

A COMPARATIVE

524
S T A T E

OF THE

Two Rejected Money Bills,

In 1692 and 1769.

WITH SOME

OBSERVATIONS

ON

POYNINGS ACT, and the Explanatory
Statute of *Philip and Mary*.

By a BARRISTER.

*Vir bonus est quis?
Qui consulta patrum, qui leges juraque servat.*

HOR.

The SECOND EDITION, with ADDITIONS.

D U B L I N :

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STATE

OF THE

Rejected Money Bills

and

...

RESOLUTIONS

of the House of Commons
in relation to the
Petition of the
Statute of Public and Moral

By a BARON

...

The Record of the House of Commons

...

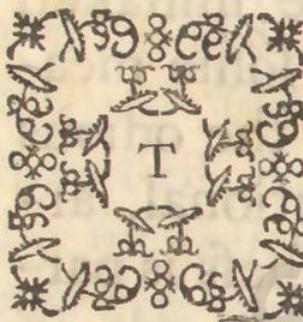
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Houses of the Oireachtas



A COMPARATIVE
S T A T E
O F T H E
Two Rejected Money Bills,
In 1692 and 1769, &c.

HE Public, perhaps, may think it unnecessary to apologise to them for attempting to throw some light upon a question so universally agitated as the late rejection of the short money bill by the I—h H—e of C—s. I shall not apologise. As an Irishman, I feel, what it would be unmanly not to feel; a distress for the consequences which must necessarily follow from such a measure; such as a contrariety of opinions between men of the same nation; an over-heated party zeal in those,
A 2 who

who were for or against the measure; a jealousy in Great Britain for the rights of the crown, seemingly invaded by the warm assertion of constitutional privileges in an I—h H—e of C—s; in short, I feel for all those unfocial errors and fatal feuds, which are concomitant to hastily-adopted opinions, and inattentive surveys of the most materially constitutional principles.

FOR the sake of my country, for the sake of my prince, for the sake of justice and of peace; I shall lay a dispassionate state of the constitution, of parliamentary procedure, and of the attempted support to legal prerogative in this very weighty business, before the candid publick. If I do not convince, I may cool the fever of faction; if I do not utterly extenuate the mistaken conduct of opposition, I may, in some measure, exculpate government from the odious idea of adopting new, unconstitutional, arbitrary measures. Even officiousness is pardonable, when it tends to make people in better humour with each other; an attention to what follows will indubitably induce somewhat of that kind. No man is very angry, and very reasonable at the same period of time; and it is not a vain hope that the passions of men will abate, as the intelligence of the disputed question increases.

NOTWITH-

531
NOTWITHSTANDING the charters of Henry the second, and of King John, the constitution of Ireland, from numberless internal as well as external causes, remained long unformed. The mode of parliamentary procedure was vague (and for a series of years) partial and injurious to the generality of the nation. In the reign of Henry the seventh, the constitution took somewhat of a more stable form; a better intercourse between the prince and the people of Ireland was introduced on the firm basis of a still existing law; a protection of the people against the power of the peers was secured by the interposition of their common sovereign; and the jarring interests of England and Ireland were harmonised by an act which precluded all hasty determinations about their mutual or particular benefits. This was effected by the much-talked-of statute in the 10th year of Henry the seventh, 1495, commonly called Poyning's act, from the then Lord deputy Sir Edward Poyning, and is as follows. Entituled.

CHAP. IV.

An Act that no parliament be holden in this land until the acts be certified into England.

Rot. Parl. cap. 9.

Item, at the request of the commons of the land of Ireland, be it ordained, enacted,

592

ed, 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 entendeth to have a general 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 counsaile there first do certifie, under the great seal of that land, the causes and considerations, and all such acts as them seemeth should pass in the same parliament, and such causes, considerations, and acts affirmed by the King and his counsaile 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 afore said, it be deemed void and of none effect in law.'

Ir. Stat. Vol. 1. p. 44.

THE defects or obscurities of this law shall be mentioned hereafter; at present I shall

shall point to the reader some particulars most worthy of his notice. Of twenty-three acts passed in this Parliament, it is observable that no one has the same preamble with this act. The others generally begin, '*Prayen the commons of Ireland.*' This begins, '*Item, at the request of the commons of Ireland.*' Inasmuch that all historians specially mark this as an act which was most favoured by Parliament, (a) and in which the crown is called upon by the commons to pass what they then deemed a salutary law. The terms of the act are tolerably explicit, no man can mistake their general purport, that no parliament was to be held in Ireland, until the causes and considerations for holding it were certified into England; the persons to certify, were the Lieutenant and council of Ireland; the manner, was under the great seal of Ireland: After the transmits of those causes, the King and his council of England were to judge of the propriety of such certified acts as good and expedient for the land of Ireland; the King's license was to be obtained not only in affirmation that they were proper causes, but to summon a

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parliament

(a) Sir John Davies, in his historical relations, says, 'This act was made at the prayer of the commons, upon just and important causes'.

parliament on the very propriety of those causes, under the great seal of England.

THIS act not only declares affirmatively what is to be performed, but puts an absolute negative upon holding any parliament in Ireland, when the forms have not been regularly gone thro'; and so far seems to stand as the corner stone of the constitution.

IT is scarce to be supposed that any thing could be done contrary to the tenor of this act, during the continuance of Henry the seventh's reign; either in his (a) 14th year, 1499, in the parliament held at Castledermott, or in his (b) 15th, 1500, when the parliament granted twelve-pence out of every twenty shillings worth of wares brought into Ireland, wine and oyl excepted.

IN the 28th of Henry the 8th, A. D 1537. the commons gave to the King in right of his crown of England, the honours and profits of the lands of absentees. (Ir. Stat. Vol. I. Chap. iii. p. 84.) beginning, ' Forasmuch as it is notorious and manifest,

(a) Ir. Stat. Vol. I. p. 57.

(b) Ir. Stat. Vol. I. p. 58.

• fest, &c.' with some other acts of supply to the crown. The form prescribed by *Poyning's act*, seem not to have been attended to in the first grant, and both the prince and people seemed so conscious of the defect, that immediately after the grant, they framed a temporary repeal (*a*) of *Poyning's act*, (Ir. Stat. Vol. I. Chap. iv. p. 59.) *hac vice*, to give a constitutional validity to their prior money bill, and to such other acts as were to be passed in that session.

CAN any thing be a stronger proof of the weight and lasting efficacy of *Poyning's act*, than the parliament's marking the necessity of sanctifying the proceedings of that session, by a special statute?

IN A. D. 1542, the 33d of Henry the eighth, the Abby lands were vested in the crown. This was in fact a money bill, and had been transmitted to England a long time before the session, as may be collected from the recital of the act specifying the time of those lands being surrendered; *viz.* the 4th of February, in the 27th of Henry the

(*a*) This Act was originated in Council.

536

the eighth. (b) (Ir. Stat. Vol. I. Chap. v.
p. 213.)

THE continuance of Poynings law has been thus far deduced to the 3d and 4th of Philip and Mary, when an explanatory act was made, reciting the former, as follows.

Rot. Parl. Cap. 11.

CHAP. 4. An Act declaring how Poynings Acte shall be expounded and taken.

‘ WHERE at a Parliament holden at
‘ Drogheda, the Monday next after the
‘ Feast of Saint Andrew the Apostle, in the
‘ Tenth Year of the Raighn of the late King
‘ of famous Memory, Henry the Seventh,
‘ graund father unto our Sovereign Lady
‘ the Queen, before Sir Edward Poynings,
‘ knight then Lord deputed of this Realm
‘ of Ireland, an Act, among other things,
‘ was enacted and made, for and concerning
‘ the order and manner, and forme of Par-
‘ liament to be from henceforth holden
‘ and kept in this realm of Ireland, in
‘ farme

(b) There is no prayer for enacting in the Bill, which runs ‘*be it enacted,*’ whence we may conclude it had not its rise in the commons.

forme following: Item, ⁵³⁷ *At the request of*
the Commons of the land of Ireland bee it
ordeyned, &c.——Vide page 6.——As
by the said Act more at large it doth ap-
peare: For as much as sithence the mak-
ing of the said Act diverse and fundrie
ambiguities and doubts have been made
and risen upon the true understanding
and meaning of the same; for the avoyd-
ing of the which doubts and ambiguities,
and for a full and plain declaration of the
true meaning and understanding of the
said Act, be it ordayned, enacted, and es-
tablished by authority of this present Par-
liament, That the said Act, and every
clause and article therein conteyned, shall
from the first day of September last past be
expounded, understood, and taken, as
hereafter followeth; that is to say, That
no Parliament be summoned or holden
within this realm of Ireland, until such
time as the lieutenant, lord deputie, Lord
Justice, Lords Justices, chief governour or
governours, or any of them, and the
counsaile of this said realme of Ireland, for
the time being, shall have certified the
King and Queen's Majesties, her heyres
and successours, under the great seale of
this said realme of Ireland, the considera-
tions, causes and articles of such Acts,
provisions, and ordinances, as by them
shall

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 the great Seale of England, declaring their pleasure, eyther 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.

II. AND be it further enacted by the Authority aforesaid, That after such return made, and after Licence and Authority to summon a Parliament within the said realm of Ireland, graunted under the great Seale of England (unto the said Lieutenant or Lord deputie, or other Lord Justice, Lords Justices, chiefe governour or governours of the same realm of Ireland, for the time being) and not before; the same Lieutenant, Lord deputie, Lord Justice, Lords Justices, chiefe governour or governours, shall and may summon and hold a Parliament within this realm of Ireland, for *passing* and *agreeing* upon *such Acts, and no other*, as shall be so returned under the said great Seale of England.

III. And

III. ' AND for as much as manie Events
 ' and Occasions may happen during the
 ' time of the Parliament, the which shall
 ' be thought meet and necessary to be pro-
 ' vided for, and yet at or before the time of
 ' summoning the Parliament, was not
 ' thought nor agreed upon: therefore be it
 ' further enacted and established by Autho-
 ' rity of this Parliament, That as well af-
 ' ter 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 here-
 ' after holden within the said realm of Ire-
 ' land, according to the tenor and form of
 ' this Act, the Lieutenant, Lord deputie,
 ' Lord Justice, Lords Justices, chiefe go-
 ' vernour or chiefe governours, and coun-
 ' saile of the same realm of Ireland for the
 ' time being, shall and may certifie all such
 ' other considerations, causes, tenours, pro-
 ' visions and ordinances, as they shall fur-
 ' ther then think good to be enacted and
 ' established, at and in the same Parlia-
 ' ment within the same realm of Ireland,
 ' to the King and Queen's Majesties, her
 ' heyres and successors, under the great
 ' Seal of this said realm of Ireland, and
 ' such considerations, causes, tenours, pro-
 ' visions,

540

visions, and ordinances, or any of them,
as shall be thereupon certified and return-
ed 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 conteyned in this
present Act, or in the aforesaid Act made
at Drogheda, to the contrarie notwith-
standing.

(a) IV. PROVIDED always, and be it
further enacted by the Authority of this
present Parliament, That all and every
Parliament summoned, kept, and holden
within this realm of Ireland, since the
making of the said former Act in the
said tenth yeare of the reigne of the said
late King Henry the Seventh, and all and
every Act, Acts, Ordinances and Provisi-
fions, made, passed, ordeyned, and en-
acted

(a) This clause would have been utterly unnecessary, if there had not been a doubt of the informality of *Henry the 8th's* temporary repeal, which, by this clause, is utterly done away, and the same force given to *Poyning's act*, as if its operation had never been interrupted.

541
acted in the same, shall be, and remain in
such and the same Force, Strength, Va-
lidity and Effect to all Intents, Construc-
tions, and Purposes, as if this Act had ne-
ver been had, nor made: this Act, or
any thing therein contained to the con-
trary notwithstanding.

V. ' PROVIDED also, that this Act, or
any thing therein conteyned shall not ex-
tend or be meant, to the defeating or
hinderance of any the provisos made in
this session of this present Parliament.'

Ir. Stat. Vol. I. p. 246.

IF the Parliament of this year 1556, in-
tended to alter the purpose of Poynings
law, we should certainly be able to trace
such an intention, in their circumstantial
exposition of the act; whereas all the es-
sential clauses are amply confirmed. The
statutes, previous to this explanatory one,
are grants of lands to the crown, and the
disposition of two new shires, *viz.* the
King's and *Queen's* counties: They are
money grants, for they give a revenue; they
were certified according to Poynings act,
the explanation of which immediately fol-
lows, in which, among many other, are
these

542

these most remarkable words, ' shall and
' may summon and hold a parliament with-
' in this realm of Ireland, for passing and
' agreeing upon *such acts, and no other,*
' *as shall be so returned* under the great
' seal of England.'—That the particu-
larised acts are those which were transmit-
ted to England, as causes and considerations
for calling a parliament, is obviously clear
from the succeeding clause, which empow-
ers the certifying all such other causes and
considerations as may seem expedient du-
ring the time of every parliament.

I SHALL not enlarge farther at present
on this statute, he that runs may read its
import: It was uniformly felt, known,
and practised thro' every reign since it was
enacted.

IN the eleventh of Queen Elizabeth,
Sess. 1st, A. D. 1569, a subsidy on wine
was granted to her majesty, (Ir. Stat.
Vol. I. p. 353.) and in another act the
lands of Christopher Eustace are vested
in the Queen. In the second session of
this Parliament doubts seem to have
arisen of the validity of their proceedings
in Sess. 1st, as somewhat informal; the
commons again recite *Poynings act* as still
existing

existing in force, and seek a ratification of their proceedings, notwithstanding such existing authority. There was a temporary repeal (a) of the law; but in the next sessions, in the same year, the commons grew conscious of an error in such a repeal, and made an act (Ir. Stat. Vol. I. Chap. viii. p. 346.) expressly to prevent any future repeal or suspension of *Poyning's act*, which statute ends with these most remarkable words, 'And if there be any act passed or to be passed thereupon touching the repeal or suspending of the said statute, passed in Sir Edward Poyning's government, to be utterly void and of no effect to all purposes and intents.' (b)

The first act of the next session in the same year, is a money bill, a custom on imported wines;—no man can suppose that

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Poyning's

(a) This repeal is built on the same principle as the 3d. Clause of Philip and Mary, before recited, [p. 13.] to enable the then existing parliament to certify bills into England; but the whole manner of proceeding was to be regulated by *Poyning's law*.

(b) It is most peculiarly remarkable in this Statute, that the commons most humbly beseech the continuance of *Poyning's act*, and that the crown graciously gave up its own power, to attempt a repeal of the statute, by a bill originated in council, and vested the whole power of originating a bill for such a repeal in the two houses of parliament.

514

Poyning's act, so recently established, was transgressed in this.

IN 1614, on the 11th of October, the parliament summoned by King James the first, assembled, they were summoned according to *Poyning's law*, by certifying bills from the privy council, one of which entitled, 'An act for repeal of certain penal statutes,' was read on the 13th of October; and on the 29th, a debate arose whether a part of the bill might be engrossed and passed alone, without a new transmiss to England, (notwithstanding *Poyning's act*) [Journ. Vol. I. p. 23.] It is evident from this circumstance that the bill had been certified into England by the privy council, and the mention of *Poyning's act* marks its valid existence. In this same year 1614, on the 29th of November, is a most memorable expression of the speaker of the house of commons in the matters propounded by him to the Lord Deputy. 'The house of commons acknowledging that the sole power and authority to transmit into England, such bills as are to be propounded in parliament, doth rest in the Lord Deputy and council, do only desire to be as remembrancers unto his Lordship and the rest, touching the acts following; which they humbly offer as meet to be transmitted,

transmitted, with such other (a) acts as his Lordship, &c. shall think fit to be propounded in the next session.' (Jour. Vol. I. p. 47.)

THIS is a pretty clear authority for what the constitution of Ireland was at that day, and an acknowledgment from the commons of the power of the privy council not only to transmit, but also to originate bills, whether money bills or others.

IN this parliament a subsidy was granted to the King, which the author of a late inaccurate pamphlet (called *Observations on a Speech*) roundly asserts was not certified, tho' it is demonstrable that it could not have taken its rise in the house of commons, from these plain facts. There is no trace of this act in the enumeration propounded by the Speaker, November 29th, 1614, nor thro' the whole previous part of the session. On the 20th of April, 1615, Mr. Speaker read over the titles of such bills as the Solicitor had that morning brought over from England; on the same day, the whole house waited on the Lord Deputy at the castle, to receive such significations of his majesty's pleasure, touching the proceedings of this parliament, as his Lordship had received out of England.

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(a) Here is no preclusion of money bills.

The next meeting shews what these *significations* were, by the house immediately on their meeting, April 22d, giving the first reading to the act of *Subsidy*; on the 24th the act received a second reading, and was engrossed; and on the 28th was passed *Nem. con.* and sent to the Lords; and we hear no more of it in the commons house until the King's letter, (*dated May 7th,*) of thanks for the readily passing the transmitted subsidy bill, was read in the house May the 12th.

546

WE have traced this act from its first to its final appearance in the house of Commons. Bills which take their rise in either house, pass twice thro' that house, before and after the transmiss; this certainly passed but once; and it was after the transmitting it from England. We are therefore warranted to conclude that this subsidy bill was originated elsewhere than in the commons; in the lords house it could not be; and therefore must have been in the council, agreeable to *Poyning's act*. There is a yet farther corroboration of this fact. In the first session of Parliament, May the 18th, 1613, the King's commission to the Lord Deputy says, 'Sciatis quod nos, certis arduis et urgentibus causis bonum publicum Regni nostri concernentibus, de
' *advifamento*

the force of Poyning's act, the following cir-

547 *advisamento Consilii nostri unum duntaxat Parliamentum in dicto regno nostro Hiberniæ teneri decrevimus.* (*And farther*) *tenendum, juxta consuetudinem ibidem hætenus usitatam summonendi et venire faciendi, et cum eisdem de et super certis articulis, materiis, billis et provisionibus, per nos jam missis, presentibus annexis, ac vobis in posterum sub magno sigillo nostro Angliæ mittendis.* These articles, matters, bills and provisions, could not have been originated in a house of commons before it existed, they had been transmitted from the Irish council. This Parliament did not sit on actual national business until October 12th, 1614; when some of the certified bills were read. On the 20th of October, (Journ. Vol. I. p. 18.) a bill drawn by a *member* is mentioned, in contradistinction to the certified bills. No money bill had been yet read, and (Journ. Vol. I. p. 31.) we learn the reason of this, by a letter from the Lords in England to the Lord Deputy, communicated to the house on the 9th of November, in these terms, 'The bills of subsidy, as your Lordship knoweth, are very large, and did require some time for the examination and engrossing, but they will be ready within these five days to pass the great seal, &c.' The house was prorogued on the 29th, and the subsidy bill

was not brought in, until the next session, as mentioned before; tho' it is most obvious to every intelligent reader, that the bill must have been transmitted into England previous to the first session. 5118

IN the 10th year of Charles the first, 1634, a new parliament was called on a transmiss of a certified money bill for four subsidies, [Journ. Vol. I. p. 109.] which is expressly mentioned. (a) And in the sessions of the new Parliament, 1639, the 15th of Charles the first, four subsidies were voted on a certified money bill. In 1640, the commons voted in instructions to their committee in England, that ' they should move his Majesty for the passing of a bill for the further explanation of POYNINGS act. [Journ. Vol. I. p. 190.] Can any man, on reading this paragraph, doubt of the operation and existence of Poynings act? In the same year and session, the commons in their protestation against Lord Strafford, mention, ' trans- mission of bills as a statute of force in Ire- land.' [Journ. Vol. I. p. 310.] To evince the

(a) A certified bill was read this day, intituled, ' An Act for Confirmation of Letters Patents.' as it is phrased, *to invest the Speaker.*

549 the force of Poyning's act, the following circumstance demands the reader's attention. The parliament was on the 12th of November, 1640, prorogued until the 26th of January following; on which day they accordingly assembled, tho' the commission under the great seal for their continuance did not arrive until after the day of their meeting, their proceedings of consequence were invalid; however they sat until the 5th day of March, 1640, and were then prorogued until the 11th day of May. King Charles, conscious of the absolute nullity of their proceedings during the last sitting, on the 28th of March, wrote to the Justices and council of Ireland, 'that
' in order to prevent the doubts and inconveniencies that might in aftertime arise
' touching the proceedings of said parliament, they should forthwith cause a *short*
' *bill* to be transmitted to him, to supply
' the defects concerning the legal proceedings of the said Parliament.' [Journ. Vol. I. p. 380.] Thus the necessity of conforming to Poyning's act, by the due observation of a transmiss, is confirmed. But further in a letter bearing date the 3d of April following, he desires the Justices and Council in Ireland forthwith to transmit a bill according to Poyning's act, to pass in Parliament there.

THE parliament which was assembled in 1661, the 13th year of Charles the second, met on the same commission, containing like clauses as those before recited [p. 20.] viz. 'de et super certis articulis, materiis, billis et provisionibus, per nos jam missis, &c.' [Journ. Vol. I. p. 588.] There was one of the transmitted bills read on the 15th of May, 1651. [Journ. Vol. I. p. 602.] So that no doubt can arise of the continued usage of calling parliaments in consequence of bills certified by the Privy council into England. The Lords on the 31st of May, declared they could not assent to an ordinance for levying money, because it was contrary to *Poyning's act*; [Journ. Vol. I. p. 628.] but a discussion of *Poyning's act* in the house of commons adjusted the question. On the same day the house resolved itself into a committee for drawing up bills for transmission, according to *Poyning's act*. [p. 630.] There is no doubt but an act of supply was passed this session, tho' it is only mentioned in the statute book. Mention is made also [Journ. Vol. I. p. 705.] of transmitting bills according to *Poyning's act*.

557 THE first business of the second session in this very year, 1661, was passing an act of supply, which was certainly originated in the Council; for the whole session was but four days, and no possibility could there be of transmitting it to Chester, much less to London. The 7th session of this parliament lasted but three days; and in that short space, a short money bill was passed and received the Royal assent. [Journ. Vol. I. p. 758.] And the same was done in the eighth short session.

It would prove tedious and unnecessary to recite all the references which are made to Poyning's act in the ninth session of this parliament; suffice it to say, that no man who peruses the Journals, can forget that this act is the grand regulator of all bills and heads of bills.

THUS far I have laid down the procedure of parliament from the passing of Poyning's act to the close of the last sessions in Charles the second's reign: during which period the purport of this act was uninterruptedly complied with, and even in the instances where the practice seemed to run counter to the law, you must ever see a saving for the law, nay the very omissions of

of form produce authority for the form. *Exceptio probat regulam*, is an old grammatical observation, and is most amply verified in the present question.

THE reader will excuse my presenting to him a brief description of what the constitution appears to have been, during this long series, from Henry the seventh's to William the third's reign; when the first rejection of transmitted bills assaulted the long established principles of the constitution. To judge of the propriety of such a rejection, it is essential to collect the scattered rays to a focus; to present the full force of what has been recited, as a preparative standard to measure the legality of parliamentary procedure in 1692 and 1769 in the causes assigned for such a rejection.

WHEN I attempt to speak of the constitution of Ireland, the ascertaining facts shall not be taken, only from the early authoritative, and therefore exceptionable, day of Sir Edward Poynings; nor even from the reign of that Queen, whose memory is marked to Protestant ears with blood: but from that spirited woman, whose reign is still emblazoned with the name of glorious. In her reign, a comment, superior to any explanatory

' bled in parliament do most humbly be-
 ' seech your highnesse, 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
 ' commons in this present parliament assem-
 ' bled, and by the Authority of the same,
 ' That hereafter in the government of any
 ' other deputy or governor of this your Ma-
 ' jesty's realm, there be no bill certified in-
 ' to England for the repeal, or suspending
 ' of the said statute, passed when Sir Ed-
 ' ward Poynings was lord deputy of Ireland,
 ' before the same bill be first agreed on, in
 ' a session of parliament to be holden with-
 ' in this realm, by the more lords assem-
 ' bled in Parliament, and the greater num-
 ' ber of the common house. And if there
 ' be, that any act passed or to be passed
 ' thereupon, touching the repeal or sus-
 ' pending of the said statute, passed in Sir
 ' Edward Poynings government, to be ut-
 ' terly void, and of no effect, to all pur-
 ' poses and intents.'

POYNINGS act was made for real national
 good, at the request of the commons, it
 did not vest the crown with any new prero-
 gative; for the power of assembling, pro-
 roguing and dissolving parliaments was the
 same

555
same before and after this act was passed: it did not strip the people of any privilege they possessed before, their affirmative or negative to every bill is still the same as it ever was. It became a constitutional modification of procedure preparative to the meeting of p—l—m—t. The parliament held in the 15th of Henry the 7th, conformed to this mode; as did the succeeding parliaments, until the 25th of Henry the eighth, if they had not, (according to the last sentence of *Poyning's act*,) they must have been deemed void and of no effect in law. The repeal in Henry the eighth, 28th year, proves the continuance of the act and of the form of procedure, until that very session; and it was left in full force after the session. The two sessions in the 33d, and the two sessions in the 34th years of Henry the eighth, were unquestionably held according to that statute, or we should have had a temporary repeal of it, to validate the parliamentary proceedings. The parliament called and held the 3d and 4th of Philip was strictly regular, and the constitutional mode of calling parliaments ratified by an exposition and express recital of *Poyning's act*. It appears that doubts had arisen, whether other matter could be agitated in parliament, besides what had been certified by the council previous to their

their assembling. This doubt restrained the liberty of parliament, and is happily removed by the third clause of this last statute, which extends the priviledge to all such matters as may be thought meet and necessary to be provided for. This act also renews the sanction to the informal acts of Henry the eighth. Thus we find law, precedent and practice uniformly operating for this question of transmiss. Henry the seventh founded, Henry the eighth acknowledged, Philip explained, Elizabeth perpetuated, and both the Charles's pursued this principle, in calling parliaments. Twice only in near 300 years has it been called in question as unconstitutional, and twice has the prince fixed a mark of disapprobation on the in—d—rs of the c—n—st—t—n, in a matter so known and established.

A STATUTE which relates to prerogative or priviledge becomes a material part of the constitution, a statute which regulates the motives for, and manner of calling a parliament, is one of the most essential parts of our constitution, and, until it is done away by the same sacred powers which enacted it, stands the firm basis of our constitution. Such a statute there

554

there is, and a statute unrepealed. The plain constitutional construction of this statute is, that whereas p—l—m—ts had been called in Ireland by Lords Justices or deputies for any purpose they might design, that no parliament should be henceforth called without the specialities mentioned in the before recited acts; viz. That a certificate should be transmitted into England, for what causes, considerations and acts the people of Ireland wanted a parliament. Such a certificate induced a parliament, the want of such a certificate precludes Ireland from a parliament; or makes an absolute nullity of a parliament assembled without such a certificate. This is, or nothing can be, the constitution of Ireland. A parliament not existing, the Deputy and Council induce the necessity of calling one, by certifying some such business as may be needful. Here the certificate becomes the authority; and, new as the idea, or rather the interpretation of the idea may be, I presume to declare that the act of Philip and Mary so far superintends parliamentary freedom, that their very meeting with a degree of sanction is affixed to the 'passing and agreeing upon such acts, and no other, as shall be so returned under the great seal of England.' I do not mean to invalidate the right of the

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the commons in rejecting bills: God forbid they should ever be robbed of that grand priviledge. But I hope they will never exercise it but with propriety. 'A thing may be lawful, but not expedient.' The commons might have rejected the *bill of supply*, but will any man say they ought to do it? Suppose in the fifteenth of Henry the seventh, the commons had rejected the supply bill; (the only statute of that session,) the rejection had been lawful, but would not have been proper. Before the act of Philip and Mary all bills were originated in the council; since that period, some have been originated in the council, and some in the houses of parliament. A distinction most exceedingly material in the present question. No bills at present are originated in the council, but those which are legally ordained for the calling of a parliament. All bills after the assembling of a parliament are originated in parliament. Suppose no bill or bills had been originated in council, could a parliament have been called? certainly not. Does not the very writ declare that they are assembled to treat and communicate and discourse on the bills which have been previously certified into England. Let me suppose, and it is a fair supposition, that two bills only had been originated

559

originated in the c—l, and that on these two bills being returned under the great seal of E—l—d, that it pleased the house of c—m—s to exercise their right of objecting to these two bills; could they be afterwards called a legal assembly? Common sense would say no, because they had rejected the causes and considerations for which they were called together, they had taken away the foundation of their own existence, they had declared the causes for calling them, were no causes, they had falsified the act of the l—t—n—t and c—l. Let us carry this supposition a little farther, suppose the house of c—m—s rejected one bill and passed the other; they have not taken away the entire foundation of their existence. Ask them the reason of this conduct, could they seriously answer thus, we passed one bill which was originated in c—l ‘as *Poyning’s act* required it,’ and we rejected the other because it was originated in c—l ‘as *Poyning’s act* required;’ but suppose they answered, ‘we passed *one* because it was a proper bill, or a necessary bill; and we rejected the *other* because it was an improper or an unnecessary bill.’ No King or Governor could have just cause to be offended. But the best K—g and the best G—v—n—r have the justest cause to be of-

fended when a vote of the house of C—m—s overturns the very statute which called them into existence. When a third part of the legislature denies the supremacy of the whole legislature, whose concurrent voices gave the sacred *fiat* to that statute which regulates the procedure of p-l-m-t.

To what purpose is it to say that *Poyning's* law is improper, is unnecessary? I ask, Is it the law? the boldest spirit in opposition cannot deny it. Will you then allow the law and yet disobey it. Does any man presume himself warranted to obey the law but so far forth as he thinks proper. In every common case of business, every man knows that all the forms of a statute are to be complied with, and that a partial compliance will never validate any act. This statute has been obeyed near three hundred years, it has during all that lengthened period been the uniform guide to every p-l-m-t. Why are bills certified into England? *Poyning's* act enjoyns it. Why are heads of bills and not bills framed in the house of c—m—s? *Poyning's* act requires it. Why are those bills sent to the Lord Lieutenant? *Poyning's* act requires it. Why do not they receive the royal assent immediately? *Poyning's* act requires a trans-

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miss. Why are the bills returned to the h—se under the great seal of England? Poyning's act enjoins it. Let me ask another important question. What is the first business which every house of c—m—s for 300 years have uniformly proceeded upon? Is it not the reading of the transmitted bill? would they read this bill if they did not know it essential to their existence? Is the power of originating in the c—l, which has been sanctified by law, confirmed by usage, precedent, and practice of p-l-m-t to be done away by a vote? And is the K—g, who is guardian of the laws, to suffer that statute, which is the corner stone of his authority in I—l—d, to be impeached, without observing on the impropriety of such a conduct?

Surely it is most unworthy of the dignity of P-l-m-t to act inconsistently; and can there be a greater inconsistency, than in the first instance, on the first day of the s—s—n to validate a bill originated in c—l; and, on a succeeding day, to invalidate a bill, because it *was* originated in c—l; yet such conduct (inconsistent as it may appear) has happened in 1692, and was again revived in 1769. If the primary idea that did, and ought to operate on government, was pre-
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sumed to exist, it ought to be adopted in 1769 as it was in 1692.

At these two periods only, the p-l-m-t in their wisdom thought proper to differ from the law, and to interpret a statute differently from what it ever had been interpreted, and to set up the majesty of opinion against the fair letter of existing law. One doubt they in fact introduced, that *no m—y b—l* is to be conceived in the idea of *Poyning's act*;—on this stands the question of the day.—In order to invalidate such an opinion you must either appeal to the law, or the practice, or both; if the law does not prove, the practice becomes the validation of idea in the legislature. If the practice differs from the letter of the law, we may think ourselves warranted to adhere to practice, tho' even written law is against us; but if both law and usage are against such a business, a man must have most uncommon effrontery who will venture to stand up against them; with all deference, I venture to declare that both law and precedent are against the late v—e.

From the instances before quoted, no man can say that *m—y b—ls* have not in the first instance been certified bills, that is, been bills sent over from the c—l as causes and considerations for the calling a p-l-m-t.

561 p-l-m-t.—And the presumptive present point is, that the p—y c——l should not, ought not to originate a m-n-y b-l. May the writer ask, ought he to ask the reader? Does the law forbid it? It does not. The terms of the laws, in *Poyning's act*, in the explanatory act of *Philip and Mary* likewise, are bills or acts, and no preclusion of any species of bills. I am certainly candid, when I declare, that when no special exception is made for m-n-y b-ls, that the then legislature had no intention of precluding such bills from the propriety of certification. I might possibly mistake in my interpretation of their idea, if the practice of each succeeding reign did not confirm it; but when the law itself makes no distinction of bills, and when the uniform practice proves that a m-n-y b-l is to be certified over like any other bill, tho' the opponents of facts may be staggered, and perversely say it ought to be otherwise; the man who wishes well to the constitution will contend for the law and the usage, will not say that a certified m-n-y b-l is to be rejected because it is a certified m-n-y b-l; as a certified bill it is legal, as a m-n-y b-l it is not illegal, it is not unprecedented, nay more it is legal, it is nearly, uniformly preceded.

precedented. But the r-p-f-t-t-s of the people differ from the laws of the land. They have done it in 1769, they had an example in 1692. The reader will excuse me giving a recital of what was done in 1692 as a previous comment on what has been done in 1769. The facts follow. In 1692, the first day of the meeting in P-l-m-t there was a certified m-n-y b l, with another certified bill brought into p-l-m-t; the first, as usual, had its first reading on the first day of the f—f—n, as an authority for holding a p-l-m-t. It was the fifth day of October 1692.

When the glorious King, who had delivered this kingdom from that universality of distress which had pervaded every part of the Irish as well as his English dominions, his wisdom led him to call a parliament in Ireland, it was called on the principles of *Poyning's law*. Certified bills were transmitted to England.—one the before recited, which was 'for appointing other oaths of supremacy, than those subscribed by a previous English act;' and the other a bill of supply as marked in the note (a).—The first bill

(a) *An act for granting to their Majesties, certain duties for one year.*

THEIR MAJESTIES most dutiful and loyal subjects the
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bill was passed, the latter was rejected; both were brought before the house on the same principle; both were originated in council; one was passed, tho' *originated in council*; the other was thrown out, 'because it was *originated in council*.' And what is most curious, on the very same day, October 27th, the commons passed a transmitted bill of supply, intituled, 'an act for an additional duty of Excise upon beer, ale, and other

commons assembled in parliament, being deeply sensible of their late deliverance by their Majesties victorious arms, and being desirous not only to preserve in them, and their posterity, a perpetual grateful sense and memory of his majesty's most gracious and princely affection, manifested to his good subjects in exposing his royal person, for them and their preservation, to the malice and fury of his enemies; but also to give their majesties some present testimony of their gratitude, &c. proportionable to the condition and ability of their loyal subjects, by granting certain rates towards supplying their Majesties with what their revenues of this kingdom, diminished as well by their Majesties clemency in remitting some part thereof, as by the late rebellion, shall fall short of paying their Majesties army, and defraying the necessary charges of their Majesties government, in this kingdom; do humbly present their Majesties with the free gift of the rates and assessments herein after mentioned, and beseech their majesties that it be enacted.

And be it enacted by the King and Queen's most excellent Majesties, by and with the advice and council of the lords spiritual and temporal, and commons in this parliament assembled, and by the authority of the same. That, &c.—(Vide, act at large).

‘ liquors.’ What predilection to this money bill, rather than the other, secured it the approbation of parliament, is not very obvious; tho’ from the tenor of the rejected bill, it was doubtless more exceptionable than the one that was passed. Even the writer of this pamphlet would have opposed that bill, if he had the honour to sit in that parliament; but he never would have acted so inconsistently as to have rejected it because it took its rise in the privy council, at the same hour that he was voting for another money bill which had taken its rise in the same council. I am sure the reader must feel this inconsistency of conduct in the same day, and conclude that the cause assigned was not the real, candid cause of the rejection; or if the real, a most absurd one, on the face of the journals of that day.

On the third day of November following the house rejected a transmitted bill, without assigning a cause; and on the same day the Lord Lieutenant prorogued the parliament, and protested against the proceedings of the commons on the 27th and 28th of October. The speech and protest as follows.

Lord

Lord Sydney's Speech, Nov. 3d, 1692.

“ My Lords and Gentlemen, upon the opening of this Session, I did acquaint you with the motives which induced their Majesties to call this parliament ; which were no other than what intirely regarded a happy settlement of this kingdom upon such foundations, as might not only secure the peace, but bring you into a prosperous and flourishing condition. I am sorry, I cannot say, there has been such a progress made by you, Gentlemen of the House of Commons, towards those ends, as their Majesties had just reason to expect ; and I am the more troubled, that you, who have so many and so great obligations to be loyally and dutifully affected to their Majesties, should so far mistake yourselves, as to intrench upon their Majesties prerogative, and the rights of the crown of England, as you did on the twenty-seventh day of October last, when by a declaratory vote you affirmed, that it is the sole and undoubted right of the Commons of Ireland to prepare heads of bills for raising money ; and also again, on the twenty-eight of the same Month, when you rejected a Bill sent over in the usual form, intituled, an act for
granting

granting to their Majesties certain duties for one Year, you voted, that it should be entered in your Journals that the reason why the said bill was rejected was, that the same had not its rise in your house.

“ These Votes of yours being contrary to the Statutes of the tenth of *Henry* the Seventh, and the third and fourth of *Philip* and *Mary*, and the continued practice ever since; I find myself obliged to assert their Majesties prerogative, and the rights of the Crown of *England*, in these particulars, in such a manner, as may be most publick and permanent; and therefore I do here in full parliament, make my publick *protest* against those Votes, and the Entries of them in the Journal of the House of Commons; which protest I require the Clerk of this House to read, and afterwards to enter it in the Journals of this House, that it may remain as a vindication of their Majesties prerogative, and the right of the Crown of *England*, in these particulars, to future Ages.”

N. B. The protest was delivered by the Lord Chancellor to the Clerk of the House, who read it, as follows.

Lord

Lord Sydney's protest, Thursday, November 3d, 1692.

SYDNEY. Whereas at a parliament holden at Drogheda in the 10th year of the reign of King Henry the Seventh, an Act was made for and concerning the order, manner, and form of parliaments, to be holden and kept in this Realm of Ireland, and by another Act made at a parliament holden at Dublin in the 3d and 4th year of King Philip and Queen Mary ' it was
 ' ordained, enacted, and established, that no
 ' parliament should be summoned or holden
 ' within this Realm of Ireland, &c.'—Vide page 11—' should be agreed or resolved
 ' on by the then estates of the said par-
 ' liament'—And whereas in this present session of parliament, a bill, intituled, "An Act for granting unto their Majesties an additional duty on beer, ale, and other liquors," which had been certified, by us the lord lieutenant of this kingdom and the council, unto the King and Queen's Majesty under the great Seal of this kingdom, and by their Majesties approved of and returned under the great Seal of England, and by us sent to the House of Commons to be considered of in this present parliament, the
 said

said Commons having the said Bill lying upon their table on the 27th day of the month of October last, did come to a Vote thereupon, and resolve that it is the *sole* and undoubted Right of the said Commons, to prepare Heads of Bills for raising Money. And further, on the 28th day of the same October, a Motion being made in the said House, and the Question put, that a Bill then on the Table, which had likewise been regularly transmitted in the same Form, intituled, *An Act for granting to their Majesties certain duties for one Year*, might be read, it passed in the Negative; and the said House of Commons resolved, *that the said Bill be rejected by that House*; and further, resolved that it be entered in the Journals of this House, *That the Reasons why the said Bill was rejected, is, that the same had not its Rise in that House.* All which Resolutions and Proceedings appear in the Journals of the House of Commons, printed by their Order and Authority, by which Votes and Resolutions the said House of Commons do exclude their Majesties, and the Crown of England, from the Right of transmitting any Bills for granting of Money, or other Aids to their Majesties and their Successors, which recited Votes, Resolutions, and Proceedings of the House of Commons,

56 Commons, being contrary to the said recited Acts of Parliament, and the continued Usage and Practice ever since the making thereof, and a great Invasion upon their Majesties Prerogative and the Rights of the Crown of England. We the Lord Lieutenant, as well to assert the Rights of their Majesties, and the Rights of the Crown of England (whereof We are, and ever will be, most tender) in transmitting such Bills under the great Seal of England to be considered of in Parliament, as to discharge the Trust reposed in us, and prevent the Inconveniencies which may hereafter happen in case these Votes and Resolutions of the House of Commons should be made publick, or remain in their Journals without any Contradictions or Animadversions, have thought it necessary this Day, in full parliament, to Protest. And We do accordingly protest against the aforesaid Vote and Resolutions made by the House of Commons, and entered in their Journals, and do assert, protest and declare, that it is their Majesties Prerogative, and the undoubted Right of the Crown of England, observing the forms in the said several Acts prescribed, to transmit Bills under the great Seal of England, for granting of Aids to their Majesties, their Heirs, and Successors, which said Bills

Bills so transmitted, ought to be read and considered of by the House of Commons in this Kingdom ; and therefore, the said recited Votes and Proceeding of the House of Commons, are contrary to the Acts of Parliament above mentioned, and the constant Practice and Usage in all Parliaments since the making thereof, and also highly derogatory to their Majesties Royal Authority, and the Rights of the Crown of England.

After Lord SYDNEY had prorogued the Parliament, his Excellency and the Privy Council directed the Judges of Ireland to take into consideration, the act 10 Hen. 7. commonly called Poynings law, and the act 3d and 4th Philip and Mary, and the other acts relating to the holding parliaments and passing of Bills in parliament in the kingdom of Ireland ; and on the 14th of February 1692 the judges reported as follows.

Irish Judges Opinion.

‘ In obedience to your Excellency’s order
 ‘ of Reference to us, we considered the
 ‘ acts, &c. relating to the holding parlia-
 ‘ ments, &c. And we humbly offer unto
 ‘ your Excellency and Lordships that by
 ‘ the

569 The act of the 10th of Henry the 7th it is
 ' provided, " That no Parliament &c. (vid.
 ' p. 6) By which act we conceive, that any
 ' former right which either house of Parlia-
 ' ment might have to prepare bills is there-
 ' by concluded, and the power of preparing
 ' bills is in the chief Governour and Coun-
 ' cil, the words of the act being general;
 ' and in the affirmative, that all acts passed
 ' in parliament should, before the parlia-
 ' ment begun, be certified into England, and
 ' approved of there and remitted back:
 ' And then comes the negative clause that
 ' parliaments holden contrary to that form,
 ' to be void. So that, until the act 3d and
 ' 4th Philip and Mary, there could be no
 ' new certificate or transmission of any more
 ' bills after the parliament sat, as may ap-
 ' pear by the letter of that act (vid. p. 16)
 ' which was made chiefly to remedy that
 ' inconveniency. And by the resolution of
 ' the judge in *England* upon the said acts,
 ' and by the recital in the act of 11 Eliz.
 ' Sess. 2. C. 1. that by occasion of *Poyning's*
 ' *act*, no establishments or provisions can be
 ' concluded by the body of your majesty's
 ' parliament, being assembled, but such
 ' only as have been before their assembly
 ' certified unto your highness, and affirmed
 ' by the same. And by the words of the
 act

In act of 11th Eliz. Sessi. 3. C. 8. that *Poy-*
nings law prohibited any parliament to be
 summoned, or any act to be treated of in
 parliament before the acts were certified
 under the great seal of *Ireland*, and re-
 turned under the great seal of *England*.
 And we humbly conceive that money-
 bills, as well as other bills, even those of
 grace and indemnity, are within this law
 of the 10th of Henry 7th, and therefore
 the parliament in the 28th Henry 8th C.
 4th did suspend that law for a time, as
 to acts concerning the King's revenue
 and the publick good; but that being in
 the copulative, they made another act
 the same session C. 20th in the disjunc-
 tive suspending *Poyning's act*, as to all
 statutes, &c. which great care and circum-
 spection to suspend *Poynings act*, as to
 bills of any augmentation of the revenue,
 had been altogether needless, if money-
 bills, as well as others, had not been bound
 by that act, or had been set at large by
 the statute 3d and 4th Philip and Mary.
 And we conceive if it were otherwise
 in money-bills, the commons in parlia-
 ment would have the right not only to
 prepare heads, but also to prepare the bills
 themselves. For if money bills are not
 within the said acts, they are not to be
 certified

548 certified or transmitted at all, the contrary whereof has been constantly practised, ever since *Poyning's law*; and seems to us, if the commons in parliament had the sole right of preparing heads, &c. they should also have a right of having those heads pursued and observed. But it is manifest that besides what change and alteration the chief Governor and council may make of them here, it is expressly provided, by the stat. 3d and 4th of Philip and Mary, the King's council of England, may change and alter any bills that may be transmitted to them there.

Secondly, We humbly conceive that the design of the said act of the 3d and 4th of Philip and Mary was chiefly to explain and regulate the said act of the 10th of Henry VII, in the particulars following.

1. To comprehend every Chief Governor, (whatsoever his title were) within the word *King's Lieutenant*.

2. To empower the King and Council of England to amend, alter and change such bills as should be transmitted.

D.

3. To

‘ 3. To empower the Chief Governor and
‘ council here to certify bills after the par-
‘ liament begun.

‘ AND we humbly conceive this act does
‘ enlarge the power of the Chief Gover-
‘ nor and council, but does not give or re-
‘ store any thing to the Commons.

‘ FOR it is as general and comprehensive
‘ as *Poynings law*, in empowering the Chief
‘ Governor and Council to certify all such
‘ other bills, as they shall think good to be
‘ enacted in the said Parliament, and the
‘ same being returned under the Great Seal
‘ of *England*, no others may be enacted,
‘ &c. So that the difference in the point
‘ between this act and *Poynings law*, is,
‘ *Poynings* empowers the King’s Lieutenant
‘ and Council to transmit bills before the
‘ Parliament sits, and Philip’s empowers
‘ them likewise to certify bills *pendente par-*
‘ *liamente*; but still ’tis they must do it, and
‘ adds a negative clause, but no other bills
‘ but what they certify (therefore no Mo-
‘ ney Bills) can be treated of in parliament.

‘ And it seems to us, that this law of the
‘ 10th Henry VII. cap. 4th, has been of
‘ great

' great consequence and security to the En-
 ' glish interest in this kingdom, in the judg-
 ' ment of former times; such great respect
 ' having been given to it, and such great
 ' care having been taken of the preservation
 ' thereof, that it is the only act, the repeal
 ' whereof cannot be certified into England
 ' by the Chief Governor and Council, with-
 ' out a previous consent of the majority of
 ' both Houses of Parliament, as by the sta-
 ' tute of 11th Eliz. cap. 8th, may appear.

HERE follows a recital of such observati-
 ons as have been already made in this pam-
 phlet, until their lordships come to the fol-
 lowing paragraphs.—&c. And so it was in
 the reign of King Charles II, when an act
 of four entire subsidies, and another for the
 City of Dublin, to raise 25000l. and several
 other Money Bills passed in the House with-
 out any previous preparation. But it is true,
in several Parliaments the Commons have
prepared bills, and heads of bills, as well for
 money as other things, but seldomer for
 money than other matters, as they did this
 session to prepare heads or schedules of En-
 glish acts, to be made of force here, &c.

WHEN a Committee of the Lords with the
 assistance of the Judges, had prepared some
 very

very good bills, which were approved of by the House of Lords, Anno 1634, which the Lord Chancellor on his knee humbly moved the Lord Deputy to transmit to England, his Lordship made answer, that he doubted not but their Lordships should have satisfaction in the effect of their desires; but for the manner his Lordship's assent is as much as their Lordships, by an act of Parliament made in the time of the government of Sir Edward Poyning, they are debarred from penning any act, and have power only to move and petition the Lord Deputy and Council for drawing and transmitting into England, such acts as they desire to be passed. On the matter his Lordship assured the House of the best satisfaction he could give, and that therein he would do the Lords what service lay in him. His Lordship directed the clerk to take notice of his dissent, and to cause an entry to be made of his protest of it, and of his claim in right of the Crown to their drawing of all bills to be passed in Parliament in this kingdom, and thereupon followed the Lord Deputy's protest, which recites the most material parts of the acts 10th Henry VII. cap. 4. and 3d. and 4th Philip and Mary, cap. 4. and the titles of the new acts which were proposed, and concludes in these words. Whereas the Committee of Privileges directed the Lord Chancellor

579

to move Us the Lord Deputy, that divers acts drawn up by His Majesty's Judges of the several Courts, and considered and allowed by their Lordships, might be further proceeded in as appertaineth, which the Lord Chancellor did accordingly, all which former proceedings of their Lordships We the Lord Deputy taking into due consideration, and weighing the same with the statutes also, We do not conceive that the said Lords advisedly or purposely intended to violate or innovate in any thing, otherwise than as by the said statutes are provided; yet for avoiding any misrepresentation, which, by reason of that manner of proceeding, may in after-times be made to the intrenchments of the said acts of Parliament, or His Majesty's Royal Power, whereof We are, and always will be most tender, in discharge of the duty We owe to the preservation of His Majesty's Honour, and that the like mistakes in their Lordships proceedings may futurely be avoided; We have therefore thought fit this day, in full Parliament, to protest against that course held by their Lordships, as not any way belonging to their Lordships, to give order to the King's learned Council, or any other, for the framing and drawing up any acts to pass in Parliament; but that the same solely belongs to Us the Lord Deputy, and We do hereby further declare, that their

Lord-

Lordships, have power only by Remonstrance or Petition, to represent unto the Lord Deputy and Council for the time being, such public considerations, as they shall think fit and good for the common wealth, and to submit them to be drawn into acts and transmitted into England, or otherwise altered or rejected according as the Lord Deputy and Council, in their wisdom, shall judge and hold expedient, and that in such wise as the said acts of Parliament, in these cases, have provided ; and We the Lord Deputy do trust their Lordships will take this as a necessary and seasonable admonishment from Us, and forbear the like course hereafter.—And thereupon the Lords made an order in these words, viz. that the Lords above-named shall forthwith attend the right honourable the Lord Deputy, and let his Lordship know, that the Lords never intended to proceed in any thing contrary to the act of Poynings ; but only viewed those bills which the Judges had drawn, by his Lordship's direction, for the better preparing that work.—And we also find, that by the Journal of the H—se of C—m—s, Anno 1640, amongst the instructions given their agents to solicit the King, the second article which they were to desire was, that the Commons, during the Parliament, may draw up bills by their own Committee, and transmit them.—And so in the

543 the Journal 1661, they express themselves in this manner.—Ordered, that the undernamed persons be appointed a Committee to attend the Lords Justices this afternoon at three o'clock, in the Council Chamber, and to join with the Committee of the House of Lords, in desiring the Lords Justices to give directions for drawing up, and transmitting into England, a bill according to such heads as shall be propounded by both Houses for 12000 l. to be raised for defraying the expence of the agents that are to be sent into England from both Houses, and other necessary contingencies; by which it seems that they have claimed no Privilege in preparing Heads for Money Bills, but such as were communicable to both Houses; and their address is by petition, and not a demand of right. And indeed we could not find any other pretence or colour for this claim to a sole right for preparing heads of bills, &c. But a vote mentioned in the Journal of the year 1662, in these words, viz. "The Lords having a free conference with the Commons, differed from them in the manner of raising the 30,000 l. for the Duke of Ormond; it was resolved, declared, and asserted, by this House, that the proposal of ways and means of levying all money to be raised in this kingdom, is the antient and undoubted right of this House only;" which appears

appears to have resulted from a conference with the Lords, and seems to relate only to them, and tended to assert the rights of the Commons against the Lords to have Money Bills begin in their House first, as they do it at this day; for whereas other bills may be promiscuously sent to either House first; Money Bills ought to be and are sent first to the House of Commons. But this vote, as we conceive, has no reference to the power lodged by law in the Chief Governor and Council, nor any tendency to divest them of it, as may appear from their former votes and proceedings, and if it had, would have been of no force against so many statutes, and so long usage and practice to the contrary. And we conceive no inconveniency can accrue to the subject by this interpretation of the aforesaid statutes; because the Commons having a negative vote upon Money Bills, as well as other bills, can never be burthened with any tax, which they shall think unequal or unseasonable. Upon consideration of all which statutes, journals, transmisses, and other proceedings of Parliament, We are unanimously of opinion,

1st. THAT it is not the *sole* right of the Commons of *Ireland*, in Parliament assembled, to prepare heads of bills for raising money.

2d.

544

2d. THAT the Chief Governor and Council may prepare bills for raising of *money*, and certify and transmit the same to Their Majesties and Council of *England*, to be returned under the Great Seal of *England*, and afterwards sent to the Commons, although the heads of such bills, have not their first rise in the House of Commons.

ALL which we humbly submit to your Excellency and Lordships, this 14th of February, 1692.

RICHARD REYNELL.

RICHARD PYNE.

JOHN HELY.

RICHARD COX.

JOHN LYNDON.

HENRY ECHLIN,

JOHN JEFFERSON.

STAND. HARTSTONGE.

WHATEVER objection may be raised against lawyers understanding law, or judges who, by law, are to determine law cases, I cannot absolutely accord with those persons, who affect to declare, (but never believed) that the whole bench of judges acted against their principles, as well as against law. The

The son of a judge could not have hardiness enough to declare against what his father believed; — the *Iago* of politicks, who has brow-beaten every court of law, equity and parliament; whose principles are read in his face, when locked up in his heart; who husbands the small distillation of his oratory, so as to sell it, like a quack's nostrum, drop by drop, to cure you of a *King's-evil*, whilst he is giving you a country disorder; cannot lay his mercurial, money-making finger, against the fairness of this opinion. Such people have disputed with all Irish judges ideas. We shall carry them to another country, where perhaps they will dissent yet more. Let them oppugn the opinion of the corroborating judges of England, to that opinion just recited in Ireland.

The Opinion of all the Judges of England, about the sole and undoubted right of the Commons of Ireland, to prepare Heads of Money Bills.

Given the King, June 22d, 1693.

IN obedience to Your Majesties commands, signified by the Right Honourable the Lord Keeper of Your Great Seal of England,

579

gland, requiring us to consider an act of Parliament, made in Ireland, 10th Henry VII. intituled, an act that no Parliament be holden in this land, until the acts be certified into England, and an act of Parliament made there, 3d and 4th Philip and Mary, intituled, an act how Poynings shall be expounded and taken, and thereupon certify to Your Majesties our opinions in writing, under our hands in the particulars following,

1st, WHETHER it is the sole and undoubted right of the Commons of Ireland, in Parliament assembled, to prepare heads of bills for raising money.

2d, WHETHER the Lord Lieutenant and Council may not prepare and certify bills for raising money, to their Majesties and Council of England, to be returned under the Great Seal of England, and afterwards sent by the Commons, unless the heads of such bills have first their rise in that House.

WE have met together and considered the same, and we are thereupon of opinion,

1st, THAT it is not the sole and undoubted right of the Commons of Ireland, in Parliament

liament assembled, to prepare heads of bills for raising money.

2d, THAT the Lord Lieutenant and Council may prepare and certify bills for raising money, to Your Majesty and Council of England, to be returned under the Great Seal of England, and afterwards sent to the Commons, albeit the heads of such bills have not their first rise in that House.

Signed by the judges,

J. HOLT, Ch. Just. B. R.

G. TREBY, Ch. Just. C. B.

R. ATKINS, Ch. Baron.

W. DOLBEN, in B. R.

W. GREGORIE, in B. R.

E. NEVIL, in C. B.

J. POWELL, in C. B.

W. LETCHMORE, B. in Ct. Exch.

G. EYRE, Just. in B. R.

T. ROKEBY, in C. B.

J. TURTON, B. in Ct. Exch.

J. POWELL, in Ct. Exch.

THE question resolved by the judges takes nothing from the Commons which they possessed before; it does not impeach their right of rejection; it does not preclude them from
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the power of originating Money Bills, but declares, that right is not *solely* in the Commons; it restores to the Deputy and Council that right which the several statutes already quoted, had vested constitutionally in them, and which right had been disputed by the resolutions of the Commons.

The Lord Deputy and Council were restored to their rights, and exercised them in 1695. On the 29th of August, the Commons, as was ever the usage, gave the first reading to a transmitted bill, to establish a legal cause for their assembling. The Lord Deputy also acquainted the House, that His Majesty had transmitted a Money Bill, intitled, 'A bill for an additional duty of excise.' This bill was brought into the House on the 2d of September, and received the first reading, on the 4th it received the second reading, was committed, passed and engrossed, *nem. con.* on the 6th it received the third reading, passed, and was sent up to the Lords, for their concurrence.

HERE is a full recognition of *Poyning's* act, by the unanimous recognition of the Commons, in the first Parliament after that law had received a parliamentary censure. The practice of passing transmitted Money Bills

con-

continued uniformly from that period to the session which has occasioned the present discussion. In 1703, in 1713, in 1715, and in 1727, a transmitted bill was ever read, to validate the existence of Parliament under *Poyning's-law*, and a transmitted Money Bill read and passed in a few days after.

IN 1761, the nearest precedent to the present day, the Parliament met on the 22d day of October, and on the same day, an act for the more effectual assigning of judgments was presented and read; and on the 14th day of November, a Money Bill was presented and read. This Money Bill had been transmitted to England in the preceding January, certified by the then Lords Justices and Council, in manner and form following,

Council Chamber, Dublin the 24th day of January, 1761.

My Lords,

WE herewith transmit to your Grace, under the Great Seal of this kingdom, a Bill intituled, an act for granting to His Majesty a further additional duty on wine, silk, hops, china, earthen, japanned lacquered ware, and vinegar, and for better securing the re-
 payment

payment of one hundred and fifty thousand pounds paid into the treasury for the support of His Majesty's government, pursuant to an act of the last session, together with the interest thereof, and for the securing the re-payment of such sums of money, not exceeding in the whole the sum of three hundred thousand pounds, as have been or shall be paid into the treasury, or shall be advanced to His present Majesty, pursuant to the resolutions of the House of Commons, the last session of Parliament, together with the interest thereof. This act recites an act, passed in the last session of Parliament, intitled, an act for granting to His Majesty a further additional duty on wine, silk, hops, china, &c. to be applied to pay an Interest of four pounds per cent. per annum, for such sums of money, not exceeding in the whole the sum of one hundred and fifty thousand pounds, as shall be advanced and paid into His Majesty's treasury, in manner therein mentioned, and towards the discharge of the said principal sums; and likewise recites two resolutions of the House of Commons, the last session of Parliament, the one a vote of credit, for raising the sum of three hundred thousand pounds, with an interest, at the rate of five pounds per cent. and the other a vote for encreasing the interest of the several

veral fums, which were or should be advanced, pursuant to the said recited act, from four to five per cent; and by this act, the several duties granted by the said act, are granted and continued to His Majesty for three months, from the 25th day of December, 1761, to the 25th day of March, 1762, inclusive, and provision is thereby made for re-payment of the several fums which have been or shall be advanced, pursuant to the said act and vote of credit, with interest, at the rate of five pounds per cent. by the year, and likewise enacts, that if any part of the said principal fums shall remain unpaid on the 25th day of March, 1762, the same shall be well and truly paid, with the interest thereof, at the rate aforesaid.

WE likewise transmit to your Grace, under the Great Seal, a bill, intituled, an act for reviving and continuing an act for the better regulating juries.

THIS bill recites, that an act, passed in this kingdom, in the twenty-ninth year of the reign of His late Majesty, for the better regulating of juries, which was to continue in force until the first day of May, 1758, and to the end of the then next session of Parliament, this bill therefore revives and continues

tinues the said Act in force from the 29th Day of September in this present Year of our Lord one thousand seven hundred and sixty one, to the twenty-ninth Day of September, which will be in the Year 1766, and from thence to the end of the then next S—n of P——t. This Law has been found, while it was in force, to have contributed to Justice, and to prevent the partiality of Sheriffs in the returning of Juries, and dropped the last S—n of P——t by mistake.

We therefore desire your G—e will be pleased to lay the said B—lls before his M——y, in order to their being returned in the usual Form. We are

My L—d

Your G——'s most humble Servants.

For his M——y's service

to his G—ce J—n D—e

of B——d Lord L——t

G——l and G——l

G——r of I——d.

B—f—d House, London.

G— A—gh. S—nn-n. J. P—nf—by.

J. Tu-m. C—r—k. B—lv—re.

Ch-rl—le. D—n—ll. J-c—yn.

L-ft-s. S-dl-y. F-rn—m.

W. M—th. A. M-l-ne. A. T—v-r.

W.H.F-sc-e. N. C--m--s. C. G—di—r.

B. B—rt—n.

In consequence of this certificate a P—li—t was called, and as usual began their proceedings with a transmitted B—ll, and in the course of business passed the certified M—y B—ll, by a majority of 147 to 37 on the Day of 1761.

This self-denying P—t annihilated itself by the much-talked-of Li—ta—on B—ll, which the present L—d L—te—t, in compliance with the wishes of the People, procured as an amendment to the constitution of I—l—d.

A new P—t was called by the following Writ.

* * * * *

‘ To the Sheriff of the County of
greeting, Whereas by the Advice and Con-
sent of our right trusty and right well be-
loved Cousin and Counsellor G—e V—t
T—d our L—t G—l and
G—l G—r of our said Kingdom of
I—l—d, and of our C—l of our said
Kingdom, for certain arduous and urgent
Affairs touching ourself and the State, and
Defence of our said Kingdom of I—l—d,
and the Church of I—l—d. We have or-
dered a certain P—t to be holden at
our City of Dublin the first Day of August
next ensuing the Date hereof, by our said
L—t

587
L——t G——, or in his absence, by
our J—sti—s General and General G ——s
of our said Kingdom of I—l—d, our De-
puties in that behalf there, to treat and
have conference with the Prelates, great
Men and Peers of our Realm. We com-
mand and strictly enjoin you, that Procla-
mation being made in your next County
Court, after the reception of this our Writ,
to be holden at the Day and Place aforesaid,
two Knights girt with Swords, of the most
fit and discreet of the said County, and
every City of that County two Citizens,
and of every Borough two Burgeesses of the
most discreet and sufficient, freely and in-
differently by them, who at such Procla-
mation shall be present, you cause to be
elected according to the form of the Statute
in that Case made and provided. And the
Names of such Knights, Citizens and Bur-
geesses so elected, in certain Indentures
thereupon, to be made between you and
them who shall be present at such Election,
to be incerted, whether the Persons so elect-
ed be present or absent, and them at the
said Day and Place do cause to come in
such manner, that the said Knights full
and sufficient power for themselves and the
commonalty of the said County, and the
said Citizens and Burgeesses for themselves,
and

and the commonalty of the said Cities and Boroughs severally from them may have to do and consent to those things, which then and there by the Common Council of our Kingdom aforesaid (with God's assistance) shall happen to be ordained upon the affairs aforesaid. So that through defect of such power, or by an unprovident Election of such Knights, Citizens and Burgeffes, the said Affairs may not in any wise remain unprovided for. Willing, nevertheless, that neither you nor any other Sheriff of this our kingdom aforesaid in any wise be elected. And the said Election in your full County so made, distinctly and openly, under your Seal and the Seals of them who were present at such Election, certify to us in our Chancery at the Day and Place aforesaid without delay, remitting to us one part of the aforesaid Indentures sewed to these presents, together with this Writ. WITNESS our aforesaid L——t G——l and G——l G——r of our said Kingdom of I——l——d, at Dublin the first Day of August in the ninth Year of our Reign.

N——n examined Clerke of the C——n and H——r.

To the Sheriff of the County of
a Writ of Election to
P——t to be holden the 1st
Day of August next ensuing.

This

This P———t, from prorogation, did not meet until the seventeenth Day of October, 1769. On that Day, agreeable to *Poyning's act*, the H——se gave a first reading to a transmitted B-ll, intituled, ' An Act for allowing further time to persons in office or employment to qualify themselves, &c.'

On the 21st Day of November, 1769, the following B-ll, intituled, ' An Act for granting to his M——y the several Duties, Rates, Impositions and Taxes, therein particularly expressed, to be applied to the Payment of the Interest of the Sums therein provided, for and towards the discharge of the said principal Sums, in such Manner as is therein directed ;' which had been transmitted agreeable to *Poyning's law*, as a cause and consideration for holding a P———t in I——l—d, was read a first Time.

There was nothing new in the Form of this B-ll, it was *verbatim & literatim*, the same as to Manner, as had been certified in 1761. The mode of transmiss was the same, under the great Seal of I——l——d from the Lord L———t and C——l; its return was the same, under the great Seal of England; its introduction to the H——se was in the usual Manner. Yet, by a strange fatality, it was refused a second reading and rejected,

and the commonalty of the

and a Reason assigned for the Rejection, viz.
 ' that the B-ll is rejected, because it did
 ' not take it rise in this H---se.' Why the
 Persons who supported the same Species of
 a B-ll in 1761, rejected this in 1769, is not
 the Writer's Business to account for; doubt-
 less they had wise Reasons; some Persons
 thought it a perfectly new Measure; others,
 that it was an old, but a bad Measure; some,
 that it was a B-ll which had taken its rise
 in the B---sh Privy Council, contrary to
 all Law; others, that it had been originated
 in the I--sh Privy Council agreeable to
Poyning's detestable law. In the course of
 the Debate, the following Speech was made
 by Sir G. M**, [*This Speech was taken down in
 Short Hand, by a Person nearly accurate, and
 whose memory could tolerably compensate for the
 omission of his Pen; and, from that double cor-
 rective, has probably more exactness than any
 thing of that kind, hitherto published, could pre-
 sume to boast of; From his copy it is as follows.*]

Mr. S-----r,

' Hitherto I have remained silent during
 ' the debate; the deep Sorrow which I feel
 ' from the Proceedings of this Day render
 ' me very unfit to speak upon the present
 ' Occasion; and nothing but the warm and
 ' sincere Affection which I bear to this
 ' Country

591
 Country could engage me (after so many
 Gentlemen, far abler than I am, have de-
 livered their opinions) to obtrude my Sen-
 timents on the H--se, or to trespass on
 their Attention at so late an Hour. But
 I should be wanting in Duty to myself, to
 my Sovereign, and to Parliament, (whose
 interests, united, whose Welfare and Hap-
 piness, are the objects nearest to my heart)
 if I did not use every endeavour, if I did
 not strain every nerve, to prevent the
 Error, the fatal Error, into which we are
 at this Moment on the brink of falling.
 For, what are we now going to do? we are
 going to reject a B-ll which has been sent
 down to us, in the usual Form that B-lls,
 on such an Occasion as this, the meeting
 of a new P——t, have always been sent
 down to us, from the Year 1496 to the
 present Time.

No Gentleman has yet produced an in-
 stance of a new P——t's assembling and
 rejecting a M—y B-ll of this Kind.
 There is but one Instance, I mean that of
 the Year 1692, during the Lieutenancy of
 my Lord S-d--y, and what was the con-
 sequence of that Proceeding it is unne-
 cessary for me to recite; it is very well
 known, I believe, to every Gentleman
 who hears me. I therefore must rely upon

' it, and lay it down as the constant regular
 ' Usage for near 300 Years past, in every
 ' P——t where Money has been granted
 ' either at the first or at any subsequent
 ' session of it, (a) to transmit one or more
 ' M—y B-lls before calling such P——ts,
 ' and, except in the single Instance I have
 ' mentioned, such Bills never were rejected.

' This M—y B-ll, Sir, is a kind of Fine,
 ' which we pay for the renewal of P——t;
 ' it is the Cauldron of Medea, which (if
 ' I may use the Expression of my honour-
 ' able Friend upon the Floor) washes away
 ' the rust we may contract by too long sit-
 ' ting here, and restores P——t to its
 ' pristine Youth and Vigour.

' Gentlemen have treated the P—y C—l
 ' with a freedom which I did not expect to
 ' meet with in this assembly. I do not rise
 ' to speak in favour of the P—y C——l, be-
 ' cause, accidentally, and, by my office, I
 ' happen to be a member of that board;
 ' but I think it my duty to remind
 ' Gentlemen that the P—y C——l of
 ' this kingdom is in some respect, a branch
 ' of our legislature; [*Here several of the*

(a) There are instances of M—y B-lls being certified
 into England, before the call of a P—l—t, which
 have not been passed until the second or third Session of
 that Parliament.

593
 M——rs cried out No! No!] ‘ I am sure it
 ‘ is one of the most ancient branches of our
 ‘ constitution, as old, if not older, than
 ‘ p-l-m-t itself. To the P—y C——l it is
 ‘ that we are partly indebted for our sitting
 ‘ here at this hour; for if the P—y C——l
 ‘ had not certified this very m-n-y b-l which
 ‘ we are now agitating, no p-l-m-t, consti-
 ‘ tutionally, could have been called. But I
 ‘ shall not enlarge on the subject, it has al-
 ‘ ready had the good fortune of being dis-
 ‘ cussed by the ablest hands; the point has
 ‘ been clearly stated, it has received every
 ‘ assistance that could be given it by the
 ‘ strongest powers of reasoning; it has received
 ‘ every advantage that the most glowing
 ‘ colours of eloquence could adorn it with;
 ‘ it would therefore be impertinence in me
 ‘ to attempt to draw new ideas, or argu-
 ‘ ments from a subject which is already ex-
 ‘ hausted.— But I cannot avoid addressing
 ‘ myself to the Gentlemen who, some years
 ‘ since on a similar occasion, supported a
 ‘ similar question by no less a majority than
 ‘ 147 to 37, as appears on your J——ls.—
 ‘ Since there is no Gentleman in this h—se
 ‘ who can so far depart from that consistency
 ‘ and steadiness which constitute the dignity
 ‘ of the senatorial character, as to determine
 ‘ that to be wrong in 1769, which they
 ‘ decided

‘ decided to be right in 1761, I never will
 ‘ believe that Gentlemen will falsify their
 ‘ own conduct, or basely desert those prin-
 ‘ ciples which did them so much honour on a
 ‘ former occasion; it is impossible, I cannot
 ‘ think so meanly of mankind.

‘ Let me observe too how seriously this
 ‘ question has been taken up on the other
 ‘ side of the water, (a) a right honourable
 ‘ friend of mine, lost his employment for
 ‘ refusing to certify a m—y b-l not many
 ‘ years since; and another personage, (b) a
 ‘ noble personage for whom I have the ut-
 ‘ most respect, who acted on that occasion a
 ‘ different part, received not only the high-
 ‘ est approbation of his Sovereign for his
 ‘ conduct, but a very signal mark of royal
 ‘ favour towards him soon followed.

‘ You, Sir, if I am not misinformed (c) cer-
 ‘ tified a m-n-y b-l in 1761, and your friends
 ‘ supported it in p-l-m-t, where it passed by
 ‘ the great majority I have already mentioned.’

[Here Mr. P—— the S——r of the H—— of
 C—— rose from the chair and absolutely denied
 it; upon which Mr. L——d got up, and moved that
 Sir G—— M—— should be brought to the bar

(a) Mr. A—— M——.

(b) The earl of ——, who was made a M——s on
 that occasion, and soon after a D——e.

(c) Vide p.

for

for having insulted the S—— by accusing him of a crime of which he was not guilty. Sir G—— continued still upon his legs, and proceeded, addressing himself to the chair.]

‘ Sir, as to the fact of your certifying a m-n-y b-l in 1761, I always understood that you had done so; but as you have so solemnly denied it, I take it for granted that I was misinformed, and therefore ask your pardon.—As to the gentlemen who called out ‘ bar, bar,’ I shall be very ready to go there, if it be the sense of the h—e.

‘ But to return, Sir! after all let me seriously ask what it is that is contended for, a point of form, a punctilio, a ceremony, a courtesy which an affectionate younger sister has always paid to her elder, from her tenderest years, a civility of prescription, which establishes no new claim, abrogates no old pretension. An elder sister, however affectionate, may become jealous of her younger for some omission, perhaps an unimportant one, and construe that omission to be an injury, a premeditated injury. If such should be our case with regard to G—t B——n, I know not what evils may follow. God forbid any should; but if any threaten us, let us now prevent them by our foresight and discretion. The prosperity, the glory, the happiness of I—l—d perhaps depends

pende on the decision of this hour, and shall we rashly put our all to the hazard, where much may be lost; where little can be obtained?

‘ Let me address you, Sir! let me address the h—e, as a suppliant for our country, for our common parent; let me implore the assistance of you every one; let us try no new experiments in our present distressed and divided state, this is not a time for such proceedings. As a publick man, as a private man, I shall object to all innovations. As a friend to G—t B—n and to I—d, whose interests, if rightly understood, are the same, are inseparable, I must intreat that this b-l should not be rejected; at least postpone the reading of it to a longer day; but let us not, in a rash moment, do what nothing can repair, or cast out of our reach what neither wisdom nor time can recover.’

This debate ended with the rejection of the b-l. The persons who had once supported a similar b-l, opposed this; 147 supported the former b-l against 37; 94 rejected the latter b-l against 71. It would certainly be to the honour of the h—e to have no inconsistency appear on their j—ls. Yet here is a most palpable in—y. In 1761 a b-l passes, which had been originated in the P—y C—l; in 1769 a b-l is rejected

597
 jected for having been originated in the
 P—y C——l. People have certainly grown
 more virtuous and more wise in those latter
 days; neither laws nor precedents can re-
 gulate our conduct, one precedent we ad-
 mire, and imitate the precedent in 1692.
 The circumstances in these two years are
 nearly similar, the parliaments were assem-
 bled on transmitted b-ls originated in
 C——l. They were both years of peace
 after long expensive wars. In both S——ns,
 supplies were asked to defray the expence
 of such an army, as must be kept up for the
 common safety. In both S——ns, heads of
 a b-l for settling the Militia of this kingdom
 were proposed, and both p-l-m-ts were pro-
 rogued before the b-ls were passed. To add
 another feature of resemblance to the two
 S——ns, an honourable M——r in imita-
 tion of the p-l-m-t in 1692, three days be-
 fore the prorogation, moved to recommend
 the Chaplain of the h—se to his E——y,
 for preferment. Both p-l-m-ts rejected a
 certified m-n-y b-l, both rejected it on the
 same principle, both assigned the same rea-
 sons for the rejection, and those reasons so
 assigned, induced a prorogation of both
 p-l-m-ts; the conduct and fate of both
 p-l-m-ts were alike, but the prorogation of
 the first was more precipitate; it appeared
 merely

merely as the act of the l——t, as in six 598
 days from the resolution to the prorogation,
 no advice could be received from E—g—d;
 but five and thirty days intervened, between
 the resolution and last prorogation. The
 cr——n had leisure to be acquainted of the
 assault on its prerogative, it was acquainted,
 and commanded a prorogation, which was
 effected as follows.

The L—d L——t's S——h.

“ My L—ds and G——n,

“ The attention you have shewn to the
 great objects which have been particularly
 recommended by me to your consideration,
 and the provisions which have been made
 for the safety and security of this kingdom,
 call upon me not only to express my appro-
 bation of, but to thank you, as I now do,
 for your conduct in these particulars.

“ G——n of the h—se of C——ns.

“ It is with great pleasure that I thank
 you, in his M——y's name, for the supplies
 which you have granted, and the provision
 which you have made, for the present
 establishment, the public credit, and the
 safety of this kingdom.

“ When I first met you in p-l-m-t, as I
 knew

399

knew and could rely upon it, that nothing could move from his M——y but what would be expressive of his constant and ardent desire to maintain and preserve every constitutional right to his people, I little thought that any thing would happen, during the course of this S——n, that could possibly effect the just rights of his M——y and the cr——n of G——t B——n, so as to afford his M——y any just cause of dissatisfaction, and make it necessary for me, specially to assert and vindicate those rights.

“ It is with great concern that I have seen and observed in the V——es and J——ls of the h——se of C——ns, printed by your order, a late proceeding by you, of such a nature and of such effect, with respect to the rights of his M——y, and the cr——n of G——t B——n, as to make it necessary for me, on this day, and in this place, to take notice of, and animadvert thereupon. I mean the V——e and resolution of the 21st day of *November* last, by which you, Gentlemen of the h——se of C——ms, declare, that a b-l (intituled, ‘ An act for granting to his ‘ M——y the several duties, rates, impositions and taxes, therein particularly expressed, to be applied to the payment of ‘ the interest of the sums therein provided ‘ for,

‘ for, and towards the discharge of the said
 ‘ principal sums, in such manner as is
 ‘ therein directed),’ which had been duly
 certified from hence to his M——y, and by
 his M——y had been transmitted in due
 form under the great Seal of G—t B——n,
 and which had been read a first time by
 you, and which was rejected by you on that
 day was so rejected, *because it did not take its
 rise in your house.*

“ This V—e and this resolution of yours,
 declaring that the said b-l was rejected be-
 cause it did not take its rise in your h—se,
 being contrary to the acts of p-l-m-t in this
 kingdom, of the 10th of *Henry* the 7th and
 the 3d and 4th *Philip* and *Mary*, and the
 usage and practice ever since, and entrench-
 ing upon the just rights of his M——y and
 the C——n of Great Britain, to transmit
 such Bill to be treated of and considered in
 P——t here. I am to assert his M——y’s
 royal Authority, and the rights of the C——n
 of Great Britain in this respect, and in such
 a Manner as may be most public and per-
 manent, and therefore, I do here, in full
 P——t, make my public protest against
 the said vote and resolution of the H——e
 of C——ns, by which you, Gentlemen of
 that h—se, declare that the said b-l was
 rejected by you, because it did not take its
 rise

601 rise in your h—se, and against the entries of the said V--e and resolution which remain in the J—ls of the h—se of C——s; and I do require the clerk of this h—se now to read my said protest, and to enter it in the J—ls of this h—se, that it may there remain, to future ages, as a vindication of the undoubted right, and authority of his M——y, and of the rights of the cr—n of G—t B——n, in this particular.

‘In this protest, I think myself warranted in all respects, and if it needed, as I conceive it doth not, any other strength than that which it derives from the statutes which I have mentioned, and from the usage and practice ever since, it should be found in that precedent which appears in the J—ls of this h—se of the 3d day of *November* 1692, under the reign of that glorious and immortal Prince King *William* the 3d, the great deliverer of these kingdoms, and the constant and magnanimous assertor and preserver of the civil and religious rights of mankind.’

And then his excellency the L—d L——t delivered the protest to the L—d C——r, who delivered it to the clerk of the h—se and he read it, as follows.

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His

His Excellency G—e L—d V—t T—d's
 Protest, *December* 26th, 1769.

Whereas at a P—t, holden at *Drogheda* in the 10th year of the Reign of King *Henry* the 7th, an act was made for and concerning the order manner and form of p—ts to be holden and kept in this realm of I—d; and by another act made at a p—t holden at *Dublin* in the 3d and 4th years of King *Philip* and Queen *Mary*, it was ordained, enacted and established, that no p—t should be summoned or holden within this realm of I—d, until such time as the L—t, L—d D—y, L—d J—e, L—ds J—es, C—f G—r or G—rs, or any of them, and the C—l of this Realm for the time being, should have certified the K—g and Q—ns M—s, their Heirs and Successors, under the Great Seal of this Realm of I—d, the considerations, causes and articles of such acts, provisions and ordinances, as by them should be thought meet and necessary to be enacted and passed here by p—t, and should have received again their M—es answer under the Great Seal of E—d, declaring their pleasures either for passing the said acts, provisions and ordinances in the form and tenor as they should be sent into E—d, or else for the change

change or alteration of them, or any part of the same; and that as well after every authority and licence sent into this Realm of I—d for summoning and holding a P—t as also at all times after the Summons, and during the time of every P—t to be thereafter holden within this Realm of I—d, the L—t, L—d D—y, L—d J—e, L—ds J—es, C—f G—r, or C—f G—rs, and C—l of this Realm of I—d, for the time being, should and might certify all such other considerations, causes, tenors, provisions and ordinances, as they should further think good to be enacted and established at, and in the said P—t, to the K—g and Q—n's M—y, their Heirs and Successors, under the Great Seal of this Realm of I—d, and such considerations, causes, tenors, provisions and ordinances, or any of them, should be thereupon certified and returned into this Realm under the Great Seal of E—d, and no others should and might pass, and be enacted here in any such P—t within this said Realm of I—d, in case the same considerations, causes, tenors, provisions and ordinances, or any of them, should be agreed or resolved on by the three estates of the said P—t.

And whereas in this present S—n of P—t, a B—l, entituled, An act for granting to his M—y the several duties, rates, im-

positions and taxes, therein particularly expressed, to be applied to the payment of the interest of the sums therein provided for and towards the discharge of the said principal sums in such manner as is therein directed, which had been certified by us the L—d L—t of this kingdom, and by the C—l of this kingdom unto the K—g's M—y, under the Great Seal of this kingdom, and by his M—y approved of, and returned into this Kingdom under the Great Seal of G—t B—n, and by us sent to the h—se of C—ns to be considered of in this present P—t. The said C—ns having the said B-l before them, did read the said B-l the first time on the 21st day of *November* last, and on the same 21st day of *November*, a motion being made in the said H—se and the question put, that the same B-l be read a second time, on the morrow morning, it passed in the negative; and afterwards on the same 21st day of *November*, another motion was made in the said H—se of C—ns, and the question put, that the same B-l be rejected, it passed in the affirmative; and afterwards on the same 21st day of *November*, a motion was made in the said H—se of C—ns and the question put, that the said B-l is rejected 'because it did not take its rise in that H—se,' it was carried in the affirmative; and the said H—se of C—ns thereupon the same day,

603 day, resolved that the said B-l was rejected
' because it did not take its rise in that H---se.'
 All which motions, questions, votes, resolutions and proceeding, appear to us in the J—ls or V—es of the said H—se of C—ns printed and published by and under their order and authority; and which V—e and resolution of the said H—se of C—ns, declaring that the said B-l was rejected because it did not take its rise in that H—se, do tend to exclude his M——y and the crown of G—t B——n, from the right of transmitting any B-ls for granting to his M——y, and his Successors, Money or other aids, and are not consistent with, but contrary to the said recited acts of P——t, and the usage and practice ever since the making thereof, and do in effect intrench upon his M——y's royal power and authority, and the just and undoubted rights of the crown of G—t B——n.

We therefore the said Lord L——t, as well to assert the just rights of his M——y, and of the Crown of G——t B——n, (whereof we are, and ever will be, most tender) in transmitting such B-lls under the great Seal of G——t B——n to be considered of in P——t, as to discharge the trust reposed in us, and prevent the inconveniencies which may hereafter happen by the said Vote and Resolution of the H——e of C——ns, declaring, that the said B-ll
 was

was rejected for the cause therein mentioned, being made publick, and remaining in their Journals without any contradiction or animadversion, have thought it necessary this day, in full P——t, to protest, and we do accordingly protest against the aforesaid Vote and Resolution of the said H——se of C——ns, made and passed, declaring, that the said B-l was rejected, because it did not take its rise in that H——se, and appearing in their Journals or Votes. And we do assert, protest and declare, that it is the just and undoubted right of his M——y, and of the Crown of G——t B——n, observing the Forms in the said several Acts, prescribed to transmit Bills under the great Seal of G——t B——n, for granting of Aids to his M——y, his Heirs and Successors; which said Bills so transmitted, ought to be read and considered of by the H——se of C——ns in this Kingdom, without being rejected by the said H——se, on account only of their not taking their rise in that H——se; and therefore the rejecting of the said Bill, because it did not take its rise in that H——se, and the said recited Vote and Resolution of the said H——se of C——ns, declaring, that the said Bill was rejected, because it did not take its rise in that H——se, are not consistent with, but contrary to the Acts of Parliament herein before mentioned,

605 mentioned, and the practice and usage in all Parliaments since the making thereof, and also highly derogatory to his M——'s r-y-l Authority, and the rights of the Cr—n of G——t B——n.'

After this the Lord C——r, by his Excellency's command, said,

My Lords and Gentlemen,

' It is his Excellency the Lord L——t's pleasure, that this P——t be prorogued to Tuesday the 20th Day of March next, to be then here held; and this P——t is accordingly prorogued to Tuesday the 20th Day of March next.'

This prorogation has been called a rash inconsiderate measure; it was neither,—it did not follow upon the heels of the cause; it was maturely weighed for seven Weeks; but grant it had been rash, it can never be charged on the V——y, who was only the performer of the Cr—n's pleasure. It is urged by some persons likewise, that this measure was adopted thro' misrepresentation from this side. What misrepresentation could go from this side? Was it misrepresentation to say the law required certified B-lls, or to say, that long usage had been conformable to law? or that the certified

M-n-y B-ll had been rejected? or that the cause assigned by the H—se was, that it had been certified from the C—l according to law? all these were indubitable facts. Should a V—y or a S—y conceal these facts from the Crown? it was their duty to reveal them. Are they then culpable for doing their duty? no certainly. Suppose then the Cr—n duly acquainted: in what manner should Administration proceed? should they pass it over in silence? possessed of a prerogative by law, which had been uniformly exercised by all his royal predecessors, could the Pr—ce silently suffer this prerogative to be wrested from him, by a novel Vote of the H—se of C—ns? In tracing over the annals of his country he could find but one hardy attempt of that kind; and finding *that*, he must discover a procedure which might regulate his conduct in like circumstances; he found it, and he imitated it. If his M—y had not exercised his prerogative in this case, he must have ever given up the C—l's right of originating any B-l, for as the law specifies no particular kind of a B-l, any other B-l, on the same principle, might be impeached as fairly as a M—y B-ll.

I would gladly ask, what interest the V—y or his S—y could have in a prorogation?
They

604
They must certainly have seen that it would be a temporary inconvenience to the people, and no possible profit to themselves; that they would incur a degree of unpopularity among the vulgar, with a doubled increase of invective from every scurrilous scribbler. The event has proved it; every art has been used to misrepresent their conduct. That they did not betray their trust has awoken calumny; one scribbler says, the V——y should have resigned rather than executed the commands of his S———gn. Did the S———gn command any thing but what he had a right to command. Candour says, no. Was the temporary inconvenience of the people to be brought in competition with the intended permanent alteration of the constitution, and of his M——y's royal rights. Could his M——y answer to himself, or to his Successor, if he suffered the prerogative to be curtailed? He could not. But say some people, this is mere form, and why should the Cr——n inconvenience the subject by a sudden prorogation, for a mere pertinacious adherence to form? I utterly deny its being mere form; but suppose it were mere form, it should not be invaded. Would the C——ns yield up any one of their forms at the desire of any other branch of the legislature? they ought not. Suppose the Crown should say, the Mace

608
 belongs to M--y, and ought not to rest on your table; or that the l--ds should say, we ought to have free access to the c-mm-s without knocking at their door, or having the bar laid down against us; would it not be shameful for the c-mm-ns to submit on these occasions? If then it would be beneath the dignity of the c-mm-ns to change their forms at the desire or on the opinion of the other branches of the legislature, it would be pusillanimous in the cr--n to part with what is more than form, what is the essence of the dependance of the kingdom of I--l--d upon the cr--n of E--l--d. People affect to deny this law to be so essential, they cannot prove it. The learned *Sir John Davis* was at least as competent a judge as these modern cavillers.

What injury has this law ever yet done to Ireland? or what injury can it ever do to Ireland, whilst you have the power of rejecting b-ls originated in c---l? If any inconvenience has arisen by the exercise of r--l prerogative, attribute it to the just cause; to those who infringed the law, not to those who would support it; if precedent is pleaded for the vote and resolution, there is the same precedent for the prorogation. The men who adopted this precedent on the present day, acted on other principles in a past; their conduct is not consistent. G--nm--t would

would have been, as inconsistent if they had not marked their disapprobation of that conduct. I hope no future occasion will ever call for such a disapprobation; and in the present case that factious designing men will not render that which is only inconvenient, really mischievous, by persuading the people at large, that g—nm—t wantonly designed to injure the publick, that the support, and procedure of g—nm—t was odiously novel, when, in fact, the odious novelty, was the illegal, assigned reason of rejecting what the repeated confirmation of laws and statutes had made the constitution; what the continued wisdom and experience of not less than the long period of two hundred and eighty-four years had confirmed; what twelve successive reigns had sanctified; what every historian had recorded; what the C—mm—s first desired, and the Cr——n approved; and what the Cr——n now supports legally, when the C—mm—ns would, against law, overturn it.

F I N I S.

Handwritten notes and scribbles at the bottom of the page, including the word "Houses" and various symbols and numbers.