REMARKS

UPON

POYNING's LAW,

AND THE

MANNER of passing BILLS

IN THE

P--------T of *I*--------*D*.

By a GENTLEMAN of IRELAND.

Said to be Edm^d Sexton Perry Esq^r

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REMARKS

ON

POYNING'S LAW, &c.

THE Proceedings in our P—l—nt, this S——n, relative to *Poyning*'s Law, and the extraordinary Methods taken by thoſe in Power, to prevent the Heads of a Bill, explaining that Act, being even brought into the H—ſe of C——ns, have made it ſo much the Subject of Converſation, both in *England* and *Ireland*, that I ſhould think the publiſhing that Law, with ſome ſhort Remarks on it, would be very acceptable to the Publick, were it only to gratify the Curioſity they muſt have, to know what the Nature of that Thing is, which they talk ſo much of: But I have a much ſtronger Motive for wiſhing that were performed; I think it abſolutely neceſſary for the Welfare of this Country; as I am certain we have no Chance

of being freed from the Grievances, which, contrary to the Intention of thoſe who made this Act, have ariſen from it, until it ſhall be more thoroughly underſtood by the People of both Kingdoms.

I have long waited in expectation that ſome Perſon, more verſed in the Conſtruction of Acts of Parliament, and more uſed to expreſs his Thoughts in Writing than I am, wou'd have undertaken this Taſk; but ſince no ſuch Perſon appears, I ſhall attempt it myſelf, and am the more encouraged to do ſo, becauſe I really think the Subject not difficult; the Act is ſo plain that it ſpeaks for itſelf; little more is neceſſary to make it underſtood, than the encouraging the reading of it, by publiſhing it in a plainer Character than that it is generally printed in, and the removing it from a formidable Folio into the more familiar Compaſs of a Pamphlet.

Few of my own Countrymen are acquainted with this Act; nay, many, I fear, even of our Repreſentatives are ſo indolent, as to content themſelves with that confuſed Idea of it, which they are able to form from the Debates before them; the People of *England* know nothing of it; to them, chiefly, I addreſs myſelf; it is their Fears, their Jealouſies, I wiſh to remove; for it is of little Importance to this Kingdom, what our Opinion of it is, ſo long as their ſuperſtitious Reverence for it ſhall remain: But as this, like all other Superſtition, is founded on Ignorance, I cannot but hope that it will ceaſe with the Error

which

which cauſed it; and that the Members of our P———t may hereafter be ſuffered to bring in a Bill, although it ſhould happen to have thoſe two ſacred Words (*Poyning*'s Law) contained in it, if I ſhall be able to convince the People of *England*, that the Bill which Mr. *Pery* offered to the H——e this S——n, was ſo far from deſireing to repeal one Syllable of that Law, that it tended rather to reſtore it to its full Influence, and to root out thoſe Abuſes which have ſprung up under the Shelter of it, and prevent its effectually anſwering the great Purpoſe for which it was made. — As that Gentleman with his uſual Candour, ſome Days before he aſked Leave of the H——e to bring them in, ſhewed the Heads of a Bill, which he intended to propoſe, to ſome Gentlemen, who muſt have acquainted our L—d L———t with the Tendency of them: In Juſtice to his Gr——e's Abilities we cannot but ſuppoſe, that, when he ſo earneſtly oppoſed their being even read in the Houſe, he acted rather in compliance with the Apprehenſions of his Countrymen, than from his own Judgment of the Matter.

It ſeems neceſſary to warn my *Engliſh* Readers, not to confound the Act at preſent in Queſtion, with another paſſed in the ſame Seſſion, by which all the Statutes at that time ſubſiſting in *England* are eſtabliſhed in this Kingdom: This Miſtake they might otherwiſe very naturally fall into, as moſt certainly, of the two Acts this laſt beſt deſerves, for its ſuperior Excellence, the diſtinguiſhing

guiſhing Appellation of *Poyning*'s Law, though we in *Ireland* give that Title to the other, as that which moſt engages our Attention. It is remarkable, that Lord *Bacon*, when in his Hiſtory of *Henry* the ſeventh he ſpeaks of Sir *Edward Poyning*'s Expedition into *Ireland*, ſays no more of his civil Adminiſtration here, but that " he paſſed " a memorable Act, which, at this Day, is " called *Poyning*'s Law, whereby the Statutes of " *England* were made to be of Force in *Ireland*;" and takes not the leaſt Notice of the following Act, although it made ſo critical a Change in the Conſtitution of this Kingdom.

An Act that no Parliament be holden in this Land, until the Acts be certified into England. *Rot. Parl. cap.* 9. 10. H. 7. 4.

' ITEM, At the Requeſt of the Commons of ' the Land of *Ireland*, be it ordained, enact- ' ed, and eſtabliſhed, That at the next Parlia- ' ment that there ſhall be holden by the King's ' Commandment and Licence (wherein amongſt ' other the King's Grace intendeth to have a ge- ' neral Reſumption of his whole Revenues ſith ' the laſt Day of the Reign of King *Edward* the ' ſecond,) no Parliament be holden hereafter in ' the ſaid Land, but at ſuch Seaſon as the King's ' Lieutenant and Council there firſt do certify ' the King under the Great Seal of that Land ' the Cauſes and Conſiderations, and all ſuch ' Acts as them ſeemeth ſhould paſs in the ſame ' Parliament,

'Parliament, and ſuch Cauſes, Conſiderations, 'and Acts affirmed by the King and his Council 'to be good and expedient for that Land, and 'his Licence thereupon, as well in affirmation 'of the ſaid Cauſes and Acts, as to ſummon the 'ſaid Parliament under his Great Seal of *England* 'had and obtained, that done, a Parliament to 'be had and holden after the Form and Effect 'afore rehearſed: And if any Parliament be 'holden in that Land hereafter, contrary to the 'Form and Proviſion aforeſaid, it be deemed 'void and of none effect in Law.' *Ir. St.* 28. *H.* 8. *cap.* 4, & 20. 11 *El. cap.* 1, *&* 8.

Before this Act, our Lord Lieutenants, or their Deputies, were ſo fully veſted with the regal Authority, that they were impowered to give the royal Aſſent to all Laws whatſoever, without communicating them to the King or the Miniſtry of *England.* The Abuſe of this Power (a Power too great not to be abuſed) was the Occaſion of this Law, by which it is ordained, that no Bill ſhall be propounded in *Ireland*, but ſuch as ſhould firſt be tranſmitted into *England*, and approved of by the King and his Council there, as good and expedient for this Realm. This Act, though, at firſt Sight, it may ſeem to reſtrain the Liberty of the Subjects of *Ireland*, yet was certainly made, at the Requeſt of the Commons, upon juſt and important Cauſes; for the chief Governors of this Kingdom, eſpecially ſuch as were Natives of it, had impoſed many Laws upon them,

them, not tending to the general Good, but to ſerve private Turns, to ſtrengthen their particular Factions, and oppreſs their Opponents; this moved the Commons to deſire to refer all Laws, which were to be paſſed here, to the Conſideration of the Council in *England*, who cou'd not be ſuppoſed to act from ſuch private Views, but wou'd conſult, impartially, the Welfare of this Kingdom: So this very Bill which our chief G———rs are ſo anxious to ſupport, was originally deſigned as a Check upon themſelves; and I muſt own, that its being in ſuch high Favour with them, is, to me, a tacit Proof that it anſwers Purpoſes different from thoſe for which it was originally deſigned.

That the Motive here aſſigned could be the only one for making this Law, will evidently appear, if we conſider the deplorable Situation of the *Engliſh* in this Kingdom at that Period.

From the Time that *Richard* the Second left *Ireland* with his Army, to oppoſe the Progreſs of *Henry* the Fourth, during the whole Courſe of the Civil Wars which followed, for the Space of ninety Years, the *Engliſh* who were planted here, inſtead of receiving any Aſſiſtance from their Mother-Country, were continually drained by it of their moſt warlike Men; the Houſes of *York* and *Lancaſter* had each of them their Partizans in *Ireland*, who neglecting their own Country, uſed their utmoſt Efforts to ſupport thoſe Princes whoſe Cauſe they eſpouſed; the native *Iriſh* taking Advantage of the Weakneſs which

theſe Diſſentions occaſioned, attacked the *Engliſh* in all Parts of the Kingdom, who, unable to defend themſelves, entered into Treaties with their Enemies, made Alliances with them, and, in proceſs of Time, the principal Men amongſt them became ſo well reconciled to the *Iriſh* Cuſtoms, which were much better calculated for Oppreſſion, than thoſe handed down to them by their own Anceſtors, that they entirely threw off all Subjection to the Government of *England*; ſo that at the Time this Law was made, the loyal *Engliſh* were reduced to very little more than the four Shires which compoſed what was called the *Engliſh* Pale; and the Repreſentatives of ſo wretched a People, muſt have been rather an Object of Compaſſion, than of Jealouſy, to the Miniſtry of *England*.

We have been told by a M——r of our P———t, that the People of *England* call this Act the *Magna Charta* of *Ireland*; and look upon it as the Law by which the Dependence of this Kingdom upon *England* entirely ſubſiſts. I cannot but think that Gentleman has been miſinformed; the *Engliſh* are, in general, too ſenſible a People to uſe Words without any Idea annexed to them, though too many of our own Countrymen learn that Habit with their Prayers: But if his Report be true, there cannot be a ſtronger Proof of their Ignorance of this Law, than their conceiving that Opinion of it.

What the Nature of our Dependence upon *England* is, I really do not know; and muſt, at

the ſame Time, declare, that I never wiſh to be better informed of it: But this I am certain of, that if there was no Dependence before, there is none created by this Law; though we may indeed look upon it as a Link of the Chain which unites us to that Kingdom, and one that we by no means deſire to break. This Subject of our Dependence upon *England* is of ſo delicate a Nature, that I ſhall always avoid even ſpeaking of it in publick, and ſhall look upon that Man as an Enemy to both Kingdoms, who ſhall endeavour to examine too curiouſly into that Matter, ſo long as the Power, which is claimed in conſequence of that ſuppoſed Dependence, ſhall remain confined within thoſe Bounds which Uſage has already preſcribed to it. The Cardinal *de Retz*, in his Account of the Inſurrection of the *Pariſians*, in ſupport of their Parliament during the Minority of *Lewis* the Fourteenth, makes this very ſenſible Remark: *Le peuple entra dans le ſanctuaire, il leva le voile qui doit toujours couvrir, tout ce que l'on peut dire, et tout ce que l'on peut croire, du droit des peuples, et de celui des rois, qui ne s'accordent jamais ſi bien, que dans le ſilence.* Never did any Subject require to be treated with this cautious Reſerve, more than the myſterious Connexion between this and its Siſter Kingdom.

Though I do not look upon *Poyning*'s Law as a Thing ſo ſacred that it muſt not even be mentioned in our P———t, I am as ſtrenuous an Advocate for it; and am much more intereſted in the Preſervation of it, than any *Engliſhman* can

can be: I think it ſtill as neceſſary for the Well-being of this Kingdom, as it was when firſt it was made; nay, more neceſſary, as, ſince the Reformation, the eſtabliſhed Religion is no longer the Religion of the Nation. The Diſpoſitions of Men are the ſame in all Ages. A future L—d L———t may chuſe, as formerly they did, to govern by a Faction; and the Leaders of that Faction, though they muſt be profeſſed Proteſtants, may be, in reality, the ſecret Supports of the Popiſh Religion. — If this Age excels in any thing, it is in the Arts of Corruption: A L—d L———t may have Addreſs enough (and Men will give the Crime that gentle Name) to BRIBE, with our OWN MONEY, the greateſt PATRIOTS of the Nation, to break all the Promiſes they have made the People, and tamely give up the Intereſts of their Country; the Conſequences which might attend the abſolute Repeal of *Poyning*'s Law are ſuch, as every honeſt *Iriſhman* muſt ſhudder at the Thought of. We do not form a Wiſh to get rid of that Law, but are perfectly ſatisfied to have all our Bills ſubmitted to the K—g and his C—ncil in *England*; all we deſire is, to be ſuffered to lay our Petitions before him in our own Words, and to remove that Barrier which obſtructs the Communication between his M—j—ſty and his Subjects of this Kingdom.

There have been two temporary Repeals of *Poyning*'s Law; and nothing can ſhew more ſtrongly the Regard which all the Branches of the Legiſlature have had for it, than the great Cau-

tion that is uſed to prevent any ill Conſequences which might ariſe from the Suſpenſion of it.

28. H. 8. 4. The firſt of theſe Suſpenſions was in the Twenty-eighth Year of *Henry* the Eighth, and ſeems, at that Time, to have been abſolutely neceſſary; as it was during that Seſſion that the Reformation was eſtabliſhed in *Ireland*; and it is not to be ſuppoſed that the Council of this Kingdom could certify, previous to the Meeting of the Parliament, all the Laws which ſhould be requiſite to bring about ſo great a Change in our Religion, and Conſtitution. To prevent any bad Uſe being made of this Act of Suſpenſion, there was a Proviſo in it, that no Act ſhould be paſſed in that Parliament, which related to the Property of private Perſons, or of incorporate Bodies, but ſuch only as ſhould be expedient for the King's Honour, the Increaſe of his Revenues and Profits, *and* the common Weal of this Realm. Some People having imagined that every particular Act, which this Parliament was impowered to make, was both to be conducive to the King's Honour and Profit, and alſo to the common Weal of this Kingdom, it was found neceſſary, before the End of the Seſſion, to ex-

28. H. 8. 20. plain it by another Act, in which this too curious Diſtinction was over-ruled and ſevere Penalties denounced againſt thoſe who ſhould controvert the Validity of the Laws made by that Parliament. The Copulative *and*, in the foregoing Paragraph, was the Occaſion of that Doubt.

The other Suſpenſion of *Poyning*'s Law was in the

the Eleventh Year of Queen *Elizabeth*'s Reign. *11. Eliz: 1.* It does not appear from the Acts of that Parliament, what the Motive was for the repealing it at that Time; but there is one very extraordinary Circumſtance attending it, which is, that the Repeal itſelf was entirely unneceſſary, as it was ſubſequent to the Act made in the third and fourth Years of *Philip* and *Mary*, which had already freed our Parliaments from the Reſtrictions of *Poyning*'s Law; and though it is called only an Explanation of that Statute, had left them more at Liberty than this Act of Queen *Elizabeth* does, which is intitled a Repeal of it: For to make any Act valid, which ſhould be paſſed by this Parliament, not only all the Forms preſcribed by the Statute of *Philip* and *Mary* were to be purſued, but, before the Bill could have the Force of a Law, it was likewiſe to be proclaimed in *Dublin*, and five other of the principal Cities in *Ireland*. There was alſo a Clauſe in this Act againſt private Bills. For my Part, I think there is no Poſſibility of accounting for this Suſpenſion, unleſs by ſuppoſing that the Council of each Kingdom, and all the Branches of the Legiſlature, had entirely forgotten a Statute of great Importance, which had paſſed no more than thirteen Years before.

At the latter End of the ſame Seſſion there was another Act paſſed, in which both Houſes of Parliament declare, 'that as before that Statute, 'when Governors had Liberty to call Parliaments *11. Eliz: 8.*

'at

'at their Pleaſure, ſeveral Acts had paſſed, as 'well to the Diſhonour of the Prince, as the 'Hindrance of the Subjects, nothing but their 'entire Confidence in Sir *Henry Sidney*, his Ma-'jeſty's Deputy, could have made them *condeſcend* 'to a Repeal of *Poyning*'s Law.' And as future Governors might not follow his good Example, but from Affection, or ſome other Reſpect, might abuſe the like Liberty, it is enacted, 'that no 'Bill for the Repeal of *Poyning*'s Law ſhall be 'certified into *England*, unleſs it be firſt agreed 'to by a Majority of each Houſe of Par-'liament.' This laſt Clauſe was urged this preſent Seſſion, as a Reaſon againſt receiving in the Houſe of Commons Heads of a Bill to explain *Poyning*'s Law; but very abſurdly; for a Bill, in order to paſs both Houſes, muſt neceſſarily be firſt brought into one of them; and indeed if any Statute, paſſed in this Parliament of the Eleventh of *Elizabeth*, did really ſtand in the Way of thoſe Alterations which we deſire to make in the preſent Manner of paſſing Bills, I do not think that we ought to pay much Regard to it, as that Parliament moſt certainly did not know how our Conſtitution ſtood at that Time; they were ignorant of the Statute of *Philip* and *Mary*; and, from the very cautious Humour they ſeem to have been in, it is probable they would have repealed that Statute, if they had recollected it. Theſe two Acts of *Elizabeth* I have ordered to be printed at the End of this Pamphlet, for the Satisfaction of thoſe who may not have the *Iriſh* Statutes to turn to:

Thoſe

Thoſe of *Henry* the Eighth are meerly temporary; indeed they are all rather Matter of Curioſity, than Inſtruction, as our Conſtitution does at preſent entirely depend upon the Act made in the third and fourth Years of *Philip* and *Mary*.

The Inconvenience which muſt inevitably attend the adhering ſtrictly to the Letter of *Poyning*'s Law is very obvious. When the Gentlemen, elected to ſerve in Parliament, met from their ſeveral Countries, and conſulted together, many good Regulations might naturally occur to them, which were not foreſeen by the Council, yet theſe, however expedient, could not paſs into Laws, not having been certified into *England*, previous to that Meeting. To remedy this Inconvenience, in the aforeſaid Reign an Act was paſſed, declaring how *Poyning*'s Law ſhall be expounded and taken.

An Act declaring how Poyning's *ſhall be expounded and taken.* Rot. Parl. cap. II.

'WHERE at a Parliament holden at *Drogheda* the *Monday* next after the Feaſt of 'Saint *Andrew* the Apoſtle in the Tenth Year of 'the Reign of the late King of famous Memory '*Henry* the 7th Grandfather unto our Sovereign 'Lady the Queen before Sir *Edward Poynings* 'Knight, then Lord Deputy of this Realm of '*Ireland*, An Act among other things was enacted and made for and concerning the Order 'Manner and Form of Parliament to be from

'henceforth

‘ henceforth holden and kept in this Realm of
‘ *Ireland* in Form following. *Item*, at the Re-
‘ queſt of the Commons of the Land of *Ireland*,
‘ be it ordained, enacted and eſtabliſhed, That
‘ at the next Parliament that there ſhall be holden
‘ by the King's Commandment and Licence,
‘ wherein amongſt other the King's Grace intend-
‘ eth to have a General Reſumption of his whole
‘ Revenue ſith the laſt Day of the Reign of King
‘ *Edward* the Second, no Parliament be holden
‘ hereafter in the ſaid Land, but at ſuch Seaſon as
‘ the King's Lieutenant and Council there do
‘ firſt certify the King under the great Seal of
‘ that Land the Cauſes and Conſiderations of all
‘ ſuch Acts as them ſeemeth ſhould paſs in the
‘ ſame Parliament, and ſuch Cauſes Conſidera-
‘ tion and Acts affirmed by the King and his
‘ Council to be good and expedient for that Land
‘ and his Licence thereupon, as well in affirma-
‘ tion of the ſaid Cauſes and Acts, as to ſummon
‘ the ſaid Parliament under his great Seal of *Eng-*
‘ *land* had and obtained, that done, a Parliament
‘ to be had and holden after the Form and Effect
‘ aforeſaid: And if any Parliament be holden in
‘ that Land hereafter contrary to the Form and
‘ Proviſion aforeſaid, it be deemed void and of
‘ none effect in the Law, as by the ſaid Act more
‘ at large it doth appear, for as much as ſithence
‘ the making of the ſaid Act, diverſe and ſundry
‘ Ambiguities and Doubts have been made and
‘ riſen upon the true Underſtanding and Meaning
‘ of the ſame: For the avoiding of the which

‘ Doubts

‘ Doubts and Ambiguities, and for a full and
‘ plain Declaration of the true Meaning and Un-
‘ derſtanding of the ſaid Act, Be it ordained,
‘ enacted and eſtabliſhed, by Authority of this
‘ preſent Parliament, That the ſaid Act and eve-
‘ ry Clauſe and Article therein contained, ſhall
‘ from the firſt Day of *September* laſt paſt, be ex-
‘ pounded, underſtanded, and taken as hereafter
‘ followeth, that is to ſay That no Parliament be
‘ ſummoned or holden within this Realm of *Ire-*
‘ *land*, until ſuch times as the Lieutenant, Lord
‘ Deputy, Lord Juſtice, Lords Juſtices, Chief
‘ Governor or Governors or any of them, and
‘ the Council of this ſaid Realm of *Ireland* for the
‘ time being ſhall have certified the King's and
‘ Queen's Majeſties her Heirs and Succeſſors un-
‘ der the great Seal of this ſaid Realm of *Ireland*,
‘ the Conſiderations, Cauſes, and Articles of ſuch
‘ Acts, Proviſions and Ordinances as by them
‘ ſhall be then thought meet and neceſſary to be
‘ enacted and paſſed here by Parliament, and ſhall
‘ have alſo received again their Majeſties Anſwer
‘ under their great Seal of *England*, declaring
‘ their Pleaſure either for the paſſing of the ſaid
‘ Acts, Proviſions and Ordinances, in ſuch Form
‘ and Tenour as they ſhould be ſent into *England*,
‘ or elſe for the Change or Alterations of them,
‘ or any Part of the ſame. And be it further
‘ enacted by the Authority aforeſaid, that after
‘ ſuch Return made, and after Licence and Au-
‘ thority to ſummon a Parliament within the ſaid
‘ Realm of *Ireland*, granted under the great Seal

‘ of *England*, unto the ſaid Lieutenant or Lord
‘ Deputy, or other Lord Juſtice, Lords Juſtices,
‘ Chief Governor or Governors of the ſame Realm
‘ of *Ireland* for the time being, and not before
‘ the ſame Lieutenant, Lord Deputy, Lord Juſ-
‘ tice, Lords Juſtices, Chief Governor or Gover-
‘ nors, ſhall and may ſummon and hold a Par-
‘ liament within this Realm of *Ireland*, for paſſ-
‘ ing and agreeing upon ſuch Acts and no other
‘ as ſhall be ſo returned under the ſaid great Seal
‘ of *England*, and foraſmuch as many Events and
‘ Occaſions may happen during the time of the
‘ Parliament the which ſhall be thought meet
‘ and neceſſary to be provided for and yet at or
‘ before the time of the ſummoning of the Par-
‘ liament was not thought nor agreed upon.
‘ Therefore be it further enacted and eſtabliſhed
‘ by Authority of this Parliament, that as well
‘ after every ſuch Authority and Licence ſent into
‘ this Realm of *Ireland*, as alſo at all times after
‘ the Summons, and during the time of every
‘ Parliament to be hereafter holden within the
‘ ſaid Realm of *Ireland*, according to the Tenour
‘ and Form of this Act, the Lieutenant, Lord
‘ Deputy, Lord Juſtice, Lords Juſtices, Chief
‘ Governor or chief Governors and Council of the
‘ ſame Realm of *Ireland* for the time being, ſhall
‘ and may certify all ſuch other Conſiderations,
‘ Cauſes, Tenours, Proviſions, and Ordinances
‘ as they ſhall further then think good to be en-
‘ acted and eſtabliſhed at and in the ſame Parlia-
‘ ment, within the ſame Realm of *Ireland*, to the

‘ King's

' King's and Queen's Majeſties her Heirs, and
' Succeſſors under the great Seal of this ſaid
' Realm of *Ireland*, and ſuch Conſiderations,
' Cauſes, Tenours, Proviſions, and Ordinances,
' or any of them as ſhall be thereupon certified
' and returned into the ſaid Realm, under the
' great Seal of *England* and no others, ſhall and
' may paſs and be enacted here in every ſuch
' Parliament within this ſaid Realm of *Ireland*, in
' caſe the ſame Conſiderations, Cauſes, Tenours,
' Proviſions, and Ordinances, or any of them be
' agreed and reſolved upon by the three Eſtates
' of the ſaid Parliament: any thing contained in
' this preſent Act or in the foreſaid Act made at
' *Drogheda* to the contrary notwithſtanding. Pro-
' vided always and be it further enacted by the
' Authority of this preſent Parliament, that all
' and every Parliament and Parliaments, ſum-
' moned, kept and holden within this Realm of
' *Ireland* ſince the making of the ſaid former Act
' in the ſaid tenth Year of the Reign of the ſaid
' late King *Henry* the ſeventh, and all and every
' Act, Acts, Ordinances and Proviſions, made,
' paſſed, ordained and enacted in the ſame, ſhall
' be and remain in ſuch and the ſame Force,
' Strength, Validity and Effect to all Intents,
' Conſtructions and Purpoſes as if this Act had
' never been made: this Act or any thing
' therein contained to the contrary notwithſtand-
' ing. Provided alſo that this Act or any thing
' therein contained, ſhall not extend or be meant,
' to the defeating or hindrance of any the Pro-

'viſoes made in this Seſſion of this preſent Par-
'liament.'

By this Act the Parliament is impowered to paſs all Bills which ſhall, at any time during the Seſſion, be certified to his Majeſty by the chief Governor and Council, as expedient for this Kingdom; and ſhall be returned unto us under the great Seal of *England*. By this, and *Poynings'* Law, our Proceedings are, at preſent, directed. At the firſt Sitting of every new Parliament, and then only, ſome Bills are ſent over under the great Seal of *England*, and are either paſſed, or rejected, by the two Houſes here. But the ordinary Courſe of Buſineſs is this: A Member of either Houſe brings in * Heads of a Bill, (if a Commoner, he muſt demand the Leave of that Houſe) which, if they paſs, are carried to the Lord Lieutenant, and, by him, referred to the C—ncil, who alter them in whatever Manner they chuſe, and then certify them to his Majeſty under the great Seal of *Ireland*. In *England*, they are referred, by the Council of that Kingdom, to the Attorney-General, and are formed by him into

* Heads of a Bill. A Term not known in *England*. And though certainly of modern Invention, I cannot ſay at what Time it was firſt introduced into our parliamentary Proceedings. They differ from a Bill meerly in the Title, and do not aſſume that Name until they are returned to us from *England*: Before that Time they are looked upon rather as Petitions to his Majeſty, to let him know what Laws his People deſire, than regular Bills. The Phraſe is an aukward one, ſo I ſhall not uſe it, unleſs when it ſhall be neceſſary to mark the Diſtinction.

into ſuch a Bill as they ſhall approve of, which is returned to us under the great Seal of *England*, and ſent back to the Houſe in which it firſt took its Riſe; which can barely accept, or reject, it; but has not the Power of altering one Word of it. If it paſſes that Houſe a ſecond Time, it is ſent to the other, and afterwards receives the royal Aſſent.

I have traced a Bill thus through all the Windings of our Conſtitution, for the Information of my *Engliſh* Readers, who might otherwiſe imagine that, as the Branches of the Legiſlature are the ſame in both Kingdoms, the Manners of paſſing Bills in each ſhould alſo have ſome Reſemblance. But, in this reſpect, our Conſtitution is directly the Reverſe of theirs. In *England* the two Houſes have the Right of propoſing, the King that of paſſing, or rejecting, Bills: But, in *Ireland*, all Bills move from the Crown, and the Negative is in the two Houſes of Parliament. This will plainly appear to whoever ſhall conſider with Attention the Manner in which our Laws are paſſed, and conſider the Difference between the Heads of a Bill, and the Bill itſelf.

Although it may ſeem ſo foreign from my preſent Subject, I cannot help remarking, that the viewing our Conſtitution in this its true Light, ſhews evidently how very nugatory that Queſtion about the previous Conſent was, which occaſioned ſuch Conteſts in this Country four Years ago, and gave the Seventeenth of *December* ſo high a Rank amongſt our hiſtorical Toaſts. It alſo ſhews

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how very ill adviſed thoſe Perſons were, in either Kingdom, who inſiſted upon puſhing on ſo trifling a Point, in oppoſition to the Current of popular Prejudice and Clamour. — In the Parliament of *England* indeed, where the Crown has meerly a Negative when any thing is moved which may poſſibly interfere with the particular Rights of the Crown, it is uſual for ſome of the King's Servants to riſe, and declare, in his Majeſty's Name, that he conſents to have that Matter propoſed; but, in our Parliament, ſuch a previous Conſent would be ridiculous; for as all our Bills proceed from the Crown, to whom is his Majeſty to give that previous Conſent? Why, to himſelf; which is little better than a Blunder. There is no Man in *Ireland* better pleaſed than I am with the Conſequences which attended that Queſtion; yet, when I call it a nugatory Queſtion, I give it the Name it moſt juſtly deſerved. For if his M-j-ſty ſhould think proper to give fifty previous Conſents to himſelf, I cannot ſee how the Liberty of the People could be infringed by them, or any Reaſon why the moſt auſtere Patriots ſhould be offended at it, though a Critick might; and on the other Hand, if the whole hereditary Revenue were to be taken away by a ſingle Bill, I think it would be abſurd for the Gentlemen of the Court Party to inſiſt upon having his M-j-ſty's previous Conſent inſerted in the Preamble of it; ſince its being brought into either Houſe of Parliament is, in reality, the Act of his Majeſty, or, at leaſt, an undoubted Proof that it has received

received his royal Approbation. But to return to my Subject.

This Statute of *Philip* and *Mary* was certainly neceſſary to free us from the Confinement of *Poynings'* Law; it is not intitled an Amendment, but only an Explanation of that Law; and it muſt be confeſſed to be a very liberal Explanation, ſince, by a ſubſequent Parliament in Queen *Elizabeth*'s Reign, an Act of exactly the ſame Import is called a Repeal of it.

By a ſtill more liberal Explanation of this laſt Statute, the C—ncil of this K—d—m have arrogated to themſelves a Power of examining all Heads of Bills ſent to them from either H—ſe of P—l——nt, and of ſtopping them entirely; or of making ſuch material Alterations in them, that they are no longer the Petitions of the People, but their own. Nay, in many Caſes, they have ſo entirely perverted the Nature of the Bills, that the Tendency of them, when tranſmitted by the C—ncil to *E——d*, has been directly oppoſite to the Intention of that H—ſe in which they took their Riſe.

I ſhall not take it upon me to determine, whether by nice verbal Diſtinctions; by Diſſertations on the Word *certify*; and by forced Inferences from other Words, the C—ncil may not be able, in ſome Manner, to ſupport the Legality of the Power which they have exerted, and prove it warranted by Law, if not *in totidem verbis*, at leaſt *in totidem litteris*. I am the more willing to wave this Queſtion, from what I obſerved

ſerved when this Affair was debated in the H—ſe of C——ns. While the Lawfulneſs of their Power was conteſted, there were many who ſpoke in Support of it; but when that Point was given up, there was no longer one Word ſaid in Defence of the C—ncil; it ſeemed to be the unanimous Opinion of the H—ſe, that this Power was exorbitant; and abſolutely inconſiſtent with the very Nature of a P—l——t repreſenting a free People. But ſurely it is equally injurious to the Pr———ve of the Cr——n, as it ſtops all Intercourſe between his M—j—ſty and his P—l——t, and makes it impoſſible for him to know the Wiſhes of his People, though he may know the Deſires of the L—d L——t, and *his* C—ncil.

However the Words of that Law may be ſtrained to ſupport this deſpotick Rule over the K—g, L—ds, and C——ns of this Kingdom, it is moſt clearly contrary to the Intention of the very Act from which the C—ncil pretends to derive that Power. The only rational Motive for taking off the Reſtrictions of *Poynings'* Law, and ſuffering our P—l——t to paſs Bills not certified previous to the Meeting of it, ariſes from this Suppoſition, that when the Gentlemen, returned to ſerve in P—l——nt, conſulted together, they might probably think of ſome good Inſtitutions which were not foreſeen by the C—ncil: But there can be no Reaſon given, why the Pr—vy-C—ncil ſhould be more wiſe, or better informed, after the Meeting of P—l——nt, than they were before. Indeed if

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that Board was conſtituted in thoſe Days, as it has been for ſome Years paſt, there was not any great Reaſon to ſuppoſe that it ſhou'd have much Knowledge in the Intereſts of this Kingdom.

When the Parliament, in the eleventh Year of Queen *Elizabeth*, repealed *Poynings'* Law, the Reaſon they gave for it is this; that, without ſuch a Suſpenſion, *the moſt grievous Sores of this Commonwealth, which are beſt known to ſuch as are, or ſhall be appointed to be of that high Court* (the Parliament) *and moſt felt by them, cannot be reformed conveniently, as not having been before certified.* Can it be ſuppoſed that, at that Time, a Power exiſted in the C—ncil to controul that very Body, which all the Branches of the Legiſlature declare, muſt be the beſt acquainted with the Grievances of the Commonwealth, and beſt know the Means of redreſſing them? Can it be ſuppoſed they had a Power to prevent the Sovereign's receiving ſo neceſſary an Information from that Part of his People, which is confeſſed to be the moſt capable of giving it? yet the Act of *Philip* and *Mary* exiſted at that Time. And, in my Opinion, if the C—ncil were not immediately put into Poſſeſſion of the Power which they claim under that Statute, that ſingle Circumſtance is an undoubted Proof that it could not be the Intention of the Act, to veſt them with ſuch a Power, but that it was afterwards aſſumed by them, and the Words of the Law, conſtrued in ſuch a Manner, as to warrant the Uſurpation. If

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they had been put in Poſſeſſion of their preſent Authority by the Statute of *Philip* and *Mary*, it is abſolutely impoſſible that the Act of the eleventh of *Elizabeth* ſhould ever have been made.

As this Statute of *Philip* and *Mary* is but explanatory of *Poynings'* Law, all Power given by it muſt be conſidered as ariſing from the original Act, and tacitly implied by it. Let us for a Moment ſuppoſe Sir *Edward Poynings* reſtored again to Life, and ſent into this Kingdom: The C—ncil, (as in common Gratitude they ought) would certainly wait upon his Excellency, to thank him for the ſupreme Authority which he has lodged in their Hands. How aſtoniſh'd he would be at ſuch a Compliment! how he would ſpurn from him the ſpurious Inſtitution, for pretending to derive from him a Power ſo diametrically oppoſite to all the Principles from which he acted! For I do inſiſt upon it, that the Power aſſumed by the C—ncil is ſo; and that the Gentlemen who endeavoured to limit that Power purſued the true Spirit and Policy of Sir *Edward Poynings*. When he took ſo effectual a Method to prevent any Laws being paſſed by our chief G—v—n—rs, which ſhould not firſt be approved of by the K—g and his M——ry in *England*, could it be his Intention to leave thoſe chief G—v—n—rs a Power of ſtopping all Communication betwixt his M——ſty and this P—l——nt, and of putting a Negative upon all Laws which ſhould in any manner interfere with

their

their particular Intereſts, or thoſe of the Faction that they ſhall chuſe to govern by? Could it be his Intention to leave the L—d L——nt, a Power of declaring, as he now may, that no Laws, however neceſſary, ſhall paſs in *Ireland*, while he has the Government of that Kingdom?

It is not through Ignorance, or Miſtake, that I have here put the L—d L———t in the Place of the C——ncil; but as there is not a ſingle Inſtance, in our Hiſtory, of any publick Point, in which the Will of the L—d L———t was not the Will of the C—ncil, I think I may, without any Unfairneſs, ſuppoſe, that any Authority reſerved to that Board, is ſtill veſted in the chief G———r. And, indeed, it may as ſafely be veſted in him, as in the C—ncil; ſince the Members of it, however reſpectable they may be, are ſtill but a Junto of our Fellow-Subjects, and liable to the ſame Prejudices and Partialities; the Influence of which Sir *Edward Poynings*, and the Commons at that Time, thought it ſo very neceſſary to guard againſt.

It has been ſaid in Defence of the C—ncil, that it is chiefly compoſed of thoſe Members of each H—ſe of P—l——nt, who have the moſt independent Fortunes, and to whom, of conſequence, we may moſt ſafely truſt the Concerns of the Kingdom. This is a plauſible Argument; but we all know, that the Buſineſs at that Board is always carried on by the Ar—hb—ps, the chief J——s, and thoſe who poſſeſs the high

Employments of the St—te and the R———e. The Liſt of Pr—y-C———rs is, indeed, very large; but few of them, except thoſe who, by their Employments, are Men of Buſineſs, do ſufficiently regard the Duties of that Office; their Indolence, their Love of Pleaſure, or the Care of their private Affairs, prevent their attending an Aſſembly, where they know their Opinions will have little Weight: If ſo many of the independent Gentlemen were to attend the C—ncil, as ſhould out-number thoſe who are immediately connected with the G———nt, I fear the Liſt would ſoon become leſs numerous. Three of our A—chb—ps, as many of our chief J—s, are *Engliſh*; nor have we Reaſon to think that the Natives of this Kingdom will, for ſome time to come, have a larger Share of thoſe great Preferments. Theſe Gentlemen are brought over to us, advanced in Years; and (though we have now an Inſtance to the contrary) cannot, in general, be ſuppoſed to underſtand thoroughly the Intereſts of this Kingdom, or to be very anxious for the Welfare of it. This I am ſure of, that though their Succeſſors ſhould always prove to be as knowing, and as well-affectioned to this Country, as they are who at preſent fill ſo worthily thoſe high Employments, we cannot expect from them the ſame Feeling for our Grievances, or the ſame Fondneſs to redreſs them, that the Father of his People would have, if they were ſuffered to reach his paternal Ear.

When

When this Subject was debated in the H—ſe of C——ns, ſome Gentlemen, I cou'd perceive, did ſeem to imagine, that *Poynings'* Law (by ordaining that no P—l——nt ſhould be called in this Kingdom, until ſufficient Cauſe for its Meeting ſhould be certified to the K—g by the Pr—y-C—ncil) did ingraft, as it were, the C—ncil into our Legiſlature, and inveſt it with a peculiar Power, diſtinct from any which the C—ncil of *England* enjoyed. But this is a miſtaken Notion, and ariſes from their not ſufficiently conſidering how very different both the Nature of P—l——nts in *England*, and the Manner of calling them, are at preſent, from what they were at the Time this Law was made. For ſeveral Reaſons, too obvious to be mentioned, the G———nt of *England* cannot now ſubſiſt for a ſingle Year without a P—l——nt; but in the Time of *Henry* the Seventh, and for a long while after, the Cr—n was poſſeſſed of large Eſtates, which, with a few Taxes that were granted to the K—g for Life at the Beginning of every Reign, were ſufficient for the Safeguard of the Kingdom, and the Support of the Cr—n: P—r-l——nts were never called, unleſs when a War made it neceſſary to demand a Subſidy from the People, or ſome Laws were thought of which it was expedient to paſs; the Buſineſs it met for was generally diſpatched in a few Days, and the P—l——nt diſſolved. Even in Queen *Elizabeth's* Reign, the moſt popular of our Princes,

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the P—l——nt ſat but for three Weeks in eleven Years; and did not ſit at all for eight Years together. Nor were the People jealous of theſe long Intermiſſions; they had an entire Confidence in her, and knew that they did not ariſe from any evil Deſign, or from any Averſion ſhe had from the meeting her People in P—l——nt; but meerly from her thinking there was no Occaſion for ſuch a Meeting.

When there was no P—l——nt in being, the C—ncil was the only Body of Men in the Kingdom that could judge what Laws were neceſſary to be made, and could adviſe the S——reign to call a P—l——nt for that Purpoſe; and, in this reſpect, the Power of the *Engliſh* and the *Iriſh* C—ncil was exactly on the ſame Footing, though one material Circumſtance made an unavoidable Difference between their Manners of executing it: The Abſence of the K—g from this Realm made it abſolutely neceſſary for our C—ncil to certify to him, the Cauſes for which they deſired a P—l——nt might be called; but it would be quite ridiculous for the *Engliſh* C—ncil to obſerve the ſame Form, and give his M—j—ſty a regular Certificate of what they had debated and reſolved on in his Preſence. In either Caſe they do but adviſe the S——reign; and there is no more Difference between the two Ways of doing it, than there is between ſpeaking an Opinion, and writing it: The C—ncil of *Ireland* are neceſſitated to *ſend* their Advice to his M—j—ſty,

M—j—ſty, and to ſend it in ſuch a Manner, that the Authenticity of the Tranſmit cannot be doubted; the great S—l of *Ireland* affixed to it, is the ſureſt Proof of that; and this is called *certifying*. Before the Meeting of P—l——nt, they are to certify to the K—g their own Opinion; but after the P—l——nt is aſſembled, they ought to certify the Opinion of the Lords and Commons; and there cannot be an higher Abſurdity, than the ſuffering them to certify their own Opinion in oppoſition to the Judgment of thoſe whom all the Branches of the Legiſlature have declared, to be *the beſt acquainted with the Grievances of the People, and to know beſt the Means of redreſſing them.*

I hope it appears plainly from what I have ſaid, that though I will ſuppoſe the Power exerted by the C—ncil to be legal, I am by no means convinced that it really is ſo. But, indeed, I think that Point not worth conteſting: An Uſurpation of ſo long ſtanding is more difficult to remove than a legal Authority; for it will be more earneſtly defended, as much better calculated to anſwer the Purpoſes of Oppreſſion, ſince there are no fixed Rules to which it can be reduced, nor any Limits appointed, but ſuch as the Uſurpers themſelves ſhall think proper to preſcribe to it. It would fill a Volume to recount the numberleſs Inſtances in which this Power has been moſt groſly abuſed. I ſhall mention but one as a Sample of the reſt. The People of

England

England, though they will not allow this Nation to be independent, will certainly own, that the Individuals of it have a Right to be free; does any *Engliſhman* imagine that we have no *Habeas Corpus* Act in this Kingdom? a Law which they juſtly think ſo eſſential to Liberty, that it is with the utmoſt Reluctance they conſent to ſuſpend it even for a Day. Will any *Engliſhman* believe that it is to our own C—ncil only, we owe the Want of ſo neceſſary a Law! Yet the Fact is, that it has every Seſſion, for theſe twenty Years, paſſed unanimouſly the Houſe of Commons, and has as often been ſtopped by that right honourable B——rd.

I have heard much ſaid, upon a late Occaſion, of the Conſcience of a Pr—y-C———r, and of the Tenderneſs with which it is to be treated. He muſt not be compelled to certify into *England* any Bills which he does not himſelf approve of as expedient for this Kingdom, but muſt pay more Regard to his own Opinion, than to the Senſe of the Nation. Out of Reſpect to theſe tender Conſciences, the *Habeas Corpus* Act was, laſt S——n, worded with unuſual Caution; as we were then at the Eve of a War, it was not to take Place for two Years from the Date, that it might be in the Power of the ſubſequent P—l——nt to prolong the Suſpenſion of it, if it ſhould be judged expedient; and as the *Roman* Catholicks of this Kingdom, although they have never expreſſed them in their Actions, may be

ſuppoſed

ſuppoſed to form Wiſhes againſt the preſent happy Eſtabliſhment, there was a Clauſe in the Bill, to exclude all Perſons of that ſuſpected Religion from the Benefit of the Act. Will any Pr—y-C——r preſume to ſay, that he acted from his Conſcience, when he threw out a Bill ſo framed? or aſſert, that ſuch an Act would not be for the Welfare of this Kingdom? where it is ſtill more neceſſary than in *England*, as our J——s hold their Places only during the Pleaſure of the Cr—n, and, conſequently, we hold our Liberty by the ſame precarious Tenure. Under the preſent mild Adminiſtration we have nothing to fear, either from the Want of the *Habeas Corpus* Act, or the Dependence of our J——s; but the Power remains, while the Perſons that exerciſe it are tranſitory; and though no bad Uſe has as yet been made of it, we are not to infer from thence, that it will never be abuſed: A good Prince would prove the greateſt Misfortune to a Nation, if, ſoothed by the Happineſs they enjoy under his benign Influence, they ſhould neglect making ſuch Laws as may ſerve for their Refuge in a more boiſterous Seaſon; ſince the ſame fatal Inſtant may put an End to the Life of their Protector, and deliver them into the Hands of an Oppreſſor, diſarmed of their Laws.

I do not exaggerate when I ſay, that to the C—ncil only we owe the Want of this moſt excellent Law. It would be abſurd, nay, almoſt criminal, to ſuppoſe, that a K—g who, like his royal Predeceſſor, makes it the Glory of his

Reign to rule over a free People, ſhould refuſe the moſt loyal Part of his Subjects, a Law ſo eſſential to their Liberty; a Law, which thoſe very People are ſuffered to enjoy, whoſe frequent Diſloyalties have ſo often occaſioned the Suſpenſion of it.

It is, indeed, to that one capital Grievance, the Power aſſumed by the C—ncil, that we owe every Hardſhip we are forced to endure; it is by no means the Intereſt of *England* to oppreſs us, and I am ſure it is not the Inclination of his preſent M—j—ſty; but the moſt gracious Monarch cannot redreſs the Grievances of his Subjects, if they are not ſuffered to lay them before him. There was an Attempt made rhis S——n to free us from that Reſtraint, by * three Gentlemen, who have approved themſelves the real Friends of their Country; Patriots I ſhould wiſh to call them, if that Name did not too juſtly convey, to every *Iriſh* Ear, the Idea of Impoſture, or Deluſion, and remind us of the moſt notorious Breach both of publick and private Faith.

I ſhall not enter into a particular Detail of the Debates on this Occaſion, but ſhall content my ſelf with giving a ſuccinct Account of the Proceedings, without marking the different Days on which they happened. Mr. *French* began the Attack by propoſing to the H—ſe ſome Reſolutions, which plainly tended towards voting the Power exerted by the C—ncil to be illegal, and,

* Mr. *Pery*, Mr. *French*, Mr. *Brownlow*.

and, conſequently, to the Deſtruction of it: Theſe Reſolutions were warmly oppoſed; it was ſaid, that the attempting by a Vote of that H—ſe to repeal an eſtabliſhed Inſtitution, would be a Precedent which might be attended with very fatal Conſequences, as the other Branches of the Legiſlature, the K—g, or the H—ſe of L—ds, might think they were intitled to the ſame Liberty which the C——ns allowed themſelves, and in purſuance of the Example ſet by them, might aſſert a Right of abrogating Laws, by a Declaration of their Will only. This Objection was made, not to the Deſign which Mr. *French* had in View, but to the Method he took of accompliſhing it; for at the ſame time that the moſt eloquent of our Senators gave this ſenſible Reaſon for rejecting the Reſolutions, he did not ſay one Word in favour of the C—ncil; on the contrary, not only he, but his Brother, and another learned M——ber alſo, (who has diſtinguiſhed himſelf this S———n by his Obſequiouſneſs to the r——ng P——rs in all other Points,) did declare, that this Power of the C—ncil was a Grievance which demanded Redreſs, and that if an Attempt ſhould be made to remove it in a conſtitutional Way, they would concur in promoting it: Nay, that great Oracle of the Law, went ſtill farther, and ſaid, with his uſual Modeſty, that if Heads of a Bill ſhould be brought in for that Purpoſe, he would not only give his Vote for them, but, to the utmoſt of his little Abilities, would contribute to ſupport them.

Though the Majority of the H—ſe were determined to reject the Reſolutions, they were a good deal puzzled to contrive a Manner of getting rid of them, without being forced to give a Negative to Propoſitions undoubtedly true; but at laſt they hit upon ſome Methods, which, although perhaps not ſtrictly parliamentary, ſerved for that Purpoſe.

As ſoon as the Reſolutions were diſpoſed of, Mr. *Pery* declared that, at their next Meeting, he ſhould move the H—ſe for Leave to bring in Heads of a Bill to explain *Poynings'* Law, and the Act made in the third and fourth Years of *Philip* and *Mary*. He had not the leaſt Expectation of being refuſed that Permiſſion, ſince ſuch a Bill ſeemed, indeed, to be demanded by the whole H—ſe; however the S———ry got up, and declared that he would oppoſe that Motion whenever it ſhould be made. This paſſed on a *Saturday*; the next Day all the Gentlemen in Emp——nts, and the Leaders of the ſeveral Fact—ns were cloſeted, (I need not explain this Phraſe to my *Engliſh* Readers) and received their Orders not to ſuffer that Bill to be brought into the H—ſe, which they moſt ſubmiſſively obey'd; and accordingly, on *Monday* Morning, theſe *new Excluſioners, with* R——l's *Secretary at the Head of them*, took their Poſts, and, after a long Diſpute, carried their Point by a Majority of Ninety-ſix againſt Seventy-five; no great one, conſidering the extraordinary Efforts made on that Occaſion.

To

To the great Surprize even of thoſe who know them, the two *Patriot Brothers*, and their *Follower*, notwithſtanding their Declarations in the former Debate, voted, with the Majority, to exclude this Bill. If I were not convinced that theſe Gentlemen are the avowed Supports of the Proteſtant Intereſt in the Kingdom in general, and particularly in two neighbouring Counties not far diſtant from this Metropolis, I ſhould be almoſt tempted to ſuſpect, that by ſome Accident they had converſed with Jeſuits in their Youth, and had from them learned this Caſuiſtry; that the promiſing to ſupport a Bill if it ſhould be brought into the H—ſe, did not preclude them from uſing their utmoſt Endeavours to keep it out.

As many People may be deſirous to know the Purport of this unfortunate Bill, I ſhall here inſert it in its own Words.

'Heads of a Bill to explain an Act made in the 'tenth Year of the Reign of King *Henry* the 'ſeventh, intitled, An Act that no Parliament 'be holden in this Land, until the Acts be 'certified into *England*; and alſo one other 'Act made in the third and fourth Years of '*Philip* and *Mary*, intitled, An Act declaring 'how *Poynings'* Act ſhall be expounded and 'taken.'

'WHEREAS ſeveral Doubts have ariſen 'concerning the true Conſtruction and 'Meaning of an Act made in the Tenth Year 'of

'of King *Henry* the ſeventh, intitled, An Act 'that no Parliament be holden in this Land, un-'til the Acts be certified into *England*; and alſo 'of one other Act, made in the third and fourth 'Years of *Philip* and *Mary*, intitled, An Act 'declaring how *Poynings'* Act ſhall be expounded 'and taken. For a full and plain Declaration of 'the true Meaning and Underſtanding of the 'ſaid Acts

'We the —— and Commons, in Parliament 'aſſembled, pray it may be enacted, and de-'clared, That the Lord Lieutenant, or other 'chief Governor, or Governors, and Council of 'the Realm of *Ireland*, for the Time being, do, 'and ſhall certify all ſuch Conſiderations, Cauſes, 'Tenors, Proviſions, and Ordinances, as either 'Houſe of Parliament ſhall judge expedient to 'be eſtabliſhed within the ſame Realm of *Ire-'land*, to his Majeſty, his Heirs, and Succeſſors, 'under the great Seal of this ſame Realm of '*Ireland*, without making any Addition to, Di-'minution from, or Alteration in the ſame, ſave 'putting the ſame into due Form of Law.'

This is the Bill, which was to take away all the Dependence of *Ireland* upon *England*, and which appeared ſo formidable to thoſe in Power, that they wou'd not even ſuffer it to be read in the H—ſe of C——ns. I am informed that there is no Precedent in our Journals of any M——r's being refuſed Leave to bring in the Heads of a Bill: The putting the Queſtion upon that Mo-

tion

tion proves, beyond Diſpute, that the H—ſe has a Power of refuſing that Permiſſion; but this is the firſt Inſtance in which they have exerted it. The ſame Party could, with more Eaſe, have admitted the Bill, and have put a Negative upon it, without treating it with ſuch unuſual Contempt; ſo I cannot but ſuppoſe that, in chuſing the moſt odious Method of getting rid of it, they conſulted the tender Conſciences of thoſe Gentlemen, who had unwarily engaged themſelves to ſupport the Bill, if it once got Admittance into the Houſe.

In my Opinion no Bill was ever formed more plain, more moderate, or more equitable than this is. It does not deſire that any Bill ſhould be propounded in either H—ſe of P—l——nt, which has not firſt been approved of by the K—g, and his C—ncil in *England*; and is ſo far from tending to weaken the Connexion between that Kingdom and this, that it would have rendered that Union ſtill more intimate than it is, by freeing his M—j—ſty from the Tutelage of his *Iriſh* C—ncil, and making it poſſible for him to know the Complaints, and the Deſires of his Subjects. Without ſuch Knowledge the beſt of Princes cannot rule with the Affections of their People, which even the moſt abſolute would wiſh to do, if it could be accompliſhed without the ſmalleſt Diminution of their Authority. — The leaving to the Privy-Council, at the ſame Time that it takes from them a Power inconſiſtent with the Nature of our Conſtitution, the Liberty of

ſending

ſending, with every Bill they ſhall tranſmit to *England*, their Sentiments and Advice upon it, is a farther Proof of the great Moderation of this Bill. No Man breathing can be ſo prejudiced as to think it merited the Scorn with which it was rejected.

I muſt own I had great Expectation of the Bill's paſſing in this S——n, and was the more ſeriouſly afflicted at the undeſerved Fate of it, as I ſhall never hereafter have as much Reaſon for forming ſo agreeable an Hope. It is only in good Times that we can expect good Laws; I have heard it often aſſerted, (for People who feel themſelves oppreſſed, will ever be ſuſpicious) that one of the principal Inſtructions generally given, or inſinuated to our G——rs, is to leave us in at leaſt as bad a Condition as they found us. But we are at preſent happy in a L—d L———t, whoſe high Rank, and vaſt Property, whoſe great Abilities, and the natural Bent of his Temper, do all conſpire to make him ſo intirely independent of any body upon Earth, that he would ſcorn to receive ſuch ſervile Orders; and we have a Man at the Head of Affairs in *England*, who wou'd ſcorn to give them: Nay, we have even an honeſt Secretary; the Friends of their Country, in our P—l——nt, are active and reſolute; the Heads of that Party which would oppoſe all good Laws, are diſpirited and languid; and, from an Hankering after their loſt Popularity, are content to give their ſilent Votes againſt thoſe good Inſtitutions, which they dare not oppoſe in a more conſpicuous Manner. Can we ever hope for another

Conjuncture

Conjuncture ſo favourable to our Wiſhes as this ſeemed to be? For my Part, I am not ſanguine enough for ſuch an Imagination. The D—ke of *B——d*'s returning to this Kingdom, which I moſt ſincerely wiſh for, is very precarious, and would be ſo, though that Event were to depend meerly upon the Inclinations of his Gr——e; we do not know that he will deſire to honour us again with his Preſence. The Continuance of Mr. *Pitt*'s Influence is ſtill more uncertain: We can form no Judgment of it; nor can the Experience of paſt Times give us any Aſſiſtance in framing even Conjectures on that Subject, as his Power is eſtabliſhed upon Merit only, a Foundation that no Miniſter, except himſelf, ever thought of building on: In vain ſhall we ſearch our Annals for ſo extraordinary a Phænomenon, as a Man who was at once the firſt Miniſter of the Cr——n, and the moſt ſtrenuous Aſſertor of the Liberties of the People; yet theſe ſeemingly incompatible Characters we ſee united in theſe happy Times, for happy they muſt prove, notwithſtanding our late unaccountable Misfortunes, under the Adminiſtration of a Man, who, though bleſſed with the greateſt Abilities, is as free from bad Ambition, as he is from Avarice; who is untainted with the Luxury and Vices of the Age; and of ſuch perfect Integrity, that not even the Love of Praiſe, that darling Paſſion of his noble Soul, can make him ſwerve from what he thinks is juſt. To him I appeal.—Would he alone were to judge our Cauſe! He looks beyond the narrow Views

of little Minds, and ſees that the Proſperity of *Ireland* is the Proſperity of *England*; and that the Intereſts of the two Kingdoms are not oppoſite, but inſeparable. — I know that, in what I have ſaid of this great Man, I do not ſpeak the Sentiments of a large Party amongſt us, who are acted upon by other Influence, and are unwilling to allow the Merit of a Character ſo very oppoſite to their own; but as I am reſolved to be unknown, whatever they may think, I cannot juſtly be accuſed of Flattery; a diſintereſted Flatterer would be as uncommon a Character as a diſintereſted Miniſter.

No anonymous Writer can challenge ſo much Credit from his Reader as he, who, by owning his Name, declares that he is neither aſhamed or afraid of any thing he has aſſerted. This I am convinced of; yet I have ſo very reaſonable a Motive for concealing mine, that I muſt hope it will plead my Excuſe. I have a Proſpect of obtaining, in a ſhort time, a Seat in the H—ſe of C——ns; and notwithſtanding all that I have ſaid, may, perhaps, find it convenient to vote in a future S——n againſt this very Bill which I am now defending. I have obſerved, that when young Men are obliged to give their Voice againſt their avowed Sentiments, they do it very aukwardly for the firſt Week, or two, until they become a little inured to publick Buſineſs; to avoid ſuch an Embarraſment, I am reſolved to give nothing under my Hand, but chuſe to ſacrifice the Vanity of an Author, rather than deprive myſelf for one Hour

of

of that moſt ſubſtantial of all p—l——ry Privileges, the voting according to my Intereſt.

Since I finiſhed theſe Obſervations, I am more convinced than I was before, that the publiſhing them may be of publick Utility. I have converſed with ſeveral *Engliſh* Gentlemen, who, although they were upon the Spot, and in a Way to be more thoroughly informed of our Proceedings in P—l——nt, than they could poſſibly be in another Kingdom, were yet alarmed at them, and imagined that they tended to repeal that Act by which all the Statutes, eſtabliſhed in *England*, were made to be of force in *Ireland*; ſo ſtrongly were they prepoſſeſſed by the Name of *Poynings'* Law. I am confident it is to this one Miſtake that the Jealouſy of the *Engliſh* is owing; elſe how can we account for their oppoſing a Regulation which relates meerly to the particular Adminiſtration of this Kingdom, and no way interferes with the Prerogative of the Cr——n, or our Connection with *England*. So I ſhall conclude this Eſſay, by repeating once more the Caution I gave my Readers, and intreating them, that whenever they think on this Subject, they will remember, that by *Poynings'* Law we mean, in *Ireland*, an Act totally different from that to which they give the ſame Title in *England*.

11. Eliz: 1

An Act authoriſing Statutes, Ordinances, and Proviſions to be made in this preſent Parliament concerning Government of the Common-weal, and the Augmentation of her Majeſty's Revenues notwithſtanding Poynings' *Act.* Rot. Parl. cap. 8.

'IN their moſt humble wiſe beſeechen your 'moſt excellent Majeſtv, the Lords ſpiritual 'and temporal, and all other your Highneſs moſt 'loving and obedient Subjects, the Commons in 'this your high Court of Parliament aſſembled: 'That where in a Parliament holden at *Drogheda*, 'the *Monday* next after the Feaſt of Saint *Andrew* 'the Apoſtle, in the tenth Year of your moſt 'noble Grandfather King *Henry* the Seventh, be'fore Sir *Edward Poynings* Knight, then Lord 'Deputy of this Realm, it was amongſt other 'things enacted and eſtabliſhed, That no Par'liament ſhould be holden in this Realm, but at 'ſuch Seaſon as the King's Lieutenant and Coun'cil here did certify the King under the great 'Seal of this Realm the Cauſes and Conſidera'tions, and all ſuch Acts as them ſeemed, ſhould 'paſs in the ſame Parliament, and ſuch Cauſes 'and Conſiderations and Acts affirmed by the 'King and his Council to be good and expedient 'for this Realm, and his Licence thereupon, as 'well Affirmation of the ſaid Cauſes and Acts, 'as to ſummon the ſaid Parliament under his 'great Seal of *England* had and obtained, That 'done, a Parliament to be had and holden after 'the Form and Effect afore rehearſed: And if 'any Parliament be holden in this Realm con'trary to the Form and Proviſion aforeſaid, it 'be deemed void and of none Effect in the Law. 'By occaſion whereof, no Eſtabliſhments or Pro'viſions can be concluded by the Body of your 'Majeſty's

‘ Majeſty's Parliament being aſſembled, but ſuch
‘ only, as have been before their Aſſembly cer-
‘ tified unto your Highneſs, and affirmed by the
‘ ſame. And ſo the moſt grievous Sores of this
‘ your Highneſs Common-wealth, which are beſt
‘ known to ſuch as are and ſhall be appointed to
‘ be of that high Court, and moſt felt by them,
‘ cannot be conveniently reformed, as having
‘ not been before certified to your Highneſs. It
‘ may therefore pleaſe your Majeſty of your
‘ moſt aboundant Grace, and for the princely
‘ Zeal that your Highneſs hath ever tenderly
‘ borne unto this your poor Realm, that it be
‘ enacted, ordained and eſtabliſhed, and be it
‘ enacted, ordained and eſtabliſhed by your moſt
‘ excellent Majeſty, with the Aſſent of Us the
‘ Lords ſpiritual and temporal, and Commons in
‘ this preſent Parliament aſſembled, and by the
‘ Authority of the ſame, That all and every the
‘ Acts, Statutes, Ordinances, Proviſion, Thing
‘ and Things of what Nature, Name, Condition
‘ or Quality the ſame ſhall be of, to be had,
‘ done, made, ordained and eſtabliſhed, by the
‘ Authority of this preſent Parliament that ſhall
‘ concern the Common-weal of this Realm, or
‘ of any Province, Territory, Country, Shire,
‘ Member or Part thereof, or any good Orders
‘ for Repreſſion or Reformation of Enormities,
‘ Vices and Abuſes that do or may annoy this
‘ Common-weal, or any Part or Member there-
‘ of, or your Highneſs Subjects reſiant therein,
‘ or the better correcting or amending of De-
‘ faults that ſhall be ſeen to the ſaid Court of
‘ Parliament meet to be reformed for the Eaſe
‘ of your Highneſs Subjects, or the Deviſe of
‘ wholeſome Ordinances for the Correction and
‘ well ordering of the Life and Manners of your
‘ Majeſty's People here, or the Eſtabliſhment of

‘ civil

'civil Policy, Quiet and Order amongſt your 'good and loving Subjects, or the Augmenta- 'tion of your Majeſty's Revenues, or the Aſſu- 'rance of your Majeſty your Heirs and Succeſ- 'ſors to any Lands, Tenements, Hereditaments, 'Caſualties, Commodities or Profits which ſhall 'be certified unto your Majeſty under your great 'Seal of this your Realm of *Ireland*, and by 'your Highneſs allowed and conſented unto, 'and after returned unto *Ireland* under the great 'Seal of *England*, and after openly proclaimed 'in the Cities and Towns of *Dublin*, *Water-* '*ford*, *Cork*, *Limerick*, *Drogheda* and *Galway*, 'ſhall immediately after the ſaid Proclama- 'tions in Form aforeſaid, made and pronoun- 'ced, and not before, be good, effectual, and 'of full Force and Validity to all Purpoſes, In- 'tents and Conſtructions. The ſaid Act made 'at *Drogheda* or any other Act or Acts, Conſti- 'tution, Uſe, Law, Preſcription or Cuſtom here- 'tofore had, done, made, uſed or continued 'within this Realm to the contrary of this pre- 'ſent Ordinance or Eſtabliſhment in any wiſe 'notwithſtanding.'

11. Eliz: 8. *An Act that there be no Bill certified into* England *for the Repeal or ſuſpending of the Statute paſt in* Poynings *Time, before the ſame Bill be firſt agreed on in a Ceſſion of Parliament holden in this Realm by the greater Number of the Lords and Commons.* Rot. Parl. cap. 18.

'WHEREUPON Experiment of the Right 'Honourable Sir *Henry Sydney* Knight of 'the noble Order of the Garter, Lord Preſident 'of *Wales*, and Lord Deputy of this your Ma- 'jeſty's Realm of *Ireland*, his great Travail and 'Care for the Advancement of the Glory of God,

'your

‘ your Majeſty's Honour and the Utility of the
‘ Commonwealth of this your Highneſs Realm,
‘ and an undoubted Hope that his Lordſhip
‘ would not ſeek the paſſing of an Act, but ſuch
‘ as ſhould tend to the Furtherance of your Ma-
‘ jeſty's Service, and Benefit of your Highneſs
‘ Realm. We your Majeſty's Subjects aſſembled
‘ in Parliament aſſented to the Repeal of a Sta-
‘ tute paſſed before Sir *Edward Poynings* Lord
‘ Deputy of *Ireland*, prohibiting either any Par-
‘ liament to be ſummoned, or any Act to be
‘ treated of in Parliament before the Acts were
‘ certified under the great Seal of this your Ma-
‘ jeſty's Realm and returned hither under the
‘ great Seal of *England*, before which Statute,
‘ when Liberty was given to the Governors un-
‘ der your Majeſty's Progenitors to call Parlia-
‘ ments at their Pleaſure, Acts paſſed as well to
‘ the Diſhonour of the Prince, as to the Hinder-
‘ ance of their Subjects: the Remembrance
‘ whereof would indeed have ſtayed us from con-
‘ deſcending to the Repeal of the ſaid Statute,
‘ were it not that the Government of your Ma-
‘ jeſty's Deputy hath been alway, and continueth
‘ ſuch as to all your Highneſs Subjects giveth juſt
‘ Cauſe to reckon what proceedeth through his
‘ Motion to your Highneſs to be meant only for
‘ the Honour of your Majeſty, and the common
‘ Benefit of this your Realm, and therefore as
‘ we mought ſafely, ſo did we willingly agree to
‘ the Repeal of the ſaid Statute, but moſt graci-
‘ ous Sovereign, fearing that ſome Governors
‘ hereafter ſhould hap not to make anſwer unto
‘ the Expectation of your Majeſty or your High-
‘ neſs Heirs and Succeſſors by whom he ſhould
‘ be appointed Governor, and not following the
‘ Example of your Highneſs Deputy at theſe pre-
‘ ſents, will upon Affection or ſome other Re-

‘ ſpect,

‘ ſpect, abuſe the like Liberty given him. We
‘ your Majeſty's Subjects now aſſembled in Par-
‘ liament do moſt humbly beſeech your Highneſs
‘ that it may pleaſe the ſame, that it may be
‘ enacted. And be it enacted, ordained and
‘ eſtabliſhed, by your Majeſty with the Aſſent of
‘ the Lords ſpiritual and temporal, and the Com-
‘ mons in this preſent Parliament aſſembled, and
‘ by the Authority of the ſame, That hereafter in
‘ the Government if any other Deputy or Gover-
‘ nor of this your Majeſty's Realm there be no
‘ Bill certified into *England* for the Repeal or ſuſ-
‘ pending of the ſaid Statute paſſed when Sir *Ed-*
‘ *ward Poynings* was Lord Deputy of *Ireland* be-
‘ fore the ſame Bill be firſt agreed on in a Seſſion
‘ of Parliament to be holden within this Realm,
‘ by the more Number of the Lords aſſembled in
‘ Parliament, and the greater Number of the
‘ Common-houſe. And if there be that any Act
‘ paſſed or to be paſſed thereupon Touching the
‘ Repeal or ſuſpending of the ſaid Statute paſſed
‘ in Sir *Edward Poynings* Government to be ut-
‘ terly void, and of no Effect to all Purpoſes and
‘ Intents.’

F I N I S.

Houses of the Oireachtas