

ing the *Expression* he is charg'd with; that Mr. *Dormer* was only gone into the Country to take the Air, and that he wou'd return in a little time, and all wou'd be well.

My Lords, I must agree, that, since his Lordship is resolv'd to deny that he endeavour'd to conceal the State of the Office, it were to be wish'd by him that he cou'd safely deny this Expression, since if true, it proves that endeavour directly upon him. But, my Lords, the Words were spoken by his Lordship in open Court, and can be sworn to by a Person, whose Business in Court at that time was such, as can possibly leave no room for a Doubt, or a Mistake.

For farther proof, my Lords, of his Lordship's Endeavour to conceal the State of this Office, we shall shew, that a message was sent from the Lord Chancellor to Mr. *Lightboun* with a Proposal that he shou'd advance 500 l. towards this Deficiency: Acquainting him, at the same time, that it was for the Honour of the Court; and that the Appearance of a Deficiency wou'd be attended with ill Consequences. But Mr. *Lightboun* refus'd to comply with that Demand, which he thought wou'd only skin over the Wound, and not effectually cure it. And yet, my Lords, this Proposal, which Mr. *Lightboun* had the Honesty and Courage to reject, was enforc'd by the impeach'd Earl with the Threats of a Parliamentary Enquiry; asserting, that if the masters did not contribute towards the Concealment of this Deficiency, it would occasion a publick Enquiry; wherein, if it shou'd appear, that they had bought their Places contrary to the Statute 5 and 6 of Edward 6. it might go ill with him, but that it wou'd fare much worse with them; turning even that Parliamentary Enquiry, which he ought to have dreaded as his sure Punishment, into means for extorting of money. We have also Proofs that at another meeting of the masters, a farther Demand was made upon them, in order to conceal the State of that Office; but all the masters then refusing to contribute to a Concealment so unreasonable in its own nature, the Lord Chancellor paid that Demand of 1000 l. himself; not out of any just regard to the Suitors, but for his own Profit and Advantage, well knowing, that the Notoriety of this Insolvency, wou'd make the masters Places less valuable; and therefore was content to part with this Sum, to insure to himself a greater prospect of Gain at his next Sale. Nor was it necessary for those, who dealt at this Auction, to bring any money of their own to it; the mere admittance into the Office immediately giving them Possession of a Cash sufficient to answer his Lordship's Expectations. And thus Beggars were his best Purchasers; though sure to be the worst Trustees for the Publick.

How great a Hardship must it be, my Lords, to the Suitors of that High Court, to be contending many Years for their just Property, at an Expence possibly no ways proportionable to their remaining Fortunes; and to find at last, when they had obtain'd a Decree in their Favour, that their money was lost in a Bankrupt Office, without hopes of recovery? This is a Consideration in which every man in Great Britain is more or less concern'd. For what Estate is there, which may

not some way or other in the Course of a few years, come under the Direction of that Court? How much then does it concern every Individual, and even the Legislature itself, that all its Avenues of Justice shou'd be safe and open? But how much more does it concern the Honour and Conscience of the Person, who presides in it, if there shou'd be a dangerous Precipice in the way, to be the first in setting up a Mark for all the World to avoid it?

But, my Lords, if in this Article, which I have open'd to your Lordships, there appears a Criminal Endeavour to conceal the Deficiency of this Office, supported by a false Assertion made in open Court, in order to delude the Suitors into an Opinion that their Money was safe, and a great neglect in not securing Mr. *Dormer's* Person; in the 14th Article, he will appear in a yet more guilty Light, not only neglecting, as in the former, to enquire into his effects, but on Enquiry made, and Time had for mature deliberation, confirming a precarious and trifling Composition, and tying down the Suitors of the Court by his Authority, to the certain Diminution of one half at least of their effects, and in all probability to the irrecoverable loss of the whole.

My Lords, in the Answer which his Lordship returns to this Article, he denies none of the matters of Fact contain'd in it, but admits them as they there stand charg'd. I shall therefore only make some Observations on the nature of this Transaction, and on the Assertions in his Lordship's Answer.

In the first place, my Lords, he insinuates that Mr. *Edwards* us'd great endeavours to obtain payment from *Wilson*, but found them fruitless; *Wilson* having stopp'd payment long before.

My Lords, I know not what endeavours his lordship can prove Mr. *Edwards* to have us'd; but whatever they were, they were not unlikely to prove fruitless, since as his lordship adds immediately, *Wilson* had long before stopp'd payment: But this we can prove, That *Wilson's* Books were never inspected by Mr. *Edwards*; that he never knew what his Debts were; nor any thing more of him, than that *Wilson* came voluntarily to Mr. *Edwards*, and propos'd of himself to pay him 1400 l. in ready money, and to assign over to him a Debt of 10,000 l. due from one *Poulter*, whose Circumstances were still more precarious than his own.

In the next Place, his Lordship asserts, that he order'd this whole Affair of *Wilson's* Composition in the usual manner; and is inform'd, and believes, that this Composition was made and agreed to, upon a Consultation of all, or most of the Masters. But, my Lords, we shall make it appear, that the Delivery of the Petitions, the Orders made upon them, and the whole Transaction of this Affair, was carried on from first to last in a clandestine, private, and unusual manner.

As to the Consent which his Lordship says he believes the other masters gave to this Composition, we shall prove my lords, that Mr. *Edwards* was the only Person concerned on behalf of the Suitors, and so far was he or any of the rest of the masters from taking the best Care they could, that the first Draught of a Composition, which *Wilson* brought, was accepted and settled between him

him and Mr. *Hiccocks*. And that when Mr. *Edwards* did mention this Composition to some of the Masters, they were so far from approving of it, that Mr. *Edwards* acquainted the lord Chancellor, that it was the Opinion of one of them, that a better Composition was to be had. And another of the Masters was so far from agreeing to this Method at all; that he propos'd a Commission of Bankruptcy as the only means to bring this matter to a proper Light.

But that Light, my lords, was what his lordship was most afraid of. That wou'd have discover'd the deficiency of this Office, which would have brought a disrepute upon others, and consequently have lower'd their Price. This was his lordships only Care; whilst for the rest he cou'd sit unconcern'd, and see so great a Sum of the Suitors Money *wasting away to nothing*, as it pass'd thro' the Hands successively of three Bankrupts.

But, my lords, we shall farther prove, that when his lordship order'd a Petition to be prefer'd to himself, that he might approve of this Composition, he never order'd the Suitors to be acquainted with it, nor had they any Notice of it. Nor did his lordship ask, if *Wilson* had compounded with any other Creditors, nor so much as enquire if he had sworn to his Circumstances.

It will be made appear, that at this very time Mr. *Edwards* was inform'd, and did believe that *Poulter's* Circumstances were very bad, and that neither he nor any one else attended the Commission of Bankruptcy against *Poulter* on Behalf of the Suitors.

And, my lords, to judge a little farther of this matter, by a very sure Rule of Justice; that, of doing as one would be done by: Your lordships will find that Mr. *Edwards* confesses, that if it had been his own money, he wou'd have lookt more carefully after it.

Farther yet, my lords, we shall prove, that notwithstanding this Debt was compounded with *Wilson*, yet he has paid the whole Amount of other Debts, with Interest, to several of his Creditors.

Lastly, my lords, his lordship in his Answer says, that he believes Mr. *Edwards* has since got in one thousand Pounds of *Poulter's* Debt. The Truth is, one thousand Pounds has been recover'd; but it was by an accidental Discovery of conceal'd Effects belonging to *Poulter*; one thousand Pounds of which was paid to Mr. *Edwards* by *Wilson*, as Part of *Poulter's* Debt.

But does his lordship seriously intend this for any Vindication of himself, or any Compensation to the Suitors, that after four or five years expectation, instead of twentyfour thousand Pounds due to them, he believes one thousand Pounds may have been since recover'd?

I cannot help observing here to your lordships, how different a Care has appear'd throughout his lordship's whole Behaviour, with Regard to his private Advantage, and the Safety and Protection of the Suitors of the Court.

In their Case, he could think it equitable to subject their Estates to the losses of a Master in Chancery, who had squander'd and gam'd away their Substance and his own. But in his own private Affairs, how cautiously circumspect was his lordship? The least Advantage was not neglected, and if a Matter's Place was to be alienated, a difference of Guineas was meanly insisted upon, instead of

the Pounds which had before been oppressively extorted.

But, my lords, in this impeachment, the Commons, with Regard to the Dignity of their own Proceedings, with Regard to this august Judicature, are not desirous to enlarge upon Matters of smaller Moment. His lordship might have enjoy'd his hundred Guineas in quiet, had not a long Series of his Conduct in so high a Station, tended to destroy the Reverence due to the laws, by an Execution of them instrumental to the Ruin of the Subject.—Against apparent Extortioners and Robbers, we guard ourselves with a Caution proportionable to the infamy of their Characters: But when the Sanctity of the laws, and the Ensigns of Authority, design'd to defend and protect us, are made use of to invite us into Ruin, how sure and extensive must that Ruin be?

My lords, The Commons have beheld with the deepest Concern such corrupt Practices in this high Court; such, as have deform'd the Beauty of Justice, and render'd the Administration of it grievous, and even fatal to the Subject. They have beheld that Minister of Justice, whom the laws of the land have invest'd with an extraordinary Power to punish Frauds and Deceits, himself carrying on a most pernicious Deceit, to the great dishonour of the Court, and the ruin of its Suitors. The Guardian of Orphans become their Oppressor; the Keeper of the King's Conscience prostituting his own, and the Dignity of his high Station, to an ignominious Traffick with the best bidder, and employing the SCALES OF JUSTICE in the Business of an Usurer.

But, my lords, that Parliamentary Enquiry is now come, with the Terrors of which he forc'd the Masters into Compliance with his arbitrary Demands. He then foretold it might possibly GO ILL WITH HIM, tho' it would fare worse with them. So just a Decree pronounc'd by himself against himself, is, we trust, in no Danger of being revers'd; but rest assur'd, that as far as it regards him, it will be unanimously confirm'd by your Lordships.

Mr. *Lutwyche*. My Lords, we shall now proceed to our Evidence on these two Articles together: To shew to your Lordships that the Deficiency of *Dormer's* Office was endeavour'd to be conceal'd by many indirect Practices: and first of all we shall call a Witness to prove Mr. *Dormer's* Deficiency to be about twenty-five thousand Pounds.

Mr. *Thomson* called, and appeared.

Mr. *Lutwyche*. My Lords, we desire that Mr. *Thompson* may refresh his Memory, as this Matter was referred to him to examine; and that he would please to give your Lordships an Account how he found the State of Mr. *Dormer's* Office, and what Deficiency there was in it?

Mr. *Thompson*. My Lords, I find in our Report the Debt due from Mr. *Dormer's* Office was stated at 49604*l.* 11*s.* 11*d.* and I find that Mr. *Edwards*, who succeeded Mr. *Dormer* in that Office, had paid to the Suitors 23725*l.* 15*s.* 9½ so that there remains due to the Suitors of the Court, such as have paid their Money into Mr. *Dormer's* Office, the Sum of 25878*l.* 16*s.* 1*d.* ½. And this I believe to be a true State of the Account, from such Evidence as was laid before us.

Mr. *Lutwyche*. If the Counsel on the other Side don't think fit to ask this Evidence any Question, we beg Leave to call Mr. *Edwards*, who succeed-

ed Mr. *Dormer*, and will give your Lordships an account of the State of that Office, and what the Deficiency was.

Mr. *Henry Edwards* sworn.

Mr. *Lutwyche*. My lords, we desire that Mr. *Edwards* may be asked, how much the Deficiency is in Mr. *Dormer's* Office?

Mr. *Edwards*. My lords, according to the Account given in, the Deficiency appears to be about twenty five thousand odd hundred Pounds; but since that, there is discover'd about fifteen hundred Pounds more, which was not brought into the Account. It was discover'd about three Weeks or a Month ago, and not before.

Mr. *Lutwyche*. I desire he may be ask'd whether he knows of any other Deficiency discover'd?

Mr. *Edwards*. No, my lords, I do not.

Mr. *Serj. Probyn*. My lords, I desire Mr. *Edwards* may be asked, that as there hath been a further Deficiency discovered, whether there hath not also been a Discovery of further Effects?

Mr. *Edwards*. Not as I know of. I am inform'd Administration hath been lately taken out to Mr. *Dormer*, that there hath been a Discovery of Effects, but to what Value I can't tell.

Mr. *Strange*. I would desire he may be ask'd, whether he hath had any Account from the Administrator?

Mr. *Edwards*. I have seen Mr. *Paxton*, who I understand administr'd. He told me he had discover'd some Effects, but he did not tell me to what Value.

Mr. *Lutwyche*. If the Counsel for the noble Earl have done, we would beg leave to ask another Question, in relation to this matter. They examine what were the other Effects of Mr. *Dormer*, we desire to know, if Mr. *Edwards* can inform us, how long ago this Discovery was?

Mr. *Edwards*. I can't certainly tell. I believe it is about two months ago that Mr. *Paxton* hath had Administration; and since that he hath made this Discovery.

Mr. *Lutwyche*. It is proper from this Question that hath been ask'd by the Counsel for the noble lord, to call another Witness to prove that there have been effects discovered, and that there have been Goods laid by three or four Years, and almost spoil'd, because no Care was taken of his Effects.

Mr. *Serj. Probyn*. My lords, before this Gentleman goes, I beg leave he may be asked one other Question, whether he had not Notice before *Christmas* last, that there were other Effects of Mr. *Dormer*, and from whom?

Mr. *Edwards*. Yes, I believe I had; and when I understood that Mr. *Paxton* was the Person who had taken out the Administration, I told him of it.

E. of *Macclesfield*. My lords, I desire he may be asked who it was that brought him Notice of these Effects?

Mr. *Edwards*. It was a Gentleman that came out of the Country. I don't remember his Name. He was a Person that lived near the Place where Mr. *Dormer's* Country House was. I have forgot his Name.

E. of *Macclesfield*. Can you recollect if you hear his Name? Was his Name *Goodfellow*?

Mr. *Edwards*. I believe it was.

E. of *Macclesfield*. I desire, if you can recollect, who he said he came from?

Mr. *Edwards*. I think he said he came from Mr. *Cottingham*; I don't know that he mention'd your lordship. I understood your lordship had been acquainted with it, but not that he acquainted you of it.

Mr. *Campbel* sworn.

Mr. *Lutwyche*. My lords, I desire that this Witness may be asked, whether he knows of any Goods or Effects of Mr. *Dormer* being discover'd, and at what Time, and how long they had lain in that Place where they were found.

Mr. *Campbel*. In the Year 1721, I did buy a Parcel of Hops, but who they belong'd to I did not then know; but since I find they were Mr. *Dormer's*. They were one hundred and forty eight Bags of Hops. I sold sixteen of them the same Year, one hundred and one since. I bought them of Countrymen; some of one man, and some of another. I bought them by Commission, but Mr. *Dormer* was not the man that employ'd me, neither did I receive the money from his Hands.

Mr. *Lutwyche*. We desire to know how long the Goods did lie in that Place where they were; and whether there were any Loss by the Sale of those Goods, being left so long there.

Mr. *Campbel*. They had lain there above three Years, and I believe, modestly speaking, there was above five hundred Pounds loss upon them.

Mr. *Plummer*. I desire Mr. *Campbel* may be asked how he came to know they were Mr. *Dormer's* Hops?

Mr. *Campbel*. I never did know they were Mr. *Dormer's* Hops, nor do I still know it, but as I am told.

Mr. *Plummer*. My lords, I desire he may be asked who told him so?

Mr. *Campbel*. This Gentleman told me so [pointing to Mr. *Paxton*.]

Mr. *Serj. Pengelly*. My lords, we shall now call Mr. *Paxton*, who hath taken out Administration by the Direction of the lords Commissioners of the Great Seal; and under that Administration he hath possess'd himself of those Effects, which were scatter'd and lay waste before.

Mr. *Serj. Probyn*. My lords, I beg leave this Witness may be first asked one Question. I think he hath said that he bought those Hops by Commission, not by the Order of Mr. *Dormer*, nor for Mr. *Dormer*: I desire he may be asked, by whose Direction they were kept so long by him?

Mr. *Campbel*. He that gave me the Orders to buy them was not Mr. *Dormer*, neither did he pay me the money. The Reason they lay so long was, I had no orders to sell them.

Mr. *Serj. Prob*. Who was the Person that gave you orders to buy them?

Mr. *Campbel*. The Person's Name is Mr. *Longmead*.

Mr. *Serj. Prob*. Where does this Person live?

Mr. *Campbel*. He lives at *Islington*.

Mr. *Com. Serj*. My lords, I desire this Witness may be asked, whether or no about the time that these Hops were bought, they were not very cheap, and at a low Price?

Mr. *Campbel*. They were at a low Price.

Mr. *Com. Serj*. Whether a great Number of People have not kept Hops upon a Supposition that they would rise?

Mr. *Campbel*. Yes they have a great many;

Mr. *Serj. Probyn*. I desire he may be asked, whether he did not keep other Hops as well as these by him, for the Advantage of a better Market?

Mr. *Campbel*. Yes, I had several other Hops bought in that Year that I kept for a better Market, and still had a worse. I have Hops by me cost me 5*l.* a Hundred, not worth now 10*s.* a Hundred.

*E. of Macclesfield*. How much a Bag might that be?

Mr. *Campbel*. I can't tell how many hundred may be in a Bag: I can't tell, because they are not weighed.

*E. of Macclesfield*. Whereabouts?

Mr. *Campbel*. Sometimes there are three hundred, sometimes 2 and a half, sometimes 2 and 3*qrs.*

Mr. *Lutwyche*. My Lords, to explain this Matter I desire he may be asked, whether this Loss he speaks of, of 4 or 500*l.* happened in the Difference of the Price, or by the Hops being spoiled?

Mr. *Campbel*. Both by the Difference of Price, Hops being cheaper, and by the Antiquity of the Hops.

Mr. *Lutwyche*. My Lords, we desire he may be asked who is this Mr. *Longmead*?

Mr. *Campbel*. He keeps a Shop in *Islington*, he keeps a Grocer's Shop.

Mr. *Lutwyche*. My Lords, I desire he may be ask'd, whether he is not Mr. *Dormer*'s Servant, or an Agent for him?

Mr. *Campbel*. For any thing I know he was an Agent for Mr. *Dormer*.

Mr. *Com. Serj.* My Lords, we desire he may be ask'd, whether for ought he knows he was not an Agent for Mr. *Dormer*?

Mr. *Campbel*. I believe he was an Agent for him, and I have good Reason to believe it, because he paid me all the Money, and gave me Orders to buy the Goods.

*E. of Macclesfield*. I desire to know whether the Witness infers that *Longmead* was Mr. *Dormer*'s Agent because he paid him money; might not he have paid him the money, tho' he had not been his Agent?

*Ld. Ch. Jus. King*. Speak your own Knowledge, whether he was Agent for Mr. *Dormer* or no.

Mr. *Campbel*. I never did ask him whose they were: He employed me, and I bought the Goods, and did suppose they were for Mr. *Dormer*. I never ask'd him whether they were his Goods or not.

Mr. *Sol. Gen.* My Lords, we desire that Mr. *Paxton* may be called, to shew how he discovered these Effects.

Mr. *Nicholas Paxton* Sworn.

Mr. *Lutwyche*. My Lords, we desire Mr. *Paxton* may give your Lordships an Account what he knows of these Hops.

Mr. *Paxton*. After I had got Letters of Administration to Mr. *Dormer* granted me, I did make what Inquiry I could, relating to the Effects of Mr. *Dormer*. This Mr. *Longmead* came and told me of some Hops; that he was Servant to Mr. *Dormer*, and had bought them by his Direction. Then we went to Mr. *Campbel*'s who took out a Handful and said they were Saleable, and would bring in about 200*l.* He told me they cost 800*l.* and it would be best to dispose of them as fast as I could, that there might be no more Loss.

They are not yet sold, they may be worth about 200*l.*

Mr. *Lutwyche*. My Lords, It is admitted by the Answer, that Mr. *Dormer* absented himself and absconded. It was notorious, and talked of by every Body: It will lie upon this Noble Lord to give an Account what he did thereon. My Lords, we will now proceed to give your Lordships an Account of this Composition made with *Wilson* who was indebted to *Dormer*. This *Wilson* was a Banker, the Person that Mr. *Dormer* intrusted with Money; and upon that Occasion, there being a great Debt due to *Dormer*, as is set forth in the Articles, a Composition is made with *Wilson* on Account of that Debt. There were such Dealings and Proceedings therein, as will appear to your Lordships to have been unusual and unwarrantable. We beg Leave therefore to shew your Lordships a written Evidence, an Order under the Hand of this noble Lord himself for this Composition though never drawn up: And indeed your Lordships will observe that through the whole Course of these Proceedings, there is not any one Affidavit, or any one Order, or any Report filed in the usual Manner. From whence we may infer, that it was intended to be a clandestine thing, that nothing might appear of it upon Record, as other things do. The first thing we shall beg Leave to shew is, an Assignment from Mr. *Dormer* to one of the Masters in Chancery of this Debt. When we have shewn that Assignment, then we shall beg Leave to give your Lordships an Account of the Methods and Proceedings thereupon.

Mr. *William Green* sworn, and the Assignment produced.

Mr. *Lutwyche*. My Lords, we desire this Witness may be asked, whether he saw this Deed executed, and by whom?

Mr. *Green*. My Lords, I did see this Deed executed by the late Mr. *Dormer*: I am one of the Witnesses to it, and *John Jones* is the other Witness.

Mr. *Lutwyche*. My Lords, we desire this Deed may be read.

Clerk reads. This Indenture made the six and twentieth Day of July, *Ann. Dom.* 1721, and in the seventh Year of the Reign of our Sovereign Lord *George* by the Grace of God, King of *Great-Britain, France and Ireland*, Defender of the Faith, &c. Between *Fleetwood Dormer* of *Lincolns-Inn* in the County of *Middlesex*, *Esq;* late one of the masters of the High Court of *Chancery* of the one Part, and *Henry Edwards* of *Lincolns-Inn* aforesaid, *Esq;* one of the masters of the said High Court of *Chancery* of the other Part. Whereas *William Wilson* Citizen and Goldsmith of *London*, is and stands justly indebted unto the said *Fleetwood Dormer* upon Account, in the full and just sum of twenty four thousand and forty six Pounds and four Shillings of lawful money of *Great Britain*, or upwards, as by the Books of the said *William Wilson* may and doth appear: And whereas the said *Fleetwood Dormer* is and stands justly indebted to divers Persons, Suitors in the said High Court of *Chancery*, in several considerable sums of money, for and on Account of moneys brought before and paid to him as one of the masters of the said Court: Now therefore for the more speedy getting in and recovering of the aforesaid Debt, due and owing by and

and from the said *William Wilson* as aforesaid; and also for the more speedy and effectual Payment of all such Sum and Sums of money as are owing by the said *Fleetwood Dormer* as aforesaid: This Indenture witnesseth, That for the Ends and Purposes aforesaid, and for and in Consideration of the sum of 105. of lawful money of *Great-Britain* to the said *Fleetwood Dormer* in Hand paid by the said *Henry Edwards*, at or before the enfealing and delivery of these Presents, the Receipt whereof is hereby acknowledged: He, the said *Fleetwood Dormer*, hath granted, assigned, transferred, and set over, and by these Presents, doth grant, assign, transfer, and set over unto the said *Henry Edwards*, his Executors, Administrators, and Assigns, the said Debt or Sum of twenty four thousand and forty six Pounds and four Shillings, and all and every Part thereof, and all and every other Debt or Debts, Sum or Sums of money any ways due or owing by or from the said *William Wilson* to the said *Fleetwood Dormer* and every Part thereof, and all Interest due or to grow due for the same, and all Bonds, Bills, Notes, and other Securities, for the same or any Part thereof. And all the Right, Title, Interest, Property, Benefit, Advantage, Claim, and Demand whatsoever, both in Law and Equity, of him, the said *Fleetwood Dormer*, of, in, to, or out of the same, and every or any part thereof, to have, hold, receive, perceive, take, and enjoy the said Debt or Sum of twenty four thousand and forty six Pounds and four Shillings, and all such other Debts and Sums of Money as are due or owing to the said *Fleetwood Dormer* by the said *William Wilson* as aforesaid, and every Part thereof, and all the Benefit thereof, and all and singular other the Premises unto the said *Henry Edwards*, his Executors, Administrators, and Assigns upon trust. Nevertheless, and to the Intent and Purpose that he, the said *Henry Edwards*, his Executors, Administrators, or Assigns, shall and do issue, pay, apply, and dispose of the same, or such Part or Parts thereof, as shall from time to time be by him or them got in and received in such manner as the said high Court of *Chancery* shall in that Behalf order or direct, for and towards Payment and Satisfaction of such Debts and Sums of money as are now due and owing by the said *Fleetwood Dormer*, for or on Account of monies brought before and paid to him, as one of the masters of the said Court. And in the mean time, after Receipt thereof, and until the same shall be so paid, applied, and disposed of, shall and do deposit, lend, or place out the same, or any part thereof, in such manner as the said Court of *Chancery* shall in that Behalf order or direct. And for the better enabling the said *Henry Edwards*, his Executors, Administrators, and Assigns, to get, call in, and receive the aforesaid Debt or Sum of twenty four thousand and forty six Pounds and four Shillings, and other the said hereby assigned Premises upon the Trusts aforesaid; He, the said *Fleetwood Dormer*, hath made, ordained, constituted and appointed, and in his Place and Stead put and deputed, and by these Presents doth make, ordain, constitute and appoint, and in his Place and Stead, put and depute the said *Henry Edwards*, his Executors, Administrators, and Assigns, his true and lawful Attorney and Attornies irrevocable for him the said *Fleetwood Dormer*, and in his Name; but upon the Trusts aforesaid, to ask, demand, sue for, recover, and receive of and from

Administrators, and all and every, or any other Person or Persons whom it may concern, the aforesaid Debt or Sum of twenty four thousand and forty six Pounds and four Shillings, and other the said hereby assigned Premises, and every or any Part thereof upon the Trusts aforesaid, and likewise to compound for the same, and every or any Part thereof, as he or they shall in their Discretions think fit, and upon Non-payment of the same Debt or Sum, Debts or Sums, or any Part thereof, or bring, commence, and prosecute such Action or Actions, Suit or Suits, either at Law or in Equity, or elsewhere, for the Recovery thereof, as he or they shall be advised, and on Payment thereof, or any Part thereof, to give Receipts and Discharges for the same, and one or more Attorney or Attornies for the Purpose aforesaid, to make and constitute, and at Pleasure to revoke, and generally to do and act in the Premises for the recovering and obtaining of the said Debt or Sum of twenty four thousand and forty six Pounds and four Shillings, and other the said hereby assigned Premises, and every or any Part thereof, as fully and effectually to all Intents and Purposes as he the said *Fleetwood Dormer*, his Executors or Administrators might have done; giving and hereby granting unto the said *Henry Edwards*, his Executors, Administrators and Assigns, the full and whole Power and Authority of him the said *Fleetwood Dormer*, in and about the Premises upon the Trusts aforesaid; hereby ratifying, confirming, and allowing all, and whatever the said *Henry Edwards*, his Executors, Administrators, or Assigns, or his or their Attorney or Attornies shall lawfully do or cause to be done in or about the Premises by Vertue of these Presents. And the said *Fleetwood Dormer* doth hereby for himself, his Heirs, Executors, and Administrators, covenant, promise, and agree to and with the said *Henry Edwards*, his Executors, Administrators, and Assigns in manner following: That is to say, that he, the said *Fleetwood Dormer*, hath not received, compounded, released or discharged, or consented to the receiving, compounding, releasing, or discharging the said Debt or Sum of twenty four thousand and forty six Pounds and four Shillings, and other the hereby assigned Premises, or any part thereof, and that he, his Executors, or Administrators shall not, nor will at any time hereafter, receive, compound, release, or discharge the same or any part thereof, without the Consent of the said *Henry Edwards*, his Executors, Administrators, or Assigns, first thereunto had and obtained in writing under his or their Hands. And further, That he the said *Fleetwood Dormer*, his Executors and Administrators, shall and will at the Requests, Cost and Charges of the said *Henry Edwards*, his Executors, Administrators, or Assigns, make, do, and execute, or cause and procure to be made, done, and executed, any further or other lawful and reasonable Acts, Deeds, Powers and Authorities, for the better enabling him, the said *Henry Edwards*, his Executors, Administrators, and Assigns, to sue for, recover, and obtain the said Debt and Premises hereby assigned, and every or any part thereof upon the Trust aforesaid. And it is hereby declared and agreed that the said *Henry Edwards*, his Executors, Administrators, or Assigns shall not be charged or chargeable with, or accountable for any more monies than he or they shall actually receive, or shall come to his or their Hands by Vertue of these Presents; and that it shall and may be lawful

lawful to and for the said *Henry Edwards*, his Executors, Administrators and Assigns, in the first place, by and out of the premises, to deduct and reimburse him and themselves all such losses, costs, charges and expences as he, they, or any of them shall sustain or be put unto, by Reason of the Trust hereby in him reposed, or the Management or Execution thereof, or any other thing in any wise relating thereunto: In witness whereof, the said parties to these presents have hereunto interchangeably set their Hands and Seals the Day and Year first above written.

*Fleetwood Dormer.*

Mr. *Lutwyche*. The next thing we shall trouble your Lordships with in relation to this matter of the Composition, is a petition of Mr. *Edwards*, to which there is an answer. The answer is writ by Mr. *Cottingham*, and signed by the noble Lord. I mentioned to your Lordships that no Order is drawn up upon it: Nothing appears in publick: Therefore we must beg leave to prove the Earl's Hand to this Order made upon this Petition.

E. of *Macclesfield*. After taking the petition in his Hand and looking upon the Name subscribed to the answer written upon it, said, My Lords, this is my Hand.

Clerk reads,

To the Right Honourable Thomas Earl of Macclesfield, Lord High Chancellor of Great Britain.

The humble Petition and Representation of Henry Edwards, Esq; one of the Masters of the high and honourable Court of Chancery.

Sheweth,

THAT *William Wilson*, Citizen and Goldsmith of *London*, is and stands justly indebted to *Fleetwood Dormer*, Esq; late one of the masters of this Court upon account, in the full Sum of twenty four thousand and forty six pounds, four Shillings, as by the Books of the said *William Wilson* doth and may appear.

That the said *Fleetwood Dormer* is and stands justly indebted to divers persons, Suitors in this Court, in several considerable Sums of Money. And for the more speedy getting in and recovering the said Debt, and effectual Payment of all such sum and sums of Money as are owing by the said *Fleetwood Dormer* as aforesaid, the said *Fleetwood Dormer*, for that End and Purpose, hath by Indenture bearing date the 26th of *July* 1721, granted, assigned, transferr'd, and set over to your petitioner, his Executors, Administrators, and Assigns, the said debt or sum of twenty four thousand and forty six pounds four shillings in Trust, and to the Intent that your Petitioner shall pay, apply, and dispose of the same, or such part thereof as shall from time to time be by him got in and received of and from the said *William Wilson*, in such Manner as this Court shall order and direct.

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That it appears to your Petitioner, that the said *William Wilson* is indebted to divers other Persons in great Sums of Money, and for some time hath not been able to carry on his Business, or to make good and pay the said Debt so assigned to your Petitioner; but hath lately offered to your Petitioner and his other Creditors to come to a Composition, and to pay them in proportion the utmost he is able. And your Petitioner doubting whether he can with safety to himself, agree to any such Composition,

Humbly prays your Lordship would be pleased to refer it to one of the masters of this Court, to see if such Composition so proposed by the said *Wilson* be for the Benefit of the persons intituled to receive the same.

And your Petitioner shall ever pray, &c.

30<sup>th</sup> of June, 1722.

Be it as is prayed, and to that End let it be referred to Mr. *Hiccocks* one of the Masters of this Court, and let the Master speed his Report: After which, such further Order will be made as shall be just; of which give Notice forthwith.

Macclesfield C.

Mr. *Lutwyche*. My Lords, I beg leave to take Notice, that in this Petition it is expressly recited, that *Dormer* was indebted to the Suitors of the Court, and that being so, we apprehend the greatest Care should have been taken for their Benefit. Your Lordships shall see in the Progress of this thing, how it was transacted. I believe any person that is concerned in the Court of *Chancery*, hath not known such a Proceeding in the most trifling Matter whatsoever. My Lords, the next thing is a second Petition, said to be with a Report annexed, but we can't find it filed; here is a paper of Mr. *Hiccocks* not stamp'd nor filed, which we do apprehend to be the Report meant, and therefore we desire that may be first read.

Clerk reads,

26<sup>th</sup> of July, 1722.

WHEREAS by an order made by the Right Honourable the Lord High Chancellor of *Great Britain*, the thirtieth of *June* last, upon the humble Petition of *Henry Edwards*, Esq; one of the Masters of this Court, I am directed to see if the Composition in the said Order mentioned, to be offered or proposed to be made by *William Wilson*, Citizen and Goldsmith of *London*, to the said Mr. *Edwards*, as Assignee of *Fleetwood Dormer*, Esq; late one of the masters of this Court, who was a creditor of the said *William Wilson*, for the Sum of 24046*l.* 4*s.* in the said petition mention'd, be for the Benefit of the Persons intituled to receive the same. I have been attended by the said Mr. *Edwards*, and by the said *William Wilson*, and considered of the several Matters by the said Petition and Order to me referr'd. And the said *William Wilson* hath under

der his hand in Writing proposed to assign over to the said Mr. *Edwards* (as a Composition for, and in full Discharge of the said Sum of 24046 l. 4 s.) the Sum of 10000 l. part of a larger Sum due to the said *William Wilson*, from *Edward Poulter* of *Hackney*, in the County of *Middlesex*, Gent. and to pay to the said Mr. *Edwards* in Specie the Sum of 1463 l. 2 s. 1 d. over and above the Sum of 560 l. already paid to the said Mr. *Dormer* in part of the said Composition. And upon Consideration had of the Circumstances of the said *William Wilson*, and the said several Matters, I am of Opinion that the accepting the said Composition will be for the Benefit of the Person or Persons entitled to receive the same. All which I humbly certify and submit to his Lordship.

*Hiccocks.*

Mr. *Lutwyche*. Now read the Petition of Mr. *Edwards*, and the Order thereupon.

*Clerk reads.*

To the Right Honourable Thomas Earl of Macclesfield, Lord High Chancellor of Great Britain.

The humble Petition of Henry Edwards, Esq; one of the Masters of the high and honourable Court of Chancery.

*Sheweth,*

THAT upon your petitioner's former petition prefer'd to your Lordship relating to *William Wilson*, Citizen and Goldsmith of London, your Lordship the 30<sup>th</sup> of June last was pleased to refer it to Mr. *Hiccocks*, one of the Masters of this Court, to see if the Composition mentioned in the said petition and Order to be proposed by the said *Wilson*, would be for the Benefit of the Persons entitled to receive the same.

That the said Mr. *Hiccocks* having been attended by your petitioner, and the said *Wilson*, hath, pursuant to your Lordship's said Order, made his Report dated the 26<sup>th</sup> of July last, whereby he certifies, that he is of Opinion that the accepting of the Composition in his Report mentioned, will be for the Benefit of the Person or Persons entitled to receive the same, as by the Report annexed.

Wherefore your petitioner most humbly prays your Lordship to take into your Consideration the Matter of the said Report, and to order your petitioner to accept of the said Composition upon the terms therein mentioned, if your Lordship shall so think fit, or to make such other and further Order in the premisses, as to your Lordship shall seem most meet.

And your petitioner shall ever pray, &c.

3<sup>d</sup> of August, 1722.

On the Report annexed be it as is prayed. Of which give Notice forthwith,

Macclesfield, C.

Mr. *Lutwyche*. My Lords, I must beg leave to make one Observation upon this, that the noble Lord may explain it, for I believe there is no precedent for it; when there is a Composition thus

to be made, and thus refer'd, and a Report hath been made, the Prayer of the Petition is, that Mr. *Edwards* may be ordered to accept of this Composition, or to make such other Order, as his lordship should think fit. The Answer to it is, Be it as is prayed, of which give Notice forthwith; by which I suppose the parties understood that it was ordering Mr. *Edwards* to accept of this Composition. Now it is wonderful to me, if he was ordered to accept of the Composition, why it is said, give Notice forthwith? What? when the thing is done? Besides, there is another thing more material, to whom should such Notice be given? surely to the suitors of the Court. But it is well known his lordship had not appointed any solicitor for the suitors of the Court, and they had no Notice, tho' here is a semblance or shew of what is done in other Cases. We shall beg leave to shew next to your lordships, that these Orders on these Petitions, this Report, and these Proceedings, were not one of them entred or filed as Orders usually are.

Mr. *Plummer*. My lords, I beg leave to make one observation before this matter goes over. The petition is by Mr. *Edwards* only, one of the masters, and it is that my lord *Macclesfield* would be pleased to order him to accept of the Composition. None of the suitors of the Court, who were the persons entitled to receive the same, are petitioners.

Clerk reads two Certificates from, and signed by *Edward Goldbrough*, Deputy Register, that there were no such orders entred, nor no such Report filed.

Mr. *Lutwyche*. My lords, the Composition is signed by *William Wilson*. I desire Mr. *Edwards* may be asked whether he knows Mr. *Wilson*'s Hand?

Mr. *Edwards*. This is signed by Mr. *Wilson*; it is Mr. *Wilson*'s Hand.

*Clerk reads,*

WHEREAS a suit in Chancery is now depending between Mr. *Edward Poulter* of *Hackney*, and myself, for the sum of 22060 l. 12 s. 5 d. which he agreed to pay me for and upon closing all accounts between us: And whereas *Fleetwood Dormer*, Esq; late a Master in the high Court of Chancery, being indebted to divers persons, suitors in the said Court, in several considerable sums of money, for and on account of money brought before and paid to him as one of the masters of the said Court, he the said *Fleetwood Dormer*, for the better payment thereof, did by Assignment dated the 26<sup>th</sup> of July 1721, assign over to *Henry Edwards*, Esq; one of the Masters of the said Court, a debt or sum of 24046 l. 4 s. which was and is due and owing from me to him the said *Fleetwood Dormer*: And whereas I being incapable of paying the said Debt of 24046 l. 4 s. did lately propose as a Composition for and in full Discharge of the same, to assign to the said *Henry Edwards* the sum of 10000 l. part of the sum of 22060 l. 12 s. 5 d. due to me from the said *Edward Poulter*, as aforesaid; and likewise to pay to him the said *Henry Edwards*, the sum of 1463 l. 2 s. 1 d. in specie, over and above the sum of 560 l. before paid to the said Mr. *Dormer*, in part of the said

said Composition: And whereas on a petition prefer'd to the Right Honourable the Lord High Chancellor of *Great Britain*, by the said *Henry Edwards*, representing the matter of the said proposal; and after several subsequent proceedings had upon the said petition, his lordship was pleased, by Order dated the third of *August*, 1722, to order the said *Henry Edwards* to accept of the said Composition: And the said *Henry Edwards* having thereupon agreed to accept of the said Composition, accordingly I do hereby, in Consideration thereof, assign over to the said *Henry Edwards* the sum of ten thousand pounds, part of the sum of twenty two thousand and sixty pounds, twelve shillings and five pence, due to me from the said *Edward Poulter* as aforesaid, having already paid him, the said *Mr. Edwards*, the other sum of 1263 l. 2 s. 1 d. before-mentioned. And I do hereby promise to pay to the said *Henry Edwards*, Esq; or his order, the said sum of ten thousand pounds, on my recovering the sum of twenty two thousand and sixty pounds, twelve shillings and five pence aforesaid, or otherwise to pay him a like proportion of what I shall recover, more or less, from the said *Edward Poulter*. And I do hereby further promise, that I will not do any Act to incumber or discharge the Demand I now have against the said *Edward Poulter*, without the Consent of the said *Henry Edwards*. And whereas the said *Mr. Edwards* does now accept of the said Composition, I do hereby declare and agree, that if I do not on Demand pay him the before-mentioned proportion of what I shall recover from the said *Edward Poulter* as aforesaid, or do any ways discharge the Demand I now have against him, without the Consent of the said *Henry Edwards*, that then the said Composition so made by the said *Edwards*, shall be void, and of no effect, as if it had never been made. And I do hereby further promise, I will at my own Charge prosecute the said suit, and also do and execute all further and other acts that shall be necessary for the better assigning to the said *Henry Edwards*, Esq; the before-mentioned proportion of what I shall or may recover as aforesaid, from him the said *Edward Poulter*, as he the said *Henry Edwards* shall at any Time require. Witness my Hand this twenty eighth Day of *August*, 1722.

*William Wilson.*

31st of *October*, 1724. Paid to *Henry Edwards*, Esq; the sum of one thousand pounds, in part of this Note or Assignment.

*William Wilson.*

*Mr. Lutwyche.* My Lords, this Composition which hath been read to your Lordships, is recited to be in full Satisfaction and Discharge of *Wilson's* Debt. Now we beg leave *Mr. Edwards* may be asked, whether he made any Application to the Earl of *Macclesfield*, before the first petition was prefer'd?

*Mr. Edwards.* My Lords, I had received proposals from *Mr. Wilson*, he came to me and told me, he had a sum of money in his Hands, and was

willing to pay the Debt to *Mr. Dormer*, in proportion with his other Creditors, and asked me whether I would accept of a Composition, and give him a Discharge in full. I told him I had no power to make a Composition, but however I would represent it to some of the masters; and accordingly I spoke to *Mr. Hiccocks*, who was then senior master, and told him the proposal *Mr. Wilson* had made; and I believe I mentioned it to others, but especially to *Mr. Hiccocks*, he being the senior master, and more particularly concerned in *Mr. Dormer's* affairs. *Mr. Hiccocks* was of Opinion I could not safely make a Composition. I asked, What method then was the most proper to be taken? if that was really all he had to pay, I had better secure that than have nothing. He said he did not see why it might not be in this Case as in other cases; whether upon a petition to my Lord Chancellor, he might not direct an Enquiry to be made by a master, whether it was for the Benefit of the parties to make such composition or not. Upon that I waited on my Lord Chancellor, and acquainted him with *Mr. Wilson's* proposal. I told his lordship, I thought I had not power to do it. He said, I think so too; I don't see that you have power to do it. Said I, I am informed that it is usual in cases of this Nature, to apply to the Court by petition, that it may be refer'd to a master, to see whether the accepting of this composition be for the Benefit of the parties concerned or not. Yes, says my lord, I think that is very proper, that will indemnify you, I would have you prefer a petition; which accordingly I did.

*Mr. Lutwyche.* I would beg leave to ask in Relation to what he mentions, that it was taken Notice of that he had no power to make such composition, whether any thing was said whether my lord *Macclesfield* had such a power?

*Mr. Edwards.* No, there was nothing said of that.

*Mr. Plummer.* My lords, I desire he may be asked, whether any of the suitors were acquainted with this intended composition?

*Mr. Edwards.* No.

*Mr. Sol. General.* Did my lord *Macclesfield* give any Direction to give Notice to any of the suitors?

*Mr. Edwards.* No.

*Mr. Plummer.* My lords, I desire he may be asked if he himself attended *Mr. Hiccocks* when *Mr. Wilson* was before *Mr. Hiccocks*?

*Mr. Edwards.* I am not sure I was there at any time with *Mr. Wilson*.

*Mr. Plummer.* If he knows what methods were taken to know what *Mr. Wilson* was worth?

*Mr. Edwards.* I understood that *Mr. Hiccocks* and *Mr. Rogers*, the two senior masters, upon *Mr. Dormer's* absenting himself, had *Mr. Dormer's* accompts laid before them, and that they were directed to inspect those matters; and I was informed they did look into *Dormer's* Books, and had also the perusal and inspection of *Mr. Wilson's* Books, to see how *Mr. Dormer's* affairs stood in those Books.

*Mr. Plummer.* My lords, I desire *Mr. Edwards* may be asked if any Body was employed for the suitors on their Behalf?

*Mr.*

*Mr. Edwards.* I was before *Mr. Hiccocks*, but not present with *Mr. Wilson*.

*Mr. Plummer.* I ask if any Body on the suitors Behalf was before *Mr. Hiccocks*, when *Mr. Wilson* was there, to see and cross-examine him?

*Mr. Edwards.* I don't remember there was.

*Mr. Serj. Pengelly.* My lords, I desire *Mr. Edwards* may be asked whether this petition is of his own Hand-writing?

*Mr. Edwards.* No, my lords.

*Mr. Serj. Pengelly.* Do you know whose it is?

*Mr. Edwards.* It is my Clerk's Hand.

*Mr. Serj. Pengelly.* Whether the two last lines were struck out before the answer to the petition, and by what Hand?

*Mr. Edwards.* I don't know when they were struck out.

*Mr. Serj. Pengelly.* My Lords, we will beg leave to mention what it is. At the End of the first petition, the master desires an indemnification by the Order of the Court: Part of the petition is, that he may be indemnified and saved harmless in making such Composition. But that is struck out before the answer, which shews, as I humbly apprehend, the very Notice that the Earl of *Macclesfield* himself took, how dangerous and hazardous that Transaction was.

Read the Words.

*Clerk reads.* And that your petitioner may be indemnified and saved harmless in making such Composition.

*Mr. Serj. Pengelly.* Do these Words stand now in the Reading?

*Clerk.* No, they are razed out.

*Mr. Edwards.* I remember this was a paper that I laid before the honourable Committee. I was a little surprized to see those Words struck out; but when they were struck out I can't say, nor by whom.

*Mr. Lutwyche.* I desire he may be asked, if they were struck out before he delivered the petition into the Committee?

*Mr. Edwards.* Yes they were.

*Mr. Sol. Gen.* My Lords, we desire he may be asked how much he hath received of this Composition?

*Lord Lechmere.* I desire him to explain himself, whether these Words were struck out after the petition delivered, and before the order made by the noble Earl?

*Mr. Edwards.* My Lords, I don't remember ever to have taken Notice, that those Words were struck out, till I had occasion to look for it to lay it before the Committee.

*Lord Lechmere.* Whether he hath any Doubt whether they were struck out before they were delivered into the Committee?

*Mr. Edwards.* They were struck out before I delivered them into the Committee.

*Mr. Sol. Gen.* In whose custody was this petition?

*Mr. Edwards.* I believe part of the time in *Mr. Hiccocks's*; *Mr. Hiccocks* sent it to me, and I have had it ever since.

*Mr. Serj. Pengelly.* Whether he struck out these Words that were inserted for his own indemnification?

*Mr. Edwards.* No, upon my oath I did not.

*Earl of Abingdon.* As I apprehend, there was no Commission of Bankruptcy against *Wilson*, therefore I would know what method was taken to inform the Court of the real Substance and Ability of *Wilson* before this Composition was made?

*Mr. Edwards.* I know of no other Application made to the Court by *Mr. Wilson*.

*Earl of Abingdon.* Was *Wilson* examined upon Oath?

*Mr. Edwards.* *Mr. Hiccocks* told me that *Mr. Wilson* had made an Affidavit, that this Sum of money which he proposed as a composition, was what he was able to pay in proportion with the rest of his creditors, and that he grounded his Report thereupon.

*Mr. Lutwyche.* Was this Affidavit ever filed?

*Mr. Edwards.* No, my lords.

*Mr. Sol. Gen.* My lords, we desire he may give an Account how much he hath received of this ten thousand pounds.

*Mr. Edwards.* The first Sum was fourteen hundred and odd pounds, and the Sum of one thousand pounds since.

*Mr. Sol. Gen.* How much of this was of the ten thousand pounds?

*Mr. Edwards.* Only the one thousand pounds.

*Mr. Sol. Gen.* What is become of *Poulter*?

*Mr. Edwards.* *Wilson* hath told me that he is in *Holland* or *France*.

*Mr. Sol. Gen.* What was his character, as to substance at the time of his composition?

*Mr. Edwards.* I never met any Body that could give an Account of his Character. All I heard of him was from *Mr. Wilson* himself.

*Mr. Lutwyche.* My lords, I desire he would acquaint your lordships when the one thousand pounds was paid?

*Mr. Edwards.* I can't recollect exactly the Time.

*Mr. Lutwyche.* As near as you can, before or since *Christmas*?

*Mr. Edwards.* I believe it was in *September* or *October* last; I believe in *October*.

*Mr. Sol. Gen.* I desire *Mr. Edwards* may inform your lordships what he thought of *Poulter*, at the Time of the composition, whether he looked upon him as a man of substance?

*Mr. Edwards.* I could make no Judgment of the man, I never saw him before; I know nothing of him, otherwise than as *Mr. Wilson* told me.

*Mr. Sol. Gen.* That is no Answer to my Question, which is what his opinion was as to his substance at the time of the composition, whether he would have trusted him with one hundred pounds?

*Mr. Edwards.* I can't tell what Answer to give to it; *Wilson* represented him to me as a man able to pay the Debt; and from his Representation I believed that *Poulter* was sufficient.

*Mr. Sol. Gen.* Whether he enquired into *Poulter's* Character?

*Mr. Edwards.* There was no Body I knew to enquire of.

*Mr. Sol. Gen.* Did he enquire, or did he not?

*Mr. Edwards.* I asked *Mr. Wilson* as many questions as I could, and what his opinion was about him. He told me he believed he was able to pay his Debts, and he told me one *Helbut* a Jew, who

was his Bail, could tell his Substance. I happen'd to meet *Helbut* at the *Rainbow Coffee-House*, and I ask'd him if he knew *Poulter*. He said Yes. Says I, Is he a man of any Substance, What is he? No, says he, I believe he is in very mean Circumstances. This is all I ever asked.

Mr. *Sol. Gen.* What was your Opinion of this Man's Abilities?

Mr. *Edwards.* My Lords, I told you that as to the account I had of him, Mr. *Wilson* gave me a great assurance that he was a Man of Ability.

Mr. *Plummer.* I desire he may be ask'd, whether Mr. *Wilson* hath not paid his whole Debt to several other Creditors?

Mr. *Edwards.* I am inform'd he hath paid his full Debt to some Creditors.

Mr. *Plummer.* My Lords, I desire he may be ask'd, what Directions he receiv'd from my Lord *Macclesfield* to inquire into this Man's Circumstances?

Mr. *Edwards.* I had no Directions.

Mr. *Plummer.* Whether any inquiry was made by the Earl of *Macclesfield*?

Mr. *Edwards.* Not as I know of.

Mr. *Lutwyche.* I think he mentioned one *Helbut* as his Bail: I desire to know whether there was a Suit commenced for this Debt assign'd?

Mr. *Edwards.* I understood it was for this Debt assign'd, which *Wilson* recovered at Law.

Mr. *Serj. Pengelly.* My Lords, I desire he may be ask'd, whether Mr. *Poulter* hath appeared here and been esteemed solvent, or a Person quite gone away?

Mr. *Edwards.* I have not seen Mr. *Poulter*, nor any that have seen him, for some considerable Time.

Mr. *Serj. Pengelly.* My Lords, I beg leave to make one Observation, and it is to save your Lordships Time; that is, That you would be pleas'd to observe in the Proceedings upon this Article, the several Acts and Orders made by the Earl of *Macclesfield* relating to this Deficiency of *Dormer's*, do take Notice of his Deficiency, and you'll find the Earl himself doing one Act which makes a Deficiency; that is, compounding a Debt due from *Wilson* to *Dormer*; and therefore those Orders having been read before your Lordships, you will please to retain them in your memory, till we come to the 6th Article, wherein it is charged that there was a Deficiency in *Dormer's* Office, and there we shall shew that this noble Lord declared that he never knew of any Deficiency; and by an Order made in Court, pronounced by himself, he then did direct that a Master should inquire if there was any Deficiency in this Office; so that those publick Acts won't be necessary to be read over again upon that Article, but as now produced, will be sufficient to prove the Notice the noble Earl had of this Deficiency, and that even he made part of the Deficiency himself.

Mr. *Lutwyche.* My Lords, we have done upon these two Articles we have opened.

Mr. *Serj. Probyn.* My Lords, if the Gentlemen have done, we desire to ask some Questions,

and first we beg leave that he may be ask'd, whether any of the masters were acquainted with this Agreement or Composition with Mr. *Wilson*.

Mr. *Edwards.* I don't remember that any were, but Mr. *Hiccocks*.

Mr. *Serj. Probyn.* My Lords, we desire he may recollect whether there was any Consultation between him and any other master, as to the manner that this Composition should be made, before it was accepted, and whether it was a reasonable Composition or not?

Mr. *Edwards.* I mentioned it to two or three other masters at the publick Office, but I can't charge my memory particularly who they were.

Mr. *Serj. Probyn.* Was that before the Time that the Composition was made?

Mr. *Edwards.* Before the Time I applied to my Lord *Macclesfield*.

Mr. *Com. Serj.* My Lords, I desire that Mr. *Edwards* may inform your Lordships from whom it was that he received this Information, that several of the Creditors of *Wilson* were paid their full Debts?

Mr. *Edwards.* The first Person that informed me was Sir *Laurence Carter*; I happened to be at his Chambers, and naming to me the Affair of *Wilson*, he told me his Brother Mr. *Thomas Carter* had received 120*l.* which Mr. *Wilson* owed him, and which was his whole Sum.

Mr. *Com. Serj.* I desire to know when it was that he received that Sum?

Mr. *Edwards.* There was no Time mentioned when that was paid him: As near as I can recollect the Time, when Sir *Laurence Carter* told me this, it was soon after the Composition.

Mr. *Com. Serj.* My Lords, I desire he may recollect, whether this Payment was made before the Composition or after; did not he say it was before the Composition?

Mr. *Edwards.* No, I don't remember that.

Mr. *Serj. Probyn.* I desire he may be asked, whether he knows any thing of this Payment to Mr. *Carter* of his own Knowledge?

Mr. *Edwards.* No, I don't know it of my own Knowledge, but I believe it to be very true.

Mr. *Serj. Probyn.* Since he had this Information of one Debt being paid intirely, tho' he had compounded with others, I desire he may be ask'd whether he ever charged Mr. *Wilson* with it?

Mr. *Edwards.* Yes, my Lords, I did: A little after I went to Mr. *Wilson*, and I told him that I was informed he had paid Mr. *Thomas Carter* his full Demand, and it was rumoured about that he had paid several others their full Debts, and that it look'd unfair. Says he, this Money was lent me by my particular Friend, to pay off some little straggling Debts to keep me up in my Business, and therefore I was unwilling he should lose it.

Mr. *Serj. Probyn.* Whether did he apprehend this to be a new Debt contracted since his Failure, or an old one due before?

Mr. *Edwards.* I don't know when the Debt was contracted,

Mr. *Com. Serj.* I apprehend he says, that this money was lent him by some Friends to set him up again?

Mr. *Lutwyche.* Really, my Lords, we would not interrupt the Gentlemen, but I take it, what they are going on with is not Evidence. We must submit it, whether what Mr. *Wilson* said is Evidence, either on the one Side or on the other?

Mr. *Com. Serj.* We must humbly be in your Lordships Judgment, whether this kind of Evidence be not as proper on our Side as on the other? most of the Evidence Mr. *Edwards* has given to affect the noble Earl, has been only Informations he has had from *Wilson* or Sir *Laurence Carter*, and yet now the learned manager objects the same Information must not be admitted as Evidence on the other Side. I apprehend if any Favour is to be shewn on either Side, it should rather go on in the support of Innocence.

Lords. Go on, go on.

Mr. *Sol. Gen.* My Lords, we don't oppose their going on, we only beg leave to set your Lordships right. We did not give a Tittle of Evidence of what Mr. *Wilson* said: We have proved the Petitions, we have proved the Orders, we have proved the Facts; we did not mention a Word of Sir *Laurence Carter*, it sprung from this Examination; but we are willing they may go on, if your Lordships think fit.

Earl of *Macclesfield.* My Lords, I apprehend there is no Occasion to give your Lordships any trouble. If what this Gentleman hath said, with relation to Mr. *Wilson's* Payment to his Creditors, is no Evidence, it needs no Answer.

Mr. *Com. Serj.* My Lords, we desire that Mr. *Edwards* may inform your Lordships, whether or no there was any Consultation among the Masters relating to this matter, and what their Opinion was?

Mr. *Edwards.* I don't know of any Consultation about it.

Mr. *Com. Serj.* We desire that he may inform your Lordships, whether he made any Acknowledgment for his being admitted into his Office, and to whom this money was paid, and to what Purpose, and how applied?

Mr. *Edwards.* My Lords, the Steps I took to be admitted into my Office, if your Lordships will give me leave to trouble your Lordships with the Narrative, were these. First, I applied to Mr. *Godfrey* one of the Masters, with whom I had most Acquaintance: I told him I heard Mr. *Dormer's* Office would be disposed of; he told me he believed it would. Says I, if I could be accepted I have some Thoughts of treating for it. What is the usual method in those Cases to be recommended to my Lord Chancellor? Says he, you must apply to my Lord's Secretary Mr. *Cottingham*; accordingly I did, and I told Mr. *Cottingham* that I had heard Mr. *Dormer's* Office was to be disposed of. Mr. *Cottingham* told me it was to be disposed of. I then talk'd to him about the Terms. Mr. *Cottingham* told me, As to the Price and the Person, my Lord *Macclesfield* had left it intirely to the other masters; for whatsoever that Place could fetch, was intended to go towards making up Mr. *Dormer's* Deficiency.

Upon that, my Lords, I went again to Mr. *Godfrey*, and after a meeting or two, I concluded to give five thousand Pounds if I could be admitted. Whether Mr. *Godfrey*, or Mr. *Cottingham*, or who went to my Lord I can't tell. I had not the Honour to see my Lord till I was admitted: But upon these Terms I was approved. I had Directions, I can't say whether Mr. *Godfrey* or Mr. *Cottingham* gave me the Directions, that I should pay my money into the Hands of Mr. *Rogers* the then senior master; accordingly I did pay five thousand Pounds, and in three or four Days after I had the Honour to be admitted and sworn in.

Mr. *Strange.* My Lords, I desire he may be asked, whether at the time of his Admission any Presents were made by him to the Earl of *Macclesfield* or to his Secretary?

Mr. *Edwards.* None at all, but the Secretary's Fees as usual in those Cases.

Mr. *Strange.* Whether at the Time he agreed to pay the Sum of five thousand Pounds for the Office, he knew how the money was to be apply'd?

Mr. *Edwards.* Yes, Mr. *Godfrey* told it me when I went back to him from Mr. *Cottingham*; I remember to have asked him several Questions, and made him several Proposals relating to the Office, for we differed a great deal about its Value; I think I first proposed three thousand Pounds for it; but he disliking that and some other Offers I made him, I desired to know how much it was that my Lord *Macclesfield* insisted upon? to which he answered, that it was not my Lord's Intention to take any thing for the Admittance, but that he had left it to the Disposal of the Masters, to make the most of it for the Benefit of the Office.

Mr. *Com. Serj.* Whether he knows how this money was disposed of, and to what Use employed?

Mr. *Edwards.* I can't remember the Time, but some short Time before Mr. *Rogers* surrendered his Office, he paid me back this five thousand Pounds which I in a little Time paid to the Suitors of the Court.

Mr. *Strange.* Whether before he surrendered his Office, he had any Discourse with the masters how Mr. *Dormer's* Debts were secured?

Mr. *Edwards.* No otherwise than upon this Treaty. I told Mr. *Cottingham*, I hear there is a Discourse of a Deficiency in Mr. *Dormer's* Office; says he, I believe there is, but how much I can't tell; but that can be no Objection to you, because you are to answer for no more than you receive. Matters are all settled and taken Care of, that what Deficiency soever there is shall be made good.

Mr. *Serj. Probyn.* By whom?

Mr. *Edwards.* He did not say by whom, or in what manner.

Mr. *Serj. Probyn.* Had you any Discourse with any other master?

Mr. *Plummer.* My Lords, I beg leave to make one Observation. The Counsel says with any other master, and the Gentleman at the Bar says it was Mr. *Cottingham* told him so.

Mr. *Serj. Probyn.* This Gentleman I am examining

amining is one of the Masters, therefore it is not improper to ask whether he had any Discourse with any other of the Masters?

Mr. *Edwards*. I made the same Objection to Mr. *Godfrey*, and he answered me much the same. Mr. *Godfrey* said he could not tell what the Deficiency was, but whatsoever it was, that would be all settled and made good.

Mr. *Serj. Probyn*. As he had this Discourse with Mr. *Godfrey*, I desire he may be ask'd, whether he hath not likewise had some Discourse with Mr. *Rogers* how this Deficiency was to be made good?

Mr. *Edwards*. No, I don't remember I had any Discourse with Mr. *Rogers*.

Mr. *Com. Serj.* My Lords, I desire he may inform your Lordships, whether at any other time he had any Discourse with any of the masters about this matter?

Mr. *Edwards*. My Lords, I often talk'd upon this Subject with the masters, as a matter which very much concern'd my Office. This I mention'd at the time I came in. They were then all of Opinion that this Deficiency was to be made good. I don't remember that any Body told me in what method or particular way it was to be made good.

Mr. *Com. Serj.* I desire he would inform your Lordships, as near as he can remember, whether it was said that it would be made good, or that it was to be made good?

Mr. *Edwards*. I can't remember the distinct Words, I took it to have the same tendency and meaning.

Mr. *Serj. Probyn*. I desire he may be ask'd, whether he hath not several times and on many Occasions heard the masters declare, that this Deficiency was to be made good, and by the masters?

Mr. *Edwards*. I have heard them several times declare, that they did not doubt but it would be made good; but I never heard them say that it would be made good by the masters. I have often heard the masters say they would not make it good.

Mr. *Serj. Probyn*. I desire he may be ask'd, whether about the time that the masters advanced the five hundred Pounds apiece, he did not hear them declare how this Deficiency of *Dormer* was to be made up?

Mr. *Edwards*. My Lords, when I came into the Office, I think the very Day that I was admitted, Mr. *Rogers* paid five hundred Pounds; eight more paid five hundred Pounds apiece, some at one time, some at another; they did not all pay at the same time. That I heard was to go towards making up this Deficiency; but how far the masters intended to contribute further, I can't say.

Mr. *Com. Serj.* I desire he may inform your Lordships, whether he did not apprehend that the making up of this Deficiency was a great Concern to him?

Mr. *Edwards*. Yes, I think it hath been of a great Concern to me.

Mr. *Com. Serj.* I desire to know then how it comes to pass that he inquired no more into it?

Mr. *Edwards*. My Lords, I remember I was

once asking some Questions relating to that Account, and it was told me, that the State of this Deficiency had been laid before my Lord Chancellor before I was admitted. Upon that I did conclude, that this contribution of the masters, of five hundred pounds apiece, had been in Concert with my Lord Chancellor. I understood it to be so; I don't know whether my Lord gave Orders that it should be so.

Mr. *Com. Serj.* I desire he may be asked who it was that told him so?

Mr. *Edwards*. I think Mr. *Hiccocks* told me so.

Mr. *Serj. Probyn*. My Lords, we have done.

Mr. *Robins*. I desire to know what Answer Mr. *Hiccocks* gave to the Questions he asked?

Mr. *Edwards*. Only that my Lord was acquainted with it, and had the State of Mr. *Dormer's* Office laid before him.

Mr. *Serj. Pengelly*. My Lords, if they have done, we only beg leave to observe, that they have been establishing the Notice of this whole Deficiency on the Earl, upon the first Vacancy in the Office, even before Mr. *Edwards* came in; so that the whole Transaction afterwards proceeded upon a full Notice of the Circumstances and State of the Office. The Evidence of the Contribution of the masters, and of the Earl of *Macclesfield*, towards making good this Deficiency, prevents, in a great measure, our bringing any Proof to the fifteenth Article, which is now going to be opened.

Mr. *Plummer*. My Lords, if they have done, I only beg leave to observe, that the very letting Mr. *Edwards* pay his five thousand Pounds to the Deficiency of the Office, and my Lord *Macclesfield's* not taking it to his own Use, is a sufficient Proof of his Knowledge of the Deficiency. And as to this Composition, I have one Question more to ask. I think he says he mention'd it to two or three masters; I desire to know if he did so, and whether they approved it?

Mr. *Edwards*. I think one of the two or three masters was Mr. *Lightboun*. He was there, and he did say, as I remember, that he thought we might as well lose the whole, as take so small a part of such a Debt.

Mr. *Plummer*. I desire another Question, and that is, if he consulted any of Mr. *Wilson's* Creditors before he made this Composition?

Mr. *Edwards*. No, my Lords, I did not know any of them.

Mr. *Serj. Pengelly*. How much did he receive in the whole from the masters?

Mr. *Edwards*. I received five hundred Pounds from nine of them.

Mr. *Serj. Pengelly*. Did any of the masters, and which, refuse?

Mr. *Edwards*. Yes, Mr. *Lightboun* refused.

Mr. *Serj. Pengelly*. For what Reason?

Mr. *Edwards*. That I can't tell; he did not give any particular Reason.

Mr. *Com. Serj.* My Lords, I believe it may be necessary to trouble your Lordships with asking another Question: Whether this Discourse in relation to this Composition, was before or after the Composition was made?

Mr. *Edwards*. I believe it was before.

Mr.

Mr. *Com. Serj.* Then I desire to know whether Mr. *Edwards*, upon that or any other Occasion, acquainted the noble Earl of it?

Mr. *Edwards*, No, I don't remember I did.

Mr. *Sol. Gen.* My Lords, I believe we have done with these two Articles.

*Sir John Rushout.* My Lords, the Commons proceed to the fifteenth Article against *Thomas Earl of Macclesfield*, and they have entrusted me to lay open to your Lordships the Subject matter of this, and the two ensuing Articles, and the Nature of the Evidence they think proper to produce to make good the Charge in these Articles; by which it will appear to your Lordships very fully, that the Crimes charged upon the Person at your Bar, which have already been manifested in so many Instances, did not proceed from mistake, or mere Negligence; altho' these would have been Faults not excuseable in a Person placed in so high a Station, but that they were the Effects of Art and Contrivance, formed to carry on and promote a corrupt and illegal Gain and Advantage to himself.

It may seem at first sight very surprizing, and may not readily obtain Belief with your Lordships, that a Person raised by his Majesty's abundant Goodness, to Stations of so great Honour and Profit, who had received large Additions to a plentiful Income by successive and repeated Grants from the royal Bounty, that such a Person should condescend to receive, much more that he should use Arts and Stratagems to obtain further Supplies to his insatiable Thirst of lucre.

But this your Lordships will plainly see to be the Case, when we have given our Proofs to the fifteenth, sixteenth, and seventeenth Articles. Your Lordships have already heard that there was a very great deficiency and loss of the Suitors money in the Office of Mr. *Dormer*, a late master in the Court of *Chancery*; that the Earl at your Bar then presiding in that Court, well knew that there was such a Deficiency; that instead of applying Remedies to redress the Evil, he made use of several Methods to cover and conceal it; it being very obvious for him to reflect, that, if such a Deficiency was publicly known, and not effectually remedied, none would ever after purchase a master in *Chancery's* Place, at least not at such exorbitant Prices to which the Purchase had lately been raised.

What then must be done? here was like to be an entire Stop put to this Branch of Revenue which had yielded so plentifully, and proved so beneficial to his Lordship.

The Contrivance therefore is to oblige the masters, who had already paid for their Places, to pay again towards making good this Deficiency, and by an artful drawing them to a Compliance in this Point, to conceal and continue the mischief.

This is what the Commons charge in the fifteenth Article, that the Earl of *Macclesfield*, to conceal the Deficiency in Mr. *Dormer's* Office, did order several masters of the Court to bring in their Accounts of the Cash, Effects, and Securities belonging to the Suitors which were in their Hands, with Intent to terrify the masters thereby, so far, as to oblige them to contribute

large Sums to answer the Demands of that Office: And further to engage them to a Compliance in that Respect, he represented to them, that unless they would do it, the money and effects of the Suitors would be taken out of their Hands: That by this means he did induce nine of the masters to contribute five hundred Pounds apiece, which several of them did, out of the Suitors money in their Hands; and this being done, they were never obliged to bring in their Accounts.

What Answer is given to this Charge? The Answer hath been read, and I need not trouble your Lordships with a Recital of it. But the Earl admits that he gave such Orders that the masters should bring in their Accounts:

That several masters did afterwards pay and contribute as is charged:

That they were not afterwards obliged to bring in their Accounts:

But then in Excuse he alledges, That this was not done to terrify the Masters to make any Contribution to the Demands on *Dormer's* Office:

That what they did contribute, he believes they paid freely, and out of their own money:

That he believes he follow'd therein a Precedent of the like Nature in the Failure of Dr. *Eddisbury*:

That he continued to call for the Accounts, but was convinced how tedious a Work it would be, what Obstruction it would give to the Business of the Court; so he laid it aside: And observes, that what is lately done with respect to the Accounts of the Masters, shews the insuperable Difficulties of such an Undertaking.

From this Answer your Lordships may reflect, how just the Observation is, that the Commons have made in their Replication, when they say, the Earl of *Macclesfield* hath industriously avoided giving a direct and particular Answer to several matters positively and certainly alledged against him, which from the Nature of the Facts themselves must necessarily lie in his own Knowledge.

For he admits the Fact charged upon him by the Article; but to that part of it which charges that this was done to conceal the Deficiency in *Dormer's* Office, he makes no Answer at all.

And where the Article charges, that in order to obtain what is own'd to be done, he did represent to the masters, that unless they would comply, the money and effects of the Suitors should be taken out of their Hands; to this likewise he makes no Answer.

My Lords, It may be difficult for me who am little conversant in Law Proceedings, to lay this matter in its strongest light before your Lordships. But I take the Case to be this.

The Commons charge, that the Earl of *Macclesfield*, to conceal the Deficiency in *Dormer's* Office, order'd the masters to bring before him their Accounts of the Suitors Effects, and threatened that unless they would contribute towards that Deficiency, those Effects should be taken out of their Hands: They contribute, the matter is dropt, and no Accounts are ever brought before him.

The Earl acknowledges that he ordered those Accounts to be brought before him; that upon his giving that Order several masters contributed 500*l.* apiece, and that afterwards the bringing the Accounts was dropt; that this was done to conceal *Dormer's* Deficiency, and procured by the menace of taking the Effects of the Suitors out of the Hands of the masters cannot be denied: What part of the Charge then remains unadmitted? I must submit it to your Lordships, whether, upon what the Earl hath allowed in express terms by his Answer, as well as what he hath admitted by not answering at all, the whole Charge of this Article doth not stand confessed, and the Commons might demand Judgment against the Earl, upon this Article, on his own Confession.

But the Earl adds some things by way of Excuse, I suppose, or Extenuation of the Offence; how immaterially and how evasively your Lordships will soon observe.

He denies, that the ordering the masters to bring in their Accounts, was done to terrify them to make any Contribution towards *Dormer's* Deficiency, and yet there is not the least Appearance of any other End or Design, for which it could be done; nor does he mention, or so much as pretend to any other End which with the least Colour of Reason could be intended by it; he says, indeed, he had a mind to know the State and Condition of the several Offices, that he might be able to make proper Regulations concerning them; but the thing was dropt before he had this Knowledge given him, and before he made any one Regulation in the matter; and yet he solemnly declares that this was his real and whole Intention: If it was his Intention, how came he to alter it so soon? Could it not last till one Regulation was made in a matter which wanted it so much?

Your Lordships will from hence judge, That the Crime which the Commons charge upon the Person at your Bar was not a Sin of Ignorance; he was informed of the miscarriage of the Officers of his Court, he was conscious that it needed Regulation, he had sometime a Thought and Intention to make such Regulation; but, alas, it soon proved abortive, and the intended Reformation, however necessary for the Honour of the Court, as well as the Safety and Advantage of the Subject, was soon laid aside: A Conduct so weak and so greatly inconsistent, as not to be accounted for in any Person, who had not been capable of pleading Innocence and Pardon to the same Fact.

However his Lordship having found it necessary to excuse this proceeding with the masters, by pretending an Intention to make some Regulations concerning them; it became as necessary, in the next Place, to make some Apology for not proceeding to such Regulations.

And for this he says, that it would be a difficult and tedious Work:

That it would be an Obstruction to the business of the Court:

That what has been lately done shews the insuperable Difficulties of the Undertaking.

I may reasonably fear I should grow tedious to your Lordships if I should attempt to take notice of all the Inconsistencies, Inconsequences and Evasions in the Answer to this single Article.

Upon what account was the Person now at your

Bar advanced to the highest Station of the Law; intrusted with the Distribution of Justice and Equity in his Majesty's supreme Court in *Westminster-Hall*, if it was not to secure the Property of the Subject to those to whom it did in Conscience belong? And upon what Account were the moneys brought into Court deposited with the masters, but only for safe Custody, till it appeared to whom Equity would determine the Right?

But when it was once manifest that those, who were employed in this trust, had shamefully broken it, and by notorious mismanagement were likely to bring Ruin to all the Suitors of the court, was it fit to cherish and cover up the Evil because it was a difficult and tedious Work to redress it? Was it likely to be less difficult by the Delay, or rather did not every Day propagate and increase the mischief, and make it less capable of Remedy? Or could any thing be more proper for the Business of the court?

Your Lordships have too great Sagacity not to discern the Weakness of such an Excuse, nor will you easily be persuaded to believe, That the Earl of *Macclesfield* was only going on in a Path his Predecessors trod before him, or that he is to be sheltered, because what hath been since done hath met with Difficulties in the Undertaking.

It is known, how upon the first Failure, in the Time of his Predecessors, an effectual Remedy was immediately applied; and that those, who have since attempted to give an helping hand, have prevented any new Eruption of the Evil complained of; and if the undertaking was attended with Difficulties, their care and commendable Zeal for the publick Service have already been able to surmount them in some measure; altho' the gross encouragements given by the Earl of *Macclesfield* had laid such a strong Foundation for those Difficulties, as if he had designed really to make them insuperable, that they might serve for such a Sort of Excuse as he now endeavours to draw from them.

But the Earl alleges further, that he believes the masters, who contributed towards *Dormer's* Deficiency, did it freely and out of their own money; and that in bringing them to contribute he followed the Precedent in *Dr. Eddisbury's* Case.

I need not trouble your Lordships long upon this Branch of the Article, since no one besides his Lordship can well believe the masters contributed freely; and the Proof we shall lay before your Lordships upon this Head will give full Satisfaction, that none of them did it freely, nor all of them out of their own money; nor is it the crime the Commons charge, that the masters were prevailed on to contribute towards the Deficiency; but that the Earl, whose high Station made it his Duty, when he was informed of the Deficiency, to take care to redress it, did not, as in the case of *Dr. Eddisbury*, provide that the whole money belonging to the Suitors should be effectually answered; but instead of following that Precedent in the just and honest use of it, he turned it to answer his own corrupt purposes, and to conceal from public notice, that loss to the Suitors which it was his Duty to have wholly prevented.

The next Article we proceed to is the sixteenth, which charges, that one *Elizabeth Chitty* having obtained an Order of the 17th of *March*, in the tenth Year of his present Majesty, whereby Mr.

*Edwards*, who succeeded in *Mr. Dormer's* office, was order'd to pay 1000*l.* part of a very large Sum due to her, which had been paid into *Dormer's* Hands; *Mr. Edwards* complained of this as an Hardship to him, who had never received the money; upon this the Earl would have persuaded the rest of the Masters to pay the money to prevent a Parliamentary Enquiry, and they refusing, he paid it himself to one *Mr. Lochman* for the use of the said *Mrs. Chitty*; with Intimations however, that she must not expect any more of the 10,000*l.* which had been paid on her account into *Dormer's* Hands.

Your Lordships will be surprized at the Detection here made both of the Guilt and the Boldness of the Offender; that the Person, who is so sensible of his Crime, as to tell the Masters this matter would affect both himself and them, who discerns the monstrous consequences of the mischief before him, who foresees the Punishment of that crime by a Parliamentary Enquiry; that this Person, instead of applying Remedies to the Evil, should use little Artifices only to conceal it.

What Answer gives the Earl to this charge? He admits the Order made, and that *Mr. Edwards* refused to pay the 1000*l.* that he himself paid the money, and told *Lochmann* that was all they must expect from him; but he does not believe he had any Discourse with the Masters to persuade them to pay the 1000*l.* to *Lochmann*.

Your Lordships must be convinced of the Guilt, when the Offender himself hath not the assurance to deny it; he cannot deny but that he knew and represented the consequences that would ensue what was done; that it would produce a Parliamentary Enquiry; that it would affect himself as well as the masters, and that it would hazard the Forfeiture of their Offices. Your Lordships have now an Opportunity to vindicate the Honour of Parliaments, and to leave this Instruction to Posterity; that those who foresee their unwarrantable actions will give occasion for a Parliamentary Enquiry shall not be able by any contrivances, by any means whatever, to evade the Justice of it.

As to the last part of this Article, which charges, That on a motion in a cause, *Harper* against *Cafe* and others, relating to 260*l.* which having been paid into *Mr. Dormer's* Hands was in Danger of being lost, the Earl falsely and deceitfully declared he had heard there was a Deficiency in *Dormer's* office, but knew nothing of it only as public News: The Commons will give sufficient Evidence to your Lordships of the Truth of this charge.

The Earl indeed gives a large Account of this cause and the Orders made in it, and then concludes, he believes he expressed himself to this Effect, That he had indeed heard of *Dormer's* Deficiency, but that it had never come judicially before him upon complaint of any of the Suitors of the court; that several circumstances taken Notice of at large had concurred thereto, and adds, that he said he did not know how all these things would come out, and expressed himself to that effect and no other; and upon all this Circumlocution in the Answer, without any denial of the Words as they stand charged, we have reason to believe your Lordships would be very well satisfied without further Proof, that the Words mentioned in the Article were undoubtedly used by the Earl of *Macclesfield*.

It is further observed by the Earl, that this happened after such time as the Masters Accounts had been laid before the Lords of the Council, and had been under the Examination of the Judges and others to whom they had been referred by his Majesty; and there may be some reason to doubt whether the Knowledge of a Deficiency had been so soon declared by his Lordship, if the Examination under which his Majesty's abundant Goodness and Care for his People had put those Accounts, had not already laid open and made a public Discovery of it.

The 17th Article charges, That tho' the Earl of *Macclesfield* knew of the great Deficiency in *Dormer's* office, yet to conceal it, in order to carry on his corrupt and unjust Designs, he made Orders upon *Mr. Edwards* for the payment of several sums, which were paid without Regard to the Proportion the rest of the Suitors were justly entitled to out of *Dormer's* effects, and consequently to their great loss and Prejudice: To this the Earl answers with his usual Candour, That he never endeavoured to conceal the Deficiency, but as it was under a full Persuasion it would in due time be made good; that he did not think it incumbent on him *ex officio* to make a Declaration of an Average; that he doth not know any Order was made by him for *Mr. Edwards* to pay Money lodged with *Mr. Dormer*, but believes several Orders were made by the Court for that Purpose.

Your Lordships upon the bare reciting the Words of the Answer, will perceive the Art and Fallacy of the Answerer; he doth not know any Order was made by him, but believes several were made by the Court; as if he could hope to make your Lordships believe, he was a Stranger to, and unconcerned in the Orders made by the Court, of which he was the only Judge.

He admits he did endeavour to conceal the Deficiency, but was persuaded it would be made good in due time, without acquainting your Lordships with any Grounds for that Persuasion, or even mentioning when he thought that due time would come.

He intimates it was incumbent to make a Declaration of an Average, but thought it not incumbent upon him to make it *ex officio*: He could not deny it to be the most equal rule, that if a loss was inevitable, an Average ought to be made; that the loss might be borne equally and in proportion among all: He could not deny the making Orders to pay some was inconsistent with, and destructive to this Equality; and he could not however think it incumbent on him to do this *ex officio*: and yet it belonged to no body's Office but his own to effect it.

Thus your Lordships may observe how, to every Article, the Answer either admits the charge or uses loose, general, or foreign Circumlocutions to evade it, when the Evidence of the Fact will not allow him to deny it; yet he would be thought to say something at least in excuse: But his Knowledge of your Lordships superiour Understanding, ought to have deterr'd him from all Expectations of imposing upon your Lordships by any little Shifts and Artifices of this kind; nor should he hope to pass here the Answer as sufficient which must have been reported contrary, If I am rightly informed of the Practice, by any of the Masters of his Court.

But

But I shall not longer detain your Lordships with Observations in matters in themselves so evident; what is admitted to every one of these three Articles is sufficient to justify the Charge of the Commons, and whatever remains but imperfectly admitted, we doubt not, by Witnesses and other Proofs, to make out to your Lordships entire Satisfaction.

My Lords, It is a Province enjoined me likewise, to maintain the Charge exhibited by the Commons of *Great Britain*, in the fifteenth, sixteenth, and seventeenth Articles of their Impeachment against *Thomas Earl of Macclesfield*. And it is with the greater Chearfulness I undertake that Province, since I come to demand that Justice, which your Lordships are always disposed to administer, to every Subject of *Great Britain*; and therefore I cannot but be fully assured of your just Inclinations, to do equal Right where it is demanded by the House of Commons, the Representative Body of the whole united Kingdom.

It is very strange, that the Earl now under Prosecution; who hath been so many Years within the Walls of this House; who hath so long been Witness of your Lordships great Integrity and Wisdom, should not thereby be deterred from attempting what might subject him to your Censure. But it is still more unaccountable, that a Person, who hath had so long Experience of that Judgment and Sagacity, whereby you skilfully distinguish between right and wrong, should hope, by the Artifice of Words, and loose, general, evasive Expressions; that he should ever hope, I say, my Lords, by such Fig-leaves as these, to hide himself from the Eyes of your Lordships impartial Justice.

The worthy Gentleman, who hath preceded me upon this Head, hath so fully open'd the several Articles now under Consideration, and hath so clearly detected the Sophistry and Insufficiency of the Answers that are given to them, that I shall not need to be long upon that Head; it would indeed be difficult to add any thing new to what hath already been observed, did not the innumerable Fallacies and Inconsistencies with which his Answer abounds, continually supply fresh Materials for Observation.

But I shall content myself only to take Notice upon the Answer to the fifteenth Article, that the Earl stands in a manner convicted by his own Confession: He admits the Fact, but would avoid the Consequence by saying, that he really intended to make the Masters bring in their Accounts, altho' he did not do it: If it was intended, why was it not done? It was a difficult and a tedious Work.

I am surprized, my Lords, to find that any Person should expect to satisfy your Lordships, by so weak, and frivolous an excuse.

A Person who presides in the highest Court in *Westminster-Hall*, is informed of some unwarrantable Practices of the Officers to whom the money of the Suitors is intrusted, which for want of due Care hath already proved very pernicious, and must in Time prove destructive to the Property of all the Suitors of that Court, unless some speedy Check be put to this growing Evil: is convinced the matter needs Regulation; but he lets it go on, because it would be a difficult and tedious Work to redress it.

In moral Evil, my Lords, the Continuation of the Practice of an ill Habit, because it is difficult to break it, is so far from extenuating, that it is justly esteem'd to aggravate the Fault; and I don't doubt but that your Lordships will have the same Sentiments in this Case; for since it was necessary to apply a Remedy, the sooner it was done the better, and the Difficulty of the Work should have been a Spur, rather than a Check to a vigorous Endeavour for redressing it.

In his Answer to the sixteenth Article, your Lordships will observe the same Prevarication spread through the whole: The Widow *Cbitty* having a considerable Sum of Money, to which she was intitled, brought into Court, and deposited in Mr. *Dormer's* Hands for the safe Custody of it only, petitions for 1000 *l.* part of her own money; such a petition could not be denied entirely, without bringing on a speedy Enquiry of the Causes and Occasions of the Embezzlement which had happen'd in that Office; and the Discovery must have brought on a Necessity of remedying the Evil, that would thereby have been made so publick, and so notorious.

An Order therefore is granted, that the 1000 *l.* should be paid; but then the Difficulty is renew'd, how to make that Payment without discovering to the Publick the Mismanagement; which must have put a Stop to the Sale of the Masters Places, which were disposed of at exorbitant Prices, and brought in an immense, tho' illegal Gain. Mr. *Edwards* would not pay it; he had no money of Mr. *Dormer's* in his Hands; the next Application was made to the Masters of the Court, to see if they could be prevailed on once more to raise a Sum by Contribution amongst them; to this End they were told, that if they did not comply, *Dormer's* Deficiency would be discovered; and that might occasion a Parliamentary Inquiry, the Consequence of which might be, the Forfeiture of their Offices, bought contrary to the Statute of *Edward* the sixth: that this might affect himself a little, but them much more; all this my Lords, is charged in this Article, and not denied by the Earl, but in such a lamentable, evasive manner, as betrays more Guilt than an open, and ingenious Confession.

It passes my Observation, in that little View I have been able to make of past Times, that any Judge of a Court in *Westminster-Hall*, should own the Knowledge of so great a Crime in the Officers of his Court, as that they came into their Places contrary to Law, without any Censure, or Blame for it.

But that a Person raised by the unmerited Bounty of his Majesty, to preside in the highest Court there, to conduct the Administration of Justice agreeable to the Rules of Equity and good Conscience, as his Majesty's Vicegerent in that great Station; that such a Person should not only be conscious of the Illegality of the Masters obtaining their Places, and a Party to such Illegality, but should have the Assurance to make use of that as an Argument, to extort money from them, in order to prevent the Discovery, and the Punishment consequent thereto, will, I persuade myself, stir up in your Lordships the greatest Indignation.

It seems he apprehended the Terror of a Prosecution by Parliament might have some Effect upon them, and engage them to comply with his Demands,

mands, altho' it had not the least Effect upon himself. It was a proper Expedient to bring them into a Contribution of 1000*l.* but it was not sufficient to deter him from those Practices, which justly merited such a Prosecution.

Our Ancestors thought it became them to keep in Awe the greatest Subjects in the Realm, and none were too big to be call'd to Account for the Wrongs and Injuries they did the Publick; the Case of *Michael de la Pole* in *Richard* the Second's Time, and *Card. Woolsey* in *Henry* the Eighth's, with many others, some of which have been already mention'd to your Lordships, are flagrant Instances of it. And we have now a just Opportunity of shewing, that we have the same Regard for the Honour of Parliaments, and the Good of the People; that no one ought to presume to transgress the Laws, be his Station, or his Power never so highly advanced, upon prospect of Impunity; since a *British* Parliament can reach the most lofty, and punish the most insolent, corrupt Offender: So that he, who is not restrained within the limits and boundaries of the Law out of Awe and Reverence to it, must expect to fall a Sacrifice to the Power of their Justice.

Your Lordships have here an Instance of one placed at the Head of the Law, who is conscious that his Actions are contrary to it; who makes no Scruple of avowing this, where it may serve his Interest, defies a Parliamentary Inquiry, and goes on in Practices which he knows, and professes to be illegal. Your Lordships will observe how he endeavours to shelter himself from Danger, and by an infamous Degree of Dissimulation; what he openly avows, to raise a Contribution from the Masters of the Court, he more publickly denies, with Design to carry a plausible appearance in this Affair to the People.

The Deficiency of *Dormer* at last became a publick Clamour; it was not *Mrs. Chitty* only, but many others wanted their Money deposited and entrusted in the Hands of the Court, and by the Court entrusted to the Custody of the Masters; and the Suitors then made open Complaint upon this Subject. In the Cause therefore of *Harter* and *Cafe*, a motion being made, that 260*l.* lodged in *Dormer's* Hands might be paid before the Execution of the Conveyance, directed by the Court; he who had been so long inform'd of the shameful Embezzlement of the Money of the Suitors in *Dormer's* Office, who had invented so many artful Contrivances to conceal the Knowledge of it from the Publick, in order to serve his own private, unjust, corrupt Designs, the matter being now declared in open Court, he could no longer deny the Knowledge of what he was so plainly inform'd of; that therefore all By-standers might imagine his Care and Concern for the publick Good was so extraordinary, that he could not have forbore to have remedied the mischief if he had been before apprized of it; he then publickly and falsely declared that he had heard there was a Deficiency in *Dormer's* Office, but that he knew nothing of it but as publick News. In the Earl's Answer, my Lords, he explains this Expression, by saying, that it never came judicially before him upon the Complaint of any of the Suitors of the Court: This I am persuaded your Lordships will think a very poor Excuse, that he who was the

Protector of all the Fortunes of the Fatherless and Lunaticks, should not upon the first Intimation, or even Suspicion that they were like to be Losers, cause a strict Examination to be made into it.

It can scarce be believed a Person who has so great a Capacity to judge in what manner he ought to act, should ever descend to so low a Degree, so unworthy the Station in which he was placed, so unworthy the Dignity and Honour to which he had been advanced, as to deny the Knowledge (otherwise than as News and accidental Discourse) of what he had been so frequently inform'd of, and what he had taken Pains so long, and so deliberately to conceal.

I need not use any Words to represent to your Lordships the Indignity of such Prevarication, who will upon the first Intimation be sensible of every thing that may seem in the least Degree to depart from the Rules of Honour: It is indeed almost inconceivable, that a Person advanced to be a part of your noble Body, should so far forget himself and you; it is what, if he could have expressly denied by his Answer, we must have despair'd to have gain'd Credit in, tho' we could have proved it by inferior Witnesses; but his Answer will sufficiently convince your Lordships of the Truth of the Allegation; for he who could not directly deny a Charge of so gross a Crime, must by his own Silence, in a matter of so heavy a Nature, be concluded to be guilty of it.

I have already detain'd your Lordships so long upon this sixteenth Article, that I shall not take the liberty of trying your Patience by making any Observations upon the Seventeenth, but shall leave it to the Gentleman that is appointed to assist in it.

It contains only repeated Instances of a corrupt Endeavour, still to conceal the Knowledge of that Deficiency from the Publick, which it was his Duty to have prevented; or at least to have supplied, and rather to have made it good, than have conceal'd it. What Ground or Reason could there possibly be, why a mischief of this Kind, if it did happen by Accident, should with so much Industry be covered and continued? When that Concealment could answer no good or honest Purpose, but must by the Delay increase and grow more desperate, and tend to bring Destruction and Ruin on the Suitors of the Court?

But as your Lordships, by the Proofs upon the former Articles, had an Opportunity to take notice what large Sums of Money had been paid for the Purchase or Exchange of the Places of the Masters of the Court of *Chancery*; it is natural to conclude from thence, that the Masters were necessarily to be indulged in making use of the Suitors Money in their Hands, in order to make up the vast Sums they had given for their Offices; and if there had been miscarriages in Attempts of that Kind (which in bold Adventurers for such Ends could hardly be avoided) the Discovery of such a mischief would have made it absolutely necessary to have removed the Money from those who had proved such unfaithful Stewards, or at least to have obliged them to have given proper Securities to indemnify those, whose Fortunes were intrusted to their Care, from any loss which might happen by their mismanagement; the Consequence of which Caution must unavoidably have drawn on a Retrenchment

trenchment of the exorbitant Prices which of late have been given for those Places.

But I need not give your lordships any further Trouble, by enlarging more upon this Topick, who ought rather to make Apology for having been already so long upon it; the Gentleman who went before me, and he that will follow me upon this Head, will be sufficient to give your lordships more ample Satisfaction; and the Certainty of the Facts (which the Earl himself seldom hath the Assurance to deny, but only attempts by false Colours to avoid the Inferences from them) will, where-ever there is need or occasion, be supported, and made good by full Evidence.

Mr. *Thompson*. My Lords, I am commanded by the Commons to assist in maintaining the fifteenth, sixteenth, and seventeenth Articles of their Impeachment. The Gentlemen who have gone before me, have acquitted me from giving your lordships any Trouble upon two of these Articles; and I count it my good Fortune that the third is fallen to my Lot, since the Evidence to prove the Charge contain'd in it, is so very clear and direct, that little need be said, either to shew the Necessity of the Accusation, or the Truth of the Facts alledg'd by the Commons.

Mr Lords, I will avoid, as much as I can, recapitulating any Evidence which has been opened before; but the Crimes of the unfortunate Earl of *Macclesfield* are so interwoven, that it may be sometimes necessary for me to look back upon Circumstances that have been spoken to upon other Articles.

The Commons in the seventeenth Article set forth, 'That the Earl very well knew there was a Deficiency in Mr. *Dormer's* Office, and that Mr. *Edwards* (his Successor) had not sufficient in his Hands to pay the whole money due to the Suitors.' My Lords, as to the Earl's Knowledge of this Deficiency, he admits it in his Answer, by saying, 'He never endeavour'd to conceal it;' and Mr. *Edwards* has not only declared upon Oath this Day at your Bar, there was a Deficiency, but also, 'That it was laid before my Lord before he was admitted.'

Yet 'Notwithstanding he very well knew it,' the Commons aver, 'That he did from time to time make Orders for the Payment of several Sums out of this Office,' and in support of this Charge, we shall produce divers of his Lordship's original Orders.

And, my Lords, I appeal to the Testimony of every master in *Chancery*, who has been, or may be examined before you; I appeal to your Lordships Observations upon the Evidence you have already heard, whether or no such Proceedings were not calculated, 'to carry on his unjust Designs, and to prevent a Parliamentary Enquiry.'

As to the latter part of the Article, 'That Sums were paid without any regard to, or consideration of the Proportion the rest of the Suitors were entitled to,' we shall not only prove the Fact, but shew likewise that this Partiality was not carried on inadvertently, but deliberately; that this unequal Distribution of Right did not flow from a supine Neglect, or careless Oversight, but sprung from a deprav'd Intention, and determin'd Corruption,

Mr. *Edwards* will acquaint your Lordships, that

he forewarn'd the Earl of the Consequences that must follow from his Payments, who still bid him 'continue paying,' and Mr. *Lighboun* (reasoning with him as became a Person associated to the Chancellor) urg'd, 'that he did not think any measures justifiable in a Court of Equity, where- by any undue Preference might be given, and some have their whole money and others be left in the Lurch.'

So that this Misdemeanor, this Fraud, was in 'manifest and wilful Violation of the Trust re- pos'd in him,' a Trust, my Lords, (when faithfully executed) wherein consists the Glory and Happiness of this Kingdom. It is the Security of all our Properties, a Refuge for distressed Widows, and a Protection to helpless Orphans; and when the Commons saw that Oppression had possess'd the Seat of Justice, that Partiality had usurped the Throne of Equity, that the Guarantee for our Fortunes was become the Invader of them, they beheld it with Indignation and Horror, and have applied to your Lordships to demand Redress and Vengeance.

Now, my Lords, I beg your Attention, whilst I take a view of the Earl's Answer.

He says, 'He never endeavour'd to conceal *Dormer's* Deficiency.' You will hear that he did, and alledg'd, 'It would be for the Honour of the Court to conceal it.'

The accus'd Earl proceeds, 'As he was under a full Persuasion the same wou'd be made good.' I dare say the Earl of *Macclesfield* will at a proper time acquaint you what were the Grounds of this 'Persuasion.' The Commons observe, with the deepest Concern for the miserable Suitors, that they have met with no Foundation, no Colour of Reason to induce 'Them' to entertain such Hopes. On the contrary, the Master who succeeded to Mr. *Dormer's* Office frequently represented to the Lord Chancellor, 'The Hazards the Suitors were in from this Deficiency.'

Yet the Earl boldly asserts, that this very Master 'Mr. *Edwards* was under a firm Persuasion the whole would be made good.' We shall convince your Lordships he never had the least Prospect, the least Glimpse of it; and I'm afraid the Earl and he had just the 'same full and firm Persuasion of the State of this Office.'

The noble Lord goes on: 'And as no Application was made to him by Persons concern'd to stop Payment.' I suppose he means before that remarkable Motion which produc'd his extraordinary Declaration in open Court.

Perhaps the learned Lord will here make another notable Distinction, and explain by the Words 'Persons concern'd,' the 'Suitors only;' and have recourse to his old Subterfuge, 'That it never came judicially before him.' We think, and no doubt your Lordships will think so too, that 'Mr. *Edwards* was a Person concern'd;' that his pressing Applications ought to have been sufficient, and that our Evidence is not to be defeated by so weak an Evasion.

But admitting, my Lords, 'That the Earl had this full Persuasion, and that no Application was made to him to stop payment:' What Justification does he draw from thence? 'That he did not think it a Duty incumbent upon him, *ex officio*, to make a Declaration of an Average.'

How contradictory, my Lords, how inconsistent is this with his Answer to the fifteenth Article! There he pleads the Case of *Dr. Eddisbury*, and in that Case an Average was declar'd. The Precedent was follow'd to encourage Contribution, but was laid aside when it directed him to secure the Suitors their Proportions. Here I can't help observing, that, as the Earl has thro' the whole Series of his Actions copied Precedents from the worst Views, so he has now quoted them in the most disadvantageous manner. When his Predecessors took small Sums, he ventur'd by their Examples to swell his Demands to exorbitant Prices; but when their Patterns shou'd have led him to a nice and scrupulous Caution in the Choice of his Officers, he disdain'd to tread in their Footsteps. And, my lords, this Precedent was good for the corrupt Purpose of concealing a Deficiency, but ceas'd to be so, when it was to do Justice to the injur'd Suitors. He has turn'd his Weapons upon himself, and if *Dr. Eddisbury* guards him in one Article, he must of necessity wound him in another.

What I shall next take notice of in his Answer is, "That he does not know any Orders were made by him except in the Case of *Chitty*." That Case is attended with such Circumstances, and may be follow'd by such Consequences, that he has not yet, nor will, I dare say, soon forget it: However, I presume he will recollect others, when we produce his own original Orders for three several Payments, one of 400 *l.* another of 642 *l.* and a third of 2000 *l.*

This Evidence alone, my lords, would support this Article, but the Earl has thoroughly confirm'd the Charge in his next Sentence. "He believes "Orders have been made by the Court."

Tho' his own Orders were criminal, Orders from the Court were innocent, till they received his Stamp of Guilt, who knowing the Condition of the Office, commanded "Payments to be made "as Orders came in." The impeach'd lord (and were this his only Offence, therefore justly impeach'd) commanded these Payments.

His Defence is again become his Accusation. Orders from the Court wou'd have ended, had he suffer'd the Matter to stop Payment, but that would have discover'd what he took such unwarrantable Pains to conceal; and from that Concealment arose the Injuries to the Suitors: that was the malignant Ground-work of his infamous Designs, and is now the Subject of our just Charge.

Certainly the Earl did not mean here obliquely to insinuate that he had a Sharer in his wicked Administration, or to bring another great Name in question with his: That were not for his Service, Characters, my Lords, receive their Lustre from their Foils.

My Lords, I have open'd to you, that we shall prove the Accusation contain'd in the Article, and enforce it from the Earl's Answer. If your Lordships find we have made good our Charge, I submit it to your Lordships what Judgment you will pass upon such "manifest and wilful "Violations of the Rights of the Subject."

Far be it from me to add load to the Guilty; here indeed it is impossible. Crimes committed by a Lord Chancellor are capable of no Aggravations; his Station enhances his Guilt. Such Crimes are now become a parliamentary Enquiry,

as the Chancellor's conscious Heart long since pre-sag'd; and the Commons think they have shewn good Reason why your Lordships should convince the Earl of *Macclesfield* that he flatter'd himself with vain Hopes, when he menac'd the Masters, "That this Enquiry would affect him, but "them much more."

The Commons are sensible, that he who has so long been a Stranger to Justice, will at last meet with it here; and that your Lordships providential Wisdom will never suffer such Reproaches to be cast upon this, as have been thrown out upon another Nation. "That a Judge is an Evening "Wolf; that Justice standeth afar off, and Equity "cannot enter.

*Mr. Serj. Pengelly.* My Lords, we beg leave to call our Witnesses in support of these Articles. We desire *Mr. Conway* may be call'd.

*Mr. Conway call'd and sworn.*

*Mr. Serj. Pengelly.* My lords, we beg leave that *Mr. Conway* may be ask'd, whether he paid any money in the Nature of a Contribution, and when? We have the Receipt here (shewing it to *Mr. Conway*.)

*Mr. Conway.* My Lords, this is a Receipt given me by *Mr. Edwards*, Aug. 11, 1721. for the Sum of 500 *l.* contributed by me.

*He reads the Receipt.*

Aug. 11, 1721.

Receiv'd then of master *Edward Conway*, Esq; the Sum of 500 *l.* voluntarily contributed by him in Aid of the Deficiency of my Predecessor *Phelwood Dormer*, Esq; in the Cash of his Office, which I promise to repay in case the same shall at any time hereafter be otherwise made good,

*H. Edwards.*

*Mr. Serj. Pengelly.* We desire he may be ask'd in what manner he paid it, whether it was out of his own money or stopt out of any other money paid into Court?

*Mr. Conway.* Soon after, (my Lords) I was admitted a master, *Mr. Dormer's* Deficiency broke out; and the Contribution of the masters being then spoken of, I was among the rest applied to, to contribute: I was sworn in in *January* 1720, and this Receipt is in *August* 1721, when *Mr. Edwards* came to me to bring me some junior masters money, which he was to deliver to me, out of which he stopt this 500 *l.* upon account of the Contribution which I had promis'd to come into.

*Mr. Serj. Pengelly.* We beg leave that *Mr. Conway* may be ask'd, whether the 500 *l.* was allowed or deducted at that time out of the Suitors money?

*Mr. Conway.* Yes, my Lords, it was stopt by him at that time.

*Mr. Serj. Pengelly.* What Persuasions were made use of to induce the masters to contribute to pay this money?

*Mr. Conway.* When the Affair of *Mr. Dormer* came out, what I can remember is, That letter that came from him from *Holland* was sent to *Mr. Hel-*

ford to be read before the Masters in the publick Office, and there the Masters spoke of it what they thought proper.

Mr. Serj. Pengelly. What Intimation was there from him, or from any other Person, of any Direction from my Lord *Macclesfield* relating to the Payment of this 500 l. Contribution?

Mr. Conway. I think my lord *Macclesfield's* Secretary was there at the time Mr. *Dormer's* letter was read. I think he had spoken what he had principally to say before I came in, but I think he said the Consequence might be fatal to the Masters, if we did not take care of this Deficiency.

Mr. Serj. Probyn. We would not presume to interrupt the learned Managers; but I think the particular time when this was done, and the particular Sums that were paid by each Master should be stated. I remember Mr. *Edwards* was pleas'd to say the first 500 l. that was contributed was paid upon the Day he was sworn in, which I think was in *May* 1721. We desire therefore that he would please to express the Day, when every other Sum was paid in.

Mr. Sol. Gen. We only desire this Gentleman to speak to his own Payment.

Mr. Conway. The Receipt is dated *August* 11, 1721. Then Mr. *Edwards* stopt so much Money.

Mr. Serj. Pengelly. We desire he may be asked how he paid that Money, whether voluntarily, or freely, or upon what Ground?

Mr. Com. Serj. I beg Pardon, but I must beg leave that the Witnesses may declare at what time this Transaction was.

Mr. Conway. It was the Day the Receipt bears Date, the Transaction happen'd *Aug.* 11, 1721.

Mr. Sol. Gen. We desire he may be ask'd what induced him to pay in this Sum?

Mr. Conway. It was stopt as a Contribution towards making up Mr. *Dormer's* Deficiency.

Mr. Serj. Probyn. My lords, we desire that this Witnesses may be ask'd, whether there was any preceding Promise or Agreement to pay this money?

Mr. Conway. My Receipt mentions a Promise.

Mr. Serj. Probyn. Then I desire to know how long before this Promise was made?

Mr. Conway. Soon after the Deficiency was spoken of in Mr. *Dormer's* Office, in *February* 1720. about three Weeks after I was admitted.

Mr. *Edwards* called.

Mr. Serj. Pengelly. My Lords, we only call Mr. *Edwards* to ascertain the time when he received the Money of Mr. Conway for his Contribution.

Mr. *Edwards*. My Lords, according as I have taken it out of my Book, it was the 11th of *August* 1721.

Mr. Serj. Pengelly. Now, my Lords, we shall shew the manner how this Payment was made.

Then Mr. *Lightboun* was called and appeared.

Mr. *Plummer*. I desire Mr. *Lightboun* may be ask'd if he was ever press'd to pay 500 l. by whom, and for what?

Mr. *Lightboun*. Not long after Mr. *Dormer's* Failure, Mr. *Cottingham*—

Mr. Com. Serj. My Lords, I hope Mr. *Lightboun* shall mention the time as he goes along.

Mr. *Lightboun*. Not long after the Failure of Mr. *Dormer*, I met Mr. *Cottingham* by accident at

my Lord Chancellor's Room at *Westminster*, and he ask'd me, whether there had been mentioned to me a Proposal of paying or advancing 500 l. a piece towards making up the Deficiency of Mr. *Dormer's* Office, for carrying on the Business there? I said I had heard it; he said it was proposed that it should be immediately raised, that the Business of the Office might be carried on, till Mr. *Dormer's* Effects could be disposed of and sold; and some Intimation was given, that possibly we might have our money again as *Dormer's* Effects came in. I have heard such a Thing talk'd of, says I, but I will never come into it; I thought it attended with dangerous Circumstances, and a dangerous Precedent, and therefore I was resolv'd I would not contribute.

Mr. *Plummer*. Can you recollect what passed afterwards?

Mr. *Lightboun*. He said all the rest would. I said I would not, and I continued the same Resolution when I talked with the masters about it.

Mr. *Plummer*. I desire he may be asked if my Lord *Macclesfield* ever press'd him to pay this money, and when?

Mr. *Lightboun*. It was often mention'd to me by the masters, why I did not contribute as the others did, and I was made not a little uneasy for not having done it. I think in the beginning of the Summer 1722, as near as I can remember the time, my Lord Chancellor coming out of Court at his own House, (where I had the Honour to have been sitting with him) said, Mr. *Lightboun*, I would speak with you. I followed his Lordship into his House up into his Study, where my lord was pleas'd to say, Mr. *Lightboun*, I am very sorry to hear that you have not contributed your 500 l. towards making up Mr. *Dormer's* Deficiency; for, says he, it must be considered, that it will be attended with ill Consequences, if that matter is not taken care of. I asked him, was it your Lordship's Proposal? He said it came from the two senior masters, but he approved of it. I answered, that if it had come from his lordship, it might have had a different Consideration, but as it was theirs, and to serve their own Purposes, I hop'd his lordship would not insist upon my coming into it. The two senior masters had been long in their Offices, were grown in Years, and were willing to get out, and fell at high Prices; one of them had slipt out, and the other was about it; that I was but lately come into the Office, and intended to continue in it, and said, I will not concern my self in this Affair, unless the Office can be put upon such a Foot that the Suitors may be made safe and easy.

Mr. Serj. Pengelly. My lords, I desire he may be ask'd, whether at this time my lord *Macclesfield* made use of any Reasons, Arguments or Promises towards prevailing upon him to pay this money?

Mr. *Lightboun*. I can't say my lord press'd me; he left me to my own Inclination, but advis'd me to pay it, and not to stand out; to do as the rest did, and not to stand alone in it.

Mr. Serj. Pengelly. Whether did he mention of what Consequence or Advantage it would be to the Masters?

Mr. *Lightboun*. His lordship said, if there were not some measures taken it might be of ill Consequence, and that this was the only Expedient he thought

thought of. I told his Lordship, I thought there were many others, but this was one I would not come into; but that it was not for me to presume to dictate to his Lordship, I thought it did not become me.

*Mr. Serj. Pengelly.* My Lords, I desire he may be ask'd, if after these Discouragements my lord *Macclesfield* did not again demand money of him, and when?

*Mr. Lightboun.* My Lords, in the Year 1724, about the latter end of *July*, I met *Mr. Cottingham* by accident at the Tavern. He came in and desired me to go into a Room, for he had something to say to me. He told me, that my Lord *Macclesfield* had sent him to tell me, that he wonder'd that I had not paid my 500*l.*; that there was 1000*l.* to be paid to *Mrs. Chitty*, or to *Mr. Lockman*, that must be immediately paid; that my lord had been apply'd to, and much press'd, and it must be forthwith paid, and he expected that I would advance the 500*l.* and the rest of the masters 50*l.* apiece, which would make up the Sum. I said to *Mr. Cottingham*, I cannot think my lord *Macclesfield* would send you on such an Errand to me; I told my Lord formerly I would not pay it, I was with his Lordship this morning and he said nothing of it, and shall have the Honour of waiting upon him in a Day or two, and if he then think fit to talk to me about it, I shall give him a proper Answer; but I don't care to send my Message to him by you, because messages are liable to be mistaken and misrepresented, and I will give my Answer myself. Upon that *Mr. Cottingham* began to be angry at my distrusting him and thinking that he came of his own Accord, and averr'd to me that he came with my lord Chancellor's Privy. I repeated the same Answer again to him, that I would give my own Answer to his Lordship, and would return none by him. In a Day or two after there was an Intimation given that my lord Chancellor expected all the masters to attend him at six a Clock in the Evening: we imagined that it was a call upon the other masters for more money, and for my five hundred Pounds. They had all declared to me they would never contribute any thing more, and therefore I desired them that in case that were the Business, they would freely declare their Thoughts before my Lord himself. I believe it was the senior master I press'd to do it, saying to him, it best becomes you to give the Answer; says he, if the Question be put, I shall propose that we may have time to consider of it. I desired he would not do that, it would encourage my lord, and he might think that if he importuned it farther we would comply, and for my part I am determin'd not to do it; so we went on to my lord, and were carried up Stairs, when we came there, my lord said, there hath been an Application made to me on the behalf of *Mr. Chitty* or *Mr. Lockman*, I think he was the Person expressly named, and that he had been much press'd by Persons of Distinction; and then he turned to me, and said, *Mr. Lightboun*, I am extremely surprized you have not paid the 500*l.* as the rest have done. After he had us'd a good many Persuasions and Arguments, I told his Lordship it was with great Concern that I refus'd to do any thing

that his Lordship could desire of me; but this was a Thing of such a dangerous Consequence, that I would not contribute one Farthing, and that I had given his Lordship my Reasons before; if he would hear them again, I would repeat them again; but this one was of most Weight with me, that it might be a Precedent, and look'd upon as an Undertaking for one another, if ever there should be a national Inquiry into these matters; and that I would be answerable only for my own Debts: That as I had not contributed towards the misfortunes of others, I would not contribute towards Payment of their Debts; that I did not know but the paying Contributions to make good the Demands on other Offices might make Deficiencies in our own; I had always refus'd it, and never repented it, and I had the pleasure of hearing every master repent the doing it. I called upon the rest of the masters to deal ingeniously with my lord, to tell him what they had said when they had talk'd over the matter among themselves, that they would not contribute any more; upon that *Mr. Helford* got up and said, he would never do it. Then my lord said, he either would pay it himself, or take care it should be paid.

*Mr. Plummer.* I desire he may be ask'd, if my lord *Macclesfield* used any insinuations with respect to the Parliament?

*Mr. Lightboun.* I forgot that my lord *Macclesfield* was pleas'd to say, that the Consequences of not contributing to raise a Sum of money to pay the Debt of *Mr. Deane*, might be that the money and Securities would be taken out of our Hands. I told him I was ready to deliver both the money and Securities the next Day, if his Lordship made the proper Orders, and I was properly indemnified. I think his Lordship said further, this may produce a Parliamentary Enquiry, and should it be resolv'd that purchasing a matter's Place is contrary to the Statute of the fifth and sixth of *Edward VI.* you might lose your Places; to that I replied, I would quit my Office rather than hold it upon those Terms of paying other masters Debts. He went on further about a Parliamentary inquiry; I said, let the Consequence be what it will, I would not pay it. Then I called upon the other masters, who said they would not pay it.

*Mr. Serj. Prelyn.* My lords, As to the paying of the 1000*l.* to *Mrs. Chitty* or *Mr. Lockman*, I desire *Mr. Lightboun* may be ask'd whether the late lord Chancellor was pleas'd to say that he had or would take care to pay the 1000*l.* himself, or what the particular Expression was that he then made use of, that he had taken care or would take care?

*Mr. Lightboun.* I can't remember at this distance of time, whether he said he had, or would take care to pay it. There is so little Difference, that I cannot say which. I do not pretend to say those were the very Expressions my Lord us'd to me, or I to him. I speak as to the Tenor or Purport of our Conversation, I would neither aggravate nor soften matters.

Mr. Serj. Pengelly. The next Witness we call is Mr. Holford, who was present at this Conversation.

Mr. Holford sworn.

Mr. Serj. Pengelly. We desire Mr. Holford may be asked, whether he was present at this time, as is mentioned, when the Masters were required by the Earl of Macclesfield to raise this 1000 l. for Mrs. Chitty or Mr. Lockman.

Mr. Holford. My Lords, I was present at that Meeting. It was desired, as I apprehended, by my Lord Macclesfield, for us to attend him at Six o'Clock. When we came up there, I think, the first thing that my Lord Macclesfield said was, he asked Mr. Lightboun why he would not pay his 500 l. as others had done. Mr. Lightboun did give this Answer: That he had told him several times before, that he would not do it; he had given his Reasons, and it was in vain to repeat those Reasons again, he was of the same Mind still. My Lord then spoke of a Demand there was of 1000 l. on Mr. Dormer's Office for one Mrs. Chitty, and Mr. Lockman, and I apprehended, my Lord mentioned it as if he intended that the Masters should contribute towards making it up; but he after said he would take Care of it. After that my Lord did not mention the 1000 l. but, in general, spoke of the Deficiency in Mr. Dormer's Office, and it ought to be made up; and he proposed, as I did apprehend, that the Masters should make it up. Mr. Lightboun did call upon me to declare; upon that I told my Lord, it was very unadvisable to contribute towards a Deficiency which no Body knew what it was; and the doing so would only be ruining one's self, for fear of being undone; and, for my Part, I was unwilling to do it; any Body else might do as they thought fit.

Mr. Plummer. In what Manner did my Lord address himself to Mr. Lightboun, did he do it in gentle Terms, or how?

Mr. Holford. He spoke pretty sharply to him.

Mr. Serj. Pengelly. What was said by the Earl of Macclesfield, to persuade the Masters to come into this Contribution?

Mr. Holford. My Lord said it was a grievous thing, there had not been that due Care taken there ought to have been; that those who came first had all their Money, and those that came after would have none; which would make a great Clamour upon the Masters.

Mr. Serj. Pengelly. What was said upon that?

Mr. Holford. I don't remember what in particular.

Mr. Serj. Pengelly. What was said, as to a Parliamentary Enquiry?

Mr. Holford. I remember my Lord did say, it might perhaps occasion a Parliamentary Enquiry. Suppose, said he, the Parliament should resolve, that the Office of a Master in Chancery is a Place relating to the Execution of Justice, and resolve that every Body that hath purchased those Offices is within the Statute of the 5th and 6th of Edward VI. It may affect me in some Degree, in the loss of the Disposition of the Offices; but it will affect you in the loss of the places themselves.

Mr. Serj. Pengelly. Whether any Person then asked my Lord, in what Manner it might come before the Parliament?

Mr. Holford. I asked my Lord myself, and said

it would be a Favour if he would give us his Opinion, in what Manner it might come before the Parliament, and in what way. He said, it might come in by the Committee for Courts of Justice, appointed by the House of Commons at the Beginning of every Session. But when I came out of the Room, I said, it was more likely to come by Way of Complaint than that Way.

Mr. Serj. Pengelly. I desire he may be asked, whether, at this time, the Masters agreed to come to a Contribution to pay this 1000 l. and what was said about it.

Mr. Holford. It was disagreed to; and when it was so, my Lord did say, that he himself would pay the 1000 l.

Mr. Serj. Pengelly. We leave that as a Circumstance of my Lord's endeavouring to prevent a Parliamentary Enquiry.

Mr. Serj. Probyn. My Lords, we desire Mr. Holford may be asked, whether he can be positive as to the time of this Meeting?

Mr. Holford. I believe it was in July, or August, 1724.

Mr. Serj. Probyn. You can't be positive?

Mr. Holford. No, I can't be positive.

Mr. Serj. Probyn. Whether was there, at that time, any Proposal made to raise Money, by any annual Sum or Payment out of the Offices, towards paying the Deficiencies by Degrees?

Mr. Holford. I do not remember any such thing.

Mr. Serj. Probyn. Was such Proposal made at any other Time.

Mr. Holford. I don't remember that it was ever proposed by my Lord. I have heard talk among the Masters of a great many Schemes and Proposals; but they never did agree in any one thing.

Mr. Serj. Probyn. I desire he may refresh his memory, and that he may inform your Lordships if there was not a Proposal made, that if they might be maintained in their Offices, as they then were, they would not then consent that a Contribution should be raised among the Masters.

Mr. Holford. No, I don't remember that; I believe it was mention'd, that supposing the Masters might be continued on the Foot they were, whether they would not think it worth their while to do it. I said it was a Matter fit to be considered, and I did not know but it might; but there was no Method proposed but what seemed difficult; and I don't remember that any thing was agreed to.

Mr. Strange. I desire he may be asked, whether, after they had contributed the 500 l. a piece, their accompts were called for by my Lord Macclesfield, in the Manner they were called for before?

Mr. Holford. I don't know but they might. The Manner of calling for those Accompts was thus: There was a Writing left in the publick Office, in which there were a great many Items in what Method those accompts should be brought in. I had prepared mine, and waited till they should be called for; but they were not called for, nor demanded; so I laid mine by.

Mr. Com. Serj. I desire he may be asked, whether this Discourse, in relation to the raising of Money, was to pay off the whole Deficiency, or confined to pay off this Demand of 1000 l.

Mr. Holford. I don't remember any Proposal, but only a Discourse that was started. I did not apprehend the whole Deficiency was intended to be

be paid; for I never knew any Body that could tell what the whole Deficiency was, till of late.

Mr. Com. Serj. I desire to know, whether he speaks this from his Memory?

Mr. Holford. I can speak from nothing but my Memory.

Mr. Com. Serj. I desire that he will inform your Lordships, whether he doth not remember, that in *November* last there was a Signification to the Masters, and to him in particular, to bring in their Accompts?

Mr. Holford. Yes, my Lords.

Mr. Com. Serj. If there was such an Intimation in *November* last, to deliver in their Accompts, how comes it that you say you have them by you still?

Mr. Holford. This is a Mistake; you misapprehend me. The Accompt, that I mentioned before, was what was immediately called for, after the Failure of Mr. *Dormer*; but the Accompt in *November* last was what was called for by the Judges, and delivered into the Council.

E. of *Macclesfield*. My Lords, I desire to know, whether Mr. *Holford* can remember what the particular Directions, as to those Accompts, were, and whether the Accompts he prepared were drawn up according to those Directions?

Mr. Holford. Those Directions were many; in drawing up my Accompt, I did not draw it up exactly according to those Directions; but I drew them up to shew the Ballance of Cash and Securities in my Hands.

E. of *Macclesfield*. I would desire to know, whether they were not the like Directions as in *November* last, and whether the Masters did not think it impracticable to draw it up accordingly?

Mr. Holford. Yes, my Lords, they did; they thought it difficult; I thought it was not practicable without a great deal of Trouble.

Sir *George Oxenden*. I desire to know, whether it was required by my Lord Chancellor to look into *Dormer's* Deficiency, to see what the true State of it was at that Time?

Mr. Holford. All I heard of it was: I heard that my Lord had ordered Mr. *Edwards* to deliver in an accompt of Mr. *Dormer's* Office to me and Mr. *Bennet*: He did deliver one; but it was an Accompt done in Haste, and did not shew what the Deficiency was. For some of the Payments said to be made, no proper Vouchers were produced; there were mistakes, and it was not a proper accompt; and without examining it we could not depend on it.

Mr. Serj. *Pengelly*. He mentions, that at this meeting it was said, supposing the Masters might be continued on the same Foot they then stood, &c. I desire Mr. *Holford* may explain what he meant by the Foot they then stood on; what liberties and privileges were meant by that Expression?

Mr. *Holford*. I understood it was their continuing in the Possession of the money.

Mr. Serj. *Pengelly*. Whether that was to lock the money up in a Cabinet, or to have Power of the money to make use of it?

Mr. *Holford*. For my own Part, I should not have lock'd it up.

Mr. *Lutwyche*. I would beg leave to ask him, as he hath mentioned the calling for the accompts, whether he delivered any accompt to the Earl of

*Macclesfield*, till the Order made by the Council?

Mr. *Holford*. My lords, I did deliver an accompt to my lord *Macclesfield*, or to Mr *Cottingham*, of my money, but not of the Securities.

Mr. Serj. *Pengelly*. We desire Mr. *Edwards* may be called again.

[Accordingly Mr. *Edwards* was called and appeared.]

Mr. Serj. *Pengelly*. My lords, we beg leave that Mr. *Edwards* may give your lordships an account (because he was immediately concerned in a Demand made upon this Office) what application was made to him for this Mrs. *Clitty's* money; and what application he made to the Earl of *Macclesfield* on that Occasion.

Mr. *Edwards*. My lords, there was an Order brought to me, that was made by my lord *Macclesfield*, for the Payment of 1000 *l.* to Mrs *Clitty*. I told the Party, I had not money in my Hands of Mr. *Dormer's*, sufficient to answer the Demand upon the Office. I then went to my lord *Macclesfield*. I told him (I had been forced to trouble him pretty often upon that Occasion) that it gave me a great deal of Uneasiness, that there was no Fund in my Hands to answer those Demands that were upon my Office. I hoped his lordship would take Care that there should be a Supply, or that he would not be pleased to make orders upon me for payment of money.

Mr. Serj. *Pengelly*. Give an account of the whole that passed, the whole Conversation.

Mr. *Edwards*. My lord *Macclesfield*, in answer to that said (at least, it was what I understood by his answer) that, if the People would but have a little Patience, he was doing every thing necessary, and making proper Regulations for that Purpose.

Mr. Serj. *Pengelly*. I desire he may be asked, whether my Lord *Macclesfield*, at that time, directed him to proceed to make any further Payments, or encouraged him to go on to make Payments?

Mr. Serj. *Probyn*. My Lords, we apprehend that is too leading a Question.

Mr. Serj. *Pengelly*. What Directions he had, in general.

Mr. *Edwards*. My Lords, I had no other Directions that I remember.

Mr. Serj. *Pengelly*. I desire he may acquaint your Lordships, whether he said any thing relating to the State and Condition of the Suitors of the Court?

Mr. *Edwards*. Several times that I had the Honour to wait on my Lord *Macclesfield*, I told him there was like to be a great Deficiency in Mr. *Dormer's* Effects: All that had been raised out of *Dormer's* Effects was exhausted and gone, and there were a great many Demands; and I hoped Provision would be made to answer them: It was not for me to do it else; and I hoped it was not expected that I should.

Mr. Serj. *Pengelly*. Was any thing represented at that time, concerning paying some of the Suitors of the Court, and not others?

Mr. *Edwards*. About that time, or rather since, as I remember, I told my Lord *Macclesfield* that I saw the matters were determined not to make any further Contributions; and if that were to be the Case, and there was to be no further Supply of money, it would be very hard for some to have all

all their money, and others none at all. My Lord Chancellor said, I do not know what to say to it; I think it is very hard it should be so; I will take all the Care I can, and hope to make every Body easy.

Mr. *Lutwyche*. My Lords, I desire he may be asked, whether he had not paid all the Money, or near all, when this Discourse happened?

Mr. *Edwards*. Yes, My Lords.

Mr. *Lutwyche*. I desire he may be asked, whether he was present at the meeting of the masters, when this 1000*l.* was insisted upon, and on what Occasion it was?

Mr. *Edwards*. It was upon a Summons that all the masters should attend his Lordship; I am not sure, as to the Day; I think it was the latter End of *July*: We waited upon his Lordship about six of the Clock in the Evening, and my Lord mentioned it to Mr. *Lightboun*, that he was surprized that he had not contributed his 500*l.* he wonder'd that he should be so backward in doing what others thought right to do, and that there was Occasion at that Time for the Payment of 1000*l.* he mentioned, either to Mrs. *Chitty* or Mr. *Lockman*. Mr. *Lightboun* told him, that he did not expect to be asked again upon this Subject, he had so often told his Lordship he would not contribute; other People might do what they pleased, but, as for his Part, he was determined not to do it.

Mr. *Lutwyche*. We desire to know what passed, and what was said by the Earl, at that meeting?

Mr. *Edwards*. When this was refused by Mr. *Lightboun*, there was a Discourse in the Company, that if the rest of the masters would advance 50*l.* a piece, and Mr. *Lightboun* his 500*l.* it would make up the Sum. The masters, most of them, spoke their mind, and shewed an Unwillingness to contribute any more. My Lord *Macclesfield* was pleased to say, this is a Thing of Consequence, a matter that ought to be considered; here is a very pressing Occasion for a Sum of money to be immediately paid; if not paid, I don't know what the Consequence may be; Clamours begin to grow pretty strong, I don't know but it may occasion a parliamentary Enquiry; or to that Effect.

Mr. *Lutwyche*. I desire he may be ask'd, whether there was any further Discourse what the Parliament might do?

Mr. *Edwards*. My Lord *Macclesfield* was pleased to say further, I don't know, if this matter comes into the Consideration of Parliament, how far it may affect your Offices, the Sale of them is against an Act of Parliament: Suppose it should be resolved by the House, that these Places, being bought contrary to the Act of Parliament, are forfeited, I can't say how far it may affect me in some measure, but it will affect you much more.

Mr. *Serj. Pengelly*. These are the very Words of the Article, and we may rely upon the Opinion of the Earl himself, when he was in the Possession of that great Office?

E. of *Macclesfield*. My Lords, I desire Mr. *Edwards* may be asked, whether the Subject Matter of this Discourse was the Payment of this 1000*l.* or making good the Whole of *Dormer's* Deficiency?

Mr. *Edwards*. I understood the only Subject to be this 1000*l.*

E. of *Macclesfield*. You understood it so?

Mr. *Edwards*. And the Reason why I understood it so was, because if Mr. *Lightboun* would have been pleased to have paid his 500*l.* and the other masters 50*l.* a piece, it would have made up the Sum.

E. of *Macclesfield*. Was the Proposal of paying 50*l.* a piece, after Mr. *Lightboun* had refused the Payment of 500*l.*

Mr. *Edwards*. I believe it was.

E. of *Macclesfield*. What Occasion was there for the Proposal to pay 50*l.* a piece, when the Payment of 500*l.* was absolutely refused?

Mr. *Edwards*. I believe it was understood by several, that, if the other masters would have contributed 50*l.* a piece, it would have been an Inducement for Mr. *Lightboun* to have come in and paid his 500*l.*

E. of *Macclesfield*. Somebody must propose this that had that Apprehension?

Mr. *Edwards*. I can't say who proposed it, nor whether it was proposed by my Lord *Macclesfield*; but 50*l.* a piece was mentioned.

E. of *Macclesfield*. My Lords, I desire to know of Mr. *Edwards*, whether the masters did not at any Time agree to make good *Dormer's* Deficiency?

Mr. *Edwards*. My Lords, I think I remember a meeting of the masters at his Lordship's House, not long before this, where they seemed inclinable to agree, that if they were continued in the Rights of their Office in all Respects, and on the same Foot as they had enjoyed them, that then they would have endeavoured to have made this Deficiency good.

E. of *Macclesfield*. I desire to know if he hath not said, that on his coming into the Office, the masters told him, they would make good the Deficiency?

Mr. *Edwards*. I can't say the masters ever told me, they would make good the Deficiency; I can't say I ever heard them say, that they would make it up.

E. of *Macclesfield*. I desire you would recollect yourself, whether, when you was with me, and I desired you to give an Account of this matter, you did not say, that the masters did promise to make it good, or else you would not have come into the Office?

Mr. *Edwards*. I don't remember I told your Lordship so; I believe it was designed by the masters to have it made up, if not the Whole, the greatest Part of the masters, were inclinable to make up the Deficiency.

E. of *Macclesfield*. I desire an Answer to the Question, whether he did not say, that the masters did promise him to make good the Deficiency?

Mr. *Edwards*. I don't remember that I said so directly; I told your Lordship, that unless I had had Assurances, that the Deficiency of the Office would have been made up, I never would have meddled with it. These Assurances I had from Mr. *Cottingham* and Mr. *Godfrey*.

E. of *Macclesfield*. I think you say, the masters did seem to agree, that if they were kept in Possession of the Rights of their Offices, they would contribute. Had you two meetings with me in *July*, or *August*?

Mr.

Mr. *Edwards*. I think there were two in the same month of *July*: Within a Month the two meetings were.

E. of *Macclesfield*. Whether the masters have not made several Complaints to me, of the Invasion of their Right in their Offices, and desired me to make an Order to redress them?

Mr. *Edwards*. Not only Complaints of that Sort were made, but I believe those Complaints were reduced into Writing, and laid before your Lordship; there were frequent Complaints by Concurrence of all the masters.

E. of *Macclesfield*. How long before that Time were Complaints made to me, of the masters being injured in the Profits of their Office?

Mr. *Edwards*. I believe near a Twelvemonth.

E. of *Macclesfield*. Was it not more?

Mr. *Edwards*. It was a full Year.

*Earl of Macclesfield shows Mr. Edwards a Paper.*

Mr. *Edwards*. This is what I mentioned, a Representation in Writing laid before your Lordship.

E. of *Macclesfield*. Pray look upon that.

[*Shows another Paper, which Mr. Edwards looks upon.*]

E. of *Macclesfield*. Are those two Papers signed by you, and the other masters whose Names are at the End of them?

Mr. *Edwards*. Yes.

E. of *Macclesfield*. I desire to know in the next Place, whether I was not much pressed by the masters to have made some Alterations in the Proceedings of the Court? And what Answer did I give?

Mr. *Edwards*. Upon this Representation there were a great many Applications made to my Lord *Macclesfield*. I went several Times myself. Sometimes two or three would make Application to him, that he would be pleased, if he thought the matters represented to be Grievances, that he would redress them. My Lord did say, that he thought, that the matter of our Complaint was just, and that those matters were proper to be rectified, and he would take all proper measures to do it.

E. of *Macclesfield*. And why were not all these Things set right?

Mr. *Edwards*. I remember one Circumstance that I believe will be an Answer to the noble Lord's Question. Those matters were not laid together all at once before my Lord Chancellor, but some at one Time, and others at another Time; and my Lord *Macclesfield* did say, I would have you draw up a State of all these Grievances you complain of, and then I shall see them better under one View, and take them together.

E. of *Macclesfield*. Was there any Order made in Favour of the masters, and to redress these Grievances?

Mr. *Edwards*. I remember we were a little impatient that there was no Order made; we often solicited on several Accounts before they were made.

E. of *Macclesfield*. For what particular Reasons were you so impatient?

Mr. *Edwards*. It is impossible to recollect the particular Reasons; they were, in many Instances, relating to the Proceedings at the Rolls, and the Innovations there to the Prejudice of the masters Offices.

Mr. *Plummer*. My Lord *Macclesfield* hath ask'd several Questions, and I would make an Observation upon this Evidence, That these Gentlemen applied to Lord *Macclesfield* to redress Grievances, but he would not promise them a Redress till they paid this Debt.

Sir *George Oxenden*. I desire to know what he means by the Profits of the Office?

Mr. *Edwards*. The principal Thing that I mean is the keeping of the money; but there were several other Things in which we thought our Offices lessened, by taking away the customary Fees which usually belonged to the masters.

Sir *George Oxenden*. If the Profits of the Office was the keeping of the money, I suppose they made use of it?

Mr. *Edwards*. Yes, my Lords, I believe it was not understood by any Body, that the money was designed to be lock'd up. By the Profits of the money is meant the putting out the money at Interest for ourselves. But that is not all, the placing the same out at Interest for the Suitors occasions several Perquisites, as Reports and other Things, which would be lost by taking away the money.

Mr. *John Bennet* called again.

Mr. *Sol. Gen.* My Lords, we desire Mr. *John Bennet* may be ask'd, whether he was present at the meeting at the Lord Chancellor's, when Proposals were made for the raising this 1000*l.*

Mr. *Bennet*. My Lords, I was there, and my Lord *Macclesfield* was earnest in persuading Mr. *Lightboun* to pay his 500*l.* Mr. *Lightboun* said he had much rather bring in all the money and Securities he had in his Hands, and deliver them up, than pay this 500*l.* Upon which my Lord *Macclesfield* said, delivering up the money and Securities too might be the Consequence, but that was not the worst; there might be Votes of the House of Commons, that the Office of a Master in Chancery did concern the Execution of Justice, and that the masters in Chancery, by purchasing their Offices, had incurred the Penalty of the Statute of *Edward* the VIth, and thereby forfeited their Places, and that a new Set of masters might be put in; it might redound to some Loss to his Lordship in disposing of those Offices, but it would redound much more to their Loss, the Loss of their Places.

Mr. *Lutwyche*. When the masters refused to contribute to this of *Chitty*, what said my Lord?

Mr. *Bennet*. My Lord said, he would take Care of it himself, or that he would pay it himself, I can't say which.

Mr. *Lutwyche*. Whether any thing was said concerning the Consequence of not paying this 1000*l.* and whether any mention was made of *Dormer's* Deficiency?

Mr. *Bennet*. There was mention made of Mr. *Dormer's* Deficiency, and one master mentioned, that it was a bottomless Pit; and as my Lord had desired me and Mr. *Holford* to take some Account of it, we both declared, we had not received such a satisfactory Account from Mr. *Edwards*, as could be depended upon, and that the Deficiency appeared to us to be very uncertain.

Mr.

Mr. *Lutwyche*. I desire he may be asked, whether any mention was made of any Fear of the Discovery of that Deficiency?

Mr. *Bennet*. I can't say by whom it was said, but it was said in Discourse, If this 1000 *l.* was not now paid, the Deficiency of Mr. *Dormer's* Office would be discovered.

Mr. *Lutwyche*. Pray recollect who was that said by?

Mr. *Bennet*. I can't take upon me to say whom it was said by, but it was said in the Conversation that passed at that time.

Mr. *Lutwyche*. And who were then present?

Mr. *Bennet*. I believe, all the masters.

Mr. *Lutwyche*. And who besides?

Mr. *Bennet*. My Lord *Macclesfield*.

Mr. *Lutwyche*. Were not all the masters against making up the Deficiency?

Mr. *Bennet*. Yes, all of them.

E. of *Macclesfield*. Was *Dormer's* Deficiency then known?

Mr. *Bennet*. It was known abroad, but it was not known how much.

E. of *Macclesfield*. Were there two meetings between me and the masters in *July*, or the Beginning of *August*?

Mr. *Bennet*. I believe within a month there were two meetings.

E. of *Macclesfield*. What was the subject matter of the other meeting?

Mr. *Bennet*. The first meeting was to put us all in mind of our Duty, and to admonish us to avoid any Complaint?

E. of *Macclesfield*. That was the first meeting. Was there any thing said about *Dormer's* Deficiency?

Mr. *Bennet*. I don't remember there was.

E. of *Macclesfield*. What Admonition was it that was given to the masters, and what was said to them, if they did fail in their Duty?

Mr. *Bennet*. The Admonition was generally to take Care to perform our Duty, not to give any Cause of Complaint, and, in particular, not to go out of town, till a Week after the last Seal.

E. of *Macclesfield*. Do you not remember, that I said in my admonition, that if any master failed in his Duty, I owed it to the rest to punish him, and to make him an Example?

Mr. *Bennet*. I believe you did say so.

Mr. *Lutwyche*. At the time when this Admonition was given, was any thing then said about your Accompts?

Mr. *Bennet*. No, I don't remember that any thing was then said on that Subject.

E. of *Macclesfield*. In Point of Regularity, when these Gentlemen speak of this 1000 *l.* they should produce the Order?

Mr. *Serj. Pengelly*. It is here, and it is admitted in the Answer.

[The Order produced, proved by Mr. Ralph Paxton, who swore it to be a true Copy of the Order taken from the Report-Office.

Mr. *Paxton* begins to read.

*Martis decimo septimo Die Martii Anno Regni Georgii Regis decimo, inter Prideaux Sutton Cler. & Annam Uxorem ejus, Mercy Shelden Spinster & Egidium Laurence Executor. Winifred Sheldon Spinster Defunct. Quer. Elisam Chitty, Johannem Russel & alios Defendentes.*

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Whereas the Defendant, *Elizabeth Chitty*, —

E. of *Macclesfield*. It is not necessary to trouble my Lords in hearing the whole Order, only the ordering Part?

Mr. *Paxton* reads again,

*His Lordship doth order, that the said master do, out of the said money in his Hands, pay unto the Defendant Eliz. Chitty the Sum of one thousand pounds, and to the Plaintiff's the Sum of five hundred pounds, subject to the further Order of this Court.*

Mr. *Lovibond* sworn.

Mr. *Lutwyche*. My Lords, we desire that Mr. *Lovibond* may be asked, whether he was at the meeting, when the masters attended my Lord *Macclesfield* about *July* last, and what passed at that meeting?

Mr. *Lovibond*. I was at that meeting with several of the other masters, I think most of them: As to what passed then, according to the best of my Recollection, the first thing was, my Lord *Macclesfield* turned to Mr. *Lightboun* and asked him, why he had not paid the 500 *l.* as well as the rest of the masters; to which he replied, he never would, and gave my Lord some Reasons why he would not. Then my Lord *Macclesfield* was pleased to say, there was a matter that required Expedition, a further Demand was made of a Sum of money, by one Mr. *Lochman*, who belonged to the Prince's Court, and it did behoove us to find out some Way to make him easy. He proposed that the masters should raise that money among them. The masters in general said, that they could not do it.

Mr. *Lutwyche*. What Arguments were made use of by my Lord *Macclesfield*, to persuade them to it?

Mr. *Lovibond*. I remember that Mr. *Lightboun* said, rather than pay it, he would deliver up all the money and effects in his Hands, and my Lord *Macclesfield* did reply; Perhaps that is not the worst of the matter, it may be worse than that; suppose there should be a Parliamentary Enquiry, and the Parliament should come to a Resolution, that you have forfeited your Offices, by having bought them against the Statute of *Edward* the VIth.

Mr. *Lutwyche*. I desire he may be asked, whether any Encouragement was given, in case they would pay this money?

Mr. *Lovibond*. I don't remember there was any thing spoke by way of Encouragement to the masters, for Payment of that Sum of money.

Mr. *Lutwyche*. I desire to know what was the Result of this matter, as to this Sum of Money being to be paid, and who it was that said it should be paid?

Mr. *Lovibond*. Upon the Refusal of the masters, my Lord *Macclesfield* said, Well, I will take Care of that Part myself.

Mr. *Lutwyche*. I desire he may be asked, whether any thing was then said in relation to the Deficiency of *Dormer's* Office?

Mr. *Lovibond*. Yes there was some Discourse about that matter, and my Lord *Macclesfield* did express himself as though it would be an unlucky Thing, and it must be made up one Way or other. and he desired the masters to think of a Way to make it up. My Lord *Macclesfield* said, if you can

have the Enjoyment of your Places, as you have had them these Forty Years, will you come into some Terms to make up that Debt? Some said they could not come into it; some said there might be a means of paying it by Annual Installments out of their several Offices, some seemed to agree to it; others said we may as well make good the Bankers Debts, as make good this Debt.

E. of *Macclesfield*. I desire he may be asked, whether he did not agree, that this Deficiency should be made good by Annual Payments?

Mr. *Lovibond*. No, I did not.

E. of *Macclesfield*. I desire to know, whether the rest of the masters did not?

Mr. *Lovibond*. I believe some of the masters did.

E. of *Macclesfield*. I desire to know, whether they did all agree?

Mr. *Lovibond*. I believe the major Part did. I did not.

E. of *Macclesfield*. Do you believe any besides yourself disagreed?

Mr. *Lovibond*. Indeed I can't tell. The greatest Part did agree. I can't say I heard any Body refuse.

E. of *Macclesfield*. Some, he says, did agree to it, the major Part, and none that he heard refused. I desire to know, if it was not endeavoured to find out a Way to make up whatever Deficiency there was; and whether this was the subject matter, the making good the 1000 *l.* or the whole of the Debt?

Mr. *Lovibond*. The making good the whole of the Debt, as I understood it.

E. of *Macclesfield*. I think he said, that I said then, I would take Care of the 1000 *l.* Whether was that after they had agreed that the Deficiency should be made good, or before?

Mr. *Lovibond*. No, I think it was before.

Mr. *Plummer*. I desire to know, if my Lord *Macclesfield* did say, he would take Care of it, when the masters refused to contribute?

Mr. *Lovibond*. To the best of my Remembrance, it was upon their Refusal, that he said so.

Mr. *Thomas Bennet* called again.

Mr. *Tho. Bennet*. My Lords, before the managers propose a question, I beg the Favour to mention a Thing that my memory slipped me in Yesterday. My Lord *Macclesfield* then asked me, what Estate I had purchased? I said 68 *l.* a Year in *Kent*, and 40 *l. per Annum* in *Suffolk*. I forgot a House I bought for 700 *l.* which is mortgaged for the same Sum. The Accompt lies upon the table, I forgot it then, and I did then refer to my Accompt that lies upon the table, that I might not be mistaken.

Mr. *Sol. Gen.* I desire he may be asked, whether he was present at this meeting at my Lord *Macclesfield's*.

Mr. *Tho. Bennet*. Yes, I was summoned to attend my Lord *Macclesfield* on this Occasion. I dined that day with my Brother and Mr. *Lovibond* and one more; and my Brother told me, that there was a proposal come from my Lord *Macclesfield* by Mr. *Cottingham*. He said it was, that the masters should advance 50 *l.* a piece, towards a Demand in the Court of *Chancery*; and in case we

would do it, my Lord *Macclesfield* would make Mr. *Lightboun* pay his 500 *l.* We, who were then present, seemed to agree, that if my Lord would make Mr. *Lightboun* pay his 500 *l.* we would pay our 50 *l.* a piece. In the Evening, when we attended my Lord *Macclesfield*, his first Application was to Mr. *Lightboun*, and as soon as we came, he said to him, Mr. *Lightboun*, I am surprized you have not paid your 500 *l.* as the rest have done, I wonder at it; and he used some hard Expressions, that I wonder he could stand it, I could hardly have done it; but Mr. *Lightboun* did stand it, and refused to pay it, and gave his Reasons for it, and said he had given them over and over again.

Mr. *Sol. Gen.* What Reasons were laid before you to pay it?

Mr. *Tho. Bennet*. The Reasons laid before us by my Lord *Macclesfield* were, that there was a Deficiency in *Dormer's* Office, which he was afraid would break out; for here was a Demand of a Sum of Money by one, for whom he had been spoken to, by a Person of very great Distinction. I did not know who it was then, but I afterwards understood it was Mr. *Lockman*, that was the Person that was to have the money; and he asked, if we did not think it for our Interest to make such a Person our Friend?

Mr. *Sol. Gen.* Was there any thing more said?

Mr. *Tho. Bennet*. My Lord *Macclesfield* said, that in case this money was not paid, and some method found to make up the Deficiency of Mr. *Dormer*, he believed it might occasion a Parliamentary Enquiry, which might hurt him very much, but, said he, I believe it will hurt you, Gentlemen, much more.

Mr. *Lutwyche*. Were there any of the masters that asked him any questions, how he apprehended it would come into Parliament?

Mr. *Tho. Bennet*. Yes, Mr. *Helford* asked him the question, Can your Lordship imagine, in what method this may come into Parliament? My Lord answered, Upon the meeting of every Parliament, Committees were chosen by the House of Commons, and among the rest there was a Committee of the Courts of Justice, and he thought it very likely, that That Committee might take this under Consideration.

Mr. *Sol. Gen.* What was said upon the masters refusal to raise the 1000 *l.*?

Mr. *Tho. Bennet*. After Mr. *Lightboun* refused to pay towards the 1000 *l.* my Lord then said he would make up that.

Mr. *Sol. Gen.* Was there any Talk of *Dormer's* Deficiency?

Mr. *Tho. Bennet*. There was some Discourse about making up Mr. *Dormer's* deficiency. Several of the masters were against it. No Scheme could be found that would make it up. I said upon that Occasion, that it was a bottomless pit, and Mr. *Edwards* had not given Satisfaction to any of the masters what the deficiency was.

Sir *George Oxendon*. Was there any mention made at this meeting of the Statute of *Edward VI.*

Mr. *Tho. Bennet*. My Lord Chancellor said, He did not know but our Offices might come within the Statute of *Edward VI.*: And, if that should be so resolved by Parliament, we must forfeit our Offices; and therefore had we not better do something than forfeit our Offices?

Mr. *Serj. Pengelly*. My Lords, we beg leave to call Mr. *Lockman*, to whom this 1000 *l.* was paid,

paid, and to shew your Lordships the Declaration that was made by the Earl of *Macclesfield* at that Time.

Mr. *Lutwyche*. We beg Leave first to read the Order in the Cause of *Harper and Cate*.

[The Order is proved.]

Mr. *Ralph Paxton* reads.

*Sabbati quinto Die Decembris, Anno Regni Georgii Regis undecimo, inter Jana' Harper vidua' Quer' Thoma' Case Clericu' & Sara' Maria' uxor' ejus, Henricu' Halscy, & alios Defendentes.*

UPON opening of the matter this present Day unto the Right Honourable the Lord High Chancellor of *Great Britain*, by Mr. *Solicitor General* and Mr. *Williams*, being of Counsel for the Plaintiff; and Mr. *Benjamin Jackman*, in the Presence of Mr. *Talbott*, of Counsel for the Defendants: The Cases. It was alledged, That it being, by the Order made on the hearing of this Cause (*inter alia*) ordered and decreed, that the Sum of 500 *l.* Pounds, part of the Marriage Portion of the Plaintiff, receiv'd by *Thomas Harper* Clerk, her late Husband, should be made good to her with Interest from his Death, at the Rate of 5 *l. per Cent. per Annum*, together with her Costs of this Suit, to be taxed by *Dormer*, then one of the Masters of this Court, out of the said *Thomas Harper's* Estate (for which, and other Purposes, in the said Order, so much as should be necessary of the said *Thomas Harper's* Estate was to be sold to the best Purchaser that could be got for the same, with the Approbation of the said Master:) And the said Master having, by his Report, (made pursuant to the said Order, and) dated the 12th of *December*, 1716, certified the Sum of 557 *l.* 16 *s.* 5 *d.* to be due to the Plaintiff for Principal and Interest, besides Costs. And the said Defendants having been served with a Writ of Execution of the said Decree, the said Master, by his Report dated the 9th of *November*, 1717. allowed the said *Jackman* the Purchase of three Houses at *Kensington* (Part of the Premises directed to be sold) at the Sum of 260 *l.* And the said Master's Report being afterwards absolutely confirmed, the said *Jackman* obtained an Order of the 19th of *December*, 1717. whereby it was ordered, That the Writings belonging to the said Estate, purchased by the said *Jackman*, should be deliver'd to his Counsel, and that the Tenants of the said Estate should attorn to him, on bringing his Purchase money before the said master. And the said *Jackman* did accordingly, on the 24th of the same *December*, bring his said Purchase money before the said master, as by his Certificate of that Date, now read, appears, and the Tenants attorned to the said *Jackman*: But the Defendants have ever since, by trifling Pretences and Excuses, put off the executing proper Conveyances to the said *Jackman*, although the same have been long since settled and allowed by Mr. *Edwards*, one of the masters of this Court, the said Mr. *Dormer's* Successor, as by the Affidavits of *Joseph Herring* and *Thomas Atwood* appears. It was therefore prayed, that all Parties may forthwith execute Conveyances of the said Houses to the said Mr. *Jackman*, or as he shall appoint: And it was on the Plaintiff's Behalf prayed, that the

said Purchase Money may be paid to her, towards Satisfaction of what is due to her, by vertue of the said Decree: Whereto the Counsel for the Defendants had Cases alledged, that they are intitled to the Residue of the said *Tho' Harper's* Estate, after such Payments, as are directed by the said Decree to be made out of the same, are made, and the Defendants *Case* and his Wife were always ready to join in executing the said Conveyances, upon an Application being made of the said *Jackman's* purchase Money towards what is due to the Plaintiff; but being apprehensive of a Deficiency of Mr. *Dormer's* Estate, to answer the Monies brought before him, pursuant to the Orders of this Court; and conceiving they ought not to be Sufferers, though such Deficiency might appear, and the Delay being occasioned by the Purchaser, and not by the Plaintiff, and the said Master not having settled the said Conveyances, they did therefore scruple to execute the said Conveyances, until the said *Jackman's* Purchase Money should be applied to the Purposes in the said Decree; but are willing, if the Court should so think proper, on Payment of the said 260 *l.* Purchase Money to the Plaintiff, and the said *Tho. Harper's* Estate being discharged of so much, to execute the said Conveyances. Whereupon, and upon hearing of the said Affidavits of the said *Joseph Herring* and *Thomas Atwood*, and an Affidavit of Notice to the Defendant *Halscy* read, and what was alledged on both Sides; His Lordship doth order, that it be referred to the said Mr. *Edwards*, to examine, whether the said 260 *l.* was deposited with the said Mr. *Dormer*, for the Benefit of any particular Person, and whom, and what was the Occasion of the Delay, that the said Conveyances were not executed, and the said 260 *l.* Purchase Money paid out before the Year 1720. and whether there is likely to be a Loss of any Monies deposited with the said Mr. *Dormer*: And, upon the said Master's Report, such further Orders shall be made, as shall be just.

Mr. *Serj. Pengelly*. My Lords, this Order was made in *December* last: It is a Direction to Mr. *Edwards* to see, whether there was likely to be any Loss of any Monies deposited with Mr. *Dormer*: We pray that Mr. *Lockman* may be sworn.

Mr. *Lockman* sworn.

Mr. *Serj. Pengelly*. We beg Leave that Mr. *Lockman* may be asked, whether he attended upon the Earl of *Macclesfield* at any Time relating to a Sum of Money, and where.

Mr. *Lockman*. I received an Order from the Earl of *Macclesfield* upon Mr. *Edwards* for 1000 *l.* but not being able to receive it of Mr. *Edwards*, I went to *Kensington* to wait upon the Earl of *Macclesfield*, and told his Lordship the Necessity I had for this 1000 *l.* which belonged to Mrs. *Cbitty*, but the Benefit of it was made over to me; that I had the Misfortune to be backwards in my Affairs, and had some *South-Sea* Contracts to make up, and had made a Composition of my Debts, for which I had about three Weeks to pay it in, and therefore I desired the Favour of his Lordship to order me the Payment of this 1000 *l.* His Lordship was pleased to tell me, that if I attended him in Town, and applied to him there, I should have the Money paid. Upon which I waited upon his Lordship in Town; and when I had the Honour

to see his Lordship, he told me, that he had enquired into the Affair relating to that Money upon which the Order was made, that it was in Mr. *Dormer's* Office, where there was a Deficiency, that he could not yet bring all the Masters to settle that Matter; but if I would come a few Days after, he would see what he could do for me. Thereupon I attended several Days, and went to *Westminster-Hall*, and spoke to Mr. *Cottingham*, and he said great Pains had been taken by my Lord, but he had not yet been able to bring any thing to bear, but he did not doubt but in a little Time he could bring it to bear to his Satisfaction; there had been some Motions made by Serjeant *Cheffshire*, &c. which had frightened the Masters from raising Money; but if I attended in a few Days, he would do what he could for me. I waited some Days, and at last I took the Freedom to wait upon my Lord *Macclesfield* at his own House in *Lincoln's-Inn-Fields*, and I told his Lordship I had attended many Days in Town, and had neglected my Duty and Service; that the next Day was the last Day appointed to pay my Composition, and having depended upon this Money, I had made no other Provision. Whereupon his Lordship said, he had taken a great deal of Pains, and had spoken to the Masters, and that I should attend his Lordship next Day at *Westminster* at Ten, and he would see what he could do for me, but that there was none of the Estate of Mr. *Dormer* left. I waited upon his Lordship accordingly the next Day at *Westminster*. His Lordship called me into his Room, and told me that Mr. *Cottingham* should pay me the 1000*l.* but he believed there would come no more, that this would be the last of the Money, or the last Sum that Mrs. *Chitty* would receive; and that if she had nothing else, I might, by marrying her, in Expectation of a Fortune, make myself worse than I was.

Mr. *Dodington*. I desire Mr. *Lockman* may be asked, what the whole Sum was that was paid in?

Mr. *Lockman*. I took it to be about 10,000*l.*

Mr. *Serj. Pengelly*. I desire he may be asked, if the Earl of *Macclesfield* gave any further Reasons, why it was like to be the last Sum?

Mr. *Lockman*. The Earl of *Macclesfield* did not, at that Time, give me any Reason; but the Day before, when I had the Honour of seeing his Lordship, at his House in *Lincoln's-Inn-Fields*, and once before that, his Lordship told me that the Masters in Chancery were apprehensive of losing a great deal of their Privileges and Profits of their Places; and therefore some of them were not willing to advance any money.

Mr. *West*. My Lords, I beg Leave to ask Mr. *Lockman*, whether he received any Direction or Intimation, as to the keeping of this private, the telling, or not telling it?

Mr. *Lockman*. I did receive no Intimation at that Time; afterwards, when the Solicitor met me, he ask'd me, Pray, says he, Mr. *Lockman*, have you received the 1000*l.* you solicited for? Yes, I have received it. Pray, who then paid it you? I told him Mr. *Cottingham*; says he, Mr. *Cottingham* denied it to me. Upon that I met Mr. *Cottingham* some Time afterwards in the Court of Requests. He told me I should say nothing of it: Besides this, I received no Intimation to keep it secret.

Mr. *West*. What did he say to you then?

Mr. *Lockman*. He said at first meeting me,

You can't fare well, but you must cry out Roast-meat. I, being not well acquainted with that Phrase, did not know what he meant. I did not know that I had ever eat Roast-meat or boil'd meat with him either; so I told him, if that was in relation to his paying me the 1000*l.* it was only what was due, and I hoped there would be Care taken to answer the Remainder. He answered, he could not tell what the Consequence would be, whether ever it would be made up, or not, he could not tell, he was very uncertain.

E. of *Macclesfield*. Sir, I desire to know of you, whether you did not represent yourself to me to be in the utmost Distress, if this money was not paid to you, that in such Case you must be ruined?

Mr. *Lockman*. I remember I told his Lordship, that this money, I had borrowed of Mrs. *Chitty*, that I had settled a Composition with my Creditors and wanted this money to satisfy them; that it must be paid the next Day; and if I did not then pay it, it would be a great Damage to me; but I pressed his Lordship more, as I depended upon his Lordship's Promise, and that was the Reason I press'd it the more.

E. of *Macclesfield*. I desire he may be asked, whether I ever promised to pay him at any Time before that?

Mr. *Lockman*. When I went to wait upon your Lordship at *Kensington*, your Lordship promised me it should be paid; that, as soon as you came to Town I should apply to your Lordship, and you would give Orders, and it should be done.

E. of *Macclesfield*. Whether he did not look upon it, that I did this out of Compassion to him?

Mr. *Lockman*. I took it as Part of a Sum of money due, and I did not look upon it as Charity, or out of Compassion.

E. of *Macclesfield*. I desire to know, whether he did not intreat it of me as an Act of Compassion to him?

Mr. *Lockman*. I don't understand the *English* Terms, I did not use the Word Compassion; I beg'd that your Lordship would be so good as to order me the money.

E. of *Macclesfield*. I desire to know, whether the first Time he applied to me I promised to pay the money?

Mr. *Lockman*. Your Lordship promised the Order should be given to the master, and that I should be paid.

E. of *Macclesfield*. When was that Promise?

Mr. *Lockman*. When you promised to order the master, and I should have the money.

E. of *Macclesfield*. How long before?

Mr. *Lockman*. I can't very well remember; because the Solicitor waited several Times upon the master, and the master told him there was nothing. I went to the master's House, and then to the Rolls, and there I saw him; and he told me there were no Assits in his Hands of Mr. *Dormer's*.

E. of *Macclesfield*. I desire to know, whether he did not desire a further Sum, after this 1000*l.* was paid by Mr. *Cottingham*, and how much?

Mr. *Lockman*. My Lord, I ask your Lordship's Pardon, I don't remember I then ask'd any other Sum. When I saw your Lordship afterwards, I asked your Lordship, if it was not possible to have another 1000*l.* You was pleased to tell me, there could be no more paid.

E. of *Macclesfield*. Did not you solicit for a further Sum, till Mr. *Cottingham* chid you?

Mr. *Lockman*. Mr. *Cottingham* was a little angry, when I press'd him. I went out of Doors, Mr. *Cottingham* followed me. I stood in the Yard, Mr. *Cottingham* came out, and told me he had an Order from my Lord Chancellor to call the masters to a meeting, and see what could be done. I said, still this is uncertain, how shall I do if I have not this money? it will be a great Prejudice to me.

E. of *Macclesfield*. I desire to know whether he did not ask a further Sum of 500 *l.* or 570 *l.*

Mr. *Lockman*. There was an Order, on a letter of Attorney from Mrs. *Chitty*, for that Sum. But never, after I was at your lordship's House at *Kensington*, did I ask if I could have a thousand Pounds more.

E. of *Macclesfield*. When was that 500 *l.* paid?

Mr. *Lockman*. I don't know.

E. of *Macclesfield*. I desire to know, whether between the Time you say you was promised the 1000 *l.* and the Time of paying it, you did not desire to have the Sum of 574 *l.* advanced for Mrs. *Chitty*'s Use.

Mr. *Lockman*. When your lordship had told me that 1000 *l.* was all that could possibly be obtained, I made no further Solicitations.

E. of *Macclesfield*. How long was it that you came to *Kensington*, to ask me for that 1000 *l.* before the other 1000 *l.* was paid?

Mr. *Lockman*. Three Weeks before.

E. of *Macclesfield*. Then after that Time you never demanded any more?

Mr. *Lockman*. After your lordship had told me that was all that could be obtained, then I desisted from asking any more.

E. of *Macclesfield*. And that was about three Weeks before the Time you received the money?

Mr. *Lockman*. I believe, between a Fortnight and three Weeks, or thereabouts.

Mr. *Com. Serj.* I desire he may be asked, whether he can be certain as to the Expression, whether this was the last money that was like to be paid, or that my lord would pay.

Mr. *Lockman*. It was, as I remember, in these Words: If the lady hath no other Fortune than what is in *Chancery*, in the master's Hand, this will be the last of it.

Mr. *Sol. Gen.* We desire Mr. *Atwood* may be called.

Mr. *Atwood* sworn.

Mr. *Serj. Pengelly*. My Lords, we desire Mr. *Atwood* may be asked, whether he was in Court at the Time a Motion was made upon an Order in a Cause between *Harper* and *Cate*.

Mr. *Atwood*. My Lords, I was at the late Lord Chancellor's House, where, about the 5th of *December* last, the motion was made. I was Solicitor for Mrs. *Harper* in the Cause. The Occasion of it was, There was an Estate decreed to be sold, and the money was to be paid into the master's Hands, who was Mr. *Dormer*: The money was accordingly paid, and the Conveyances approved of by the Counsel, and a Fine agreed upon; but at last the Parties would not execute, unless the money was paid them; objecting there would be a Deficiency in *Dormer*'s Office: Therefore they mov'd that they might

not be obliged to execute the Conveyance; till the money was applied and paid to the Plaintiff. My Lord Chancellor was pleased to declare thereon, that he had heard there would be a Deficiency of Mr. *Dormer*'s Effects; but it had never judicially come before him; and what Knowledge he had of it was only as publick News, and referred it to Mr. *Edwards* to examine, whether there was likely to be a Deficiency, or not. I was near two months before I could get this Order passed; and then the Impeachment came on. The Register told me, he was afraid this Order would do some mischief. When I had got the Order, I was told by several People about the Town, that Mr. *Dormer*'s Effects were very defective; and that my Lord Chancellor had directed a Composition to be made with one *Wilson* who was a Banker; and had directed Mr. *Hiccocks* to compound for Half a Crown in the Pound, and that others had twenty Shillings. Lord Chancellor had directed an Enquiry to be made whether any Deficiency. I was advised to put in these Words: *By what Means*; because I was told then it was, by reason of compounding that Debt with *Wilson*; but the Register would not let them stand.

Mr. *Serj. Pengelly*. The making of the Order, in this Case, confirms the Evidence of Mr. *Atwood*, that his Lordship declared he had heard of it no otherwise than as publick News; because by this Order he directs Mr. *Edwards* to enquire, whether there was likely to be a Deficiency, or not, although it had been so well known to his Lordship some Years before.

Mr. *Serj. Probyn*. He says there are Words struck out of the Order; I desire to know, whether those Words were not added by himself to the Order?

Mr. *Atwood*. Yes, they were added by me before it passed.

Mr. *Serj. Probyn*. When?

Mr. *Atwood*. After I had the Order from the Register.

Mr. *Serj. Pengelly*. When was that?

Mr. *Atwood*. It was near two months before I could get the Order passed.

E. of *Macclesfield*. Had you the Order passed before the Impeachment?

Mr. *Atwood*. Yes, I believe I had.

E. of *Macclesfield*. Had you it passed before this matter came into Parliament?

Mr. *Atwood*. I don't particularly know; I believe it was before your Lordship was impeached.

E. of *Macclesfield*. Whether was it after I had parted with the Seals?

Mr. *Atwood*. I believe after.

E. of *Macclesfield*. How long was it before you added those Words?

Mr. *Atwood*. Two or three Days after I had got the Order.

E. of *Macclesfield*. When was it the Register struck out those Words?

Mr. *Atwood*. I can't say, I believe it was before the Impeachment. The other Side had let those Words be in; but yet the Register struck them out.

E. of *Macclesfield*. Was it after I had ceased to be Chancellor?

Mr. *Atwood*. I believe it was.

E. of *Macclesfield*. Was any thing said, at that Time, of the Accident of *Wilson's* breaking and *Poulter's* going off?

Mr. *Atwood*. I do remember your Lordship said *Wilson* was become Bankrupt, and that he had Money of Mr. *Dormer's*; and you said something of a Person that was sued by *Wilson*, and of a Recovery against him, and of an Action brought for an Escape; and you concluded, upon the Whole, that all you knew of the Matter was only as publick News. This was after you had given an Account of the matter of *Wilson* and of the Marshal.

Dr. *Sayer*. I desire he may be asked, whether my Lord did not express a Doubt, how these matters might come out?

Mr. *Atwood*. I don't know what his Lordship was pleased to doubt of.

Mr. Serj. *Probyn*. I desire Mr. *Atwood* would recollect himself whether there was any Notice taken, how this might come out, when the Report of the matters should be made?

Mr. *Atwood*. I don't remember any thing tending to that.

Mr. Com. Serj. Whether he took any Memoranda of these Words, and when?

Mr. *Atwood*. No, I took no Memoranda of them, till I was summoned to attend the Committee.

Mr. Com. Serj. I desire Mr. *Atwood* may give a Reason, how he comes to forget Facts, and remember a Form of Words?

Mr. *Atwood*. I don't remember all the Facts that have been asked.

Mr. *Robins*. Whether my Lord did not mention a particular Sum that was owing from *Wilson* to *Dormer*?

Mr. *Atwood*. I believe my Lord did mention a Sum, and I believe it was 15000*l*.

Mr. *Robins*. Whether he did not mention that *Wilson* had brought an Action of Escape against the Marshal?

Mr. *Atwood*. Yes, that *Wilson* had brought an Action of Escape against the Marshal.

Mr. *Robins*. Whether he did not mention, that *Wilson* had recovered a Judgment against the Marshal?

Mr. *Atwood*. Yes, that *Wilson* had recovered a Judgment.

Mr. *Robins*. Whether was there any thing said of the Escape of *Poulter*?

Mr. *Atwood*. Yes, my Lord did mention, that there was an Action brought against the Marshal, for that very Escape.

Mr. Com. Serj. Whether my Lord having mentioned these Particulars, he did not from thence infer, he could not then tell, how matters might come out?

Mr. *Atwood*. I do not remember any thing of that.

Mr. *Lutwyche*. My Lords, I shall only make one short Observation. The lord *Macclesfield* saith in his Answer, that he doth not believe that he had any Discourse with the Masters about the Payment of this 1000*l*. I submit it to your Lordships, whether there are not four or five Witnesses to it. We have now done with the Sixteenth Article.

Mr. Sol. Gen. We shall proceed to our Proofs on the Seventeenth Article. And it will be necessary to lay before your lordships three or four Orders, for the Proof of this Article.

Mr. *Ralph Paxton*, being called, appeared, and proved the several Orders following, which were then all read.

An Order, dated 18 *January*, 8<sup>o</sup> *Georgii Regis*.

Another, dated 8 *March*, 8<sup>o</sup> *Georgii Regis*.

Another, dated 5 *July*, 8<sup>o</sup> *Georgii Regis*.

Another, dated 22 *December*, 9<sup>o</sup> *Georgii Regis*.

*Jovis decimo octavo Die Januarii Anno Regni D'ni Georgii Regis octavo, inter Jonathan' Jones Infant' per Eliza' Jones Vidua' prox' Amit' & dicta' Eliza' Jones Quer', Thoma' Jett Arm' & Petri' Wife, Defendentes.*

UPON opening of the matter, this present Day, unto this Court, by Mr. Serjeant *Chebbire*, of Counsel with the Plaintiff *Jonathan Jones*, in the Presence of Mr. *Kilby*, of Counsel with the Plaintiff *Elizabeth Jones*; and the Defendant *Wife*, and Mr. *Horsey*, of Counsel with the Defendant *Jett*. The Counsel for the Plaintiff *Jonathan Jones* alledged, that *Jonathan Jones* deceased, Father of the Plaintiff *Jonathan Jones*, and Husband of the Plaintiff *Elizabeth*, by his Will, devised one Moiety of his Estate, which was wholly personal, after Payment of his Debts and Funeral Expences, to the Plaintiff *Elizabeth*, and the other Moiety to the Plaintiff *Jonathan Jones*, when he should attain his Age of One and Twenty Years, together with the Produce thereof, and made the Defendants, *Jett* and *Wife*, Executors in Trust for the said Plaintiffs, who duly proved the said Will. That the Plaintiffs having brought their Bill in this Court, to have an Account of the said Testator's Estate, for a maintenance for the Plaintiff *Jonathan*, during his Infancy, and a Performance of the said Will: Upon the Hearing of this Cause, it was referred to Mr. *Dormer*, then one of the Masters of this Court, to take an Account of the said Testator's Estate; and the Surplus thereof, after the Deductions therein mentioned, was to be divided into Moieties; and the Plaintiff *Elizabeth's* Moiety was to be forthwith assigned to her; and the other Moiety was to be placed out at Interest, by the said Master, for the said Infant's Benefit. And the said master was to assign a Maintenance for the said Plaintiff, for the Time past; and was also to consider what was proper to be allowed for his Maintenance, for the future. That the said Master, having proceeded to take an Account of the said Testator's Estate, it appeared, that so much thereof was raised by the Sale of *Bank* and *South-Sea* Stock, and brought before the Master, as amounted to Five Thousand, Nine Hundred, and Eighty-five Pounds, Three Shillings, and Four Pence, one Moiety whereof, after Payment of her Share of the Costs of this Suit, belongs to the Plaintiff *Elizabeth Jones*, and has been accordingly paid to her. And the other Moiety belongs to the Plaintiff *Jonathan Jones*, and is now in the Hands of Mr. *Edwards*, one of the Masters of this Court, who succeeded the said Mr. *Dormer*, and to whom the Reference in this Cause, hath been transferred. That the Plaintiff,

*Jonathan*

*Jonathan Jones*, hath now attained his Age of One and Twenty Years, as by Affidavit and Certificate appears, and is intitled to receive his Moiety of the said Monies, after Deduction of his Share of the said Costs. And having contracted some considerable Debts, for his Maintenance, and otherwise, during his Infancy, for which he is threatened to be arresled, in case the said Debts are not speedily paid: It was therefore pray'd, that the said Master may, out of the Monies in his Hands, pay to the Plaintiff, *Jonathan Jones*, the Sum of Four Hundred Pounds, which, upon reading the said Affidavit and Certificate, and upon hearing the Counsel for the Plaintiff, *Elizabeth Jones*, and the Defendant, *Wife*, who consented thereto, and the Counsel for the Defendant, *Jett*, who did not oppose the Payment thereof, is ordered accordingly.

*Jovis octavo Die Martii Anno Regni D'ni Georgii Regis octavo, inter Jonathan Jones & Eliza' Jones Quer', Thoma' Jett Arm' & Petru' Wife, Defendentes.*

UPON opening of the Matter, this present Day, unto the Right Honourable the Lord High Chancellor of Great Britain, by Mr. Serjeant *Chebbire*, being of Counsel for the Plaintiff, *Jonathan Jones*, in the Presence of Mr. *Kettleby*, of Counsel for the Plaintiff, *Elizabeth Jones*, and for the Defendant, *Wife*: It was alledged, that *Jonathan Jones* deceased, Father of the Plaintiff *Jonathan Jones*, and Husband of the Plaintiff *Elizabeth Jones*, by his Will, devised one Moiety of his Estate (which was wholly personal) after Payment of his Debts and Funeral Expences, to the Plaintiff *Elizabeth*, and the other Moiety to the Plaintiff *Jonathan Jones*, when he should attain his Age of One and Twenty Years, together with the Produce thereof; and made the Defendants, *Jett* and *Wife*, Executors in Trust for the said Plaintiffs; and the said Defendants duly proved the said Will. That the Plaintiffs exhibited their Bill into this Court against the Defendants, to have an Account of the said Testator's Estate, and a Performance of his Will. And upon the hearing of the Cause, it was referred to Mr. *Dormer*, then one of the Masters of this Court, to take an Account of the said Testator's Estate; and the Surplus thereof, after the Deductions therein mentioned, was to be divided into Moieties; and the Plaintiff *Elizabeth's* Moiety was to be forthwith assigned to her. And the other Moiety was to be placed out at Interest, by the said Master, for the said Infant's Benefit. That the said Master having proceeded to take an Account of the said Testator's Estate, it appeared, that so much was raised by the Sale of the *Bank* and *South-Sea* Stocks, and brought before the said Master, as amounted to Five Thousand, Nine Hundred, and Eighty-Five Pounds, Three Shillings and Four Pence, one Moiety whereof, after Payment of the Plaintiff *Elizabeth Jones's* Share of the Costs of this Suit, belonged to her, and had been accordingly paid to her. And the other Moiety belonged to the Plaintiff *Jonathan Jones*, and was in the Hands of Mr. *Edwards*, one of the Masters of this Court (who succeeded the said Mr. *Dormer*.) That the Plaintiff, *Jonathan Jones*, has attained his Age of One and Twenty Years, as by Certificate and Affidavit appears, and is intitled to receive his

Moiety of the said Money, after Deduction of his Share of the said Costs: And he had contracted, for a Post in the Army, which, with his Equipage, will amount to Two Thousand Pounds, which he is advised will be very advantageous for him to purchase; and therefore it was pray'd, that the said Master may pay to the Plaintiff, *Jonathan Jones*, out of the Money in his Hands, a Sum not exceeding Two Thousand Pounds, to be laid out in the Purchase of a Commission, and for other Purposes. Whereupon, and upon hearing of the Plaintiff, *Elizabeth Jones*, and Defendant *Wife's* Counsel; and hearing an Affidavit of Notice of this Motion to the Defendant, *Jett*, read, and what was alledged by the Counsel on both Sides: It is ordered, that the said Master do, out of the Money in his Hands, pay unto the Plaintiff, *Jonathan Jones*, the Sum of Two Thousand Pounds; the Plaintiff, *Elizabeth Jones*, and the Defendant, *Wife*, having subscribed the Register's Book, signifying their Consent thereto.

*Jovis quinto Die Julii Anno Regni D'ni Georgii Regis octavo, inter Jonathan Jones & Eliza' Jones Quer' Thoma' Jett Arm' & Petru' Wife, Defendentes.*

UPON opening of the matter this present Day, unto the Right Honourable the Lord High Chancellor of Great Britain, by Mr. Serj. *Chebbire*, being of Counsel for the Plaintiff, it was alledged, That *Jonathan Jones* deceased, Father of the Plaintiff *Jonathan Jones*, and Husband of the Plaintiff *Elizabeth Jones*, by his Will devised one moiety of his Estate (which was wholly personal) after Payment of his Debts and Funeral Expences, to the Plaintiff *Elizabeth*, and the other moiety to the Plaintiff *Jonathan Jones*, when he should attain his Age of One and Twenty Years, together with the Produce thereof, and made the Defendants, *Jett* and *Wife*, Executors in Trust for the said Plaintiffs, and the said Defendants duly proved the said Will. That the Plaintiffs exhibited their Bill into this Court against the Defendants, to have an Account of the said Testator's Estate, and a Performance of his Will, and upon the hearing of the Cause, it was referred to Mr. *Dormer*, then one of the masters of this Court, to take an Account of the said Testator's Estate; and the Surplus thereof, after the Deductions therein mentioned, was to be divided into moieties, and the Plaintiff *Elizabeth's* moiety was to be forthwith assigned to her, and the other moiety was to be placed out at Interest, by the said master, for the said Infant's Benefit. That the said master having proceeded to take an Account of the said Testator's Estate, it appeared by several Certificates from the said master, that so much thereof was raised by the Sale of the *Bank* and *South Sea* Stocks, and brought before him, as amounted to Five Thousand nine Hundred and eighty five Pounds three Shilling, and four Pence, that one moiety thereof, after Payment of the Plaintiff *Elizabeth Jones's* Share of the Colls of this Suit, hath been in pursuance of several Orders of this Court paid to her, and the other moiety, which belonged to the Plaintiff *Jonathan Jones*, was paid over to Mr. *Edwards*, one of the masters of this Court (who succeeded the said Mr. *Dormer*.) That the Plaintiff *Jonathan Jones*, having attained his Age of One and Twenty Years, and being intitled to receive his moiety of the said money, after Deduction

Deduction of his Share of the said Costs, and he having contracted for a Post, in the Army, which, with his Equipage, will amount to two Thousand Pounds, he did, on the eighth Day of *March* last, apply to the Court for that money, and it was then ordered, that the said master should, out of the money in his Hands, pay unto the Plaintiff *Jonathan Jones* the Sum of two Thousand Pounds, the Plaintiff *Elizabeth Jones*, and Defendant *Wife*, having subscribed the Register's Book, signifying their Consent thereto; that pursuant to the said Order, the said master paid the said two Thousand Pounds, and there now remaining in his Hands of the Plaintiff *Jonathan Jones's* Share of the said money, about the Sum of six Hundred and forty two Pounds. That the said Plaintiff *Jonathan Jones*, having present Occasion for the said money, hath executed a letter of Attorney to the Plaintiff *Elizabeth Jones*, his mother, dated the Five and Twentieth of *May* last, empowering her to receive all monies due to him from the said master, and the Interest thereof, for the purposes therein mentioned. It was therefore prayed, that the said Master may pay to the said Plaintiff, *Elizabeth Jones*, the Remainder of the Money which is in his Hands, belonging to the said *Jonathan's* Share, pursuant to the Letter of Attorney, executed for that Purpose, which, upon hearing of Mr. *Horsley*, of Counsel for the Defendant *Jett*, and what was alledged on both Sides, his Lordship held reasonable, and doth order the same accordingly.

*Sab'ti vicesimo secundo Die Decembr' Anno Regni D'ni Georgii Regis nono, inter Prideaux Sutton Cler' & Anna' Uxor' ejus Mercy Sheldon Spinstr' & Egidiu' Lawrence gen' Exor' Winifred Sheldon Spinstr' Defunct' Quer', Elizam Chitty & Job'em Russell & al' per Billa' ad revivend' & Supplement' Defend',*

WHEREAS the Defendant *Elizabeth Chitty*, on the Eleventh of this Instant *December*, preferred her petition to the Right Honourable the Lord High Chancellor of *Great Britain*, shewing, That the Plaintiff and *Winifred Sheldon*, since deceased, having executed their Bill for an Account of the Estate of *Ralph Sheldon*, who died in the *East-Indies*; and to have their Shares and Proportions thereof, pursuant to his Will: It was on the hearing of this Cause, the eight and twentieth of *May*, One Thousand Seven Hundred and Fifteen, declared, That the Defendant *Elizabeth Chitty* was intitled to one Third of the said Estate, under the Will of the Testator *Sheldon*, her second Husband, in her own Right, and to a Moiety of the other two Thirds, in right of, or, as surviving the Children she had by the said *Sheldon*, who were dead, and that the other Moiety of the said two Thirds belonged to the Plaintiffs, or those whom they represented and decreed the same, after just Allowances to be paid and distributed accordingly; and Sir *Robert Nightingale*, Bart. since dead, having by his Answer, admitted to have in his Hands Ten Thousand Four Hundred and Seventy Pounds, three Shillings and Six-pence, part of the Testator's Estate: It was ordered, That he should carry Ten Thousand Pounds thereof, before Mr *Dormer*, then one of the Masters, to be by him placed

out at Interest, on Government; or such other Security as he should approve of, for the Benefit of the Parties to whom the said should belong. In pursuance whereof, the said Sir *Robert Nightingale* carried the said Ten Thousand Pounds before the said Master, who placed the same out at Interest, and on the nine and Twentieth of *July*, One Thousand Seven Hundred and Nineteen, though the said Ten Thousand Pounds, with the Interest, which had been received by the said Master, amounting to Eleven Thousand three Hundred and fifty-nine Pounds, seven Shillings, and three Pence, the said Master, by his Report, certify'd, That he had placed eleven Thousand three Hundred Pounds, Part thereof, out on the Land Tax, for the Year One Thousand Seven Hundred and Nineteen, at four Pounds *per Cent.* and that the Nine and Fifty Pounds seven Shillings and three Pence remained in his Hands; that on the third of *August*, one Thousand Seven Hundred and Twenty, the Plaintiffs, by Petition, applied to his Lordship, That the Master might pay them some money to carry on this Cause, and for their other Occasions; upon hearing whereof, they were ordered Six Hundred Pounds out of the money in the Master's Hands, which they have received accordingly. That the Defendant, *Elizabeth Chitty*, had, ever since the Death of her late Husband, *Jesiah Chitty*, wanted money, not only to defend the said Cause, but also for her Support, and other necessary Occasions, and that neither she, nor her late Husband, had received any Part of the Principal or Interest before the Master, nor any other Part of the Testator's Estate, except some Jewels which were delivered up by the Trustees of the Testator's Will in *India*, to her and her late Husband, which, or the greatest Part thereof, she claimed as her *Paraphernalia*, but that she had no Benefit or Advantage thereof, her Husband having sold and disposed of them in his Life-time. Therefore, and for that the Money in the Hands of Mr. *Edwards*, one of the Masters of this Court, who succeeded the said Mr. *Dormer* in his Office, were considerably increased by the Interest which had been received by him, and for that the said Mrs. *Chitty* was, as aforesaid, intitled to two Thirds of the said Testator's Estate, except what should be decreed thereout to her Children, by her first Husband, who were intitled to one moiety of their Father's Estate, which was possessed by the said *Ralph Sheldon*, and for that she was obliged to maintain them. it was prayed, That the said Mr. *Edwards* might, out of the money in his Hands, and which should be paid in, upon the coming in of any of the Securities taken for the same, pay unto the Defendant Mrs. *Chitty* such Sum of money as his Lordship should think fit, to enable her to carry on the said Cause, and for her immediate Support, and other Occasions. Whereupon all Parties were ordered to attend his Lordship, on the then next Day of Petitions. And whereas the said Plaintiffs, on the eighteenth Day of this Instant *December*, also preferred their Petition to his Lordship, shewing, *inter al'* That they were, thro' their great Occasion for money, forced to apply the greatest part of the money, ordered them as aforesaid, towards their Support; and that the said Cause had been long depending, and very expensive, and was likely to undergo greater Travail before the said Master, before the said Account could be taken, so that they

they had great Occasion for more money, not only to carry on the said Cause, but also for their Support, and other necessary Occasions; and therefore praying that the said Master might also out of the monies in his Hands, and which should be paid in, upon coming in of any of the Securities taken for the same, pay unto the Plaintiffs, or their Solicitors, such Sums of money as his Lordship should think fit, to enable them to carry on the said Cause, and for their immediate Support and other Occasions; and the matter of the said Petition, being ordered to come on with the Defendant *Cbitty's* Petition; and Counsel on both Sides this Day attending accordingly. Whereupon, and upon hearing both the said Petitions read, and what was alledged by the Counsel on both Sides: His Lordship doth order, That the said *Mr. Edwards* do, out of the money in his Hands, pay unto the Defendant, *Mrs. Cbitty*, the Sum of Six Hundred Pounds, and also unto the Plaintiffs One Hundred Pounds a-piece, and it being now alledged, that *John Wyvill*, Esq; having exhibited his Bill against the said *Giles Lawrence*, for Payment of a legacy of two Hundred Pounds, bequeathed to him by the Will of the said *Winifred Sheldon*. It was on the hearing the said Cause, the first Day of *December*, One Thousand Seven Hundred and Twenty One, decreed, That the said *Mr. Wyvill* should be paid the said Legacy and Interest, together with the Costs of that Suit, out of the Assets of the said *Ralph Sheldon*. It is further ordered, that the said Master, do, out of the money in his Hands, pay the Plaintiff, *Lawrence*, the further Sum of Three Hundred Pounds, to enable him to satisfy the said Decree.

*Mr. Lutwyche*. Pray shew *Mr. Edwards* those Orders.

[*The Orders shewn to Mr. Edwards.*]

*Mr. Lutwyche*. My Lords, we desire that *Mr. Edwards* may be asked, whether he hath paid any money in that Cause?

*Mr. Edwards*. Here are two Causes, which is it you mean, that of *Jones* and *Jett*?

*Mr. Lutwyche*. Yes, that of *Jones* and *Jett*.

*Mr. Edwards*. The money ordered, by those several Orders, hath been paid by me.

*Mr. Lutwyche*. I desire to know, whether *Mr. Edwards* can inform your Lordships, whether it is the whole money, or but in part?

*Mr. Edwards*. It is the whole money in the Cause.

*Mr. Lutwyche*. I desire he may be asked, whether the money was paid out of *Mr. Dormer's* Effects, or out of his own?

*Mr. Edwards*. Out of *Mr. Dormer's* Effects.

*E. of Macclesfield*. My Lords, *Mr. Edwards* is a little mistaken, please to put the Orders in; here are three Orders in one Cause, and one in another; I desire to know, whether in both Causes the whole money was paid out?

*Mr. Edwards*. In that between *Jones* and *Jett*, the whole money was paid out, in the other between *Sutton* and *Sheldon*, the whole was not paid, but only Part.

*Mr. Serj. Pengelly*. We beg leave to ask *Mr. Edwards*, whether he did not pay the whole that was ordered by those several Orders?

*Mr. Edwards*. Yes, my Lords.

*Mr. Lutwyche*. *Mr. Edwards* did tell your Lordships before, that all the money, arising by *Mr. Dormer's* Effects, was paid out and gone.

*Mr. Serj. Pengelly*. My Lords, we have gone through these three articles that have been opened; and we shall call no more Proof to them.

*Then the House adjourned to Monday next at Ten o' Clock in the Forenoon.*

## The FOURTH DAY.

MONDAY, May 10.

*The Lords being seated in their House, and the Managers being come, and the Earl sitting on a Stool, as before, and his Counsel and Solicitors at the Bar, the Serjeant at Arms made Proclamation for Silence, as also another Proclamation, That all Persons concerned were to take notice, that Thomas, Earl of Macclesfield, now stood upon his Trial, and they might come forth in order to make good the Charge.*

*L. Ch. J. King*. GENTLEMEN of the House of Commons, you may proceed.

*Mr. Plummer*. My Lords, I am commanded by the Commons, to assist in maintaining their Impeachment against *Thomas, Earl of Macclesfield*; and when I consider how necessary it is for the Honour of his Majesty's Government, that an impartial Examination should be made into the Behaviour of this Earl, while he enjoyed the High Office of Chancellor; I am persuaded, that every good Subject must with Pleasure observe in what manner this Prosecution is carried on; it must be a Satisfaction to them, to see the Commons placing a Confidence in your Lordships Justice, and proceeding in the Legal Parliamentary method by Impeachments, and your Lordships meriting that Confidence, by laying aside all useless Ceremonies, and making the Prosecution practicable and easy. A harmony between the two Houses of Parliament always to be wished for, and which alone can bring impeachments to a happy issue, and deter great Offenders from oppressing their Fellow Subjects.

My Lords, In former Reigns, Prosecutions of this kind, have met with other Obstructions, and the Crown has often interposed its Authority to save a Favourite Minister; but, his Majesty, who has no other Views, but the Welfare and Happiness of his People, and who is always attentive to their interest, was the first who took notice, that the Earl of *Macclesfield* had abused the Trust and Confidence reposed in him. And who can (without the deepest Sense of Gratitude) consider the Conduct of his Majesty in this Affair, who immediately dismissed him his Service, and left him to the Justice of an injured Nation? And the Earl of *Macclesfield* himself will have this Advantage by it, that his Name will be delivered down to Posterity, as a monument of his Majesty's Paternal Goodness to his People. The immense Liberalities, the great Honours, the high Dignities conferr'd on him by his Majesty, will be so many marks of his Royal Munificence to the Earl, while he appeared to be his Worthy and Faithful Servant. And Posterity will with due Veneration observe, that neither the greatest

Favour, the nearest Access to his Sacred Person, nor any former merits towards Himself, and his Royal Family, could in his Majesty's Reign, shelter the Highest Officer of the Crown from Justice, who, presuming on those Advantages, would venture to oppress his Majesty's Loyal and Faithful People.

My Lords, The particular province, assigned me in this Prosecution, is to make good the 18th Article, wherein I shall have the Assistance of a Gentleman, who will amply supply all the Defects or Omissions I shall be guilty of.

As this Article has been read by your Lordships Clerk, I shall not mispend your Time in a needless Repetition of it; but will observe, that the Substance of the Charge contained in it, Is a wilful Neglect of the high Trust reposed in the Earl of *Macclesfield*, as Chancellor, That he did not restrain the masters of the High Court of *Chancery*, from trafficking with the Suitors money and Effects, but did permit and encourage that Practice, tho' he was advised to put a Stop to it, and fully informed of the Dangers, which were then likely to ensue, and which have since actually ensued, to the great loss and Injury of the Suitors of the said Court.

My Lords, As this wilful Neglect is highly criminal in itself, so it is greatly aggravated by the unjust and corrupt Views which induced him to be guilty of it, and the pernicious Consequences which have necessarily attended it; and, my Lords, since you have heard the Evidence that has been given on the former Articles, of the exorbitant Sums of money which he exacted for the Disposal of the Offices of masters in *Chancery*, even after *Dormer's* Failure, we don't doubt but your Lordships are convinced that he left the masters that unreasonable unlimited power, over the Effects of the Suitors of the Court, with no other View, but as a bait and incitement to others, to purchase those Offices (when Vacancies should happen) at the same, or greater Prices.

As I have stated the Charge contained in this Article, in as clear a manner as I am able; I beg leave, my Lords, to make some Observations on the Earl's Answer. He begins with an absolute Denial of his knowing, how the masters kept or disposed of the money and Effects belonging to the Suitors of the Court. This Answer, my Lords, was a Surprize to the Commons, as well because such an Ignorance would have been criminal in the Person, who ordered such prodigious Sums of money into their Hands, and who should be supposed to have had some Care of the Suitors; as also because We have the clearest Proofs imaginable, that he did know it, and it has already been proved by the Examination of several of the masters before your Lordships. But what Want can we have of Proofs? when the Earl of *Macclesfield* himself in his farther Answer to this Article confesseth it, by saying, that after *Mr. Dormer's* misfortune, he thought of several methods, and several Proposals were made to him by Persons he consulted on that Occasion, to prevent any Inconvenience on the like Accident, for the future. Pray let us consider, What was *Mr. Dormer's* misfortune? What was this Accident? Why truly, *Mr. Dormer* had trafficked with the Suitors Money and Effects, and had lost near 30,000*l.* And this the Earl of *Macclesfield* knew, and this made him think how to prevent such Inconveniencies, for the

future. My Lords, here is one of those Inconveniencies the Commons take Notice of in their Reply, and on which (without any farther Proofs) they might safely demand your Lordships Judgment.

But to consider his Answer farther: He says, he believes it will not be held criminal in him, not to have established any of the Proposals that were made to him by the Persons he consulted on that Occasion: Some Things were proposed that he thought impracticable, some insufficient, and some inconsistent with that compleat Regulation he hoped to make: The Objects, he proposed to himself, were, to make good *Mr. Dormer's* Deficiency, to secure the Suitors from any future Loss, and to make several Regulations relating to the Offices of the masters: And he thought these would be best done together; nor had he perfected the Scheme of any of them to his own Satisfaction.

My Lords, I am unwilling to make any Observations on this Part of his Answer; it is in itself so gross, I am afraid, if I took it in Pieces, I should appear ludicrous, which I shall take great Care to avoid on so solemn an Occasion.

But I appeal to your Lordships, if a Person was to read this Answer, who was not acquainted with the Times of these Occurrences, whether he must not imagine that the Earl of *Macclesfield* had quitted the Great Seal within some very short Time after *Mr. Dormer's* Failure. Whereas it has appeared to your Lordships, that *Mr. Dormer* went away from that Office in the Year 1720. and that the Earl of *Macclesfield* continued Chancellor till *January* last, which is more than four Years after, during all which Time (by his own Confession) he knew the Affairs of the masters of the Court of *Chancery* to have been in great Disorder, and to have wanted several Regulations: But, because he could not think of a Scheme perfectly to his Mind to answer all his Designs, he therefore has done nothing. This Answer must be left to your Lordships Judgment, but I am afraid, my Lords, the letting the masters go on, without any Check, was the Scheme the most to his Satisfaction, and most effectually obtain'd the Ends he really propos'd to himself, which were the making an exorbitant Gain by the Sale of their Offices, which must have fallen in their Price, if a Stop had been put to their trading with the Suitors money.

My Lords, he farther answers, That he remembers no Proposal that he thought would take it totally out of the Power of the masters to dispose of the Securities or Effects, or effectually secure the Cash. I can't omit taking Notice of the wording this Paragraph; and I believe your Lordships will agree with me, that the Words HE THOUGHT, TOTALLY, and EFFECTUALLY, are thrown in with great Caution. My Lords, We think we can prove to You that a Proposal was made to him, that would have taken it out of the Power of the masters to have disposed of the Securities and Effects, and would have secured, in great measure, the Cash; and this Evidence the Earl of *Macclesfield* must be well aware of, for He has it in his Hands as well as We; and I foresee the Strength of his Defence, in this Point, lies in the Caution of his Answer: But, my Lords, if any Proposal was made to him, which would have cured the greatest Part of the Evils the Court laboured under, I am sure your Lordships

Lordships will hold it criminal in him not to have made use of it, and the rather, because he substituted no other in its room.

My Lords, He admits he took no Security of the masters, and says, he was never asked so to do. My Lords, We will prove that he was asked so to do, and that taking Security was part of the Proposal I have mentioned. In this Place he takes Notice of his Predecessors, who (as he says) were wiser Men than himself, and who took no Security of the masters. My Lords, We don't accuse his Predecessors, nor are we obliged to justify them; but, if I may be permitted to give my own private Opinion, It is, that if such misfortunes had happened in his Predecessors Days, and such Application had been made to them, they were so wise, they would have applied a proper Remedy: His not doing so, under these Circumstances, We look on as a plain Permission, and a strong Encouragement to the masters to traffick with, and employ the Suitors money for their own Gain and Profit. And it must appear so in a stronger Light, when your Lordships are acquainted that Mr. *Lightboun*, who is himself a master in *Chancery*, was the Person who made the Proposal, and who must (by my Lord's not using it) plainly see, that my Lord was resolved to lay no Restraint on them, which might have tempted Mr. *Lightboun* himself to have made an ill Use of that Power: But as he professed to my Lord Chancellor his Abhorrence of the masters abusing their Trust, by alienating the Suitors Effects, and desired my Lord to put a Stop to that Practice; so it appeared by his Accounts given in before the Judges, that he had appropriated the specifick Securities of the Suitors to every particular Cause. And, my Lords, we look on it as a great Aggravation of the Crimes contained in this Article, which I have now gone through, That my Lord *Macclesfield* should continue to act with such mean, low Views, as were unbecoming a master in *Chancery*, when he had the Assistance of a master, who behaved himself with a Prudence, Integrity, and Resolution, which would have been becoming the Lord Chancellor.

Mr. *Cary*. My Lords, It is my Province to assist the Gentleman, that spoke before me, in supporting the Charge of the Commons in the 18th Article, which he has open'd with so great Force and Perspicuity, that it is unnecessary for me to give your Lordships more Trouble upon it, than by making an Observation or two on the most material parts. The Beginning of this Article sets forth, *That the Earl of Macclesfield very well knew, or was inform'd, that the Masters did, or that it was in their Power to dispose of, and employ the Suitors Money and Effects.* To which, he is pleased evasively to answer, "That he never knew how the Masters kept, or disposed of the money and Effects belonging to the Suitors of the Court." The contrary of this will be abundantly prov'd, in the manner the Gentleman has already stated it.

But were it not, my Lords, so strong in Proof, the Guilt to me appears self-evident; 'tis much the same, whether he knew it, or knew it not; his Lordship may take the Alternative. What! did He, Lord Chancellor, supreme Director of the Court, the great Trustee of *England* (who order'd the money into the master's Hands, who order'd it out of their Hands) did He know nothing of

their Power over it? Was he the only man in *England* that knew *nothing* of their Deficiency? And if he was, my Lords, Is that Ignorance an Excuse, or Aggravation? But we shall prove to your Lordships, that he not only was told of this Traffick with the Suitors money, but was foretold the Consequences of it, the Danger of future losses was pointed out to him, and proposals for preventing 'em were given him in Writing.

And who was it, my Lords, that made these proposals? Who gave him this Warning? One of the masters of the Court, One interested in the Traffick of the Suitors money, a Gamester at the same Table with the impeach'd Earl. Advice from such a Hand must be sincere and unsuspected; nothing but Justice, or a strong Apprehension of their common Danger, could have extorted it; nothing but the blindest Avarice could have prevented the Compliance with it. But what still renders this Conduct more amazing is, that the impeach'd Lord had not the Advantage of a single proposal only, and from a single master, but of several proposals, and from several of 'em. Mr. *Knayston* will inform your Lordships, *That he and other Masters waited on the Lord Chancellor, and propos'd to give Security in Land, or Money, for their Cash, and to make their Trust less by putting the Securities in two Masters Names, or in the Names of the Parties and one of the Masters;* with which he then appeared pleas'd, tho' he afterwards did nothing in it, and expres'd his dislike of the proposal. Yes, my Lords, the proposal was too reasonable to be refus'd, and too self-denying to be follow'd. So far was the unfortunate Lord from following it, or acting in any manner consistent with it, that soon after the Failure of Mr. *Dormer*, after these proposals were made to him, he sells the Offices of several masters at most exorbitant Prices. And was this what my noble Lord sets forth in his Answer, *as one of the Expedients he thought of, after Dormer's Misfortune, for preventing any Inconvenience, on the like Accident, for the future?* Was this the only Method of Cure the noble Earl brought to such Perfection, as to venture to put it in Practice?

My Lords, the Gentlemen, embarqu'd in the same Bottom with this unhappy Lord, saw the Ship sinking, and propos'd throwing over-board part of their unjustifiable Gains, to prevent their general Wreck; but the impeach'd Earl does not only boldly steer on the same Course, but takes in lading, more Weight of Guilt, if not in defiance of the danger, certainly in the Neglect of it.

And how, my lords, does his Answer excuse this Conduct? He admits that several proposals were made on that Occasion, but *some he thought impracticable, some insufficient, some inconsistent with that compleat Regulation he hoped to make.* And because some were insufficient, some inconsistent, and not answering the full Idea of Perfection propos'd by his lordship, must therefore nothing be attempted? Must we have no Relief, because we despair of an absolute Cure? Must no Remedy be apply'd to a dying Person, because it is not certain it will restore him to his perfect Strength? Thus far indeed is certain, It is much better to do nothing, than to continue such methods, as first brought the Distemper upon him. We must therefore leave it with your Lordships to judge, whether the Inconsistency of the proposals with the Earl's private Views was not the true Reason of their being thought impracticable and insufficient. And what those Views really were, the whole

Tenor

Tenor of our Evidence has, and will shew. Views beneath the Dignity of his high Office, and far below a Member of this August Assembly.

My Lords, the Commons farther charge this unhappy Earl, *that he not only knew, but conniv'd at, and encourag'd this destructive Traffick*: And in answer to this, He says: "That he gave no Permission nor Encouragement to the Masters of the Court, to employ or traffick with the Suitors Money." We have shewed your Lordships, he knew it, and knew it in the most affecting manner, by the Ruin it had produced. We need not shew you that He had power to prevent it. And surely, my Lords, to know it and not prevent it, in his Situation, was to permit it. And as his not preventing it was a Permission, so his Example was an Encouragement: And when the Masters saw him (the greatest Object in the Compass of their View) taking every indirect method to make the most of *his High Office*; sure, they must think that Example (join'd to the Necessity he *Himself* laid them under by the exorbitant Prices he exacted) a sufficient Encouragement to authorize them in the like Practices *in theirs*. The Examples of great Men, my Lords, are Encouragements, and the Assembly I see before me is an illustrious Proof, they ought to be so, and will do Honour to those who follow them: And from the Influence those Examples have, and ought to have over the rest of mankind, it has been suppos'd, that the only Passage to Honour was through the Temple of Virtue; but, my Lords, tho' there be but one Passage to it, there are many from it; and so many are the Frailties of human Nature, that the Building would be imperfect, without a Back-door to let out, whatsoever sullies or pollutes it: A Door, my Lords, your Ancestors have opened to former Lord Chancellors.

But we shall call our Evidence, and submit the whole with the greatest Security and Satisfaction to your Lordship's Judgment.

Mr. *Plummer*. I desire Mr. *Lightboun* may be called.

[Mr. *Lightboun* being called appeared.

Mr. *Plummer*. I desire Mr. *Lightboun* may inform your Lordships, whether he had any Discourse with my Lord Chancellor, about putting the Offices of Masters of *Chancery* into a better Regulation?

Mr. *Lightboun*. My Lords, in order to answer this question it will be necessary for me to repeat some part of the Account I gave when I was last at your Lordship's Bar. I then acquainted your Lordships, that in the Beginning of the Summer, in the Year 1722, the Lord *Macclesfield*, having directed me to attend him, told me that he had heard I had not contributed my 500 *l.* towards making up Mr. *Dormer's* Deficiency, as the other matters had done; that he did not expect I would have stood out, and was sorry to hear of it, as he had a more particular Regard to my Conduct than any of the rest, because I was the only master of his immediate Choice; and on his Lordship's telling me that it was first propos'd by the masters, and not by his Lordship, I told him I was not willing to comply with it, and thought it a dangerous Expedient; that it might be hereafter looked upon as an Undertaking one for another, and therefore I would not come into it; and that as this Accident had happened to Mr. *Dormer*, the like might happen again to others,

and might be the Ruin of us all, if such a Construction were put upon it. My Lord was pleas'd to say, it was the only Expedient he could think of for making good the deficiency. I told him I had as much at Heart the doing of that as any Body; and that if a proper Expedient could be found out to pay Mr. *Dormer's* deficiency, and prevent the like Accident among us for the future, by putting the Offices on such a Foot, that the masters might execute them with Honour to the Court and themselves, and with Safety to the Suitors, I should be glad to contribute to such Regulations. His Lordship said he should be glad if any such Thing could be thought of, and asked me, if I could think of any method by which that might be done. I told him I believ'd I had; at which he expressed great Satisfaction; and we being then standing, his Lordship desired I would sit down. He then asked me, in what manner it was that I propos'd the Suitors should be made safe: I told his Lordship that I apprehended it was impossible to expect, that the masters could give a Security adequate to such a Trust; that there were many Instances of great Officers, whose Trust was so great as to be above giving ample Security, particularly the Tellers of the *Exchequer*, and the Treasurers of the *South-Sea* and *East-India* Companies: But if a competent Security were taken, and such I apprehended might be given, I hop'd it would answer the Intent, and give Satisfaction, since ample Security for so great Trust could not be expected. I then told his Lordship, that if the Causes of Mr. *Dormer's* misfortunes were considered, they would be found not only to proceed from squandering or misapplication of the Cash, but from Power over the Securities in his Hands; for that the money could not be so much, but the Securities amount'd to a greater Sum. He said it might be so, but how to prevent it he would be glad to know. I told his Lordship, that if the Securities, for the future, were to be taken in the Names of the master, and one or more of the Parties, the Suitors would be safe. It was then observ'd, but whether by my Lord, or me, I do not remember, that an objection might arise to this method, for that if either the master or the party should die, the Trust would survive; and thereby either the Court lose its Power over the Security, or the master's sole Power over it be restor'd; but, to prevent that, I propos'd that they might be taken in the Name of two or three, or more of the masters, with or without the Persons interested, as the Court should think proper; and that it was hardly to be imagin'd that all the masters would betray their Trust, and risque their Fortunes to oblige any one, by suffering him to traffick with the Securities of the Court, taken in their joint Names; especially, if Care was taken, that such master, as was to be joined, or be a Check upon another master, should have a Third to be a Check upon him. My Lord *Macclesfield* object'd, That there was a great Number of *South-Sea* and *India* Bonds, and other Securities, payable to the Bearer, that could not be in the Names of any particular persons, and so could not be secur'd in that manner; and that it would be troublesome to lock them up. To which I replied, I knew no occasion for putting out money on *South-Sea* or *India* Bonds, or such securities, since there were other Securities sufficient,

sufficient, which might be under a proper Restriction, and which were not partable, but are transferrable in Books at the *Bank*, or elsewhere, viz. *Stocks, Bank-Annuities, Civil-List Annuities, Four per Cent Annuities, Land and Malt Tallies, and Lottery Orders*, which were assignable by Indorsement; and that, if these Securities were taken in the Names of several Persons, it would be impossible for any one Person to dispose of them, without the Knowledge and Consent of all. My Lord expressed great Satisfaction at this Proposal; and then asked me, in what manner Mr. *Dormer's* Deficiency would be provided for? I then acquainted his Lordship, that there was always a considerable Cash in each master's Hands; and that if some part of that was placed out at Interest, in the Name of all the masters, it would be no Injury to the Owners, if it was ready, when called for; and the produce would raise a Fund to pay Mr. *Dormer's* Debt; and that it was very likely the Lords of the Treasury might, on such an occasion, give us the Preference, and let us choose a proper Part of the loans on the Land and Malt-Tax, to lend the money upon; that if any master wanted any Part of the money he had placed out on that Occasion, to answer the Suitors Demands, such Securities were easily converted into money. I was unwilling to fix any Sum for each master to advance; but believe I did mention 3, 4, or 5000 *l.* for his Lordships Consideration; and took Notice that would amount to 40 or 50,000 *l.* and would, in due Time, raise a Sum of money sufficient to answer the Deficiency of Mr. *Dormer*. My lord made some Doubts; but said he would be exceeding glad to give his Assistance; but was afraid he could not properly order the Suitors money to be laid out, but for their Benefit whose money it was. I said, I thought that might be done without any Order, if his lordship approved it, and the masters all came into it, and placed it out in all their Names; and that at any Time, by disposing of the Security taken for it, the money might be raised, when wanted. My lord made some Doubt, whether it could well be done; but was pleased with the Proposal: And many other Things were said, which I cannot, at this Distance of Time, recollect. I had, my lords, two Views in it, but won't be positive that I mentioned them to my lord. I apprehended it would not only raise a Fund to pay Mr. *Dormer's* debt; but that it would divest each master of the power over 5000 *l.* of the Suitors money, which he had in his Hands. I also took Notice, that if some small Security was taken from the masters, but am not certain that I mentioned any Sum; but believe I might say 5000 *l.* and that such a Security, with our Offices, valued at about 5000 *l.* a-piece, would, with the money placed out for the Payment of Mr. *Dormer's* Debt, be a Security for the money in our Hands, were we but divested of the power over the Securities, which was four parts in five of the Trust: And tho' 15,000 *l.* will not answer the money which a master may sometimes have in his Hands; yet, where a man gives a Security for 14 or 15,000 *l.* he'll scarce run away for 20,000 *l.* This I thought, might be of Service to the publick, and desired my Lord to consider of it: And his Lordship said, that something might be grafted on this Plan; and

desired me to put it in Writing. I told his Lordship I did not know, whether this Scheme might be agreeable to every Body; that I came into the Office but very lately; and that it was necessary for me to have a good Correspondence with my Brethren; and that I was afraid, if it should be known that I proposed any thing without their privacy, I should be used more unkindly among them than I had already been; and therefore hoped his lordship would not let them know, that it was my Proposal, nor shew them any thing of mine in writing; and took my Leave of my lord at that Time. The other masters knew I had been with my lord; but I did not communicate the Occasion of my going to him, or the Proposal; but I sounded the rest of the Masters, how any proposal of this Kind was agreeable to them: Most of them were averse to it, particularly that of divesting them of the Securities; because that shew'd a Distrust of them, and, they said, would diminish the Reputation of the Office. They were against placing out any such Sum as 5000 *l.* some were rather willing to contribute annually, than to pay such a Sum of money down: And finding them averse to it, I was a little cautious how I put this Proposal into Writing. It was near a month before I set about it; and then did it by way of letter, in which I took Notice in the Beginning, that it was in Obedience to his Lordship's Command.

Mr. *Plummer*. I beg pardon for interrupting the Witnesses; I desire he may be asked, if he did not send that Letter to my Lord *Macclesfield*?

Mr. *Lightboun*. I wrote a Letter, to the same Purport or Effect with what I had proposed, except in some Instances which I found other masters averse to, and was cautious of carrying it too far; and believe, instead of 5000 *l.* to be placed out, I only mentioned 2000 *l.* or such other Sum as should be agreed on. And though I mentioned a larger Sum, when I was with my Lord, and a smaller by Letter, I left that to my Lord's Direction, as his Lordship should think necessary. I don't remember, or believe, that I took notice in my Letter of the small Security I proposed to be taken, the rather, because the masters differed much in their Thoughts about that: Some of them were for giving none; therefore I said nothing of it. I thought that was my Lord's province more than mine; but I stuck the more closely to that of placing out of the money, for payment of Mr. *Dormer's* Deficiency, and taking the Securities in several masters Names. And when I had writ the letter, I sent it to my lord about *June*, or *July*, 1722, by my Clerk, who told me he delivered it to my Lord's Servant.

Mr. *Plummer*. I desire to know, if he kept any Copy of that letter?

Mr. *Lightboun*. I kept the original Draught, which I apprehend I writ the letter from. I can't say it is an exact Copy; because in transcribing, I might alter Words which I disliked, and put in others; and therefore I am not sure it is a true Copy; it may vary in Form, but not in Substance.

Mr. *Plummer*. I desire he may be asked, whether ever he spoke to my lord about it, and that my Lord acknowledged the Receipt of this letter?

Mr. *Lightboun*. My Lords, I think I did say, in the Presence of some of the masters, when my Lord talked of taking Security in several masters Names, that if his Lordship would look into the letter I writ to him at such a Time, he would find that Proposal made: I don't remember my Lord made any Reply, he did not deny it. But not long before *Chriftnas*, my Lord did mention this letter to me, upon this Occasion: When I was passing my Accompt before the Judges, and the Directors of the *Bank*, I had told them of this letter; which his Lordship, having heard of, asked me, what I had said about it? I told his Lordship, I had acquainted them with the Contents of the letter I wrote: Says He, I have that letter by me.

Mr. *Plummer*. I desire Mr. *Lightboun* may produce the letter.

Mr. *Lightboun*. My Lords, I have not the letter.

Mr. *Plummer*. The original Draught you mention.

[Mr. *Lightboun* produces the Draught.

Mr. *Plummer*. Is that your own Hand-writing, and the Substance of the Letter you sent to the Lord Chancellor?

Mr. *Lightboun*. It is my Hand-writing, and the Substance of that Letter.

Mr. *Plummer*. I desire it may be read.

[Mr. *Baily* reads the Draught.

My LORD,

I N Obedience to your Commands, I here lay before your Lordship my Thoughts upon the Affair you were pleased to mention, when I had last the Honour to wait upon your Lordship; and must own, that a provision, for the Demand upon Mr. *Dormer's* Office, might answer our present purpose: But, with great Submission, I think it concerns the Honour of the Court of *Chancery*, to find out some proper Expedient to prevent the like Accident for the future: And I beg leave to observe, that the great Difficulty, which this Gentleman has brought upon himself and the Court, proceeds not only from his Squandering or Misapplication of the Court Cash in his Hands (were that all, his Estate and Office would much more than have answer'd the Demand) but I am afraid it is too obvious, that his Power over the Government Securities, that had been transferr'd to, or brought before him, or upon which he had plac'd out the Money of the Suitors of the Court in his own Name, has been the Occasion of this great Deficiency, which I hope may be provided for, and the Credit of the Court retriev'd and supported, by every Master's advancing 2000*l.* or such other Sum as shall be agreed on, out of the Cash of the Court in his Hands; which being plac'd out at Interest, the yearly Income thereof, together with the Produce of Mr. *Dormer's* Estate, will answer the Demands that may be expected on his Successor; and will, in due Time, make good the Debt upon the Office, provided the Money that has already, or may hereafter be rais'd, from his Estate, or any other Way, for that purpose, be forthwith apply'd to discharge such Demands as carry Interest, or be invest'd in such Securities as have been dispos'd of by Mr. *Dormer*, belonging to the Suitors, to answer the same and the accruing Interest, which I hope the Gentleman that succeeds him has already taken Care of, if not, the Demand will rather encrease than diminish.

And having before observed, from whence this great Deficiency has arose, I submit it to your Lordship, whether the taking all Government Securities for the future, in the Name of two or more Masters, may not prevent the like Misfortune hereafter: And the Deposit to be put out to Interest, to raise a Fund for the Payment of Mr. *Dormer's* Debt, together with our Office, wou'd in a great Measure, be a Security for the Cash with which we should then only be intrusted.

I expect it will be objected, against the Deposit, that some masters may not always have that Sum in their Hands; but I will venture to say, 'tis scarce probable that can happen, if the Money be directed as usual, to be brought before the Masters, both by Your Lordship and the Master of the Rolls, without which the Masters can't think themselves much interested in the Event of Mr. *Dormer's* Affair.

It may also be objected, that the Alteration propos'd, in the future taking Government Securities, will shew a Distrust, and cause Reflections upon the masters; but I shall think it a Happiness, to be divest'd of a power never to be us'd, without the greatest Violation of the Trust reposed in us that can well be imagin'd; and I think it evident, that it had been a much greater, if we had never been intrusted with it; and as this Variation may be begun by ourselves, without any publick Direction or Alteration in future Orders, I think it will rather turn to our Reputation than Disadvantage, and will certainly ease the minds of the Suitors, which ought to have some Consideration in this Affair. I am unwilling to trespass longer on your Lordship's Time; but if I have the Happiness to have offer'd any thing thought practicable by your Lordship, when I have the Honour to be admitted to wait upon you, I hope to satisfy your Lordship, that I shall, with Pleasure, contribute, as becomes me, to facilitate any Undertaking of this Kind; and that I have as much at Heart the Reputation of the Office I had the Honour to be plac'd in by your Lordship, as any of my Brother masters. But as we have different Views, it is not surprizing that we think not alike; which makes me fear that nothing of this Kind will be approved of, unless recommended by your Lordship; and am,

My LORD,

Your Lordship's

Most obedient Servant,

J. LIGHTBOUN.

Mr. *Plummer*. What Date is it?

Mr. *Lightboun*. I did not expect when I wrote this letter, that I should have been call'd upon to give any Account of it, and did not put any Date to it; but to the best of my Knowledge, it was in *June, July, or August, 1722*; but it is from Circumstances I recollect that, rather than from any Remembrance I have of the exact Time.

Mr. *Lutwyche*. I only desire that Mr. *Lightboun* may recollect the Time, when he first mention'd this to my Lord *Macclesfield*, and this letter was taken Notice of to him?

Mr.

Mr. *Lightboun*. Indeed, my Lords, I cannot do that, I believe it was at a meeting of several of the masters, at my Lord's House. I often had the Honour to be admitted to him, with or without other masters. His Doors and Ear were always open to me; and I was often troublesome to his lordship. But I cannot recollect the Time, when this was first mentioned.

Mr. *Plummer*. I think he says the Masters might have different Views. I desire he would explain himself, what he meant by that?

Mr. *Lightboun*. I meant by that to put my Lord in mind of what I had said, when I had the Honour to be with him last, when his Lordship told me, that the proposal of a Contribution came from the two senior masters, I then said that their Design was only to skin over this Wound, till they could get out: That one of them had slipp'd his Neck out of the Collar already, and another was about getting out. I told his lordship, that, as I was but lately come into the Office, I proposed to spend my days or wear myself out in the Service of the Court. Therefore, that their Design was to get out, and mine to continue in, was what I meant by different Views.

Mr. *Plummer*. Mr. *Lightboun* hath given your Lordships an Account of his Proposals and Arguments used with my Lord Chancellor; I desire to know, whether he used any other inducements to persuade my Lord to make some Orders relating to the masters?

Mr. *Lightboun*. It was a long Time before I heard any more of this Affair. As they were quiet, without any Application to me for the 500 *l.* or to come into any Contribution, which I was resolved against; so I did not think it prudent for me to make any Bustle amongst my Brethren. I thought I had done my Duty, I had given my Opinion when it was required, and I did not stir in it till the masters apprehended themselves very much aggrieved, by the Variation the master of the Rolls was pleased to make in the Practice of the Court, by directing all the money of the Suitors to be brought before his Usher, and sometimes to be put out by him without the masters Approbation; which not only deprived the masters of any Advantage from thence, but of those Fees that were due to them, on the receiving and placing out at Interest, or paying it out again; and, as I took it, it no Way answered the End, nor was for the Benefit or Security of the Suitors: Because if the Trust was too great, and the Suitors Property not safe in eleven Men's Hands, much less was it safe in the Hands of one. Therefore I apprehended there was Reason for Complaint. On this Account we had several Meetings; I was always ready to come into any Representation to my Lord, in hopes that Grievances of all Kinds might be looked into, and, I believe, often complained to my Lord of these matters. We went to my Lord Chancellor, and acquainted him of our Grievances; my Lord desired us to put them into Writing, we all readily concurred in that: Accordingly we drew up our Complaints of these, and other Incroachments on our Offices, by Way of Representation, which was delivered to my Lord Chancellor, and after my Lord had had it some Time, and nothing done, we frequently importuned my Lord, to consider the declining

State of our Offices; and, I concluded, that would bring the other matters on the Stage, without which, nothing effectual could be done. My Lord said he would have a Conference with the master of the Rolls, and the Masters, in order to debate these matters; and I did not doubt, but, upon that Occasion, the Deficiency of *Dormer's* would come out, and that something might be done for us, consistent with the Honour of the Court, and the Suitors Safety. But that Conference was delayed; the Grievances in all Respects grew greater; we grew more troublesome to my Lord Chancellor; my Lord then said, there was a Necessity of redressing all the Grievances; he mentioned the masters giving Security, that of taking Securities for the Suitors in other People's Names, and continuing the Masters in the Enjoyment of their Offices, as they had used to have them, and said it would be best to do all together. With this we were put off for some Time, but, on further Solicitation, my lord said, he was now determined to do something in this Affair, and his Lordship desired a more particular Account of the Grievances complained of by the masters, and their Reasons, and the Inconveniencies to the Suitors that accrued from the new methods, which the master of the Rolls had turned the Business of the Court into; and that the matter, both with respect to the Suitors and the masters, might be fully understood, his lordship pressed, that something of that Kind might be drawn up in Writing and laid before him, and he would make Orders proper to make a thorough Reformation in the Court: And, I remember his Expression to me was, it would save him much Trouble, if what was drawn up by the masters, not only contained the Things which they had Grounds to complain of, but was put into the Form of Orders necessary to be made, for him to consider of, and alter, and add such others as he had prepared, or thought necessary. And soon after, a second Representation was prepared and was delivered to my lord. And after his lordship had had it some short Time, there was a Meeting at my lord Chancellor's, where the master of the Rolls and the masters were present, and at that Time there was a good deal of Discourse about the money. But when the master of the Rolls began the Topick of his Jurisdiction, exclusive of the King's Commission, Heats arose, and little was done at that meeting. I think some Persons of Quality came to speak with my lord, and that broke it up. I was soon afterwards with my lord, and I asked his lordship what he intended to do: He said he was sorry Matters were got to that Heighth, but that he found if the Masters would give up the Judicature, they might be made easy in their Demands, and Things put upon the old Foot, and the Suitors made safe too. Upon that Occasion, I did take the liberty to say, if there was a judicial Power in the masters by Vertue of the King's Commission, as it was his Majesty's Prerogative to grant, we could not give it up; and that, for my part, I would not exchange or barter it for the Custody of the Suitors Money. I believe my lord proposed, at this meeting, to have had the Assistance of the Master of the Rolls in making these intended Orders; and I recollect, that after the Deficiency of this last Representation,

which

which I was present at, I heard that my lord had shewn it to the master of the Rolls before the meeting, which I took amiss, my lord desiring it for his own private Use: Upon which I went to him in order to withdraw it, and told him it was done in such Haste, that all the Masters had not considered it; but whether I alledged to him, or He to me, I don't remember, but it was said, that it was very proper the Masters should all sign it; and I think I carried it back to the Masters, and that we all signed it; and then it was delivered back to my Lord. And, I believe, upon the Face of that Representation it will appear, that it was drawn up at my Lord Chancellor's Request.

The first Representation was chiefly confined to such Grievances as affected our selves, the second is more at large; I don't know whether his lordship will produce it. Some Things in it may seem to bear hard upon his Honour the master of the Rolls, and may give Offence; but it will be considered, that it was written at a time when there were great Differences between the master of the Rolls and the masters. Nay, I think I may say, the whole Court of Chancery was in a State of War.

Mr. *Plummer*. I desire he may be asked, if he ever laid before my lord Chancellor the Expectations of the World; that he would reform these Abuses and Grievances?

Mr. *Lighboun*. I have often mentioned that to my Lord, and pressed it rather more and oftener than became me. I was ashamed to be so troublesome, and I was surprized that my lord did not do something in it; tho' I soon found, and have often told one or other of the masters and others, that my lord would do nothing in it. However, I continued to persevere in pressing it; and expressly mentioned the great Inconveniencies the Court would be run into, for want of a proper Regulation, and with what an ill Grace we could apply to his Successors to redress these Grievances, in Case his lordship grew weary of the fatigue of Business, and quitted the great Seal; that they would tell us, we had long acquiesced under them, and that his lordship not having so much as looked into them, they would not care to meddle or interfere in it. I pressed it home to his lordship, and thought he made Doubts and Difficulties where there were none. Indeed I thought in this his lordship wanted his usual Resolution, and almost ventured to say so. I know not whether it is very proper to mention it, but I did take the liberty to tell his Lordship, that if he did not redress these Grievances, unless my lord *Lechmere* succeeded him, I despaired of seeing them settled on any better Foot. I hope my lord will pardon my mentioning his Name.

Mr. *Serj. Pengelly*. My lords, We have done with Mr. *Lighboun*.

Mr. *Serj. Probyn*. I desire he may be asked, when the first Application was made by the masters to redress their Grievances?

Mr. *Lighboun*. I really can't tell. I went so frequently to my lord, that I cannot distinguish one Time from another; I believe other masters that went seldomer can tell better; but I believe it must be a Year and a half, or 2 Years ago, or more: I cannot tell the Time.

Mr. *Serj. Probyn*. I desire he may be asked, whether there was any second Application, before the Representation was put into Writing?

Mr. *Lighboun*. Immediately upon the master of the Rolls's varying the method of the Court, and directing the money to be paid in to the Usher, the masters went to my lord Chancellor's, which I believe must be before *Christmas*, 1722. I believe Mr. *Holford* remembers it better; and that from Time to Time, I have often told him that my lord Chancellor would do nothing in it.

Mr. *Serj. Probyn*. I desire to ask him, when that meeting was between the late lord Chancellor and the master of the Rolls?

Mr. *Lighboun*. That I believe was the beginning of last Summer.

Mr. *Serj. Probyn*. We desire he may say who was then present at that meeting with the master of the Rolls?

Mr. *Lighboun*. My lords, At that meeting with the master of the Rolls the lord Chancellor was there, had the great Seal before him; and the two Senior Registers were there, with Pen Ink and Paper before them, in proper Habits; the Master of the Rolls, and all the masters in their Gowns; and the Secretary was there, and the masters all hoped the Orders were to be then pronounced; but I can't remember that the Registers set Pen to Paper. The Usher was likewise there.

Mr. *Serj. Probyn*. I desire he may, if he can recollect it, give a particular Account of what passed at that meeting.

Mr. *Lighboun*. The masters insisted they had a Right by Custom to have the money brought before them, where there was any Reference to a master, whether it was by Orders made upon hearing, or by Interlocutory Orders, or if there was a Direction in that Order, by which the money was brought in for the Payment, or Application of it; in these Cases they alledged, that the money had, time out of mind, been brought before the master, to whom the reference was directed; and they did admit, that where money was brought in upon Bills of Interpleader or Interlocutory Orders, where there was no Reference to a master, the money had usually been directed to be brought into Court, in Order to be kept till it could be determined whose it was, or to what Use it was to be applied; and there they admitted the money was formerly kept by the Usher. This I apprehended was insisted upon by the masters as their undoubted Right, and it was expected an Order would have been then made, declaring it so.

Mr. *Serj. Probyn*. I desire to know what further passed relating to Facts only, without any Account of his own Expectations?

Mr. *Lighboun*. Some Debate arose about the master of the Rolls's Judicature, started I think first by himself.

E. of *Macclesfield*. I desire to put Mr. *Lighboun* in mind of some Things, and first to ask him, whether upon that Application they had made to me in relation to the Alteration or Variation, as he calls it, in the Practice of the Court, by the Orders made by the master of the Rolls, whether I did not require them to lay Precedents before me, that I might be satisfied how that matter stood?

Mr. *Lightboun*. Your lordship did; but it was long before that meeting, I believe a Year and more.

E. of *Macclesfield*. Whether there had not been like Directions, that the Usher should lay Precedents before me?

Mr. *Lightboun*. I don't know of any such Directions to him, but I remember my lord Chancellor called for his Precedents, and wondred he had not brought them, if he had any for his purpose.

E. of *Macclesfield*. I desire Mr. *Lightboun* may recollect whether the question was not put to the Usher, with relation to the Usage of the Court, to put the money into the masters Hands, in all Cases where the money was brought into Court, to be disposed of, either to be put out at Interest, or paid to Creditors, or Legatees, whether he had any one Precedent to the contrary?

Mr. *Lightboun*. I remember he had none, and I apprehended the Usher did not make out any sort of Claim to keep such money.

E. of *Macclesfield*. I don't ask what the Usher made out, but what Questions were asked him about the Usage and Precedents.

Mr. *Lightboun*. I believe they were ask'd for, and I am sure he then produced none.

E. of *Macclesfield*. Pray recollect, and consider; did I speak to him, as to one that had not any Precedents to produce; or did I make mention as if he had brought Precedents, and ask him if he could say, that among those Precedents there was one to the Purpose, to make out that the Usage was not so?

Mr. *Lightboun*. I say your lordship blamed him for not bringing these Precedents. I believe your lordship asked him, if he could bring any Precedent to the Point? and, to the best of my Remembrance, he said he had none, or gave no satisfactory Answer, but such as I thought evasive; but I cannot remember particularly what your lordship and he said to each other.

E. of *Macclesfield*. This is a very indifferent Account; since Mr. *Lightboun* hath so good a memory, I desire to know whether the Usher was not told, that his Precedents had been read, and possibly I might have overlooked some that were material; and therefore desired him to shew whether there was among them any one Precedent, that related to money brought in, in these Cases?

Mr. *Lightboun*. He produced none.

E. of *Macclesfield*. Did it not appear that he had produced Precedents before, and they had been read, and that possibly I might have overlooked some of them?

Mr. *Lightboun*. On your lordship's mentioning of it, I do recollect something did appear, that your lordship had seen his Precedents, and did expect he should have brought more.

E. of *Macclesfield*. I desire he may be asked whether he did pretend he could produce more?

Mr. *Lightboun*. My lords, I cannot be particular in that.

E. of *Macclesfield*. I desire to know whether he did not own that he had no such Precedents?

Mr. *Lightboun*. In Answer to that, my lords, I cannot say positively he did or did not; for I believe I have seen some few Orders of ancient Dates, that were Precedents of money being brought into the Usher's Hands, in Order to be disposed of after hearing. But there were but few of them.

E. of *Macclesfield*. My lords, I desire Mr. *Lightboun* may be asked whether the Registers were not asked about the Practice of the Court and if in all their Observation and Experience the money in the Cases before specified was order'd to the Usher?

Mr. *Lightboun*. They were, my lords.

E. of *Macclesfield*. And what Answer did they make?

Mr. *Lightboun*. They answered, that the money, after hearing, and on interlocutory Orders, where the Application was directed, had been usually ordered to the masters.

E. of *Macclesfield*. I desire Mr. *Lightboun* may be asked, whether it was not after this, that the master of the Rolls began to speak with relation to the Judicature, and how that was introduced?

Mr. *Lightboun*. I have forgot the Circumstances and Manner of its being introduced by the Master of the Rolls. But I remember one Expression of his Honour's, That he would have the Masters consider how proper it was for them to insist upon a Judicature, which would empower them to order Money into their own Hands. But how he introduced that Discourse I don't know; but I saw the lord Chancellor had not a Mind that Topick should be touched upon, and that the Master of the Rolls brought it in much against his Lordship's Inclination; but how I don't remember. If your Lordship puts me in mind, I may recollect.

E. of *Macclesfield*. The Usher, was not he apprized of this meeting?

Mr. *Lightboun*. Yes.

E. of *Macclesfield*. Did the Master of the Rolls give any Opinion relating to this Matter of the Money being paid to the Usher?

Mr. *Lightboun*. He insisted on his own Judicature, and both introduced and stuck to that Discourse.

E. of *Macclesfield*. Do you remember his saying that the Masters must not expect favour at the Rolls, if they contended for Jurisdiction?

Mr. *Lightboun*. My Lords, I do not.

E. of *Macclesfield*. You spoke of my irresolution: Was it not with respect to the Dispute between you and the Master of the Rolls?

Mr. *Lightboun*. I could not tell were it stuck, there was some Difficulty made of determining that Matter; but your Lordship did not communicate to me your Reasons why you did not proceed upon that or any other of the Masters Affairs.

E. of *Macclesfield*. I presume, Mr. *Lightboun*, you did not every time you came to me, speak to me of the Affairs wherein the Masters thought themselves hurt?

Mr. *Lightboun*. No, my Lord, I did not.

E. of *Macclesfield*. You sometimes spoke to me about the Money, and at other Times relating to the Master of the Rolls; I desire to know, when you applied to me with respect to the Disputes with the Master of the Rolls and the Innovations made on your Offices; if it was not upon that you found me irresolute?

Mr. *Lightboun*. Your Lordship always said it was proper to settle all at one Time, that some Security should be given by the Masters, and something done to make it reasonable to expect it from them; which was to establish the Masters in their just Rights, and upon that occasion your Lordship mentioned taking Securities in different

rent Persons Names, and upon that Score the old Proposal of mine was revived.

E. of *Macclesfield*. I have no further Question to ask.

Mr. *Serj. Pengelly*. My Lords, we desire Mr. *Holford* may be called.

Mr. *Holford* called.

Mr. *Serj. Pengelly*. My Lords, We desire Mr. *Holford* may be asked, whether at any time, and when, he heard of a Proposal made by Mr. *Lightboun*, and whether it was made publick?

Mr. *Holford*. My Lords, a good while ago, I believe two or three Years, Mr. *Lightboun* and I had a great deal of Discourse about the Condition and Circumstances the Court of Chancery was then in; and about the Confusion that was like to happen by the unfortunate Accident that had happened to Mr. *Dormer*. We did talk of a great many Things that were proper to remedy it. A great many were the same that are mentioned in the Letter that hath been read. I think I told him, it was very right, especially as to the matter of the Securities, which was the greatest power a Master was trusted with; for, as the Securities were above three Parts in four of the whole Trust, if there could be a way found out to secure that, it would be a taking away three Parts in four of our Trust; and consequently would not leave so great a Power in the Masters; but as long as they were taken in the Name of one Person, and no trust declared, he could dispose of those Things, and no body could hinder it. Therefore I thought it proper to be taken in two or three Names. I believe when it was proposed to be in two Masters, it was mentioned there might be a third, and then no harm could happen to the Suitors, unless Corruption ran through the whole Office. I remember some time after, that Mr. *Lightboun* did shew me the rough Draught of this Letter, which he said he had sent to my Lord; and we read it over together at my House: I told him, it was very right, and that he had put it upon as good a Foot as upon the first Consideration it could be put upon: That every new Method was liable to Inconveniencies, but for my Part I thought it looked fair, in that, as to the Matter of the Securities, the Money in the Masters Hands was left pretty much to the Direction of my Lord Chancellor.

Mr. *Serj. Pengelly*. I desire he may be asked, whether these Proposals that were made were agreeable to him, so far, that if they were directed by my Lord Chancellor, he would have submitted to them?

Mr. *Holford*. Yes, my Lords, I should have readily submitted to them.

Mr. *Serj. Pengelly*. I desire he may be asked, whether he remembers any Discourse of these Proposals before my Lord Chancellor in his presence?

Mr. *Holford*. I don't remember I ever had the Honour of speaking to my Lord Chancellor about any of them; nor to have been at any meeting where they were spoken of before my Lord Chancellor.

Mr. *Lutwyche*. My Lords, I desire he may be ask'd, whether he can recollect when he had this Discourse with Mr. *Lightboun*, and when this

Draught of the Letter was shewn him?

Mr. *Holford*. About two Years ago; some time after it had been written, and sent to my Lord, Mr. *Lightboun* told me, says he, I have writ to my Lord to the Effect of what we talked of; and I will shew you the letter; and he pulled out the Copy and shewed it me.

E. of *Macclesfield*. Was you at that meeting which Mr. *Lightboun* hath mentioned, when the Masters and the Master of the Rolls were there? And what passed, as near as you can remember?

Mr. *Holford*. My Lords, I think it was upon Midsummer Day, if I remember right, and the Masters, the Ushers, the Registers, and the Master of the Rolls, were all there. My Lord Chancellor declared there had been some Disputes in the Court of Chancery, and he had called them together to adjust those Disputes, especially in relation to the Money of the Court. My Lord's Usher was called upon to know whether he had any Precedents to offer in justification of his own Right, or of what he claimed as a Register; and the Usher, I think, said at that time, he had no more than he had already delivered to his Lordship; I believe his Lordship said those Precedents were not much to the Purpose; the Usher said he had no more, and delivered no more; and after some Discourse, there were several People spoke; the Usher insinuating there were some Precedents to the Purpose. Then a Dispute arose about the Jurisdiction of the Master of the Rolls; and so the Affair broke up at that time. I think nothing more was done.

Mr. *Serj. Pengelly*. My Lords, we desire that Mr. *Kynaston* may be called.

Mr. *Kynaston* called.

Mr. *Serj. Pengelly*. My Lords, We desire that Mr. *Kynaston* may give your Lordships an Account, whether he knows of any Proposal made to the Earl of *Macclesfield*, relating to the securing the Effects of the Suitors?

Mr. *Kynaston*. Yes, My Lords, I do; there were several meetings among the Masters privately before they came into an Agreement. I think they all did agree, that they would go to my Lord *Macclesfield*, and propose to him to give Security, and to settle the Matter of the Securities so, that it should not be in the Masters power to dispose of them. I remember it was agreed upon, that it should be so represented to my Lord, and I believe all, or most of the Masters, went to my Lord *Macclesfield*, and did propose it to my Lord. I am very positive some Proposals were laid before him. Some proposed to get People to be bound with them, but there might be some Difficulty in that; others proposed that they should give Land Security, but it was thought likewise that might meet with Difficulties in relation to the Title.

Mr. *Serj. Pengelly*. Was there any Proposal made as to the Securities in their Hands?

Mr. *Kynaston*. Yes.

Mr. *Serj. Pengelly*. In what manner was it proposed that the Securities should be taken?

Mr. *Kynaston*. I am not positive, but it was to this purpose; that they should be put in one or two of the Masters Names, and of the Persons concerned. I am not certain how that was, but it was something of that Kind.

Mr.

Mr. *Serj. Probyn*. My Lords, I beg leave to ask this Witness when this was?

Mr. *Kynaston*. I do not remember the time exactly. I believe it was some time about *Christmas* was twelve Month.

Mr. *Serj. Pengelly*. My Lords, We shall call no further Witnesses upon this particular Article; but beg leave to refer to your Lordships recollection what passed Yesterday, from the Examination of all the Masters, relating to the Encouragement and Inducement that proceeded from my Lord *Macclesfield*, to the Masters, to persuade them to make up *Dormer's* Deficiency, if their Offices should be established on their old Foot; which sufficiently proves the Notice the Earl had of their trafficking and dealing with the Money belonging to the Suitors of the Court. In the next place we shall lay before your Lordships an Order, made by the Earl of *Macclesfield*, of the 17th of *December*, 1724. Tho' as to the several Proposals made to his Lordship by the Masters, he doubted of the power he had to make any Order, yet when it was too late, or after the losses had happened, when the Affair of this great Deficiency appeared, then doth he make an Order, that looks with some Care, but with this Introduction, that it was not usual for the Masters to give Security; tho' it appears to your Lordships that they had offered it, and were willing to do it.

Mr. *Ralph Paxton* proves the Order.

Clerk reads, *Ordo Curie Jovis Decimo Septimo die Decembris, 1724.*

Whereas his Majesty has been pleased to appoint a Committee of several Lords and others, of his most Honourable Privy Council; to make some Inquiries concerning the Court of Chancery, and particularly concerning the Monies of the Suitors of that Court, in the Hands of the Masters or other Officers of that Court, and to consider which way the same may be best secured; and the Lord Chancellor having at their Desire ordered the several Masters to give in their respective Accompts, which they accordingly did; and Mr. *Baron Gilbert*, Mr. *Justice Denton*, and Mr. *Justice Raymond*, and likewise Sir *Nathanael Gold*, Mr. *Thompson*, and Mr. *Hanger*, three of the Directors, and one of them Deputy Governor of the Bank, having been appointed and desired by the said Committee, to inspect and examine the said Accompts, and who have proceeded so to do, and after having been several Times attended by the said Masters, have made a Report thereof to the said Committee of Counsel; whereby it appears, that, tho' all the Masters of the said Court have produced before them all the Securities and Certificates of their having the Stock and Annuities in their Names; which upon their Accompts, they appear to be chargeable with as belonging to the Suitors of the Court, and much the greater Part of the Masters have brought before the said Mr. *Baron Gilbert*, and other Persons above named, their Cash or Securities easily convertible into Money, Certificates of Stock, and Annuities sufficient to make good the Ballance of their Accompts: Yet upon the said Report it appears that there are yet considerable Deficiencies of Monies, which were in the Hands of some Ma-

sters, who are dead; and that some of the present Masters have not produced the Ballance of their Cash, nor given a satisfactory Account how the same is to be made good, and it not having been usual for the Masters of the said Court to give Security for the Money in their Hands, the said Committee thought adviseable, that till this Affair could be more maturely considered, and proper methods established for security of the Suitors of the said Court, the Effects herein after mentioned, which have upon this Occasion been produced, should be at present secured in the manner herein after mentioned, and recommended to the Right Honourable the Lord Chancellor, to take such Order therein, as should be proper; all which being communicated to all the said Masters, and the said Report now read in the presence of them all, except Mr. *Kynaston*, who is indisposed, and thereby prevented from attending; and upon hearing what was alledged by the said Masters, and the Facts of the said Report, so far as concerns their respective Securities in their Hands and Power, and the Ballance of Cash in their Hands not being controverted, his Lordship therefore doth think fit, and so order, that the said masters, Mr. *Holford*, Mr. *Lovibond*, Mr. *John Bennet*, Mr. *Godfrey*, Mr. *Lightboun*, Mr. *Conway*, Mr. *Edwards*, Mr. *Thomas Bennet*, Mr. *Elde*, and Mr. *Thurston*, all now present, and likewise Mr. *Kynaston*, do forthwith prepare and send to the Bank of *England*, every one a Chest with one Lock, and Hasps for two Padlocks; the Key of the Lock to be kept by the master, and the Key of one of the Padlocks by Mr. *Smith*, and Mr. *Maltbus*, two of the Six Clerks of this Court, or one of them, and the Key of the other by the Governor, Deputy Governor or Cashier of the Bank; and that all the Bonds, Exchequer Annuities and Orders, and other Securities given in upon their said Accompts, as Securities belonging to the Suitors of this Court, or as the proper Securities of the said masters, towards making good the Ballance of their respective Cash; and likewise the Bank Notes and Cash so given in, and not since paid to, or laid out for the Suitors of the Court, be deposited in the said Chests, under the Inspection of Mr. *Baron Gilbert*, and the other persons appointed, as aforesaid, to inspect the masters Accompts, or of some of them; and that then the Chests be locked up, and left in the Custody of the Bank of *England*; but so to be kept, as that the masters may have easy Access thereto, to comply with the Orders of this Court, till further Order may be taken concerning the same; and whereas the masters have in their several Accompts given in particulars of Stock, and of Annuities, transferrable in the Books of the several Companies, standing in their Names, which belong to the several Suitors of this Court, or as their own proper Stock and Annuities, by which part of the Ballance of Cash in their Hands may be made good or secured; it is further ordered, that they do each of them forthwith deliver in to the respective Company, a Declaration in writing, wherein such Stock in each respective Company, or the Annuities there transferrable, as by their respective Accompts, appear to belong to the Suitors of the Court, and likewise the Stock and Annuities by them respectively proposed towards making

making good, or securing their Ballance of Cash, or so much thereof, as shall equal the Ballance of their said Accompt; in Case they have in their Names more than sufficient for that Purpose, it shall be declared to be upon Trust, to attend the Orders of this Court; and the said respective Companies are to take Care, that proper Entries be made thereof in their Books, so that such Stock or Annuities be not transferred, but by Order or Leave of this Court, and the said masters, upon performing the Order above, are to take proper Certificates, signed by Mr. Baron Gilbert, and the other Persons appointed as aforesaid, to inspect the said Accompts, or some of them; and by the Persons keeping the Keys of the said Chests, of the Particulars of the Bonds, or other Securities, Cash and Notes, deposited and locked up in such Chests, as aforesaid, and Certificates Signed by the same Persons, and by a proper Officer of the Bank, that such Chests are deposited in the Bank, and Certificates signed by the proper Officers of the respective Companies, of the Declarations made as aforesaid, by the respective masters, and of the Entries thereof; and it is further ordered that the *Goldsmiths* Notes, produced by the said masters, in giving in their Accompts, be by them turned into Bank Notes, and so deposited as aforesaid; and the said several masters are forthwith to give Mr. Baron Gilbert Post-Accompts of their Receipt and Payments, since the former Accompts, and a Copy hereof is to be deliver'd to Mr. Kynaston, he not being now present; and another Copy left at the publick Office of the masters, with their Clerk there, for their more easy Recourse thereto, in order to their exact Compliance therewith.

EDW. GOLDESBROUGH,

*Deputy Register.*

Mr. Serj. Pengelly. By this Order your Lordships will observe, that some of the insuperable Difficulties were surmounted, and some of the Evils cured; and tho' that Method will not take it totally out of the Power of the masters, yet why the noble Lord could not have proceeded so far before, is left to your lordships Determination; we shall not call any further Witnesses on these Articles, we apprehend we have fully made them out. The honourable Gentleman who opens the next Article, will proceed.

Lord Morpeth. My Lords, It falls to my lot, to open to your Lordships the 19th Article of this impeachment, and, it being some time since it was read at your Table, 'twill be necessary for me shortly to recollect it.

The Article charges, ' That his Majesty, having in *Novemb.* last, directed an Inquiry into the Accounts of the masters, to the intent, that proper methods should be taken, for the Security of the Suitors, the Earl of *Macclesfield*, being then Lord Chancellor and one of the Privy Council, in order to obstruct the same, and to prevent a parliamentary inquiry into the Condition of the Offices of the masters, did, in the first Place, advise the masters to assist each other with Money and Effects; and for their Encouragement, represented to them, that it wou'd be for their Honour and Service to ap-

pear able and sufficient, and that if they made a bold stand now, it wou'd prevent a parliamentary Inquiry. In the next Place, That the Earl persuaded several of them, to make false Representations of their Circumstances to his Majesty, by adding a Subscription to their Accounts, that they were able and willing to Answer the Effects in their Hands, tho' the Earl then knew, or had good reason to believe the contrary; and that several of the masters, according to the Earl's advice, did supply others with Money and Effects, to make a false Shew, and Appearance of their Abilities.

Your Lordships take notice, that the time mentioned in the Article, is *November* last; at which time, and for some Years before, the Kingdom had rang of the Abuses and Corruptions of the Court of Chancery, with little hopes of Redress, but from the Justice of Parliament: The Earl cou'd not but foresee, that the Period was then drawing near, when the Cries of the Oppressed and the universal Dissatisfaction, rais'd against his Administration, wou'd some way or other, force its Relief.

This Cry for Justice having reach'd his Majesty's Ear, He was pleas'd to direct the Inquiry mention'd in the Article, and whilst this was depending, the impeach'd lord finish'd that Scheme of Iniquity, he had carried on so long without controul.

The Facts charg'd in this Article contain in themselves the vilest Deceit and Treachery; heighten'd, and aggravated by the wicked Purposes, for which they were contrived; First, to have misled the Council Board into a groundless Belief of the masters sufficiency to answer the Suitors; and on this Foundation he built a more impious, but more fatal Project, the preventing a Parliamentary Inquiry.

The Answer given by the Earl to this Article deserves a particular Notice; He says, ' That upon great Consideration of *Dormer's* Deficiency, and the Danger there might be of further Inconveniencies with relation to the Suitors Effects, of some Disputes in the Court, and of some Practices of the masters, which he thought ought to be reformed, he was convinced, it was a work of too great Consequence, for him singly to attempt; and being highly sensible of his most sacred Majesty's paternal Goodness, did presume humbly to beseech his Majesty, as the Fountain of Justice, to depute some of his Privy Council to take the Matters into Consideration.

My Lords, Seven Years, and more had pass'd since he was made Lord Chancellor, three Years, since *Dormer's* Deficiency, without one honest Thought, for any thing that has yet appear'd, or one sincere Step taken by him, for the Honour of the Court, or the safety of the Suitors, if the Examination order'd by his Majesty, did spring from his Lordship's Request, his real Intention, in desiring it, will be best known from his former Conduct, and from the Use, we shall prove, he intended to have made of that Inquiry; his past Behaviour has already appear'd to your Lordships, to have been a Series of Extortion and Oppression, constantly attended with the vilest and meanest Artifices to keep it secret; the King's paternal Goodness was most notoriously abused, by him, who was intrusted to  
dispense

Dispense it; and that Fountain of Justice polluted, which he now dares to name in his Defence.

I think my self justified in charging this Part of his Defence, as an Act of high Dissimulation before your Lordships; and a presumptuous Attempt, to cover his own Guilt under his Majesty's sacred Name, and the Orders he was pleased to give for that Inquiry. The Earl has, indeed, acknowledged one Truth, in this part of his Answer, 'That the great Deficiencies, and Danger to the Suitors, and the Practices of the Masters (which he does not name, but says) ought to be reform'd, had convinc'd him, that the Reformation of them was a Work too great for him, singly, to attempt.'

My Lords, The many Prostitutions of the Dignity of the great Office, which have been proved upon him, had doubtless greatly wounded the Honour, and Authority of the Court itself; and the Earl had bound himself so fast to those Masters, whom he had admitted, by the Bands of Corruption, which he had not Power to break through, that nothing which tended to the Honour of that high Court, or the Advantage of the Suitors, cou'd be expected from his Hands.

The next Passage of his Answer is a wretched Mixture of the most abject Flattery of such of your Lordships, as attended that Committee, to whom, I believe, his Lordship very truly Declares, he was entirely subservient; and of false Praises of himself, for the great Services he contributed to that Inquiry: However, after this Introduction, the Answer goes on and declares, 'That he is greatly surprized, to find himself charged with Obstructing the taking those Accounts, which he had thus desired might be taken, and had promoted with all his Power.'

This is a poor Evasion and Affectation of Innocence, and the more surprizing, to come from his lordship, whose misconduct had so notoriously been the Occasion of that Inquiry. And the Charge is not, as he insinuates for obstructing the taking the Accounts, but, for procuring false Accounts, and Representations to be laid before the Council, by which means that inquiry might have been frustrated.

But he proceeds in his Answer to a Declaration, the most astonishing of all others, 'That he never thought of preventing a Parliamentary Inquiry, any otherwise, than by making it unnecessary, and procuring to the Suitors a full Redress of all their Grievances, and rectifying whatever he found amiss; and that he looked upon to be his Duty, and begs leave to say it here, once for all, in Answer to all the Insinuations of that kind contained in any of the Articles.'

By the last Words, the Earl, in a very summary manner, pronounces his own Acquittal; but your lordships will observe, that the Article charges him, in plain Words, with actual advising the masters to misrepresent their Accounts, in order to prevent a Parliamentary Inquiry, and that, if they made a bold stand now, it might prevent one; His lordship answers, that he never thought of preventing it, otherwise, than by procuring full Redress, &c.

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By this he confesses, he did think of preventing the Inquiry of Parliament.

He has not dared to deny the Facts charged, from which this Design was manifest, because he knew they would be fully proved, But the Subterfuge he flies to, viz. that he did intend to prevent it, by rendring it unnecessary, is impossible to be believed, tho' the Commons shou'd offer no Proofs at all to this part of the Article; unless his Lordship imagines, that he is able to carry on the Imposition so far, as that the concealing from his Majesty the true Condition of the Suitors, by the methods he was then practising with the masters, should be taken by your Lordships to be the means of procuring them full Redress; and it is self-evident, that if his Contrivance had taken place, the immediate and full Relief of the Suitors, which was his Majesty's gracious Purpose, had thereby been wholly defeated: The Commons therefore may insist upon it, that this flagrant Circumstance is established by his own Confession, especially since your Lordships find that in the following parts of his Answer, the Earl declares, 'That Mr. *Holford* having subscribed his Accounts, with a Declaration of his Abilities, and Readiness to answer the Suitors, and some of the masters having used Expressions, as he thought, not so proper, others of them having made no Conclusions at all; he did advise them all to write the same Words under their Accounts, as Mr. *Holford* had done, and did tell them, in great Sincerity and Friendship, that at a Time when so many Mens Mouths were open against them as insolvent, it would be for their Honour and Interest to make it appear that they were able.'

Thus far the Answer is a full Confession, that he advised all the Masters to add Mr. *Holford's* Conclusion to their Accounts.

His Lordship says, he was induced to do this from their assuring him they were able; this Assertion will appear to be notoriously false; however, if it had been true, his Lordship, it seems, took their bare Words for it, at the same Time that he declared to them, that so many Mens Mouths were open against them as insolvent: But here, unhappy Man, he lies again for Sanctuary to the Integrity of his own Heart, and assures your Lordships, 'That he never thought of a Contrivance to have them deceitfully appear to be what they really were not'; tho' this Declaration of the Innocence of his Mind stands also in direct Contradiction to the Fact he had just before confessed; and in the very next Lines he again confesses, that some of the masters, pursuant to his own Directions, did withdraw to add the same Words to their Accounts, as Mr. *Holford* had done to his; which he carried to the Council without looking into them, and, when they were read there, the Masters, it seems were honest Men than the Earl expected, or would have had them to be; for, notwithstanding his Advice, all of them did not make these Subscriptions to their Accounts.

To the other Charge in the Article, of his advising them to stand by one another and appear able, his Lordship has given a particular Answer, 'That an Order being made upon the Masters, to produce their Securities and Cash, and the Masters complaining of the short Time to produce such great Sums, he confesses, he did say, that

‘ that he required them to bestir themselves, and  
 ‘ might say, that some of their Brethren might  
 ‘ perhaps be able to let them have Money, till  
 ‘ till they could raise it another Way.’

The Excuse he offers for this Advice, is a very unjustifiable one, it is, that the masters declared to him, that they had not the Suitors Effects ready, which, by the Duty of their Offices, his Lordship knew they ought to have had, but had Effects sufficient to raise the whole, if they could have had more Time. By his own account of this Matter 'tis plain, that the Masters did at that Time disclose to him one of the Practices, which 'twas his Duty to have reformed; and yet your Lordships see what Consideration he had of it; even at this Juncture he advised them to supply one another, which they accordingly did, and the Deceit prevailed, till the Order for carrying the Securities and Cash to the Bank made the Discovery.

Perhaps, my Lords, I have dwelt too long on the Earl's Answer; but, I think, it will appear to your Lordships to betray such a Confusion of Mind, as nothing but the heaviest Pressures of Guilt could have produced, and is a stronger Conviction of him than a thousand Witnesses.

I will, in the next Place, give some short Account of our Evidence to this Article. The Masters themselves will prove the Earl's Directions, either given by his own Mouth, or by his Secretary's, when they were required to make up their Accounts to be laid before the King in Council, that they should stand by one another, and give the best Account, they could, to prevent a Parliamentary Inquiry, and that they need only to produce or shew Bank or Goldsmith's Notes; and that it was a critical Juncture, and that the Strong should assist the Weak, and that they must make a Stand, and defeat the Designs of their Enemies.

We shall farther prove his Lordship's express Directions to the masters, to add the same Conclusion to their Accounts, as Mr. *Holford* had done to his, which was, that they were able and ready to answer their Balances: tho' the Earl did not so much as ask any of them whether they could make it good, and some of them declared the contrary; and at that Time also he told them, that it would be for their Honour and Service, and that it would look well to the Council to appear able and willing.

We shall also prove, that this false Advice of the Earl was followed by several of the Masters, in both Respects; and that afterwards, when the Suitors Effects were to be carried into the Bank, several of them who had before appeared able, now proved deficient in great Sums, and Bank and Goldsmiths Notes, and other Effects, to a great Value, with which several of them had been accommodated, and which they had produced to the Persons appointed to examine the Accounts, and which, as appears by the Reports on your Lordships Table, they had sworn to be their own, and not lent them for the Purpose of accounting, now vanished, and a Deficiency appeared of four-score thousand Pounds and upwards, which still continues.

This Evidence will fully maintain our Article, and, if any Proof is necessary, will sufficiently clear up the Earl's Intentions.

My Lords, The Part which still remains to me is such, as I own my self utterly unable to perform, I mean, to aggravate this Offence in such Manner as it deserves; the amazing Scene this Article has opened, must not be judged of singly, and by it self; nor can it be accounted for but as the Offspring of a Mind thoroughly debased and flowing from the most incurable Corruption: And tho' they have issued from that Source, as from an unexhaustible Fountain, yet it can't be denied, but as the Earl's thirst for Lucre grew stronger upon him, with that his Invention also has constantly improved into some new Device or Management for securing his exorbitant Advantages, by preserving the Secret. 'Twas a remarkable Law, in one of the wisest of the *Grecian* Governments, arising from their Dread and Abhorrence of a corrupt Judge, *That no Man, bred up to Merchandice, should be admitted into any Office of Judicature, till he had quitted that Employment for at least ten Years*; and the Reason was, because the Fingers of Merchants had been too much used to Traffick.

The Earl's Administration, in the highest Seat of Justice in this Kingdom, has appeared to your Lordships to have been one continued pyritical Trade; during the Course of which, from Time to Time, as Opportunities have offer'd, he has prey'd alike upon Masters and Suitors; his craving Appetite was, in no Sort, check'd by the approach of Death itself; and the Hand of a dying Chancellor, as he express'd himself to one of the masters, was open'd to receive that unjust Gain he had so plentifully fed upon in full Health: To which, and his other Misbehaviours, your Lordships now see, that not only the Ruin of many even of the Masters, but the Dishonour, Distress and Confusion still remaining in that part of the publick Justice must be imputed; and how groundless and unaccountable soever the repeated Assertions in the Earl's Answer, that the Masters freely and voluntarily parted with their money to him, now appear to be; yet, from the Unwillingness and other conscious Circumstances, with which he has since, at several Times, refunded some parts of his extorsive Gains, tho' the Guilt is not lessen'd, his Lordship is thereby Self-condemn'd.

The Fund out of which he has raised his unwarrantable Profits, ought to have been held by him as sacred and inviolable, being deposited in the Sanctuary of his own Court: His Extortions therefore must be judged of, not as private Violations of Property, but as Pillage taken from the Treasure of the Publick; the Livelihood of the Widow and Fartherless under the Protection of the Law, in a Court of Justice; great part of it, perhaps, dedicated to Charities: And how far your Lordships may, in this Respect, consider it as a sacrilegious Plunder, is left to your Judgment: However, the injuries done to distressed, ship-wreckd Sufferers, have been always esteemed the highest Barbarity.

But the Methods the Earl has used from Time to Time to excuse and cover his Crimes, tho' they were the natural Refuge of an obstinate unrelenting mind, yet are more heinous than the Crimes themselves. Your Lordships can't forget the Oath of his Office, which he has set forth at large in his Answer; he was sworn *to do Right to all manner of People, poor and rich, according to the Law*  
*and*

and Usages of the Realm, and not to do or suffer the Hurt of the King, if he could hinder it; if not, clearly and expressly to make it known to him, with his true Advice and Counsel. 'Tis surprizing to find his Lordship to have so utterly abandon'd all Regard to this solemn Obligation, as the whole Course of his Behaviour fully demonstrates. You have also heard the Oath he caused to be administer'd to the masters, immediately after he had shared with them the Estates of the Suitors; by which Oath they were likewise sworn neither to do Hurt to the King, nor to do any Fraud to the Hurt of any of the People; and it has appear'd in what manner they have since been practis'd and tamper'd with by the Earl himself, in order to conceal and suppress the Knowledge of the Grievances of the Subject, which he had procur'd; sometimes they were threaten'd, at other Times cajoled and seduced, but always deceived; and this Artifice, disclosed by this Article, was his last Shift. When he saw the Storm began to arise, he deliberately contrived to turn the fatherly Goodness of his bountiful master to the Destruction of his People, and, by this most unparallel'd Attempt, to have render'd the Throne it self the Shelter of his Iniquities, and accessary to his Oppressions; but 'twill now appear, that this was conducted to another Point, to skreen himself from the Justice of Parliament.

My Lords, There have been Crimes so unexampled, and of so horrid a Nature, that the Malefactors have been try'd at midnight, and immediately drown'd, and the Journal Books burnt, in Compassion to mankind, that the memory of the Proceeding being destroyed, the Crime it self might not be propagated.

The Offences of the impeached Lord are ripened to a Fulness surpassing all Belief, too big indeed for the ordinary Hand of Justice; but the Commons of Great Britain, whose Inquiry he vainly flattered himself he could prevent (tho' the Terrors of it had long lain upon his Breast) have, by this Time, I presume, convinced his Lordship; and his Example will, I hope, convince the World, that no Offender, how great or subtil soever, can escape their Justice, of which this publick Proceeding will be an eternal monument, as well as of the Shame of the unfortunate Earl.

The Lord Bacon, one of his Predecessors, made a frank Submission to your Lordships Ancestors upon the Accusation of the Commons, and taking Comfort to himself from his Afflictions, uses these Words, ' That hereafter the Greatness of a Judge or magistrate shall be no Sanctuary or Protection to him against Guilt; and that, after his Example, it was like, that Judges would fly from any Thing in the Likeness of Corruption, tho' at a great Distance; which tends to purging the Courts of Justice, and reducing them to their true Honour and Splendor.' He did, indeed, urge it as no small Excuse for himself, that Bribery and Corruption, the Vices of which he stood impeached, were the Vices of the Times; but the Commons rejoyce to find, that the Earl, now before your Lordships in Judgment, has no Ground to claim the same Excuse.

The Admonitions left by that penitent great Man, and the just Punishment he underwent, have, I believe, conduced to prevent the like Evil for near an hundred Years, tho' they had not an im-

mediate Effect: For an eminent Historian of those Times has recorded, that some Time after his Sentence in Parliament, meeting the Earl of Middlesex, then Lord Treasurer (whom he had Ground to suspect to have been instrumental in his Disgrace) in Discourse with him he recommended it as a Rule to be observ'd by the Earl, and all great Officers, to

Remember a Parliament will come.

And the same Author further observes, that tho' the Lord Bacon had not the Spirit of Divination, and tho' the Treasurer despised and laughed at his Advice, yet, within two Years after, the Treasurer also was condemned in Parliament for Bribery, Extorsions, Oppressions, and other grievous misdemeanors.

I will conclude with one Observation more: It may, my Lords, be too justly apprehended, that the most dangerous Symptoms of a declining Commonwealth do then appear, when Men in the highest Stations in Government, especially those which concern the Administration of Justice, shall be so far lost to all Sense of Virtue, as to be guilty of such odious Crimes as those now charg'd upon the Earl; yet, we promise ourselves, that your Lordships Justice, in the Punishment of those Crimes, will afford us a hopeful Prospect of a reviving State; and that whenever the Crimes and Misdemeanors of this unfortunate Earl shall hereafter be mentioned, it will be remembered at the same Time, for the Honour of your Lordships, and the Benefit of the whole Nation, that he received a Condemnation suitable to his Guilt.

Mr. Snell, My Lords, I would gladly have been excused *this Service*, because I have been extremely indispos'd, ever since I receiv'd the commands of the House of Commons, and because I am otherwise truly sensible of my Inability to execute those Commands, in the manner they ought to be executed. But these Reasons, being thought insufficient by others to prevail for my absence, it is no longer a matter of Choice, and I must comply with the duty impos'd upon me. Your Lordships therefore will be pleas'd to consider (as the Truth is) that what I have to say is only the Product of a few Hours, and that it is impossible for me, in so short a Time, to offer any Observations, any Arguments, but such as will appear crude and indigested on this great and important Subject.

The Earl then at the Bar stands under an Impeachment of all the Commons of Great Britain, of high Crimes and Misdemeanors in his late Office of Lord high Chancellor, and tho' the Charge against him in the Article now under your Lordships consideration, be of a different Nature, yet in every Circumstance it is as highly criminal, as any of those that have gone before it. The Accusation hitherto has generally run upon Corruption in the sale of Offices, Extortion, and a Series of foul Practices to cover and conceal the Deficiency in Dormer's Office, which had drawn upon him an universal Cry for Redress. All the little Arts, that had been plaid over and over again upon the Masters, either by applying to their Hopes, or Fears, as opportunity offer'd, had prov'd ineffectual; and some other expedient must be found out, some new Stratagem invented, to quiet the clamours of the injur'd Suitors. These clamours had justly arisen

arisen from a Supposition of the *Masters Insolvency*, and no method could be so likely to serve his turn to appease them, as one, that would make *the Masters seem* to be solvent. He therefore ventur'd to advise them to assist one another, to represent their Circumstances in a false Light, by Subscribing their Accounts as Mr. *Holford* had done; and thus he propos'd to deceive *the Suitors*, and to make *the Masters* appear to the World able to answer the Monies and Effects in their Hands: But this last Effort was as unsuccessful as his former. For if *the Masters* were able and sufficient, what reason could he have for his Apprehensions of a *Parliamentary Enquiry*? If they were not able, he had indeed reason for *such Apprehensions*, which leaves your Lordships no room to doubt, but that *this Advice* was given with a View only to keep the Affair out of Parliament; and the constant Anxiety he labour'd under to secure that *main Point*, does more than *decypher* the Secret of the whole Transaction.

Now, my Lords, this extraordinary Step could not proceed from any Doubt *the Earl* could have, whether the Parliament was able and willing to redress these Grievances and Inconveniencies, or whether it would contribute its Assistance to the Relief of *the Suitors*: No, my Lords, he knew very well, that the Parliament was the proper Place for redressing *Abuses in the Courts of Justice*. He was sensible too, that it had always interpos'd with *Accusations* and *Impeachments*, and that *ill actions* had, in no Age, met with Favour there. He could have no Hopes that his Ambiguity of Expression, his Dexterity in playing upon Words, in wresting their proper Sense and Meaning, could stand him in any Stead; or that all his Subtilty could be a Match for the Wisdom of the Legislature: But, perhaps, he might imagine, that a *Committee of Council* might be wrought upon, and misled by Appearances, at least so far, as to *protract the evil Day*; and who could tell what Time or Accident might bring about? Another *Act of Grace* might come, and expunge the whole Score.

I should have congratulated your Lordships and the House of Commons, and even the *accused Earl himself*, if the *just Apprehensions* he conceiv'd of a *Parliamentary Inquiry* had rais'd in him a *compassion* equal to the *Sufferings of the Suitors*: If it had begot a Repentance of his former Misdeeds and Crimes, and a Resolution of future Innocence and Uprightness: But your Lordships find, it had a very different Effect; it only produced a vile Contrivance to guard himself against Punishment for what was past, and to make it more difficult hereafter, to detect him in *the same Practices*. This is a *Behaviour* my Lords, which is so far from deserving your *Mercy*, that it calls aloud for your *Indignation*, as well as *Justice*. This is a *Circumstance*, which is not only a high Aggravation of his Guilt, but a great Indignity to the Authority and Honour of Parliament; which I hope will never be *eluded* by the Artifice of the *most cunning and skilful*, nor *controul'd* by the Influence of the *most powerful and favour'd Minister of State*.

But, if the *impeach'd Earl's Actions* may be allow'd to be any Proof of his Intentions, the Fact stated in this Article goes further, and implies

a *bold and desperate Attempt* to mislead his Majesty, and to obstruct his gracious Endeavours to find out proper Methods for securing the Money and Effects of *the Suitors*, which is an Instance on one Hand of his *baseness and ingratitude to his Sovereign*, to whom he *ow'd every thing*; on the other of his *Injustice and Barbarity* to those of *his fellow Subjects*, whom he had *injur'd*, whom he had *oppress'd*, during the whole course of his *Tyrannick Administration*.

What, my Lords, must have been the Consequence, if *this Contrivance* had pass'd? And it would have pass'd upon a Prince of less Discernment than his Majesty. Whenever it had been discovered, all the Obloquy would have been thrown upon *his sacred Person*, as if he had been engaged in a *Confederacy* to *screen* that Guilt which he was labouring to *detect*. But *the Earl's avaritious Temper* had set so wrong a Bias upon his Actions, that *the Means* by which he propos'd to shelter himself, and to conceal his Depredations, have brought upon him (what he so long dreaded) *this just and necessary Prosecution*.

As to *the Earl's Answer to this Article*, I hope I may be excus'd the Liberty of saying, that it is either *vain, evasive, or false*.

He begins with enumerating the many Inconveniencies and Abuses, which he thought necessary to be reformed in the Court of Chancery, and with assuring your Lordships of his good Intentions to contribute to the Reformation of them; but your Lordships will best judge of this pretended Zeal, and of the Sincerity and Candour, with which it is urged, by considering the constant Tenor of his Actions, by examining whether he can produce any Instance of his having endeavoured to correct these Abuses, or to remove these Inconveniencies. Now I don't find thro' his whole Answer, nor have I heard it asserted, that he ever attempted any Thing of that Kind. On the Contrary, it is too apparent, that many of them took their Rise while he presid'd in Chancery.

In the next place, my Lords, he arrogates to himself the Merit of *that Enquiry*, which his Majesty had directed to be made by a *Committee of his Privy Council*; and insists, that it was the Effect of his Application.

How true this Assertion is, some of your Lordships may know. But the Part he acted in *that Enquiry*, might have oblig'd him to Silence, or at least have restrain'd him from boasting of his Conduct. The *Commons* charge him directly with obstructing the Methods then propos'd for securing the Property of *the Suitors*; and it is not a sufficient Answer, to say, that *this Enquiry* was begun at his Instance, and that he press'd *the Masters* to bring in their Accounts: For all this may be true, and yet he might give them *the Advice* I have already mention'd, and complain'd of to your Lordships. Surely, my Lords, it is a Justice due to his Majesty, to observe upon this *vain-glorious Part* of *the Earl's Answer*, that, whatever Share He had in setting *this Enquiry* on foot, all the *good Fruits*, to be hop'd for from it, are the Result only of his Majesty's *Paternal Care* of his People.

He further says, That he never thought of preventing a *Parliamentary Enquiry*, any other way, than by making it unnecessary, and by procuring

curing the Suitors a full Redress of all their Grievances, &c.

This is another Instance of his Disingenuity: For the Grievances complain'd of, could no where be redress'd but in Parliament; and therefore nothing more can be understood by the Words [*Any other ways, than by making it unnecessary*] than by making it SEEM unnecessary; which is a poor and mean Prevarication.

Nor is there any Credit to be given to what he urges in Excuse for his *Fraudulent Proposal* to the Masters, viz. *That while the Accompts were taking, all the Masters, at least all that he saw, except Mr. Kynaston, had declared that they had Effects sufficient to answer their whole Accompts, &c.*

For we shall prove to your Lordships by Mr. Thomas Bennet, and Mr. Kynaston, that it is false, unless you'll suppose them *perjur'd*: For they are very positive, *That the Earl never ask'd them whether they had Effects to answer, or not, or were able to pay in their Cash-Ballance*: Nay, they are sure they did not tell him so, because in Fact it would have been false, if they had.

Besides, your Lordships will have the concurrent Testimony of almost all the Masters to prove, that (while they were making up their Accompts to lay before the Committee of Council) they were directed by Cottingham and Dixon to assist one another in making a Shew of their Abilities; and that some of them, viz. Mr. John Bennet, Mr. Godfrey and Mr. Conway, complied with this Direction, which we must ascribe to the Earl himself, as being given by his Two Chief Agents and Ministers.

Who is it, my Lords, that has been guilty of the Crimes, laid in this Impeachment? It is a Peer of Parliament! A Lord High Chancellor of Great Britain! And how precarious must be the Property, how deplorable the Condition of the Subjects of this Kingdom, if such Crimes should not be punish'd in so exemplary a manner, as to carry down Terror to all succeeding Chancellors?

My Lords, If I have express'd my self with too much Acrimony on this Occasion; if what I have said, has any way offended the Impeach'd Earl, I hope he will do me the Justice to believe, that I meant it only in Detestation of his Crimes, and not in Disrespect to his Person. For I assure him, I should have been heartily sorry for the Misfortune he has brought upon himself, if it had proceeded from Ignorance or Neglect, and not from an insatiable Appetite after illegal Gains, which he is pleas'd to mis-call Voluntary Presents, and for which I must ever entertain the Utmost Abhorrence. I will therefore conclude with a Word of Advice out of the Scripture for his future Conduct, *That he shall receive no Gift; for a Gift blindeth the Wise, and perverteth the Words of the Righteous.*

Mr. Serj. Pengelly. My Lords, we beg leave that Mr. Thomas Bennet may be examin'd, and that he may give your Lordship's an Account of what pass'd after this Inquiry directed by his Majesty, begun; what Order and Direction the Masters receiv'd from his Lordship in the Execution of that Inquiry?

Mr. Tho. Bennet. My Lords, I think, on the 2d of November last we receiv'd an Order from my Lord Chancellor, to make up our Accompts. It was a very particular Order, express'd abundantly

dance of Items, and Columns, in what manner those Accompts were to be made up. The Masters had a meeting on this occasion; and a great many, if not all of them, agreed, that the making up of the Accompts in that manner as my Lord Chancellor had directed, was impracticable in so short a time; for we were directed to do it forthwith. It was represented by some of the Masters to Mr. Cottingham, and I believe, by him to my Lord Chancellor, that it was impossible to do it in so short a time, and it would take up a Month or two, or more. I did not know what other People could do: I had begun to make up my Accompts; I could have done it in a short time, having been in but a little while: Others, indeed, that had been in twelve Years, and must have given an Accompt of the whole Proceedings of that time, could not do it. I was inform'd by my Brother, that he could not have done it in a Year: But soon afterwards I was told, that the Order was dispens'd with, by my Lord Chancellor; and all we were to do, was to make up an Accompt of the Ballance of the Money and Securities that were in our respective Offices distinctly, the Money and Securities in Two Distinct Columns, only the Sum total at the Bottom. This Order the Masters all comply'd with, as appears by their Accompts: And between that and the 9th Day of November following, we had several Messages from my Lord Chancellor by Mr. Cottingham to dispatch these Accompts; for they were much wanted, being to be laid before the Committee of Council. On the 10th of November we had express Orders to appear at my Lord Chancellor's House with our Accompts ready. All the Masters, except Mr. Conway, were there.

Mr. Serj. Pengelly. I desire he may be ask'd, if there was any other meeting before that of the 10th of November?

Mr. Tho. Bennet. I think there were some meetings at Mr. Edward's House by Mr. Cottingham's Direction before, and after that at my Lord's House. At those meetings, at one of them, I particularly remember (which was the most material of all) Mr. Cottingham brought Mr. Dixon with him, and introduc'd him, saying, we need not be afraid of Mr. Dixon; for he brought him there by my Lord's Direction, because he himself was deaf, and could not well hear what was said. Upon that he began his Message, and said, Our Accompts were then laid before the Council just at that Time: But, said he, suppose my Lord Chancellor or the Council should expect, that the Bonds and Securities should be inspected, would you be willing, that any Officer from him should inspect your Books and Securities? The Masters answer'd, They were ready and willing to do it; I don't remember any body that oppos'd it. The next Question Mr. Cottingham ask'd, was, whether we could produce the Ballance of our Cash, and shew that we had the Money? To that all the Masters spoke in general, that they were under a great Concern and Surprise, and desir'd to know what Mr. Cottingham meant by that: Whether it was only to produce the Money, or the Money to be taken from us? and whether there was any Danger of that? Says Mr. Cottingham, you are only to produce the Ballance of Cash, and shew it. We asked, whether we should produce it in Goldsmiths Notes,