Justice.

Ordered, That the said Articles be Ingrossed.

A Message from the Lords by Sir *Richard* *Holford* and Mr. *Gery*,

Mr. Speaker, We are commanded by the Lords to acquaint this House: That

“ IN Answer to the Message of the House of Commons of the 4th Instant, the Lords say by
 “ their Message sent on the 3d, wherein they declare themselves ready to proceed to
 “ the Tryal of any of the Impeached Lords whom the Commons shall be first ready to begin
 “ with, they have given a full proof of their Willingness to comply with the Commons in
 “ any thing which may appear reasonable in order to the speedy determining of the Im-
 “ peachments now depending, and therefore (as the Lords conceive) the Commons had
 “ no occasion to begin any Dispute on that Head, so their Lordships are careful to decline
 “ entering into a Controversy, which seems to them to be of no use at present.

“ The Lords think themselves obliged to assert their undoubted Right to appoint a Day
 “ for the Tryal of any Impeachment depending before them, if they see good Cause for it,
 “ without any previous Signification from the Commons of their being ready to proceed;
 “ which Right is warranted by many Precedents, as well as Consonant to Justice and Rea-
 “ son; and their Lordships, according to the Example of their Ancestors, will always use
 “ that Right, with a regard to the equal and impartial Administration of Justice, and with
 “ a due care to prevent unreasonable Delays.

“ This being the Case, the Lords can’t but wonder that the Commons, without any
 “ Foundation for it, should make use of Expressions, which, as their Lordships conceive,
 “ have never been used before by one House of Parliament to another, and which if the like
 “ were returned, must necessarily destroy all good Correspondence between the two
 “ Houses.

“ The last part of the Commons Message being in effect a Repetition only of their former
 “ of the 31st of *May*, to which the Lords have already returned a full Answer, their Lord-
 “ ships think it not requisite to say more, than that they cannot apprehend with what Colour
 “ their calling upon the House of Commons to send up Articles against two Lords whom the
 “ Commons have so long since Impeached in general Terms, can be said to tend to the delay
 “ of Justice. And therefore as the Lords think the Commons ought to have forbore that
 “ Reflection, so their Lordships in saying no more upon the Occasion of this Message of the
 “ Commons, think they have given a convincing Proof of their Moderation, and of their

" sincere Desire of preserving a good Correspondence between the two Houses, which is so necessary for the publick Security, as well as doing Right upon the Impeachments.

Ordered, That the said Message, relating to the Impeachments, be referred to the Committee who were appointed to draw up Articles of Impeachment, and to search Precedents, and draw up an Answer thereunto.

A Message from the Lords by Sir *Richard Holford* and Mr. *Gery*,

Mr. Speaker, We are Comanded by the Lords to acquaint this House, That the Lords have appointed the Tryal of *John Lord Sommers* on *Fryday* next, on the Impeachment against him by this House.

Ordered, That the said Message be taken into Consideration to Morrow Morning.

Martis 10 die Junii, 1701.

MR. *Harcourt* Reported from the Committee to whom it was referred to draw up Articles of Impeachment, That they had (according to Order) drawn up an Answer to the Message from the Lords Yesterday, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same was read, and (with an Amendment) agreed unto by the House; and is as followeth, *viz.*

" **T**He Commons, in hopes of avoiding all Interruptions and Delays in proceeding against the Impeached Lords, and the many Inconveniences which might arise thereby, having proposed to your Lordships at a Conference, That a Committee of both Houses might be Nominated to Consider of the most proper Ways and Methods of proceeding on Impeachments; think they might justly have expected your Lordships Compliance with their said Proposition, instead of your Lordships Answer to their Message of the 4th Instant, which they Yesterday received. In which Answer of your Lordships, though many Matters of great Exception are contained, a suitable Reply whereunto would inevitably destroy all good Correspondence between the two Houses; Yet the Commons, from an earnest Desire to preserve the same, as well as to give the most convincing Proof of their Moderation, and to shew their readines to bring the Impeached Lords to speedy Justice, at present insist only on their Proposition for a Committee of both Houses to settle and adjust the necessary Preliminaries to the Tryals; particularly, Whether the Impeached Lords shall appear on their Tryals at your Lordships Bars as Criminals; Whether being under Accusations of the same Crimes, they are to sit as Judges on each others Tryals for those Crimes, or can Vote in their Own Cases, as we find by your Lordships Journals, since their being Impeached, they have been admitted to do; which Matters, and some others being necessary to be adjusted, the Commons cannot but insist on a Committee of both Houses to be appointed for that purpose. Their departing from which, would be giving up the Rights of the Commons of *England*, known by unquestionable Precedents and the usage of Parliament, and making all Impeachments (the greatest Bulwark of the Laws and Liberties of *England*) impracticable for the future.

Ordered, That Mr. *Harcourt* do carry the said Answer to the Lords.

The House (according to Order) proceeded to take into Consideration the Message from the Lords Yesterday, whereby they acquainted this House, That they have appointed the Tryal of *John Lord Sommers* on *Fryday* next, on the Impeachment against him; and the same was read.

Ordered, That the said Message be referred to the Committee appointed to draw up Articles of Impeachment, to prepare an Answer to the said Message.

A Message from the Lords by Sir *Richard Holford* and Mr. *Gery*,

Mr. Speaker, The Lords do desire a present Conference with this House in the *Painted Chamber*, upon the Subject-Matter of the last Conference.

To which the House agreed, and the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Ordered, That the Committee that Managed the last Conference do Manage this Conference.

And the Managers went to the Conference; and being returned,

Mr. *Harcourt* reported, That he had (according to Order) carried the said Answer to the Lords.

Mr. *Harcourt* also reported, The Managers appointed had met the Lords at the Conference; and that the Conference, on the part of the Lords, was Managed by the Duke of *Devonshire*, who Acquainted them.

" **T**hat the Lords have desired this Conference upon occasion of the last Conference, in order to preserve a good Correspondence with the House of Commons, which they shall always endeavour.

" As to the late Messages between the two Houses, their Lordships are well assured that on their part nothing has passed but what was agreeable to the Methods of Parliament, and proper to preserve that good understanding between both Houses which is necessary for the carrying on of the publick Business.

" As to the Proposal of the Commons, That a Committee of both Houses should be appointed, to consider of the Ways and Methods of Proceedings on Impeachments, their Lordships cannot agree to it,

" 1. Because

- “ 1. Because they do not find that ever such a Committee was appointed on occasion of Impeachments for Misdemeanors; And their Lordships think themselves obliged to be extremely Cautious in admitting any thing new in Matters relating to Judicature.
- “ 2. That although a Committee of this nature was agreed to upon the Impeachments of the Earl of *Dunby* and the five Popish Lords for high Treason, yet it was upon occasion of several considerable Questions and Difficulties which did then arise. And their Lordships do not find that the Success in that Instance was such, as should encourage the pursuing the same Methods again, though in the like Case: The Lords observing, that after much time spent at that Committee, the Disputes were so far from being there adjusted, that they occasioned an abrupt conclusion of a Session of Parliament.
- “ 3. Their Lordships are of Opinion, That the Methods of Proceedings on Impeachments for Misdemeanors are so well settled by the Usage of Parliaments, that they do not foresee any Difficulties likely to happen; at least none have been yet stated to them; And all the Preliminaries in the Case of *Stephen Goudert* and others (which was the last Instance of Impeachments for Misdemeanors) were easily settled and agreed to without any such Committee.
- “ 4. The Lords cannot but observe, that this Proposal of the Commons comes so very late, that their Lordships can expect no other Fruit of such a Committee, but the preventing of the Tryals during this Session.
- “ The Lords assure the Commons, That in case any Difficulties shall arise in the progress of these Tryals, (which their Lordships do not foresee) they will be ready to comply with the Commons in removing them as far as Justice and the usage of Parliament will admit.
- Ordered*, That the said Report be taken into Consideration to Morrow morning.

Mercurii 11 Die Junii, 1701.

THE House (according to Order) took into Consideration the Report of the Conference with the Lords Yesterday.

Ordered, That a free Conference be desired with the Lords upon the Subject-Matter of the last Conference.

Mr. *Harcourt* reported from the Committee appointed to draw up Articles of Impeachment, That they had (according to Order) drawn up an Answer to the Message from the Lords on *Monday* last, for appointing the Tryal of the Lord *Somers* upon *Fryday* next, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same was read and agreed unto by the House, and is as followeth, *viz.*

“ THE Commons, on *Monday* last, received a Message from your Lordships, That your Lordships had appointed the Tryal of *John* Lord *Somers* upon *Fryday* next on their Impeachment against him; In which they observe your Lordships have not Nominated any Place for his Tryal, though your Lordships thought fit to make that Matter on the last Impeachment for Misdemeanor the Subject of a long Debate.

“ And they cannot but take Notice, That your Lordships have taken as long a time to give your Answer to the Commons desire of a Committee of both Houses, delivered at a Conference on *Fryday* last, as you are pleased to allow the Commons to have of the Day appointed by your Lordships for the said Tryal.

“ Your Lordships Appointing so short a Day, especially whilst the Proposition made to your Lordships for a Committee of both Houses was undetermined, the Commons take to be such a Hardship to them, and such an Indulgence to the Person accused, as is not to be parallel'd in any Parliamentary Proceeding.

“ The Commons must likewise acquaint your Lordships, That their Experience of the Interruption of a former Tryal on an Impeachment for Misdemeanors, for want of settling the Preliminaries between the two Houses, obliges them to insist on a Committee of both Houses for preventing the like Interruption.

“ And they conceive 'twould be very preposterous for them to enter upon the Tryal of any of those Lords, till your Lordships discover some Inclination to make the Proceeding thereupon practicable; and therefore they think they have Reason to insist upon another Day to be appointed for the Tryal of the Lord *Somers*. And the Commons doubt not but to satisfy your Lordships at a free Conference, of the necessity of having a Committee of both Houses before they can proceed upon the said Tryal.

Ordered, That Mr. *Harcourt* do carry the said Answer to the Lords.

Ordered, That Colonel *Granville* do go to the Lords and desire the free Conference.

Mr. *Harcourt* reported, That he had (according to Order) delivered the Answer to the Lords Message.

Jovis 12 die Junii, 1701.

Colonel *Granville* reported, That he having (according to Order) been at the Lords to desire a Free Conference with their Lordships upon the Subject-Matter of the last Conference, the Lords answered, That they will send an Answer by Messengers of their own.

The

The Engroffed Articles of Impeachment against *Charles Lord Halifax* were read.

Ordered, That the Articles be carried to the Lords.

Ordered, That *Mr. Bridges* do carry the said Articles to the Lords.

Ordered, That he do also pray and demand, That *Charles Lord Halifax* do give sufficient Security to abide the Judgment of the House of Lords.

A Message from the Lords by *Dr. Newton* and *Mr. Gery*,

Mr. Speaker, We are commanded by the Lords to acquaint this House, That

“ IN Answer to the Message from the House of Commons of the 10th Instant, the Lords
 “ say, That altho’ they take it to be Unparliamentary in many Particulars, yet to fiew
 “ their real Desire of avoiding Disputes and removing all pretence of delaying the Tryals of
 “ the Impeached Lords, they will only take notice of that part of their Message wherein the
 “ Commons propose some Things as Difficulties in respect of the Tryals, which Matters relating
 “ wholly to their Judicature, and to their Rights and Priviledges as Peers, they think fit
 “ to acquaint the Commons with the following Resolutions of the House of Lords.

I. That no Lord of Parliament, Impeached of High Crimes and Misdemeanors, and coming to his Tryal, shall, upon his Tryal, be without the Bar.

II. That no Lord of Parliament, Impeached of High Crimes and Misdemeanors, can be precluded from Voting on any occasion, except in his own Tryal.

“ Their Lordships further take notice of a mistake in point of Fact alledged in the Message of the Commons, it no way appearing upon their Journals, that the Lords Impeached have Voted in their own Case.

“ The Lords, being well assured that all the Steps that have been taken by them in relation to these Impeachments are warranted by the practise of their Ancestors and the usage of Parliament, have reason to expect the Tryals shall proceed without delay.

Also, That they are Commanded by the Lords to acquaint this House, That

“ IN Answer to the Message of the House of Commons yesterday, the Lords say, That
 “ they cannot give a greater Evidence of their sincere and hearty Desires of avoiding all
 “ Differences with the House of Commons, and of proceeding on the Tryals of the Impeachments, than by not taking notice of the several just Exceptions to which that Message is
 “ liable both as to the Matter and Expressions.

“ The Lords have nothing farther from their Thoughts than the going about to do any thing which might have the least appearance of Hardship with relation to the Commons.

“ But the Answer of the Lord *Somers* to the Articles exhibited against him having been sent down to the Commons on the 24th of May last, and they having by their Message of the 31st of May signified to their Lordships their Intention of beginning with the Tryal of his Impeachment in the first place:

“ The Lords, considering how far the Session is advanced, thought it reasonable to appoint the 13th Instant for the said Tryal, their Lordships finding several Precedents of appointing Tryals in Impeachments within a shorter time.

“ The Lords also think it incumbent upon them to endeavour to dispatch the Tryals of all the Impeached Lords before the rising of the Parliament. This is what Justice requires, and cannot be looked upon as a Matter of Indulgency: Nevertheless, that the Commons may see how desirous their Lordships are to comply with them in any thing which may be consistent with Justice, they have appointed the Tryal of Impeachment against *John Lord Somers* on Tuesday the 17th of this Instant June, at Ten of the Clock in the Forenoon in the House of Lords, which will be then sitting in *Westminster-hall*.

Also, That they were commanded by the Lords to acquaint this House, That the Lords do agree to a Free Conference with the Commons, as desired, and do appoint to morrow at One a Clock in the *Painted Chamber*.

Ordered, That the said two first Messages be referred to the Committee who were appointed to draw up the Articles of Impeachment.

Veneris 13 die Junii, 1701.

MR. *St. John* reported from the Committee to whom it was referred to draw up the Articles of Impeachment, and to whom the Messages from the Lords yesterday were referred, That they had drawn up an Answer to the said Messages which they had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same was read and agreed unto by the House, and is as followeth, *viz.*

“ THE House of Commons find greater Reason to insist upon their Proposal of a Committee of both Houses from the two Messages received yesterday from your Lordships, for their Ambiguity and Uncertainty do shew the Methods of former Parliaments to be the most proper way for Dispatch of Business.

“ The Commons have been obliged to employ that time in considering and answering your Lordship’s Messages, which otherwise would have been spent in preparing for the Lord *Somers*’s Tryal, so that the Delay must be charged where the Occasion ariseth. And the
 “ Com-

“ Commons having desired a Committee of both Houses, to adjust the Preliminaries of the Trials, cannot but think it strange your Lordships should come to Resolutions upon two of those Points, while the Proposal of the House of Commons is under Debate at Conferences between the two Houses, the Commons having other Difficulties to propose which concern them as Professors, and all future Impeachments.

“ And though the Commons leave the Subject of your Lordships Resolutions with other Things to be debated at a Committee of both Houses; Yet they cannot but observe that your Lordships second Resolution is no direct Answer to the Commons Proposal, which was; Whether Peers Impeached of the same Crimes, shall Vote for each other upon their Trial for the same Crimes: And the Commons cannot believe that any such Rule can be laid down in plain Words where there is a due regard to Justice.

“ And as to what your Lordships observe, That there is a mistake in point of Fact alledged by the Commons: This House may take Notice of the Caution used by your Lordships, in wording that part of your Message, for they know your Lordships are too well acquainted with the truth of the Fact to affirm that the Impeached Lords did not Vote in their own Cases; and tho' the Appearing or not Appearing upon your Lordships Journal does not make it more or less agreeable to the Rules of Justice, yet the Commons cannot but add this further Observation from your Lordships Journal, That the Impeached Lords presence is not only Recorded when those Votes passed, but they also find some of them appointed of Committees for preparing and drawing up the Messages and Answers to the House of Commons; which they do not think has been the best Expedient for preferring a good Correspondence between the two Houses, or adjusting what will be necessary upon these Trials: And therefore the Commons cannot think it agreeable to the Rules of Parliament for them to appear at a Trial, till all necessary Preliminaries are first settled with your Lordships.

Ordered, That the said Answer be sent to the Lords.

Ordered, That Mr. *St. John* do carry the said Answer.

Ordered, That the Committee who managed the last Conference do manage the free Conference.

And the Managers went to the Conference, and being returned,

Mr. *Harcourt* reported what had hapned at the Conference in a Speech of the Lord *Havergham*, upon which the Managers thought fit to withdraw from the Conference, to the end they might acquaint the House therewith.

Ordered, That the Managers do withdraw into the Speakers Chamber, and collect the Matter of the Conference and what was said by the Lord *Havergham*, and Report the same to the House: And the Committee withdrew, and the House adjourned till the return of the Committee.

The Committee being returned,

Mr. *Harcourt* Reported the Matter of the free Conference, and the Words which the Lord *Havergham* had Spoke thereat, which he read in his Place, and afterwards delivered in at the Clerks Table where the same was read, and is as followeth, viz.

“ **T**HAT the Mannagers appointed by this House met the Lords at a free Conference, the Subject Matter whereof was opened by Mr. *Harcourt*, and immediately afterwards further argued by Sir *Bartholomew Shower*.

“ It was insisted on by each of them, That the Reasons offered by their Lordships at the last Conference were not sufficient for their Lordships disagreeing to a Committee of both Houses, desired by the Commons at the first Conference.

“ That notwithstanding those Reasons, the Commons still thought a Committee of both Houses absolutely necessary for adjusting and preventing such Differences as had happened or might arise previous to or upon the Trials; and therefore insisted that such a Committee should be appointed before the Commons could proceed on any Trial.

“ It was urged as one Reason for such a Committee, That many Difficulties might happen whereby the Trials might be obstructed, if the Preliminaries should not be first adjusted; as one instance, that point of several Lords, being under Impeachments of the same Crimes, Voting on each others Trials, was mentioned.

“ The Lord Steward first replied, and nothing was offered by his Grace but what was Material and Pertinent to the Matter in Question, and agreeable to the Method of Parliament in free Conferences.

“ That *John Lord Havergham* Spoke immediately after, and in his Lordship's Discourse used these or the like Expressions.

“ **N**O Thing there is, though I can't speak to it, because I am bound up by the Orders of the House; yet it must have some Answer: That is, as to the Lords Voting in their own Case; It requires an Answer, though I can't go into the Debate of it. The Commons themselves have made this Precedent, for in these Impeachments they have allowed Men guilty of the same Crimes to Vote in their own House, and therefore we have not made any distinction in our House, that some should Vote, and some not. The Lords have so high an Opinion of the Justice of the House of Commons, that they hope Justice shall never be made use of as a Mask for any design. And therefore give me leave to say (though I am not to argue it) 'tis a plain Demonstration, that the Commons think these Lords innocent; and I think the Proposition is undentable, for there are several Lords in the same Crimes, in the same Facts, there is no distinction: And the Commons leave some of these

Men at the Head of Affairs, near the King's Person, to do any Mischief if their Persons were incline to it, and Impeach others when they are both alike Guilty, and concerned in the same Falls. This is a thing I was in hopes I should never have heard asserted, when the beginning of it was from the House of Commons.

“ These Expressions were Instantly objected to by Sir Christopher Musgrave; and the “ Managers took them to be so great an Aspersion on the Honour of this House, that they “ thought themselves obliged in Duty immediately to withdraw from the free Conference. As the Managers were withdrawing, his Grace my Lord Steward spoke to the Effect following; “ That he hoped we would not think that Lord had any Authority from the House “ of Lords, to use any such Expressions towards the Commons.

Resolved, That *John Lord Haversham* hath at the free Conference this Day, uttered most scandalous Reproaches and false Expressions, highly reflecting upon the Honour and Justice of the House of Commons, and tending to the making a Breach in the good Correspondence between the Lords and Commons, and to the interrupting the publick Justice of the Nation, by delaying the Proceedings on the Impeachments.

Resolved, That *John Lord Haversham* be charged before the Lords, for the Words spoken by the said Lord this Day at the free Conference: And that the Lords be desired to proceed in Justice against the said Lord *Haversham*, and to inflict such Punishment upon the said Lord, as so high an Offence against the House of Commons does deserve.

Ordered, That Sir *Christopher Musgrave* do carry the said Charge and Resolution to the Lords. A Message from the Lords by Dr. *Newton* and Mr. *Geij*,

Mr. Speaker, The Lords having been Informed by their Managers, that some Interruption happened at the Free Conference, which their Lordships are concerned at, because they wish that nothing should interrupt the publick Business; Do desire the Commons would come again presently to the said Free Conference, which they do not doubt will prove the best Expedient to prevent the Inconvenience of a Misunderstanding upon what has past.

Resolved, That this House will send an Answer by Messengers of their own. And the Messengers were called in again, and Mr. Speaker acquainted them therewith. Sir *Christopher Musgrave* Reported, That he had been at the Lords and (according to Order) delivered the Charge and Resolution of the House relating to the Lord *Haversham*.

Sabbati 14 die Junii, 1701.

A Message from the Lords by Sir *John Hoskins* and Dr. *Newton*,

Mr. Speaker, The Lords have commanded us to acquaint this House, That upon the occasion of their last Message Yesterday, in Order to continue a good Correspondence between the two Houses, their Lordships did immediately appoint a Committee to State the Matter of the Free Conference, and also to inspect Precedents of what has hapned of the like Nature; and that the publick Business may receive no Interruption, the time desired by their Lordships for renewing the Free Conference being elapsed, their Lordships desire a present Free Conference in the Painted Chamber upon the Subject-Matter of the last Free Conference.

Resolved, That this House will send an Answer by Messengers of their own. And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Resolved, That an Answer be returned to the Lords, That the Commons are extremely desirous to preserve a good Correspondence between the two Houses, and to expedite the Tryals of the Impeached Lords, but do conceive 'tis not consistent with the Honour of the Commons to renew the Free Conference, until they have received Reparation by their Lordships doing Justice upon *John Lord Haversham*, for the Indignity he yesterday offered to the House of Commons.

Ordered, That the Lord *Cheine* do carry the said Answer to the Lords.

Mr. *Bruce* reported, That he had carried the Articles of Impeachment against *Charles Lord Halifax* to the Lords, and had demanded, That the said Lord *Halifax* do give Security to abide the Judgment of the House of Lords.

The Lord *Cheine* reported, That he had (according to Order) been at the Lords, and delivered the Answer to their Lordships Message.

Luna 16 die Junii, 1701.

A Message from the Lords by Sir *Richard Holford* and Dr. *Newton*,

Mr. Speaker, We are commanded by the Lords to acquaint this House, That the Lord *Somers* having informed the Lords that Sir *Stephen Fox*, *John Smith*, Esq; *William Lowndes*, Esq; *Stephen Harvey*, Esq; and *William Gullston*, Esq; Members of this House, may be material Witnesses for him at his Tryal on *Tuesday* next in *Westminster-hall*, the Lords desire that they may have leave to attend and give their Testimonies at the said Tryal. And that a Letter which his Majesty was pleased to write to him in 1698. being now in this House, will be necessary for his Defence at his Tryal, they desire that the said Letter may be produced at the said Tryal.

Resolved,

Resolved, That this House will send an Answer to the said Message by Messengers of their own. And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Ordered, That the Committee who were appointed to draw up the Articles of Impeachment, do consider of the Reasons why this House cannot proceed to the Tryal of the Lord Somers to Morrow morning, and report the same to the House.

Ordered, That the said Message be referred to the said Committee.

A Message from the Lords by Sir *John Franklyn* and Sir *Richard Holford*, Mr. Speaker, We are commanded by the Lords to acquaint this House, That the Lords taking into their Care the Ordering of the Tryal of *John Lord Somers* on *Tuesday* the 17th of *June* Instant at 10 of the Clock in *Westminster-hall*, have prepared some Notes and Rules to be observed at the said Tryal, which the Lords have thought fit to Communicate to this House, viz.

Die Lune 16 Junii, 1701.

THAT the whole Impeachment is to be read, and then the Answer; which being done, the Lord Keeper is to tell the Commons, That now they may go on with their Evidence. The Lords
Notes.
Then the Lord Keeper is to declare, That now the Court is proceeding to hear the Evidence, and desire the Peers to give Attention.

If any of the Peers, or the Members of the House of Commons that manage the Evidence, or the Lord Impeached, do desire to have any Question asked, they must desire the Lord Keeper to ask the same.

If any Doubt doth arise at the Tryal, no Debate is to be in the Court, but the Question suspended to be debated in this House.

The Members of the House of Commons to be there before the Peers come.
None to be Covered at the Tryal but the Peers.
That such Peers at the Tryal of the Impeached Lord, who at the Instance of the said Lord, or of the Commons, shall be admitted Witnesses, are to be sworn at the Clerk's Table, and the Lord Keeper to administer the Oath, and to deliver their Evidence in their own places.
Those Witnesses that are Commoners are to be sworn at the Bar by the Clerk, and are to deliver their Evidence there.

The Oath to be
The Evidence which you shall give upon the Impeachment of _____ shall be the Truth, the whole Truth, and nothing but the Truth; so help you God, and the Contents of this Book.
The Impeached Lord may cross-examine Witnesses viva voce.

Ordered, That the said Message, or Notes and Rules, be referred to the Committee appointed to draw up the Articles of Impeachment

A Message from the Lords by Sir *John Franklyn* and Sir *Richard Holford*, Mr. Speaker, The Lords have commanded us to acquaint this House, That the Lord *Hullifax* hath put in his Answer to the Articles exhibited against him by this House, and to deliver a Copy thereof to this House.

Also, the Lords have commanded us to acquaint this House, That this House having the First day of *April* sent up to their Lordships an Impeachment against *William Earl of Portland* for High Crimes and Misdemeanors, and there being as yet no particular Articles exhibited against him, their Lordships think themselves obliged to put this House in mind thereof.

A Message from the Lords by Sir *John Franklyn* and Sir *Richard Holford*, Mr. Speaker, We are commanded by the Lords to acquaint this House, That, for the keeping a good Correspondence between the two Houses, and to put the Charge against *John Lord Haversham* in a Course of Justice, at his Lordships Motion, have ordered his Lordship a Copy of the Charge against him, and that he do put in his Answer thereunto, in order to bring that Matter to a speedy Judgment.

Martis 17 die Junii, 1701.

Ordered, That no Member of this House do presume to go into the Place appointed by the Lords, for the Tryal of the Lord *Somers* without the leave of this House.

Ordered, That the Serjeant at Arms attending this House, do go with the Mace, and Summon all the Members of this House that are in, or about *Westminster-hall*, immediately to attend the Service of the House.

And he went accordingly; and being returned,
Mr. *Essex* Reported from the Committee appointed to draw up Articles of Impeachment; and to whom the Messages from the Lords Yesterday were referred, to draw up Reasons why they cannot proceed to the Tryal of the Lord *Somers* this Day, that they had drawn up Reasons, which they had directed him to report to the House accordingly, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same were Read and agreed unto by the House, and are as follow, viz.

“ **T**HE Commons, in this whole Proceeding against the Impeached Lords, have acted with all imaginable Zeal to bring them to a speedy Tryal; and they doubt not but ‘twill appear, by comparing their Proceedings with all others upon the like occasion, That the House of Commons have nothing to blame themselves for, but that they have not expressed the Resentment their Ancestors have justly shewed upon much less Attempts, which have been made upon the Power of Impeachments. “ The

“ The Commons on the 31th. of *May*, acquainted your Lordships, that they thought it proper from the Nature of the Evidence, to proceed in the first Place upon the Tryal of the Lord *Somers*, upon the first intimation from your Lordships some Days afterwards, That you would Proceed to the Tryal of any of the Impeached Lords, whom the Commons should be first ready to begin with; Notwithstanding your Lordships had before thought fit to appoint which Impeachment should be first Tried, and affix a Day for such Tryal without consulting the Commons, who are the Prosecutors.

“ The Commons determining to Expedite the Tryals to the utmost of their Power, in hopes of attaining that End, and for the more Speedy and Easie adjusting and preventing any Differences which had happened, or might arise previous to or upon these Tryals, proposed to your Lordships at a Conference the most Parliamentary and Effectual Method for that purpose, and that which in no manner entrenched upon your Lordships Judicature, That a Committee of both Houses should be Nominated to consider of the most proper Ways and Methods of Proceedings upon Impeachments according to the Usage of Parliament.

“ In the next Message to the Commons upon *Monday* the 9th. of *June*, your Lordships thought fit, without taking the least Notice of this Proposition, to appoint the *Friday* then following, for the Tryal of the said Lord *Somers*; whereunto, as well as to many other Messages and Proceedings of your Lordships upon this occasion, the House of Commons might have justly taken very great Exceptions; yet, as an Evidence of their Moderation, and to shew their readiness to bring the Impeached Lords to speedy Justice, the Commons insisted only on their Proposition, for a Committee of both Houses to Settle and Adjust the necessary Preliminaries to the Tryal: Particularly, Whether the Impeached Lords should appear on their Tryal at your Lordships Bar as Criminals: Whether being under Accusations of the same Crimes, they should sit as Judges on each others Tryal for those Crimes, or should Vote in their own Cases, as 'tis Notorious they have been permitted by your Lordships to do in many Instances which might be given: To which Particulars your Lordships have not yet given a direct Answer, though put in Mind thereof by the Commons.

“ Your Lordships, at a Conference, having offered some Reasons why you could not agree to a Committee of both Houses, to adjust the necessary Preliminaries, the Commons thereupon desired a free Conference, and your Lordships agreed thereunto; at which 'tis well known to many of your Lordships who were then present, what most scandalous Reproaches and false Expressions, highly reflecting upon the Honour and Justice of the House of Commons, were uttered by *John* Lord *Haverham*, whereby the Commons were under a necessity of withdrawing from the said Free Conference; for which Offence the Commons have, with all due Regard to your Lordships, prayed your Lordships Justice against the Lord *Haverham*, but have as yet received no manner of Satisfaction.

“ The Commons restrain themselves from enumerating your Lordships very many irregular and unparliamentary Proceedings upon this occasion, but think it is what they owe to publick Justice and all the Commons of *England* whom they represent, to declare some few of those Reasons why they peremptorily refuse to proceed to the Tryal of the Lord *Somers* on the 17th of *June*.

“ *First*, Because your Lordships have not yet agreed, That a Committee of both Houses should be appointed for settling the necessary Preliminaries; a Method never until this time denied by the House of Lords, whensoever the Commons have thought it necessary to desire the same.

“ *Secondly*, Should the Commons (which they never will do) be contented to give up those Rights which have been transmitted to them from their Ancestors, and are of absolute necessity to their Proceedings on Impeachments, yet whilst they have any regard to publick Justice they never can appear as Prosecutors before your Lordships till your Lordships have first given them Satisfaction, That Lords Impeached of the same Crimes shall not sit as Judges on each others Tryals for those Crimes.

“ *Thirdly*, Because the Commons have, as yet, received no Reparation for the great Indignity offered to them at the Free Conference by the Lord *Haverham*: The Commons are far from any Inclination, and cannot be supposed to be under any necessity, of delaying the Tryal of the Lord *Somers*: There is not any Article exhibited by them in maintenance of their Impeachment against the Lord *Somers*, for the proof whereof they have not full and undeniable Evidence, which they will be ready to produce as soon as your Lordships shall have done Justice upon the Lord *Haverham*, and the necessary Preliminaries, in order to the said Tryal, shall be settled by a Committee of both Houses.

“ The Commons think it unnecessary to observe to your Lordships, That most of the Articles whereof the Lord *Somers* stands Impeached, will appear to your Lordships to be undoubtedly true from Matters of Record, as well as by the Confession of the said Lord *Somers* in his Answer to the said Articles, to which the Commons doubt not but your Lordships will have a due Regard when his Tryal shall regularly proceed.

Resolved, That the said Reasons be sent by a Message to the Lords.

Ordered, That the Earl of *Dyffert* do carry the said Message.

The Earl of *Dyffert* reported to the House, That he had (according to their Order) carried up their Message to the Lords.

Ordered, That no Member of this House do presume to appear at the Place erected for the pretended Tryal of the Impeachment of the Lord *Somers*, under the Penalty of incurring the utmost Displeasure of this House.

Mercurius,

Mercurii, 18 die Junii, 1701.

Ordered,

THAT a Committee do inspect the Lords Journals, with relation to the Proceedings against the impeach'd Lords, and report what they find therein.

Ordered, That the Committee who were appointed to draw up the Articles of Impeachment, be the said Committee.

Ordered, That no Member of this House do presume to go out of Town.

Ordered, That all Members of this House do attend the Service of the House on *Friday* Morning next.

Veneris, 20 die Junii, 1701.

A Message from the Lords by Sir *John Franklyn* and Sir *Lacon William Child*.

Mr. Speaker, We are commanded by the Lords to acquaint this House, that the Lords have appointed *Monday* the 23^d day of this Instant *June* at 10 of the Clock in the Forenoon for the Trial of *Edward Earl of Orford* in *Westminster-Hall*.

Also, That they are commanded by the Lords to deliver to this House a Copy of the Lord *Haveresham's* Answer to the Charge against him.

Also, That the Lords, in Answer to the Message of the Commons of the Seventeenth Instant, say, The only true Way of determining which of the two Houses has acted with the greatest Sincerity in order to bring the Impeach'd Lords to their Tryals, is to look back upon the respective Proceedings.

The Lords do not well understand what the Commons mean by that Repentment which they speak of in their Message. Their Lordships own the House of Commons have a Right of Impeaching: And the Lords have the undoubted Power of doing Justice upon those Impeachments, by bringing them to Tryal, and condemning or acquitting the Parties in a reasonable time. This Power is deriv'd to them from their Ancestors, which they will not suffer to be wrested from them by any Pretences whatsoever.

Their Lordships cannot but wonder, that the Commons should not have propos'd a Committee of both Houses much sooner, if they thought it so necessary for the bringing on the Tryals; no Mention being made of such a Committee from the First of *April* to the Sixth of *June*, altho' during that Interval their Delays were frequently complain'd of by the House of Lords.

The Manner in which the Commons demanded this Committee, the Lords look upon as a direct invading of their Judicature; And therefore, as there never was a Committee of both Houses yielded to by the Lords in case of any Impeachment for High Crimes and Misdemeanours; so their Lordships do insist, that they will make no new Precedent upon this Occasion. Many Impeachments for Misdemeanour have in all times been determined without such a Committee: And if now the Commons think fit, by an unprecedented Demand, to form an Excuse for not prosecuting their Impeachments, it is demonstrable where the Obstruction lies.

As to the Preliminaries which the Commons mention in particular as proper to be settled at such a Committee, they have receiv'd the Resolutions of the House of Lords therein by their Message of the Twelfth Instant; from which, being Matters relating intirely to their Judicature, their Lordships cannot depart.

As to the last Pretence the Commons would make to shelter the delaying the Tryals from some Expressions which fell from the Lord *Haveresham* at the free Conference, at which Offence was taken, their Lordships will only observe,

First, That they have omitted nothing which might give the Commons all reasonable Satisfaction of their Purpose to do them Justice in that Matter, so far as is consistent with doing Justice to that Lord; and also to preserve good Correspondence with them; as appears by the several Steps they have taken.

Secondly, That this Business has no Relation to the Tryal of the Impeach'd Lords: and therefore their Lordships cannot imagine why the Commons should make Satisfaction and Reparation against the Lord *Haveresham* a necessary Condition for the going on with the Tryals, and at the same time find no Difficulty in proceeding on other Business.

Q

Resolv'd,

Resolved, In answer to the Message of the Lords, appointing *Monday* next for the Tryal of the Earl of *Orford*; That the Lords have been acquainted, that the Commons would proceed in the first place against the Lord *Somers*; and they are ready to go to that Lord's Tryal as soon as the Commons have receiv'd Satisfaction for the Affront offer'd to the House of Commons by the Lord *Haverham* at the Free Conference; and that the necessary Preliminaries are adjust'd by a Committee of both Houses.

Ordered, That the Lord *Mordant* do carry the said Answer to the Lords.

The Lord *Mordant* reported to the House, that he had (according to Order) carried their Answer to the Lords.

Mr. *Bruges* reported from the Committee appointed to inspect the Lords Journals, with relation to the Proceedings against the Impeach'd Lords, and report the same to the House, That they had inspect'd the same accordingly, and had directed him to report what they find therein; which he read in his place, and afterwards deliver'd in at the Clerks Table, where the same was read, and is as followeth, *viz.*

A Copy of the Lords Journal.

THE House being moved to go into *Westminster-Hall* in order to the Tryal of the Lord *Somers*.

After Debate,

The Question was put, Whether this House shall go this Day into *Westminster-Hall*, in order to proceed upon the Tryal of the Lord *Somers*, according to the Order of the Day.

It was resolv'd in the Affirmative.

Dissentient,

The Reasons by an Order of the next Day are here expunged.

<i>Somerset.</i>	<i>Denbigh.</i>
<i>H. London.</i>	<i>Warrington.</i>
<i>Normanby.</i>	<i>Tho. Roffen.</i>
<i>Rocheſter.</i>	<i>Hunſdon.</i>
<i>Carnarvon.</i>	<i>Weſton.</i>
<i>Marlborough.</i>	<i>Jeffryes.</i>
<i>Oxford.</i>	<i>Guildford.</i>
<i>La Warr.</i>	<i>Godolphin.</i>
<i>Dartmouth.</i>	<i>Cholmondeley.</i>
<i>Weymouth.</i>	<i>Howard.</i>
<i>Jenat. Exon.</i>	<i>Lexington.</i>
<i>Scarſdale.</i>	<i>Peterborough.</i>
<i>Nottingham.</i>	<i>Thannet.</i>
<i>Feverſham.</i>	<i>Derby.</i>
<i>Plymouth.</i>	<i>Fermyn.</i>
<i>Abingdon.</i>	<i>Northumberland.</i>

The Lord Biſhop of *Hereford* being Sick, his Abſence was excuſed in the Hall.

A Meſſage was ſent to the Houſe of Commons by Mr. Baron *Tracy*, and Mr. Baron *Berry* to acquaint them, That the Lords intend preſently to proceed to the Tryal of *Jahn Lord Somers* in *Westminster-Hall*.

Then this Queſtion was propoſed, Whether the Earl of *Orford* and Lord *Halliſfax* may withdraw at the Tryal of the Lord *Somers*:

Then this previous Queſtion was put, Whether this Queſtion ſhall be now put.

It was resolv'd in the Affirmative.

Then the main Queſtion was put, Whether the Earl of *Orford* and Lord *Halliſfax* ſhall have leave to withdraw at the Tryal of the Lord *Somers*.

It was resolv'd in the Affirmative.

Then the Lord Keeper deſired that ſome further Directions be given to him in order to the Tryal in the Hall, and propoſed, That this Proclamation be made in the Hall, *viz.*

Where-

Whereas a Charge of High Crimes and Misdemeanours has been exhibited by the House of Commons, in the name of themselves and all the Commons of England, against John Lord Somers, all Persons concerned are to take notice, That he now stands upon his Tryal: And they may now come forth in order to make good the said Charge.

After Debate

The Question was put, Whether this Proclamation should be made,

It was resolved in the Affirmative.

Ordered, That the said Proclamation be made in the Hall before the reading the Articles of Impeachment, and the Lord Somers Answer, and also after they are read.

Ordered, That the Court in Westminster-Hall be cleared for the Lords,

The Earl of Anglesey being Sick his Absence was excused.

Then the Houe Adjourned into Westminster-Hall, and the Lords were called by the Herald, and went as ordered, and being seated in the Hall,

The Houe was resumed.

Then Proclamation was made for Silence as follows,

Our Sovereign Lord the King, &c.

The Lord Keeper asked leave for the Judges to be covered, which was agreed to.

Then the Proclamation, as above Ordered, was made.

After which

The Articles against John Lord Somers, were read, and also his Lordship's Answer to them.

After which the same Proclamation was again made.

Then the Lord Keeper declared the Houe was ready to hear the Evidence against John Lord Somers, and therefore desired the Lords to give Attention.

The Lord Somers moved to have his Council heard.

Whereupon

The Houe adjourned to the Houe above.

The Houe was resumed.

The Houe being moved to acquit the Lord Somers, and after long debate, and hearing the Judges to several Questions asked them by the Lords,

This Question was proposed,

That John Lord Somers be acquitted of the Articles of Impeachment against him, exhibited by the Houe of Commons, and all things therein contained; and that the said Impeachment be dismissed.

Then this Question was put, Whether the Question now stated shall be put in the Court below.

It was resolved in the Affirmative.

Dissentient.

Here the Reasons are again expunged.

Denbigh.

Carnarvon.

Rocheſter.

Plymouth.

Ferſey.

Guilford.

Marlborough.

Tho. Reſſen.

Lexington.

Fonat. Exon.

Somerſet.

Derby.

Scarſdale.

Warrington.

Weymouth.

Lindſy.

Hunſdon.

H. London.

Howard.

La Warr.

Daremouth.

Normanby.

Nottingham.

Feverſham.

Thaxnet.

Peterborough.

Abingdon.

Ferſſeys.

Oxford.

Fermyn.

Godolphin.

Then

Then it was agreed and ordered, That in *Westminster-Hall* the Lord Keeper shall read the Question, and then call the Junior Baron present first, and ask every Lord, whether Content or not Content; and that every Lord stand up when called, to give his Vote Content or not Content; and that the Lord Keeper having taken their Votes, declare the Majority: And if the Majority be for acquitting the Lord *Somers*, the Lord Keeper is to declare it so; and after particularly to the Lord *Somers*.

Ordered.

That Candles be prepared for the House.

Then the House Adjourned again to *Westminster-Hall*, and being there, the House was resumed, and Proclamation made for Silence, the Lord Keeper put the Question as follows.

That *John Lord Somers* be acquitted of the Articles of Impeachment against him exhibited by the House of Commons, and all things therein contained, and that the said Impeachment be dismissed.

Then the Lord Keeper asked every Lord, whether Content or not Content.

The Lord Keeper declared the Majority was for acquitting; and then declared, That *John Lord Somers* was acquitted of the Articles of Impeachment against him exhibited by the House of Commons, and all things therein contained; and the said Impeachment was dismissed; and then declared to the Lord *Somers* that he was acquitted.

Then the House Adjourned to the House above, and being come thither, the House was resumed, and the following Orders made.

It is Considered, Ordered, and Adjudged, by the Lords Spiritual and Temporal in Parliament Assembled, That *John Lord Somers* shall be, and he is hereby acquitted of the Articles of Impeachment against him exhibited by the House of Commons, and all things therein contained; and that the said Impeachment shall be, and is hereby dismissed:

It is ordered by the Lords Spiritual and Temporal in Parliament Assembled, That the Proceedings in this House upon the Impeachments be printed; And that the Lords Committees appointed to consider of the manner of Proceedings on Impeachments do meet to Morrow at Ten of the Clock, and inspect the Journals, and draw up the Matter relating thereunto in order to be Printed, and report to the House.

After which Report Read,

Ordered.

That the Serjeant do go with the Mace into *Westminster-Hall*, and Courts there, and Court of Request, and Places adjacent, and summon the Members there to attend the Service of the House immediately.

And he went accordingly, and being returned,

Resolved.

That the Lords have refused Justice to the Commons upon the Impeachment against the Lord *Somers*, by denying them a Committee of both Houses, which was desired by the Commons, as the proper and only Method of settling the necessary Preliminaries, in order to the proceeding to the Tryal of the said Lord *Somers* with Effect: And afterwards, by proceeding to a pretended Tryal of the said Lord, which could tend only to protect him from Justice by colour of an Illegal Acquittal; against which Proceedings of the Lords, the Commons do solemnly protest, as being repugnant to the Rules of Justice, and therefore Null and Void.

Resolved.

That the House of Lords by the pretended Tryal of *John Lord Somers*, have endeavoured to overturn the Right of Impeachments lodged in the House of Commons by the ancient Constitution of this Kingdom for the Safety and Protection of the Commons against the Power of Great Men; and have made an Invasion upon the Liberties of the Subject, by laying a Foundation of Impunity for the greatest Offenders.

Resolved,

That all the ill Consequences which may at this time attend the Delay of the Supplies given by the Commons for the preserving the publick Peace, and maintaining the Balance of *Europe*, by supporting our Allies against the Power of *France*, are to be imputed to those who, to procure an Indemnity for their own Enormous Crimes, have used their utmost Endeavours to make a Breach between the Two Houses.

Ordered,

That the Message this Day from the Lords be referred to the Committee who are appointed to draw up the Articles of Impeachment.

Ordered,

That the said Committee do consider of the Proceedings between the Two Houses relating to the Impeached Lords, and state to this House the Matter of Fact, in order to the Justification of this House in their Proceedings.

A Message from the Lords by Doctor *Newton* and *Mr. Gory*.

Mr. Speaker, In Answer to the Message of the House of Commons this Day.

The Lords do acquaint the Commons, That they might have known by the Records of the House of Lords, that the Lords have proceeded to the Tryal of the Lord *Sommers* on *Tuesday* last, being the Day appointed; And the Commons not appearing to maintain their Articles against the said Lord, the Lords have, by Judgment of their House, acquitted him of the Articles of Impeachment against him, Exhibited by the House of Commons, and all things therein contained; and have dismissed the said Impeachment.

And the Lords have appointed *Monday* next for the Tryal of the Earl of *Orford*, on which Day they will proceed on the said Tryal.

The Commons still pressing for a Committee of both Houses (which the Lords never can consent to) for the Reasons already given, their Lordships can infer nothing from their persisting in that Demand, than that they never designed to bring any of their Impeachments to Tryal.

As to the Lord *Haversham*, his Answer is now before the House of Commons; and the Lords resolve to do Justice in that Matter.

Ordered,

That no Member of this House do presume to appear on *Monday* next at the pretended Tryal of the Earl of *Orford*, upon pain of incurring the utmost Displeasure of this House.

F I N I S.

BY Virtue of an Order of the House of Commons, I do appoint *Edward Jones* and *Timothy Goodwin* to print all the Proceedings, with relation to the Impeachments, and what happened between the House of Lords and House of Commons thereupon.

Ro. HARLEY, Speaker.



ADVERTISEMENT.

THE Copy of the Answer of *Charles Lord Halifax*, sent down from the Lords to the Articles of Impeachment exhibited against him, and the Paper sent down from the Lords, entitled *The Answer of John Lord Haverham to the Charge exhibited against him*, being never read in the House of Commons, cannot be printed among the foregoing Proceedings.

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