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ARGUMENT

Made before the

Lords-Justices and Council,

Dedicated to the

Hon^{ble} *House of Commons.*

By *Gerhard*
~~James~~ *House Esq*

Dedicated to the

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Before the

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Made before the

Lords-Justices and Council,

Concerning the DISPUTE

Between the *Lord-Mayor* and *Aldermen.*

Dedicated to the

Hon^{ble} *House of Commons.*

Printed in the Year, 1713.

To the Honourable the
Knights, Citizens and Burgessees,
 Now Assembled
 In Parliament in IRELAND.

Gentlemen,

I Dedicate the following *Argument* to you, to no other Intent, but to lay before you, the State and Weight of the *Controversy* that lately happened between Sir Samuel Cooke, Lord Mayor, and Seventeen Aldermen of Dublin.

I dare say such *Patrons* and *Affertors* of *Liberty* as you are, will encourage the Subjects telling the Truth. To close up Mens Mouths from laying before their *Representatives*, the true Narrative of their *Grievances*, tafts so much of *Arbitrary Power*, that I hope it will not receive Countenance from so great a Body of Free-born Men as the present *House of Commons*. In this *Argument* you have this *City Controversy* (which made so much Noise in the World) so fully and clearly Stated and Handled, that every rational Man will be a proper Judge.

First, *Whether any Wrong was done to the Rights and Liberties of the Subjects and Citizens of Dublin?*

Secondly, *If so, who did that Wrong?*

Thirdly and consequently, *Who is accountable for those Wrongs to the Nation; the Peace and Quiet whereof, so much depends on the good Government and Tranquility of this great and populous City?* I shall not keep you long in the *Dedication*, to divert you from the *Argument*; which I recommend to your Serious and Impartial Consideration: This I hope you will comply with, in Regard it tends more to your right Information, than to any End expected from it by

Your most Obedient Fellow-Subject and Servant,

The EDITOR.



May it please Your Excellencies and Lordships,

I AM a Council for my *Lord-Mayor* of *Dublin*; and notwithstanding that we have no other Evidence, in relation to this pretended Election, but what we (by the Assistance of some Noble Lords of this Honourable Board) have extorted from their own Witnesses and Creatures, and from the Entries in their Books, and particularly from that Entry of the Proceedings now in Debate, which appears to your Lordships to have been rough Drawn up at the *Tholsel*, Cook'd up at the *Rose*, and then Entered from the Mouth of their Dictator the *Recorder*: Yet, I hope, I shall make appear to your Excellencies and Lordships, the following Points,

1. That the *Lord-Mayor* had a Right to Convoke and Dissolve that Assembly.
2. That it's the Right of my *Lord-Mayor*, to Nominate three Aldermen to be put in Election.
3. That my *Lord-Mayor* of *Dublin* has Acted in the Course of these Proceedings, legally, honestly and prudently.
4. And consequently, that the Seventeen certifying Aldermen, have Acted illegally, irregularly, arbitrarily, and tumultuously; by this last I do not mean, that there was any Tumult, but that their Proceedings had an Aspect and Tendency that way.

As to the First Point, That my *Lord-Mayor* has a Right to Convoke the Assembly, no Body will deny it; their Charter being express in it, but since it is disputed, *Whether he has the Power to Dissolve them, when Convoked?* I crave leave to speak to that from the Reason of the thing, and from the Rules of Law.

It cannot be deny'd but the Usage and Custom is of my side; nor have the Gent. on the other side produced one Instance or Precedent, where such an Assembly have ever been Dissolved, otherwise than by the *Lord-Mayor's* doing it expressly, or by withdrawing from the Meeting.

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The Usage then being with me, I pray let the Reason be considered; and my Lords, it seems to me, that it stands with Reason, that where the Crown has given the chief Magistrate and President of a Corporation, a Power to call the Members of it together, to chuse a succeeding *Lord-Mayor* and *Sheriffs*, that by Consequence, and *ex Necessitate Rei*, all Powers necessary for such a Meeting are granted; and surely it is necessary that all Bodies aggregate, consisting of many Persons, should at some time or other be separated, and the Charter making no express mention who shall Dissolve them, it seems rational, that the Power of Dissolution should be in the chief Magistrate, who has the Power of Convocation.

I shall beg leave to consider in the next place, how it stands with the Practice of other Courts, and with the Rules and Maxims of Law: I have read and heard read, many of the Commissions of Judges of Assize; they are empowered to call together the several Counties given them in Charge, and accordingly they send their Precepts to *Sheriffs*, but in their Commissions there is not (that I remember) any express Clause that empowers them to Adjourn or Dissolve the Counties, yet they have always practis'd the one and the other; and a stronger Case is that of the *Sheriffs* Courts, altho' it be held *coram Sectatoribus*, and that the Suitors or Free-holders are the Judges, yet the *Sheriff* that calls the Court, is the Person that Dissolves it; which I take in both Cases to be founded on this Reason. *That he that has a Power to Convoke, has consequently a Power to Dissolve the Convoked and Aggregated Body.*

And this my Lords, is supported by several Rules and Maxims of Law, laid down by my Lord Coke, and several of our learned Authors and Reporters, and never deny'd that I could hear of.

1. *Quando aliquid alicui conceditur, conceditur & id sine quo res illa esse non potest.*

2. *Eodem modo, quo quid colligitur. eodem dissolvitur.*

3. *Nihil tam conveniens est naturali Equitati, quam unumquodque dissolvi eo Ligamine quo ligatum est.*

This I might prove by many Instances, but I shall not take up the Time of so Great and Honourable an Assembly, on a Point, which, in my humble Apprehension, requires it so little; wherefore I shall proceed to my Second Point, *viz.*

That the *Lord-Mayor* of *Dublin* has the sole Right to Nominate Three Persons, to be put in Election for to succeed him.

To prove that this was the Usage *Ancient* and *Modern*, we have shewn your Lordships by the Election-Books, so long ago as 1622, that Three were put in Nomination, the Nominator drew a long Stroak to each of the Persons Names, and the Aldermen made Scores a Cross those Lines; he that had the greatest Number of Scores and Votes, was declared *Lord-Mayor* Elect, for the ensuing Year, to commence from *Michaelmas*. This was the uninterrupted Method down from 1622, to this Day, and not finding that it was so before, does not argue the contrary, for that plainly proceeds from want of Books and Entries to Vouch it; but it's being so for so long a time, and nothing to contradict it, argues that it has been so from a lawful Beginning, and that there was at first some By-Law, or other lawful Foundation to support it.

Mr. Peppard the Town-Clerk, tells you, That it has been so for these Eleven Years past, since he knew or was concern'd in the Affairs of the Corporation. The present *Lord Mayor* came in by that Method, and the late disapprov'd Election was by that Method; and then because that one of the Three, was a Person that the *Seventeen Aldermen* liked, they chose him, without raising any Cavils against the *Lord-Mayor's* Right of Nomination: But now that they do not like any of the Three, the previous Question must be put, and the Right of Nomination must be wrested out of the hands in which it has so long continued.

My Lords, Great Regard must be had to the Usages and Customs of Corporations, or else we shall be at a loss for Laws to support their Proceedings. Give me leave to put your Excellencies and Lordships in mind of the Case of the Corporation of Youghall, where their Charter gave the Mayor, Burgesses, and Commons, power to chuse Officers, and the Town had a Quarter Sessions and a Jury, there called The Deer Hundred; and it appeared that for many Years past, they had Chosen their Officers at that Deer Hundred. I was a Council in that Case, and the sense of the Board then was, That altho' the Election at the Deer Hundred was not Warranted by the Charter; yet, great Regard must be had to the Customs and Usages of Corporations, which must be preserved, unless they are against the Law of the Land, or of ill Consequence to the Government: From which, I infer, that if the usage of Deer Hundred at Youghall, which is contrary to the Charter, shall be Preserved and Supported, How much more shall the Right of Nomination in Dublin be so, which is supported by Ancient and Modern Usage, no way opposite to any

Law or Charter; and tends to avoid Heats and Tumults in Elections?

It has been Objected by Mr. Recorder, that the Lord Mayor can shew no prescriptible Right for this Nomination.

To this I Answer, That a Prescription must be Time Immemorial, of which the Source cannot be found out. My Lord Coke says it is like the River Nile, of which no Man can discover the Fountain-Head. If this be expected from Corporations, many of which have been created within the last Century, you will allow of none of their Usages at all. And my Lord Coke in the Case of Corporations, tells you, That in a Case Referred to the Judges in England, by the Privy Council, they were all of Opinion, That where there were Ancient Usages in Corporations, (tho' not time out of Mind,) the Law wou'd presume a By-Law to support 'em. This is the Opinion of all the Judges in England, Reported in the Fourth Coke, Fol. 77. B. 78. A. I remember in the Debates relating to Alderman Constantine, before this Board, the Recorder mentioned and asserted the Ld-Mayor's Right of Nomination: But now that it bears upon him and his Friends, it is turn'd into a wrong; this is not the only self-contradiction that has attended them in this Contest. Ald. Coke was at that time a Man of unexceptionable Character; But now that he differs with them! he is quite otherwise. The By-Law made in the 11th Year of Queen Elizabeth, was then an obsolete Sleeping By-Law; but now it is Quoted and produced, as an Authority to shew, that there could be no Nomination where there was an Establish'd Succession.

Another Objection they make against the Right of Nomination is, That the New Rules have taken it away.

To this I Answer, That the New Rules have lessened the number of Electors; for, whereas Before, the Lord-Mayor, Aldermen and Commons had a Right to, and did Elect the Lord-Mayor and Sheriffs: Now, it is narrowed and restrained; and the New Rules appoint, it shall be by the Lord-Mayor and Aldermen only, and requires that eight Aldermen, at least, shall be present. I suppose then, as to all Privileges they before had, not alter'd by the New Rules, they still remain: Would it be Sense to say, *Because the New Rules have changed the method of Election by express Words, they have abolished the Right of Nomination without any words at all?* Since then that is not Sense, I pray give me leave to shew that it is not Law; which I think, will be evident from the following Case in *Reynold's Rep.* 435: *Had-*
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de la's Case, it came in Question upon a *Mandamus* in the 33^d Year of King *Charles* the II^d. The Borough of *Carlisle* by their Ancient Customs, did use to Disfranchise their *Aldermen* for Misbehaviour, in 13th of King *Charles* Ist. They took a new Charter, in which there was no Power given them to Disfranchise, in the 33^d Year of K. Ch. II. *Haddock*, one of their *Aldermen*, had behaved himself tumultuously and disrespectfully to the *Mayor* and *Aldermen*, they called him before them to Answer for it; and he making no sufficient Defence, was Disfranchised: this Matter came before the Court of *King's-Bench*, and the only Question was, *Whether the New Charter abolished their Old Usages?* And adjudged, it did not; so here the New Rules do not abolish the Old Usages, where they do not clash or contradict each other.

Another popular Objection is made, *That this would impower, a Lord-Mayor to keep the Election amongst his Creatures for ever; and so would restrain the full Freedom of Elections.*

That receives this Answer. *That if all Constitutions be changed, and new modeled, because they may be abused, I know none that can stand.* Must we part with the use of a good thing, because it may possibly be misused or abused? No sure, Fraud and Corruption are not to be presumed, they come time enough without being anticipated by Supposition: But my Lords, where a Corporation hath *Twenty Four Aldermen* that have a Right to a free and fair Election; is not the Engrossing of it by the *Seventeen* exclusive of the *seven*, an Invasion on the Rights of the *seven*? Is it not possible that there may be more Loyalty in *seven* than in *seventeen* Persons? The *Seventeen* are *Majores Numero*, but not *Pondere vel Virtute*. We have known greater Numbers corrupted: What a Havock do we hear the *Thirty Tyrants* of *Athens* have made in that Common-Wealth? But should a *Lord-Mayor* thus engross that Office to himself, and *Three* of his Creatures, could not this Honourable Board redress it? Were it not then time enough to complain? As for what is said, that

it may be of evil Example to the Masters of *Guilds*; as if my *Lord-Mayor's* exercising his Ancient Rights, could entitle them to arrogate New ones: This is so groundless, that in my Apprehension, it merits not a Refutation. Thus far as to my *Lord-Mayor's* Right of Nomination. Now I come to the Third Point, which is:

That his Lordship has acted in the Course and Procedure of this Contest, according to the Rules of Law, Integrity and Prudence.

My *Lord-Mayor* then having an unquestion'd Usage of his side, and (in my humble Opinion) a plain Right to Nominate, and the previous Question, being a new unheard of Expedient, to deprive him of that Right, it cannot be admired that he did not immediately give up and betray the Rights and Privileges of his Place; he was so far from Passion or Emotion, that he was unwilling to part with 'em; *he sate down twice*, but the *Aldermen* persisted in the previous Question, and he refusing to put it, *Alderman Burton* told him, *That there were Men of as good Fortune as he there, and that Michaelmas would come.* To this, his Answer was, *That Alderman Burton might abuse my Lord-Mayor, but my Lord-Mayor would use him with good Manners.* Some moved that his Oath might be laid before him; his Authority was usurp'd before his Face, and Mr. *Burton* declares *Ald. Pleasant Lord Mayor*: To which his Lordship answered, *Then I suppose Ald. Burton you are Lord-Mayor.* Still this pretended Declaration was before the pretended Election. He withdraws, and in about two Hours after they send an Under-Clerk for him; not with a Design to recede from their former Methods, as by what they have since done, plainly appears, but to add the Sanction of his Presence to their illegal Proceedings: And since he would not come, they pretend to choose without him; and have certify'd that Election to your Excellencies and Lordships.

In all this, I desire to know from any of the Gentlemen concerned for the *Aldermen*, *What my Lord-Mayor did that was*
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against the Rules of Law, Integrity, or Prudence. Now, my Lords, I come to the Fourth Particular that I promis'd to Argue; that is,

That the Seventeen Dissenting Aldermen have acted *Illegally, Arbitrarily, and Tumultuously*.

If then my Lord-Mayor had a Right to Nominate, (as I hope has been shewn he has) their putting a previous Question to deprive him of that Nomination, must be Illegal; and the Methods they used to deprive him of that Right, by *Affronting and Threatning him*, I may justly call *Tumultuous*. And if my Lord-Mayor be an Essential Part of the Body at the chusing of a New Lord-Mayor (as by the New-Rules he plainly is) their proceeding to an Election without the Lord-Mayor, was both *Arbitrary and Illegal*: And altho' it is plain that their *Previous Question* was, *Whether any, and which of my Lord-Mayor's Thres Nominees should be put in Election*, which must be the nature of a *Previous Question*, and not what they would now Insinuate, that it was a particular Question, as to the persons put in Nomination; yet, since in their Replication, they have made distinct Objection against the particular Persons Nominated: I beg leave to Consider, and Answer those Objections.

And first, as to Alderman *Constantine*, they Object that he had been several times put in Election, and was Rejected: And therefore he should never be put in Election again.

This poor Man, my Lords, meets with the hardest, nay, with the most cruel Usage that ever I have known *one Christian* receive from his fellow Christians: They will not put him in Election now, because they have often Postpon'd him, *when it was his Right to be Chosen*; when the Law of Succession was in Force, this Unhappy Man was put in Election as Senior Alderman, they Rejected him several times; and because they have done him several Wrongs, they will add one more to the Number, and justify one Wrong by several. *He being in possession of the By-Law of the Eleventh of Queen Elizabeth, and being Senior Alderman, they have put him aside*. He Petitions this Honourable Board, and whilst it was here in Debate, they considered *That that plaguy By-Law was in the way*, they call a Post-Assembly on purpose to Repeal it: Your Lordships see how the Commons were led into it; 'twas never Read there, but 'twas given out to have been made in the time of *Phi. and Ma.* The word *Papery* went about. By these means it was Repealed before his Case was Determin'd; is not this to deprive a Man out of his Right by a Law *ex post Facto*? Is it not my Lord *Strafford's* Case in a lesser Instance?

But, my Lords, there are other hard Circumstances that attend this Case, for they have Voted him above the Cushion, that he might not be put in Election, to deprive him of a real Benefit, for a Feather in his Cap; in some time after, they Vote him down again, in the entry of which, they say, *It was done to qualify him to be put in Election*: And now that he is Nominated, or put in Election, they resolve that he shall not be put in Election at all. First, they deprive him of his Possibility of Election for a Feather; then they deprive him of the Feather, on pretence of Restoring him to his possibility or chance of Election; and now they deprive him of that too: *Was ever poor Man so toss'd up and down, and with so little to be laid to his Charge?* I have heard that it was the practice of Tyrants when once they had done a Man a wrong, to heap Injuries upon him. I shall not give the Aldermen that Name, tho', I must own, I think their Behaviour to Alderman Constantine extreme Cruel; and such as is commonly call'd *adding Misery to Affliction*.

As to their Objection against Ald. Mason, they say, That at a former Assembly two or three Years ago, he desired those that intended to Vote for him, to Vote for Alderman Constantine, and therefore he is not fit to be put in Election.

Alderman Mason knowing that Mr. Constantine was the Senior Alderman, and a Man beyond Exception, in his Probity and other Circumstances, recommends to his Friends to Vote for him; this seems to me to have been an Act of Justice and good Nature, but the Dissenting Aldermen construe it to be a perpetual Renunciation, and altho' our Law says (as I humbly conceive all Laws grounded upon Reason must say,) that every Man is the best Interpreter of his own Acts; yet they will, by their exorbitant, Power construe, That Ald. Mason by this single Act of good Nature, has renounced his Pretensions to the Mayoralty for ever. I beg leave to give one Instance of Law: Suppose I owe a Man several Debts, and pay him a Sum of Money, I shall place in payment of what Debt I please, because every Man shall apply his own Payment, and construe his own Act as he pleases. I dare say, if they ask Alderman Mason, whether he, by transferring his Votes to Alderman Constantine, intended never to be cosen nor stand Candidate for the Mayoralty? He will answer, That he had no such Design. My Lords, you have a Rule at this Honourable Board, that no more than Two Council of a side should be heard before you; had you not enlarged this Rule in the present Case, in regard to the great Consequence and Expectation

Station of it; altho' I have a Right as Queen's Council, to be heard before Sir Toby Butler, I did intend (in regard to his superior Merit) that he should have been heard, and not I, after Mr. Solicitor-General, upon this Occasion; Would it not then be a hard Construction, that I should never be at Liberty to re-assume and exert my Right afterwards, and that not only Sir Toby Butler, but every Man at the Bar, should (from this single instance of Respect) be preferred and heard before me? This I humbly conceive, would be a Construction, in all respects, parallel to that which the Dissenting Aldermen would put upon the Words of Alderman Maton, which I conceive irrational.

As for Sir William Fownes the Objection against him is, that he had Served before, that several Aldermen no way inferiour to him, had not yet taken their Turns.

This, my Lords, as it consists of two Matters, receives a two-fold Answer; First, that many Men had been twice Lord-Mayors, and several for two Years successively; that it is strange they would mention Turns, who had so little Regard to Seniority or Anciency, in the Case of Alderman Constantine, even before the Law of Succession was attempted to be Repealed. But had these Aldermen told their Minds freely, they have some other Views, some Reasons which they are not willing to express, to dislike Sir William Fownes, and such, as had they been fairly told, would be no Faults in the Eyes of Persons entirely devoted to Her Majesty's Person and Government.

As to the Precedents they produce; one was never Debated, and tho' there was a Petition against it, *the Election was confirm'd the same Day*; so that it pass'd *sub silentio*. As to the other Precedent, it is not at all to the purpose. One Fox had a mind that one Beaumont shou'd be Portrieve of Trim for the following Year; and in order to it, he Disfranchises 200 Voters of a Day, as Non Residents, without ever Summoning or hearing *them*. He afterwards proceeds to an Election, takes 96 Votes for Mr. Ash, and 108 for Beaumont; and finding that Votes came in for Ash faster than he would have them, he withdraws, and Certifies for Beaumont. Ash Petitions, and shews that he had 100 Votes more than Beaumont, which Fox refused to take. This appearing to your Excellencies and Lordships, you'd Approved Ash, and Rejected Beaumont; what Analogy has that to the present Case? It's plain Foxe's Disfranchisements were Illegal, it being laid down as a Rule in my Lord Coke's 11th Report, *That to Disfranchise any Man before he were heard, was against*
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Law : And there he lays down this Maxim; *Qui aliquid statuerit par-e mandata altera equum licet statuerit haud equus est.* I shall trouble your Excellencies and Lordships no further about these pretended Precedents, ether than to say, That they rather blemish than support the Cause, they being supported by Illegal Proceedings; and no way like the Case in question. But when Men go away from the straight Rules of Law and Truth, they have no other recourse but to Shifts and Subterfuges.

As to the Opinion mention'd in their Replication, come from the Attorney-General of England, they have not thought fit to offer to produce any such Opinion altho' they touch upon it, to give colour to their Irregularities. This, my Lords, was an Opinion upon a State of a Case sent over by themselves : The Query was, Whether this Board could punish them for Breach of the New Rules. The Answer was, that this Board could only Disapprove; and that they could be no otherwise punish'd, but by Indictment or Information in the Queen's Bench. This State of a Case and Opinion, whether genuine, or not, was handed about, as Mr. Recorder tells you, which could be to no other purpose, than to Spirit up the Faction, by persuading 'em, that your Excellencies and Lordships could not Disfranchise, or otherwise punish 'em for any Breach of the New Rules, be it never so great or manifest. And your Excellencies and Lordships see that if Mr. Peppard had not been stop'd, he would have told you at large, the Opinions of the Consultation at the Rose-Tavern. It's strange that my Lord Mayor's Council (who produce nothing of less Authority than the Laws of the Land, the New Rules, their own Entries and Usages, ancient and recent) should be confronted by nothing, but Opinions not produced, or things done under the Rose.

My Lords, there is an adjudged Case in *Roll's Ab.* which manifestly shews, that the Seventeen Aldermen have acted against Law, in pretending to Elect Pleasant in the Absence of the Lord-Mayor; and though this Case has been cited Yesterday by Mr. Solicitor-General, yet I beg leave to mention it again, to shew that it not only Rules the present Case, but is much stronger, and the rather, that most of your Lordships (not being of the Profession of the Law) may not have the Books by you : The Case, my Lords, is, 1 *Rol. Ab.* 513. and 514. Hicks, &c. the Burough of Launceston in Cornwall. The King created a Corporation of a Mayor and Eight Aldermen, with a Clause in the Charter, that upon the Death or Removal of every Alderman, it should be lawful for the Mayor and the rest of the Aldermen, within Eight Days, to chuse a new one in his place.

the Mayor of *Launceston* happen'd to be at *London*, having no Deputy in the Town, an *Alderman* dyed; the *Aldermen* apply'd twice to the Deputy to Assemble them, in order to chuse a new *Alderman*, who refused so to do; they for fear of *the laps of the Eight Days*, Assemble themselves without a Mayor, and chuse an *Alderman*: The Mayor comes after the eight Days and chuses another. And this appearing in the *Kings-Bench* on the return of a *Mandamus*, two Points were adjudged.

1. That the words of the Charter being in the Affirmative, that it should be lawful for to chuse in eight Days, did not exclude them from chusing afterwards.

2. That the Charter having constituted the Mayor an essential Member at the Election; the pretended Election made in his absence, was void: And the Election made in his presence, was good and legal.

In that case the Aldermen had twice apply'd to the Deputy-Mayor, who refused. They had greater reasons to fear the loss of their Charter: So that they had real grounds to think that they had a necessity upon 'em. In this Case of *Dublin*, there was four Months time before 'em, and they were at the door of the Government for Redress; so that they lay under no manner of necessity. In that case, the Charter Impowers the Mayor and eight Aldermen to chuse, &c. In this Case the New Rules, which have the force of an Act of Parliament, orders, that the Election shall be by the Lord-Mayor and Aldermen, provided that eight Aldermen, at least, be present: If then, in that Case where there was a necessity upon the Face of their Charter, where the Deputy Mayor refused, and where there was a reasonable Fear upon 'em, the Election without the Mayor was void.

How much stronger must it be so in the present Case, where there was no colour of Necessity, and where the new Rules are at least as express as the Charter of *Launceston*.

As to Mr. *Peppard's* part, which he acted in this Matter, his leaving my Lord the View of the Books and Charters, I do

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not conceive it influences the Case at all ; it only shews how ready they were to spurn at his Lordship's Authority, it is *ejusdem Farinae* ; and they shew by this Instance of their Disrespect to their chief Magistrate, that they would, if they could or durst carry it higher.

My Lords, I never had any doubt upon me, as to this pretended Election, I never fear'd that so illegal a thing could have the Sanction of your Approbation ; but in Regard my Client has desired Redress and Satisfaction for the Insolences offered to him, and the Breach committed on the new Rules, and since it's plain, that Papers have been handed about to Assert, that this Board hath not a Power to punish the Breakers of the new Rules, I am here now ready to give your Excellencies full Satisfaction, *That you have a Power to inflict any Punishment upon 'em, not exceeding Disfranchisement, for this wilful Breach of the New Rules.*

At this my Lord Bishop of Rapho got up, and said, *they would not see their Jurisdiction brought in question.* 'Tis true, says he, *this Gentleman offers to maintain our Jurisdiction, so we cannot justly be offended with him ; but that wou'd let in the other side to contest it, and that I hope will not be admitted.* My Lord Chancellor then told Mr. Burke, *that he believed the sense of the Board was with my Lord Bishop of Rapho.* To which Mr. Burke reply'd, *That he thanked their Excellencies and Lordships for that by not hearing him to that Point, they saved him the pains of speaking a long Argument, which he had taken great pains with in the making : And their Excellencies and Lordships cou'd not have a greater Jurisdiction than he wished them to have ; for that he conceived the highest Opinion of their Wisdom and Justice.*