

We think it may reasonably be concluded from the Evidence, that the Prisoner has conspired, consulted, and agreed to raise and levy War within this Kingdom, to depose and murder the King; that he has written to and received from his Correspondents Abroad many Letters to procure foreign Assistance for that Purpose; and the Court will inform you, Gentlemen, that this is Treason in the Prisoner at the Bar.

L. C. Baron. Gentlemen of the Jury, *Francis Francia* stands indicted of High-Treason, for compassing and imagining the King's Death; contriving to depose him from the Throne, and to advance the Pretender to the Crown. And there are laid in the Indictment several Overt-Acts; one is, that he consulted and agreed to raise an Insurrection and Rebellion against the King: And that for that Purpose he wrote Letters to divers Foreigners, to solicit and procure Arms, Men and Money, and to cause an Invasion; and caused those Letters to be sent to divers Foreigners in *France*.

This is the Substance of the Indictment, and to prove this, it has been shewn you how he was taken and seized. And *Mr. Smith* tells you, it was upon the Nineteenth Day of *September, 1715.* that he had a Warrant to seize him; That he went with another Messenger, since deceased, whose Name was *Wilcox*, and found him and a Woman in Bed. The Prisoner in a little Time got up. He tells you there was a Closet in the Room, the Door whereof he caused to be open'd, and in it, upon a Shelf, found a Parcel of Letters lying open in Folio, wrote in *French*, and a Book, that has been produced, lying upon the Desk. He put up the Letters and the Book together; when he had so done, says the Prisoner, *What do you take that Book for? That is my Copy-Book of my Letters to my Correspondents, and there is nothing material in that.* The Messenger took notice of a sort of Writing at the End of it, that he knew it by again, and the Prisoner said, *That was his Son's Writing.* It has been deduced to you, that the Book and the Letters that have been produced to you, are the same Book and Letters that were seized in the Prisoner's House, and carried to my Lord *Townshend's* Office.

Mr. Walpole tells you on what Day the Warrant was granted, and that the next Day the Book and Papers were delivered to him by the Messenger; that he looked over them with *Mr. Buckley*, and then he carried them to my Lord *Townshend*; and that the Prisoner owned the Letters upon his Examination before my Lord, and said, *This is my Book of my Letters to my Correspondents; some of them were enter'd by me, and the rest of them by my Son.* This is prov'd to be the same Book; and upon Perusal of the Letters, *Mr. Walpole* proves them to be the same that were brought to him by the Messenger.

Mr. Buckley says, that when these Letters were brought to the Office, he read several of them; and that when *Mr. Walpole* went to *Holland*, they were left with him, and he copied several Passages out of them. *Mr. Buckley* was present at the Prisoner's Examination, but can't say any thing as to the Book's being shewn to him, because he was busy in taking the Examination; but says, that *Francia*, upon his Examination, would not be sworn upon a *New Testament*; but took a Book out of his Pocket, and was sworn upon that, that his Examination was true. He subscribed his

Name to it, and it was read over to him. It was objected, that he was refused the Liberty of reading it: But there was no such Thing; he might have read it, and it was read to him, and he was never refused to read it.

My Lord *Townshend* informs you, that he having received an Information, that a Correspondence was carried on between the Duke *D'Aumont*, the late Duke of *Ormond*, and *Mr. Harvey*, and that Letters pass'd between them by means of the Prisoner, there were Orders sent to the Post-Office, to stop all Letters directed to *Francia*; that the Prisoner being examined before my Lord, own'd all these Letters. And says he, *As to my own Letters, I appeal to my Book which will shew them, these are so many Evidences that he owned this Book to be the Book of his Letters. What others write to me, says he, can't affect me; but as for my own Letters I appeal to my Book.* My Lord says, there seem'd to be a Disposition in him to tell all he knew, and he offer'd to explain the Letters there produced; that at the next Time *Mr. Harvey's* Letter was produced, and he explained the Figures in that Letter; and my Lord *Townshend* then took him to be sincere, but he found afterwards, that he had not discovered all he knew. These Letters were laid upon the Table during the Time of the Examination, and were taken back again. The Prisoner ask'd several Questions about Money being given him, and more offer'd to him, by my Lord *Townshend*. My Lord gave an Account of that, and says, that the Prisoner pretended to be in a miserable Condition, his Wife starving, and he begg'd hard for something, pretending to be miserably poor; and as he was going away, as meer Alms, my Lord gave him three, or four, or five Guineas, not as any Encouragement to him to swear any Thing, but as meer Alms, because he begged so hard, and pretended to be in so miserable a Condition. Then he desired to know, whether it was not promis'd him, that his Examination should not be produced against him. He was told, that if he was candid there should be no Advantage taken against him, and that my Lord would intercede on his Behalf; and if he had been so, no doubt, my Lord would have done what he could to incline the King to be favourable to him; but after this my Lord found he knew a great deal more than he would discover. His Wife came indeed to my Lord, and pretended she could prevail upon him to discover, if she might be admitted to him; but after this, when he was in *Newgate*, a Letter was found directed to his Wife, in which he said, he met with good Company in *Newgate*, and hoped he had said nothing against *Mr. Harvey* which would prejudice him; and upon this, my Lord *Townshend* did not think him so sincere as he pretended to be at first. *Mr. Buckley* proves that Letter to be of his Hand-Writing. In it he desires his Wife to make herself easy, *They were all Tories that were there; he had good Company, and the Business will be at an End in a Fortnight.* What Business could he mean? Nothing but that about which the Correspondence was, and *God will assist us; I know nothing against Mr. Harvey, he is only suspected to be for the Affair, he was well known to be so before; and if all were here that are so, he believed three Parts of the Nation would be there.* So that he had a good Opinion of the Cause, and that it would be over in a Fortnight.

This

This Examination was also prov'd by Mr. Stanhope, who says, that the Letter of Mr. Harvey annexed to it, was produc'd at Council to Mr. Harvey; that he was in the utmost Confusion, chang'd Countenance, desired to withdraw, and to have liberty to speak to a certain Lord: My Lord Townshend, and Mr. Stanhope, both thought him in a good Disposition to discover, but that very Night he stabb'd himself. As to the Examination, he pretended he was not suffer'd to read it; but Mr. Stanhope says, that every thing of Consideration was repeated more than once or twice; and after the first Night's Examination, he represented himself to be in a miserable Condition, and thereupon my Lord Townshend did give him some Money, what it was he knows not; and this was after he had sign'd his Examination, and shew'd no Reluctancy to it; and says, that he would not have been denied to have read it, if he had desired it. This Examination being thus proved, it appears to have been taken as fairly and carefully in all respects, and with as much Kindness to the Prisoner as could be: Things were gone over and over again. It has been read, and there are some things in that explain this Correspondence, and tell you how it was begun and carried on.

It was begun by means of a Law-Suit that was recommended to him to manage here, and that brought on the Correspondence between him and the Abbot Butler: This begun a little before the Queen's Death, and it continu'd till within a few Days of the Prisoner's Examination. During that Correspondence he received several Letters from the Abbot, directed to Mr. Harvey, and several were conveyed to the Abbot from Mr. Harvey, which were sometimes brought by Mr. Harvey himself, and sometimes sent by other Hands. The Prisoner also explains the initial Letters and Numbers in Mr. Harvey's Letter, and then tells you, that he believes the Subject Matter of the Letters wrote to Mr. Harvey, by *Payen aliàs D'Aulmay*, was the Design of the Pretender to invade these Kingdoms; this he could not know unless he had been privy to the Design. If a Man is privy to a treasonable Design, and contributes to carrying it on, it is not then barely a Misprision: If he comes to the Knowledge of Treason, without being otherwise concern'd in it, and does not discover it to a Magistrate, this is Misprision of Treason; but if he assents to the Treason, or acts in carrying it on, it is High-Treason.

In the next Examination it is, that he shews what the Marks in Mr. Harvey's Letter signify: That 22 is the Duke *D'Aumont*, 6 the French King, 17 is the Word *Tory*, and believes that by 8 is to be understood the Pretender, and by 9 is to be understood his Majesty. There are some Marks that he don't know, but his knowing thus far the Signification of these Marks, shews that he was privy to the Design.

Mr. Harvey's Letter is annex'd to this Examination, and that has been read to you; there are some Things remarkable in that Letter, though a great part of it seems to be about some Money that he wanted to be paid him; yet at the end he says, *Press 22 to think of his Friends; it will be well for 6; all Things look well for 8, and in my heart, I think better than ever; 9, says he, Every Day loses himself, and for the 24000 that makes for 8 and 6, that is, for the Pretender and the French King.* He says, that opening the Cover the Let-

ter stuck to the Seal, and that was the reason that he kept it by him, and did not send it forward. If this Man had not been for carrying on the Design, it had been his Duty to have carried this Letter to the Secretary of State, he ought to have discover'd it to a Magistrate; but instead of that, he owns, that he has since written other Letters that have been read to you.

At the beginning of the Correspondence *D'Aulmay* desires to have some News, and *Francia* tells him, there was a Discourse of a Marriage in Forwardness between the Prince at *Lorraine* and the Arch-Dutchess. "Let me know, says he, what is in it, for it is for the Interest of your Wife, for he had married a Wife whose Name was *Butler*. *D'Aulmay* writes word again, As for the Marriage of the C——r *St. G——e*; but it is in Answer to the former Letter, and it is known that he was called by the Name of the Chevalier *St. George*; so that it must be the same Person. He says, there had been some talk of that Marriage, but no mention had been made of it lately, *I am of Opinion*, says he, *that it will not be a sure way to bring his Affairs to a happy Issue; a Party-War would be of more Advantage: Francia* writes again to *D'Aulmay*, and complains, that some Letters had not been answer'd, tho' entirely for the Affair. And what that Affair is, must be left to you to judge. *Besides*, says he, *I must tell you, that Persons of Fifty or Sixty Thousand Crowns a Year won't run the Hazard of losing such Estates unless more Encouragement is given them; you will be understood if you mention it to that Lord. And I must add, that the Misfortune of a certain Person is more owing to your Delays on the other Side the Water, than to the Party that is against him.* They would have you think, that by Persons of Fifty or Sixty Thousands Crowns a Year, was meant a Person in France, that had suffered by being concerned in the Revenues; but it is plain, it is meant of Persons here, that would not Hazard their Estates: And he adds, *You will be understood if you mention this to Duke D'Aumont.*

There are other Letters from the Prisoner; in one he tells *D'Aulmay*, He would advise them to satisfy Mr. Harvey, *I am persuaded to deal with him as has been done is no good Policy; and if ever I have the Honour to talk face to face with you, I will shew you clearly, how unhappily, through Negligences, very important Affairs have miscarried; this must be the Affair of the Pretender, and not of the Law-Suit: The Affair that concerned Mr. Harvey, for Mr. Harvey had nothing to do with the Law-Suit, but by his Letter shews himself to be concerned for what makes for 8 and 6, that is for the Pretender and French King.*

There is another Letter from *Francia*, wherein he writes, *What you tell me at the End of your Letter, of your having spoken in the manner I desir'd you, is sufficient, and consequently we are now to expect every Thing from your Side of the Water, that is to say, Explications, &c.* I must leave it to you to consider what he meant by that.

In another Letter he says, *I am order'd to tell you, on the part of Mr. Harvey, that you will do him a Pleasure in desiring the Duke D'Aumont, in his Name, to send hither some Persons to fetch the Horses and Dogs he has had so long, or else to send Orders to some Body to take them: Affairs are here in such a Situation, that great Precautions must be used to avoid giving Umbrage to those who are in Power. When I have any thing particular to*

write to you, I will do it by a strange Hand, and will sign Jacques Chrétien. Take Notice of this, and provided you let me know you received this Letter, without its having been opened, I shall be easy. There then began to be more Difficulty, and therefore the Correspondence must be carried on in that Name, and in a strange Hand.

In another Letter he writes, *Mr. Harvey gives his Service to you, and bid me tell you, when any thing new offers, if he cannot write himself, he will get J. C. to write for him.* That must be *Jacques Chrétien*.

Then there are other Letters from *D'Aulmay* to *Francia*, which were found in the Prisoner's Custody; and several of them import his having received Letters from *Francia*. In one of them *D'Aulmay* says, *You are in the right to inveigh against the Indolence you reproach us with; but be persuaded, 'tis only so in appearance. I even hope, that by this Time, you have convincing Proofs of it, and that suitable Returns are made to the good Dispositions of your side.* This grew near the Time of the Rebellion. This Letter was dated the 7th of August, and the Rebellion broke out in October: He goes on, *And that at last, God Blessing the just Cause of our Friend, will let him gain his Suit; at least, Assistance and powerful Solicitations shall not be wanting.*

There are other Letters which shew he knew the Design, and was privy to it; *Our Friend's Cause will soon be ready, God willing, to be tried.* That could not be the Law-Suit depending on this side the Water; for that Letter was wrote from France; and he says, *All Preparations are making for it. The Friend who is related to my Wife, that is, the Duke of Ormond, has read your two Letters, and is mightily pleas'd with them.* Which implies, that he had wrote Letters, tho' they are not entered in the Copy-Book.

Then he writes upon the 24th of August, under the Name of *Payen*; *I am very much astonish'd I did not hear from you by our Post which arriv'd Yesterday. Our Friend was at my House expecting it. We both of us desire you not to let one Post go without writing to us, and letting us know all that passes relating to the Cause of our common Friend.* That can't be the Cause of *Butler's* or *D'Aulmay's* Friend that was depending here. There are several other Letters which have been read to you, which mention both those Causes, and shew that he made a Distinction between them.

On the 14th of September, says *D'Aulmay*, *The Contents of your last without a Date were very agreeable to me, as well as to all our Friends, who give you Thanks for it, and have order'd me to tell you so, and to desire you to continue. We know already Part of what you tell us about the Cause of our Friend, which will soon end (please God) to his Satisfaction, or all Appearances would deceive us. As to my own Cause, I can't help telling you, that my Fate is very unhappy to have to do with so dishonest a Man.*

I think this is the Substance of most of the Letters that have been read to you, which relate to his Correspondence, in endeavouring to procure the Pretender to make an Invasion here.

Upon these Letters it has been observ'd, that the Cause of the Pretender is one, and the Cause of the Law-Suit is another; but in all these Letters there is plain Mention made of the Pretender; advising how to bring it on, and giving Intelligence about it. And these Letters being in the Prisoner's Custody, and written to him, and

having such Treason in them as is mentioned; and he keeping these Letters by him, is a great Evidence that he assented to the Transaction, and to the endeavouring to bring the Pretender over, and to contrive, as well as he could, to carry on the Affair. If he had receiv'd but one Letter, and did not design to promote the Cause, he should have carried it to the Secretary of State, and then he had done his Duty. But to receive so many Letters, and to keep them so long, is an Evidence that he assented to the Matter, and that he did write such Letters as are mentioned to be received from him.

On the Behalf of the Defendant, there was an Objection made by his Counsel, that the Defendant is an Alien born; and that is an Objection to the Indictment. He is indicted as a natural born Subject, and they have examined several Witnesses to prove him an Alien. The Proof is strong, and you will find him an Alien, and so that matter must be left specially for the Judgment of the Court, and you must find the other Fact: And if you believe that he did promote the Invasion, or conceal and assent to that Design, that is, a conspiring the Death of the King, then he will be guilty of the Treason charg'd in the Indictment.

It has been objected, that in one of the Letters, the Person who wrote those Letters complains, that he had not heard of the Prisoner in three Months; but that is a Mistake, for that was in a Postscript wrote by another Person, and in a different Hand; for the very same Letter shews, that there were Letters received from him within that Time.

They say, there is no direct Proof that he intended the Life of the King; but if he kept a Correspondence, and promoted the intended Invasion, that is in Law conspiring the Death of the King.

They have produced some People who have given an extraordinary sort of Evidence, of what *Mr. Buckley* and my Lord *Townshend* should say about this Matter, as if they promised him great Things, if he would swear against *Mr. Harvey*. *Simon Francia* said, that *Mr. Buckley* told him, if his Brother would swear against *Mr. Harvey*, he should have a good Reward; and that my Lord *Townshend* said, he had given him Five Guineas, and he should have more.

Lucy White said, that she was in *Newgate*, and *Francia* desir'd her to conceal her self when *Mr. Buckley* came: That *Mr. Buckley* told him, he must swear right or wrong for the Government; and if he did not swear against *Mr. Harvey*, *Mr. Buckley* would charge him with High-Treason, for he had cheated my Lord *Townshend* of his Money, and done nothing for it.

Mary Meggison swears, that *Mr. Buckley* should say, he would swear against him, because he had cheated my Lord *Townshend* of Five Guineas, and would not swear against *Mr. Harvey*.

Mr. Buckley was called again, and he denies it: He says there was no such Thing. And it seems improbable that a Man of his Credit should talk thus to the Prisoner; therefore the Credit of *Mr. Buckley* must be left to you, against the Credit of those two Women. He tells you that *Francia* sent to him, to desire to speak with him, not about *Mr. Harvey*, but on Behalf of one *Flint*, who is a Prisoner in *Newgate*, and was concern'd in writing the *Shift Shifted*; and

Francia

Francia sent a Message to Mr. *Buckley*, that he could do a Service in suppressing it. Mr. *Buckley* went to him, and he desired some Favour on Behalf of *Flint*, which was granted: And Mr. *Buckley* denies he had any Discourse with the Prisoner about Mr. *Harvey*.

Revell was called, and he proves, that *Francia* sent him to Mr. *Buckley*, to desire he might speak to him. That he order'd *Revell* to stand at the Door, and he did so, but did not hear what they said.

My Lord *Townshend* tells you, that Mr. *Buckley* gave him an Account, that *Francia* had sent to him, for the Purpose which he mentioned before: That my Lord ordered him to go: That he went accordingly, and he gave my Lord an Account what he had done about the Matter, and *Flint* had some Favour shewn him.

As to *Simon Francia*, my Lord says, he was several Times with him, but my Lord never propos'd any Reward for Swearing against Mr. *Harvey*; but told him, his Brother must deal openly, and tell all he knew, and that was the way to recommend himself to Favour.

As to the two Women, their Credit must be left in Opposition to my Lord *Townshend* and Mr. *Buckley*, which of them you will believe, for they deny what the others have sworn.

Then they call another Witness *Everall*, he tells you, that the Prisoner's Foreign Letters were brought to his House; that they lay in an open Window, and sometimes remained there some Days, and any Body might see them; and from thence they infer that they must be of no great Consequence? But how can you infer that? Who can tell by the Supercription of a Letter who it comes from, or what are the Contents of it; but these People can't say that these were all the Letters that were sent to him.

There is an Objection made to the Book; a Witness says, he has looked upon it, and that none of the Book seems to be of his Hand-writing; he says, *Francia* writes a fuller Hand. *Simon Francia* has look'd upon it, and says, not a Syllable is of his Writing; and others tell you, they believe it is not his Hand, and that he was three Months lame of a Rheumatism. As for that, it is not material whose Writing it is, if it contains the Copies of his Letters, and he has own'd before three Witnesses, That it is the Copy-book of his Letters.

Dr. *Cole* tells you he was ill, and thence they infer, that it is not probable that he should write Letters so constantly as he did. He tells you, that from the second of November 1714. to the

Eighteenth of the same Month, he was in pain in one of his Hands, but does not know which of them, nor whether he was able to write: But this was before this Correspondence by Letters that have been read to you began.

Then they call some Witnesses to his Reputation: One tells you, that in Discourse with him about the late Peace, he said, it would ruin the Nation; that sort of Evidence is of no Signification. Mr. *Slater* has known him four or five Years; there was a Commission of Bankruptcy against him, on which Occasion he became acquainted with him. He says, he always seem'd to espouse the Interest of the King of *France*, but he always laugh'd at our Parties among our selves. Those that were for the Interest of *France*, would of Consequence laugh at our Divisions.

Richardson says, that he us'd to go to the Prisoner often in his Sickness, and knows no harm of him: That *Francia* liked him, and call'd him *Vulcan*, and bid him drink King *George's* Health, and drank it himself.

This is the Substance of the Evidence that has been given on both Sides: Now, if you believe these Letters were wrote to him and by him, and that they contain a Correspondence of a treasonable Nature, inciting or encouraging any Persons to levy War against the King, or any thing which shews that he was privy and assenting to it, then he is guilty of High-Treason. If you don't believe those Letters were his, or that they don't amount to such a Correspondence, then you must acquit him.

If you find him Guilty, then you must also find that he was born in *France*, and is an Alien.

Then the Jury withdrew to consider of their Verdict; and when they return'd into Court, were called over, and answer'd to their Names.

Cl. of Arr. Gentlemen, are you all agreed on your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. Our Foreman.

Cl. of Arr. *Francis Francia*, Hold up thy Hand. Which he did.

Look upon the Prisoner, how say you? Is he Guilty of the High-Treason whereof he stands Indicted, or Not Guilty?

Foreman. Not Guilty.

Whereupon the Prisoner was discharged.



CLXXXVIII. *Proceedings against Robert Earl of Oxford, before the House of Lords, upon an Impeachment for High-Treason, and other High-Crimes, and Misdemeanours, June 24, 1717. 3 GEO. I.*

THE Earl of *Oxford* having been impeached by the House of Commons, and been confin'd near two Years in the *Tower*, without being brought to a Trial, presented a Petition to the House of Lords, setting forth his long Confinement, submitting his Case to their Lordships Consideration, and praying that his Imprisonment might not be indefinite.

Upon this Petition some of the Lords urged, That the Impeachment was *ipso facto* destroyed and determin'd, since he was not brought to Trial the same Session in which he was impeach'd, and that the Prorogation was an actual *Superseas* to the whole Proceedings; however, the Vote of the House pass'd to the contrary, and the Earl of *Nottingham*, who had insisted strenuously upon it, enter'd his Protestation against it.

This being over-ruled the Duke of *Buckingham* moved to appoint a short Day for the Earl's Trial, which after some Debates was fix'd for the 13th of *June*, and afterwards at the Desire of the House of Commons was deferr'd till *Monday* the 24th, on which Day the Lords came from their House at twelve o' the Clock in their Robes and went into the Court in *Westminster-Hall*, in their usual Order.

The Lords being seated in their Places, (and the Commons in a Committee of the whole House being in their Seats, and the Managers for the House being also in Places appointed for them;)

The House was resum'd.

Then Proclamation was made as follows, *viz.*

Serjeant at Arms. O Yes, O Yes, O Yes! Our Sovereign Lord the King doth strictly charge and command all Manner of Persons to keep Silence, on Pain of Imprisonment.

Then the Commission for appointing a Lord High-Steward was (after three Reverences made in coming up from the Clerk's Table) presented to the Lord High-Steward sitting upon the Woolfack, by the Clerk of the Crown in Chancery on his Knee; and the same being brought to the Table, Proclamation was again made for keeping Silence.

William Lord Cowper. *L. H. Steward.* My Lords, his Majesty's Commission is about to be read; your Lordships are desired to attend to it in the usual Manner, and all others are likewise to stand up uncovered while the Commission is reading.

Then the said Commission was read (all the Lords and others standing up uncovered) as follows.

GEORGIUS R.

Georgius, Dei Gratia, Magnæ Britanniae, Franciæ & Hiberniæ Rex, Fidei Defensor, &c. Prædilecto & Fideli Consiliario Nostro Willielmo Domino Cowper, Cancellario nostro Magnæ Britanniae, Salutem. Cum Robertus Comes de Oxon' & Comes Mortimer, coram Nobis in Parlamento per Milites, Civos & Burgenses in Parlamento nostro Assemblat' de alta Proditione & aliis Atrocissimis Criminibus & Offensis per ipsum Robertum Comitem Oxon' & Comitem Mortimer commiss' & perpetrat' in nomine ipsorum Militum Civium & Burgensium & nomine omnium Communium Regni nostri Magnæ Britanniae Impetit' & Accusat' existit. Nos Considerantes quod Justitia est Virtus Excellens & Altissimo Complacens, volentesq; quod prædictus Robertus Comes de Oxon' & Comes Mortimer de & pro proditione & aliis Criminibus & Offensis unde ipse ut præfertur Impeditus & Accusatus existit coram Nobis in præsentis Parlamento nostro, secundum Legem & Consuetudinem hujus Regni nostri Magnæ Britanniae, & secundum Consuetud. Parlamenti audiatur, examinetur, sententietur & adjudicetur, cæteraq; omnia quæ in hac parte debito modo exercentur & exequantur; ac pro eo quod Proceres & Magnates in præsentis Parlamento nostro Assemblat' Nobis humilime supplicaverunt ut Senescallum Magnæ Britanniae pro hac Vice Constituere dignaremur: Nos de Fidelitate, Prudentiâ, providâ Circumspectione & Industriâ Vestris plurimum Confidentes, Ordinavimus & Constituimus Vos ex hac Causa Senescallum Magnæ Britanniae ad Officium illud, cum omnibus eidem Officio in hac parte debit' & pertinen' hac vice Gerend' Occupand' & Exercent' & ideo vobis Mandamus quod circa præmissa diligenter Intendatis & omnia quæ in hac parte ad Officium Senescalli Magnæ Britanniae pertinent & requiruntur hac vice faciatis, exercentis & exequamini cum effectu. In cujus rei Testimonium has Litteras nostras fieri fecimus Patentes, Teste meipso apud West' Vicesimo Quarto Die Junii, Anno Regni nostri Tertio.

Per ipsum Regem propriâ Manu Signat'

Wrighte.

Then the Herald and Black-Rod, making three Reverences as they came up, presented, kneeling, the Staff to the Lord High-Steward; who thereupon standing up, made a Reverence to the Lords; and then, being attended by the Herald, Black-Rod, and Purse-Bearer carrying the Purse,

Purfe, proceeded to the Chair placed on the second Step of the Throne.

Who having again made a Reverence to the Lords, he seated himself in the said Chair, and gave the Staff to the Black-Rod on his Right-Hand, the Purfe-Bearer standing on his Left.

Serj. at Arms. O Yes, &c. (as before.)

Lord High-Steward. Make Proclamation for the Lieutenant of the *Tower of London* to bring the Prisoner to the Bar.

Serj. at Arms. O Yes, O Yes, O Yes! Lieutenant of the *Tower of London*, bring forth your Prisoner to the Bar, according to the Order of the House of Lords to you directed.

Then the Earl of *Oxford* came to the Bar, and kneeled for some time.

L. H. Steward. Your Lordship may rise.

Then the Earl of *Oxford* rose up.

Serj. at Arms. O Yes, &c. (as before.)

L. H. Steward. Clerk read the Articles of Impeachment.

The Clerk read the Articles, as followeth.

ARTICLES of Impeachment of *High-Treason, and other High Crimes and Misdemeanours, against Robert Earl of Oxford and Earl Mortimer.*

WHEREAS many solemn Treaties and Alliances have been formerly entred into between the Crown of *England*, and other Princes and Potentates of *Europe*, for their mutual Safety, and from the Considerations of the common Danger, which threaten'd all *Christendom*, from the immoderate Growth of the Power of *France*. And whereas the preventing the Monarchy of *Spain* from coming into the Hands of the House of *Bourbon*, has for many Years been a fundamental Principle and Maxim of Union among the Allies, in order to preserve a just Ballance of Power in *Europe*: And to that end, as the Designs of *France* on the Monarchy of *Spain* have from time to time appear'd, new Treaties and express Stipulations have been enter'd into amongst the Allies, to strengthen themselves against that approaching Danger: And, on this Foundation, a Treaty for an intended Partition, whereby a small Part only of the Dominions of the Crown of *Spain* was allotted to the House of *Bourbon*, was condemned by the Wisdom of Parliament, as being highly prejudicial, and fatal in its Consequences to *England*, and the Peace of *Europe*: And whereas the Duke of *Anjou*, Grandson to the King of *France* on the Demise of *Charles* the Second, King of *Spain*, took Possession of the entire Monarchy of *Spain*, whereby the Ballance of Power, the Protestant Religion, and the Liberties of *Europe* were threaten'd with immediate Danger; whereupon *Leopold*, then Emperor of *Germany*, his late Majesty King *William* the Third, of ever-glorious Memory, and the States-General of the *United Provinces*, finding at that most critical Juncture, that a strict Conjunction and Alliance between themselves was become necessary, for repelling the Greatness of the Common Danger, from so great an Accession of Power to the then common Enemy, did, in the Year of our Lord one Thousand Seven Hundred an One, make, form, and conclude a new Treaty and Alliance, whereby it was agreed, That there shall be and continue between the said Confederates, his sacred Imperial

Majesty, his sacred Royal Majesty of *Great Britain*, and the Lords the States-General of the *United-Provinces*, a constant, perpetual, and inviolable Friendship and Correspondence, and that each Party shall be obliged to promote the Advantages of the other, and prevent all Inconveniencies and Dangers that might happen to them, as far as lies in their Power: That the said Allies, desiring nothing more earnestly than the Peace and general Quiet of all *Europe*, have adjudged that nothing can be more effectual for the Establishment thereof, than the procuring an equitable and reasonable Satisfaction to his Imperial Majesty for his Pretension to the *Spanish* Succession, and that the King of *Great Britain* and the States-General may obtain a particular and sufficient Security for their Kingdoms, Provinces and Dominions, and for the Navigation and Commerce of their Subjects: That the said Confederates therefore shall, in the first Place, endeavour, by amicable Means, to obtain the said Satisfaction; but if, contrary to their Expectation and Wishes, the same is not had, the said Confederates do engage and promise to one another, that they will assist each other with all their Forces according to a Specification to be agreed upon in a peculiar Convention for that purpose: That the Confederates in order to the procuring the Satisfaction and Security aforesaid, shall, amongst other Things, use their utmost Endeavours to recover the Provinces of the *Spanish Low-Countries*, that they may be a Fence and Rampart, commonly called a Barrier, separating and dividing *France* from the *United Provinces*, for the Security of the States-General, as they have serv'd in all Times, 'till of late that the most Christian King has seiz'd them by his Forces; as likewise the Duchy of *Milan*, with its Dependencies, as a Fief of the Empire, and contributing to the Security of his Imperial Majesty's hereditary Dominions; besides the Kingdoms of *Naples* and *Sicily*, and the Lands and Islands upon the Coast of *Tuscany* in the *Mediterranean*, that belonged to the *Spanish* Dominions, and may serve to the same Purpose, and will also be of Advantage to the Navigation and Commerce of the Subjects of the King of *Great Britain*, and of the *United-Provinces*: That in Case the Confederates shall be forced to enter into a War, for obtaining the Satisfaction aforesaid for his Imperial Majesty, and the Security of his Majesty of *Great Britain*, and the States-General, they shall communicate their Designs to one another, as well in Relation to the Actions of the War, as all other Things wherein the common Cause is concerned: That it shall not be permitted to either Party, when the War is once begun, to treat of Peace with the Enemy, unless jointly, and by a Communication of Counsels; and no Peace shall be made, unless an equitable and reasonable Satisfaction for his Imperial Majesty and the particular Security of the Kingdoms, Provinces, Dominions, Navigations and Commerce for his Majesty of *Great Britain*, and the States-General, be first obtained; and unless Care be taken, by fitting Security, that the Kingdoms of *France* and *Spain* shall never come and be united under the same Government, nor that one and the same Person shall be King of both Kingdoms; and particularly that the *French* shall never get into the Possession of the *Spanish Indies*, neither shall they be permitted to sail thither on the Account of Traffick, directly or indi-

indirectly, or any Pretence whatsoever; And lastly, unless full Liberty be granted unto the Subjects of the King of *Great Britain*, and the States-General, to exercise and enjoy all the same Privileges, Rights, Immunities, and Franchises of Commerce by Sea and Land in *Spain*, the *Mediterranean*, and all Lands and Places which the King of *Spain* last deceased did possess at the Time of his Death, as well in *Europe* as elsewhere, which they used and enjoyed, or which the Subjects of both, or either of them, by any Right acquired by Treaties Agreements, Customs, or any other Way whatsoever, might have used and enjoyed before the Death of the late King of *Spain*: That at the said Time that the said Agreement or Peace shall be made, the Confederates shall agree amongst themselves about all the Things that they shall think necessary for maintaining the Navigation and Commerce of the Subjects of his Majesty of *Great Britain*, and the States-General, in the Lands and Dominions they may acquire, and that were possessed by the late deceased King of *Spain*, and also in what manner the States-General may be secured by the aforesaid Fence or Barrier. And whereas his said late Majesty King *William*, and the States-General, seriously considering, that *France* was then become so formidable from the Accession of *Spain* to the Duke of *Anjou*, that, in the Opinion of all the World, *Europe* was in Danger of losing her Liberty, and undergoing the heavy Yoke of Universal Monarchy, and that the surest Means of effecting that Design, were to divide the King of *Great Britain* from the States-General, for which Purpose all imaginable Efforts would be made; they therefore thought it necessary to unite in the strictest Manner that was possible, and to that End a Defensive Treaty and Alliance was concluded and entered into between them, in or about the Month of *November*, One Thousand Seven Hundred and One, wherein it was among other Things, agreed, That in case the said High Allies should be jointly engaged in War, by Reason of this Defensive Alliance before-mentioned in the fifth Article, or on any other Account, there shall be an Offensive, and Defensive, and perpetual Alliance between them, against those with whom the War shall be, and all their Forces shall be employed by Sea and Land, and they shall act in conjunction or separately, as it shall be agreed between them. That since, in the Alliance with the Emperor made in *September* last, particular Care was taken of the Recovery of the *Spanish Low-Countries*, out of the Hands of the most Christian King, the said Confederates expressly engage to aid one another with all their Forces for the Recovery of the same. And in regard the principal Interest of the said Confederates consists in the Preservation of the Liberties of *Europe*, the before-mentioned Treaty with the Emperor shall be faithfully and sincerely executed, and both Sides shall guaranty the same, and use their Endeavours to confirm and render it more strong from Time to Time: That in making Peace, particular Care shall be taken of the Commerce and Traffick of both Nations, as also for their Security, as well in regard to the *Low-Countries*, as the Countries adjacent: That when the War is begun, the Confederates shall act in concert, according to the seventh and eighth Articles of the Treaty of the Third of *March*, in the Year of our Lord One Thousand Six Hun-

dred Seventy Seven-Eight, between *England* and *Holland*, which is hereby renewed and confirmed; and no Peace, nor Truce, or Suspension of Arms, shall be negotiated or made, but according to the ninth and tenth Articles of that Treaty; by which it was agreed, that when the two Allies come once to an open War, it shall be lawful for neither of them afterwards to come to any Cessation of Arms with him who shall be declar'd and proclaim'd an Enemy, without it be done conjointly, and with common Consent: That no Negotiation of Peace shall be set on Foot by one of the Allies, without the Concurrence of the other: That each Ally shall continually, and from Time to Time, impart to the other every thing that passes in the said Negotiation, and shall stipulate with the common Enemy for the same Rights, Immunities, Exemptions and Prerogatives for his Ally, as he does for himself, if so be the said Allies do not agree to the contrary. And whereas the *French* King having got Possession of a great Part of the *Spanish* Dominions, exercised an absolute Authority over that Monarchy, having seized *Milan* and the *Spanish Low-Countries* by his Armies, and made himself Master of *Cadix*, of the Entrance into the *Mediterranean*, and of the Ports of the *Spanish West-Indies* by his Fleets, every where designing to invade the Liberties of *Europe*, and to obstruct the Freedom of Navigation and Commerce; and instead of giving the Satisfaction that ought justly to be expected, had proceeded to further Violences, and had taken on him to declare the pretended Prince of *Wales* King of *England*, *Scotland*, and *Ireland*, and had also influenced *Spain* to concur in the same Affront; her late Majesty Queen *Anne* taking notice, that she found herself obliged, for maintaining the Public Faith, or vindicating the Honour of the Crown, and to prevent the Mischiefs which all *Europe* was threaten'd with, to declare War against *France* and *Spain*; did according, in the Month of *May*, One Thousand Seven Hundred and Two, in the most public and solemn Manner, declare War against *France* and *Spain*; and in the said Declaration, placing her entire Confidence in the Help of Almighty God, in so just and necessary an Undertaking, declared, That she would, in conjunction with her Allies, vigorously prosecute the same both by Sea and Land, being assured of the ready Concurrence of her Subjects, in a Cause they had so openly and heartily espoused. And his Imperial Majesty and their High Mightinesses, pursuant to the Treaties afore-mentioned respectively, in or about the said Month of *May*, One Thousand Seven Hundred and Two, did likewise declare War against *France* and *Spain*. And whereas the Kings of *Portugal* and *Prussia*, the Electors of *Hanover*, *Saxony*, *Treves*, *Mentz*, Palatine of the *Rhine*, the Duke of *Savoy*, the Prince of *Hesse*, the Dukes of *Wolfenbottle*, *Mecklenburg*, and *Wirtemberg*, the Circles of *Suabia* and *Franconia*, and of the *Upper Rhine*, the Bishops of *Munster* and *Constance*, and other Princes and Powers, being invited by the said Grand Alliance, and relying on the Faith thereof, did afterwards become Parties to the said Confederate War against *France* and *Spain*; and in the Treaty entered into in or about the Month of *May*, One Thousand Seven Hundred and Three, between his Imperial Majesty, the Queen of *Great-Britain*, the States-General, and the King of *Portugal*, it is amongst other things, expressly stipulated, that

no Peace nor Truce shall be made, but by the mutual Consent of all the Confederates; nor shall any at any time be made, while the second Grandson of the most Christian King by the Dauphin, or any other Prince of the Line of *France* continues in *Spain*, nor unless the Crown of *Portugal* shall fully possess and enjoy all the Lands, Kingdoms, Isles, Castles, Cities, Towns, &c. with their Territories and Dependencies in *Spain*, or elsewhere, which it now possesses. And in the Treaty of *Nordlingen*, ratify'd by her late Majesty, it is, amongst other things, expressly agreed, that it shall not be allow'd to make particular Treaties, but the Peace shall be jointly treated of, and shall not be included without obtaining, as far as is possible, the Re-union of the Lands belonging to the Circles, and until at least the Security of the associated Circles be absolutely provided for, in the best manner that is possible, and better than it has formerly been. And whereas to give the greatest Strength that was possible to the Union, so necessary to both Nations, her late Majesty and the States by a Treaty in the Month of *June*, One Thousand Seven Hundred and Three, renewed and confirmed all Treaties and Alliances then subsisting between them; and therein it is, amongst other things, expressly and particularly stipulated, that as the said most serene Queen, and the Lords the States-General are now in War with *France* and *Spain*, and are reciprocally bound to assist each other, and mutually to defend, maintain, and preserve their Countries and Subjects in their Possessions, Immunities, and Liberties, as well of Navigation and Commerce, as other Rights whatsoever by Sea and Land, against and in Opposition to all Kings, Princes, and States, and particularly against *France* and *Spain*, to the end a just and reasonable Peace may the better be obtained, that may establish the Repose and Tranquillity of *Europe*, it is agreed between the most Serene Queen of *Great Britain*, and the said Lords the States-General, that neither of the said Allies shall make a Suspension of Arms, or a Peace with *France* or *Spain*, or any other King, Prince, or State, who shall molest or attac either of the said Allies, but in Conjunction and by common Consent. And whereas the said War was for several Years carry'd on with Vigour and Unanimity by her Majesty and her Allies, at a vast Expence both of Blood and Treasure; for the Support of which, on the Part of *England*, many Millions have been granted by Parliament, who, on many Occasions since, continued not only to express their Sense of the Justice and Necessity of the War, but did frequently give their humble Advice to the Throne, that no Peace could be Safe, Honourable, or Lasting, so long as the Kingdom of *Spain* and the *West-Indies* continued in the Possession of any Branch of the House of *Bourbon*. And whereas it pleased Almighty God to grant to the Confederate Arms, under the Command of their Great and Victorious General the Duke of *Marlborough*, such unparallel'd Successes as exceeded even their own Hopes and the Fears of the Enemy; and by the many signal Victories of *Schellenberg*, *Hochstet*, *Audenarde*, and *Ramellies*, as well as by the Conquests of the Electorates of *Bavaria* and *Cologne*, and the Reduction of the *Spanish Netherlands*, and many other great Advantages both by Sea and Land; and by the Wisdom and Unanimity of their Counsels, the Glory of the Confe-

derate Arms, and the Reputation of *Great Britain* in particular, was rais'd to an higher Pitch than in any former Age. And whereas her late Majesty, in Conjunction with her Allies, wisely foreseeing, that whenever the Enemy should be brought to make Overtures of Peace, the surest way to put an End to the War, and prevent *France* from putting in Practice her usual Intrigues, was, by previously insisting on such Conditions from *France*, that nothing might remain to be done in a General Assembly, but to give them the Form of a Treaty; and for these Reasons, a Preliminary Treaty was concluded on, and was afterwards sign'd by the Plenipotentiaries of his Imperial Majesty, of her late Majesty the Queen of *Great Britain*, and of the Lords the States-General of the United Provinces, and afterwards ratified by their Principals; wherein the Interests of the several Allies were adjusted, in order to a General Treaty of Peace with *France*: and therein the Restitution of the *Spanish* Monarchy to the House of *Austria*, being one of the chief Causes for carrying on the War, is laid down as an immutable Foundation among the Allies. And whereas in the Year of our Lord One Thousand Seven Hundred and Nine, the King of *France* having first signify'd his Consent to the Restitution of the *Spanish* Monarchy to the House of *Austria*, sent his Ministers to the *Hague* to treat with the Ministers of the Principal Allies on a General Peace; and in the Conferences held thereupon, the Interests of all the Allies, as adjusted in the said Preliminaries, were positively and expressly agreed to by the Ministers of *France*, and particularly that of the Restitution of the entire *Spanish* Monarchy to the House of *Austria*; and the said Negotiation was afterwards broke, on no other Dispute but on the thirty seventh Article of the Preliminary Treaty, concerning the Time and Manner of evacuating *Spain*. And whereas the Conferences being resumed at *Gertruydenberg*, in the Year of our Lord One Thousand Seven Hundred and Ten, the said thirty seventh Article became the only Subject of the Negotiation which was there set on foot, for the finding out some equivalent by which the same Security might be given to the Allies, as they had by the thirty seventh Article of the said Preliminaries; and tho' it was unquestionable, that before any Negotiation was begun, that while the Preliminaries were treating, that by those Preliminaries themselves, that before the last Negotiation was resumed, and all the while it lasted, the Restitution of *Spain* and the *Indies* was laid down as a firm and immoveable Foundation of the Negotiation, and no Question remain'd concerning it with the Ministers of the Allies or those of *France*, but touching the Security for its Execution: And tho' all reasonable and prudent Overtures were made by the Allies for settling an Equivalent, yet the Conferences were broke off by *France* without any Satisfaction therein. And whereas the sincere Intentions of all the Allies to have settled the Peace of *Europe* on solid and equitable Foundations were notorious and incontestable, and the Rupture of the said Negotiations could only be imputed to the Enemy; her sacred Majesty, in Conjunction with her Allies, renew'd their Resolutions to continue and push the War with Vigour, and to make all possible Efforts, as the only Means left to force a good and general Peace. And her Majesty in her Speech from the Throne on the Fifteenth of

November, One Thousand Seven Hundred and Nine, taking notice of the Endeavours of the Enemy during the said Negotiations, to amuse and create Jealousies among the Allies, declared her Resentment thereat, and earnestly recommended the carrying on the War, and a vigorous Prosecution of the Advantages obtained, that she might put the last Hand to that great Work of reducing the exorbitant and oppressive Power which had so long threaten'd the Liberties of *Europe*. And it having pleas'd Almighty God, after the said Preliminary Treaty, to bless the Confederate Army, under the Command of their consummate General the Duke of *Marlborough*, with new and signal Conquests, the Reduction of *Tournay*, the Victory of *Tafnières*, the taking of *Mons* and *Doway*, *Bethune*, *St. Venant* and *Aire*, and the Penetrating the Lines near the *Scarpe*. And whereas, from the prosperous Condition of the Affairs of the Allies, and the Wisdom, Firmness, and Unanimity of their Counsels, nothing remained, in all human Appearance, but that they should reap the Fruits of all their Victories in a speedy, just, honourable and lasting Peace; and on the other hand, nothing was left to raise the Hopes of the Enemy, whereby to defeat that happy Prospect, but the Success of their secret Endeavours to disunite the Confederacy. And whereas *Robert Earl of Oxford* and *Earl Mortimer*, with other evil-minded Persons, Enemies to the true Interests of their own Country, as well as to the common Liberties and Welfare of *Europe*, having by many wicked Arts and base Insinuations obtain'd Access to her late Majesty *Queen Anne*, and in or about the Months of *July* or *August* One Thousand Seven Hundred and Ten, being admitted into her Councils, and into Places of the highest Trust, and to make way for their wicked Enterprizes, did, by their evil Council and Advice, prevail on her Majesty to dissolve a Parliament which had given the most unquestionable Proofs of their great Wisdom, and of their true Zeal for the common Cause; for which, as well as for the many Marks of Duty and Affection given to her, her Majesty return'd her hearty Thanks, and express'd her great Satisfaction. And whereas the said *Robert Earl of Oxford* and *Earl Mortimer*, and others his Accomplices, had formed a treacherous Correspondence with the Emissaries of *France*, by means whereof certain Propositions were transmitted from *France* to *England*, sign'd by *Monsieur de Torcy*, Secretary of the King of *France*, in the Month of *April* One Thousand Seven Hundred and Eleven, to be the Basis of a Treaty of a General Peace; which Propositions, tho' her Majesty was prevail'd on by the false Counsels of the said *Robert Earl of Oxford* and *Earl Mortimer*, and others, to receive as a sufficient Foundation of a Treaty of a General Peace, and as such to communicate them to the Grand Pensionary and the Ministers of *Holland*, her Majesty however was graciously pleas'd at the same time to declare to them her Pleasure by her Secretary of State, that being resolv'd, in making Peace as in making War, to act in perfect Concert with the States, she would not lose a Moment in transmitting a Paper of that Importance; and that tho' the Propositions were general, and contain'd an Air of Complaisance to her Majesty, and the contrary towards the States; yet that could have no ill Consequences, as long as her Majesty and the States understood one another, and acted with as little Reserve as became two Powers so nearly

ally'd in Interest; and that the Pensionary should be assured, that that Rule should be inviolably kept on her Part. Which gracious Declaration of her Majesty, as well as the said Propositions, being maturely consider'd by the Grand Pensionary and the Ministers of *Holland*, an Answer was return'd from them to her Majesty, full of Duty and Thankfulness for the obliging manner in which she was pleas'd to communicate the said Propositions, and with the utmost Assurances of mutual Confidence, so necessary to prevent the Designs of the Enemy; but more particularly that the States desired, equally with *Great Britain*, to have a general, definitive, and lasting Peace, and declar'd that they were ready to join in all the most proper Measures to procure it; that the Propositions were yet too general, and that the States desire, as *Great Britain* did, that *France* would explain herself more particularly upon the Points therein contain'd, and impart a Plan which she thinks the most proper to secure the Interest of the Allies, and settle the Repose of *Europe*, after which a more particular Negotiation might be enter'd into. Notwithstanding all which Premises,

ARTICLE I.

He the said *Robert Earl of Oxford* and *Earl Mortimer*, having no Regard to the Honour or Safety of her late Majesty or her Kingdoms, or to the many solemn Engagements she was then under to the old and faithful Allies of this Nation, or to the common Liberties of *Europe*; but, being devoted to the Interest and Service of the *French King*, the common Enemy; and being then Lord High-Treasurer of *Great Britain*, and one of her Majesty's most Honourable Privy Council, contrary to his Oath, and in Violation of his Duty and Trust, and in Defiance of the Tenour of the several Treaties afore-mention'd, or some of them, as well as of the frequent Advices of Parliament, and the many Declarations of her Majesty from the Throne; but more particularly in Defiance of the solemn and mutual Assurances which had been so lately renew'd between her Majesty and the States, to act in perfect Concert with them in making Peace as in making War, did on or about the Months of *July* or *August* in the Year of our Lord One Thousand Seven Hundred and Eleven, maliciously and wickedly form a most treacherous and pernicious Contrivance and Confederacy with other evil-dispos'd Persons, then also of her Majesty's Privy-Council, to set on Foot a private, separate, dishonourable, and destructive Negotiation of Peace between *Great Britain* and *France*, without any Communication thereof to her Majesty's Allies, according to their several Treaties; and was not only wanting in his Duty and Trust to her Majesty, by not opposing, and, as far as was in his Power, by not advising her Majesty against going into any private separate Negotiation with *France*; but in Execution of his Purposes afore-said, he the said *Robert Earl of Oxford* and *Earl Mortimer* did advise her late Majesty to send *Matthew Prior*, Esq; directly to the Court of *France*, to make Propositions of Peace, without communicating the same to her Majesty's Allies. And accordingly the said *Matthew Prior*, by the Advice and with the Privy of him the said *Earl of Oxford* and *Earl Mortimer*, and other false and evil Counsellors, in or about the Months of *July* or *August*, in the Year of

of our Lord One Thousand Seven Hundred and Eleven, was sent in a clandestine manner from *England* to *France*, and did communicate the said Propositions of Peace to the Ministers of *France*, in which the particular Interests of *Great Britain*, as well as the common Interest of *Europe*, were shamefully betray'd: And in Manifestation of his said Design to exclude her Majesty's Allies from their just Share in the said Negotiation, an express Article was inserted in the said Propositions, by the Privity and Advice of him the said *Robert Earl of Oxford* and *Earl Mortimer*, that the Secret should be inviolably kept till allow'd to be divulged by the mutual Consent of both Parties; although the *French King* had in the Propositions signed by *Monsieur de Torcy*, and transmitted in the Month of *April* preceding, offer'd to treat with the Plenipotentiaries of *England* and *Holland* alone, or jointly with those of the Allies, at the Choice of *England*. By which treacherous and dangerous Advice he the said *Robert Earl of Oxford* and *Earl Mortimer* did not only contrive and set on Foot a Negotiation of Peace more advantageous to *France* than even *France* it self had ask'd; but thereby did put it into the Power of the common Enemy to create incurable Jealousies and Discords between her Majesty and her faithful Allies, and to destroy that Confidence which had so long and so successfully been cultivated between them, and which was so necessary for their common Safety.

ARTICLE II.

That the *French King* laying hold of the said treacherous Overture, set on foot in manner aforesaid, did in or about the Months of *August* or *September*, in the Year of our Lord One Thousand Seven Hundred and Eleven, send over *Monsieur Mesnager* into *England* to carry on a clandestine and separate Negotiation of Peace; which being made known to him the said *Robert Earl of Oxford* and *Earl Mortimer*, he did afterwards in the said Month of *September* One Thousand Seven Hundred and Eleven, secretly and unlawfully, without any Colour of Authority, meet, confer, and treat with the said *Sieur Mesnager* on the Negotiations of Peace between *Great Britain* and *France*; and therein he did advise and promote the making a private and separate Treaty or Agreement between the said Crowns; which said Treaty or Agreement was afterwards, with the Privity, Consent, and Advice of him the said *Robert Earl of Oxford* and *Earl Mortimer*, agreed, concluded on, and sign'd by the said *Sieur Mesnager* on the part of *France*, and by the *Earl of Dartmouth* and *Henry St. John*, Esq; two of her Majesty's principal Secretaries of State, in behalf of her late Majesty, by virtue only of her Majesty's Sign Manual under the Signet, and without the least Knowledge or Participation of the Allies. In which Treaty the immediate Interests even of *Great Britain* are given up to *France*, and the *Duke of Anjou* is admitted to be King of *Spain*; an express Stipulation being therein made with the *Sieur Mesnager* in the Name, and (as is therein alledged) pursuant to Powers from King *Philip* as King of *Spain*: Whereby he the said *Robert Earl of Oxford* and *Earl Mortimer* did not only assume to himself Regal Power, in taking upon him to meet and treat with the Enemy without any Authority or Powers from her Majesty; but did what in him lay to subvert the ancient and establish'd Consti-

tution of the Government of these Kingdoms; by introducing illegal and dangerous Methods of transacting the most important Affairs of the State; and by which private and separate Treaty, he the said *Robert Earl of Oxford* and *Earl Mortimer* did, what in him lay to dissolve and cancel the many solemn Treaties her Majesty then stood engaged in to her good and ancient Allies, and whereby her Majesty, even before any thing was finally settled for the Safety or Advantage of her Kingdoms, was brought to this fatal Dilemma; either to submit to the Dictates of *France* in the Progress of the said Negotiation, or, so notorious a Breach of National Faith being divulged by the Enemy, from thence to lose all future Confidence of her good Allies.

ARTICLE III.

That the said *Robert Earl of Oxford* and *Earl Mortimer*, the better to disguise and carry on the aforesaid private, separate, and dangerous Negotiation, did, together with other evil-dispos'd Persons, then in high Trust under her Majesty, contrive and advise the preparing and forming a Set of General Preliminaries, intituled, *Preliminary Articles on the Part of France, to come to a General Peace*; and that the same should be sign'd by the *Sieur Mesnager* only. And the same being so prepar'd and sign'd by the said *Sieur Mesnager*, he the said *Robert Earl of Oxford* and *Earl Mortimer* did, contrary to his Duty and Trust, impiously advise her Sacred Majesty that the same should be, and accordingly they were receiv'd by her Majesty, and communicated to the Ministers of the Allies then residing in *England*, as the Ground of a General Negotiation of Peace; and as if the same were the only Transactions that had been on this Subject between *Great Britain* and *France*. And to this end, the private Treaty, sign'd as aforesaid by the *Earl of Dartmouth* and *Mr. St. John* on the part of *England*, and by the said *Sieur Mesnager* on the part of *France*, was by the evil Advice and Contrivance of him the said *Robert Earl of Oxford* and *Earl Mortimer*, and others, wilfully and industriously conceal'd not only from all the Allies, but even from her Majesty's Council and her Parliament. And he did further advise her Majesty not only to accept the said General Preliminaries, but in her Name and by her Authority to communicate the same to the States-General, as a sufficient Foundation whereupon to open the Conferences of Peace with *France*. And the more effectually to cover from the States-General the pernicious Steps which his evil Influence had engag'd her Majesty in with the common Enemy; certain Instructions were prepar'd, and, by his Counsel and Advice, were sign'd by her Majesty, and delivered to the *Earl of Strafford*, her Ambassador to the States-General: wherein the said *Earl of Strafford* is directed to represent to the Pensionary of *Holland*, and to such others as shall be appointed to confer with him, that when her Majesty had receiv'd in *May* last, by his Excellency's Dispatches, an Account of the Sense which those among them, who were at that time in the Secret, had of the Overtures made by *France* for setting a general Negotiation of Peace again on Foot, and of the Answer which it was desir'd might be return'd to the Propositions signed by *Monsieur de Torcy*; her Majesty did immediately acquaint the Enemy, that their Offers were thought

by her and by the States-General neither particular nor full enough; and therefore that her Majesty did insist, that they should form a distinct Project of such a Peace as they were willing to conclude. Whereas no such Instances had been made to the Enemy on her Majesty's Behalf; but on the contrary, notwithstanding her Majesty had declar'd that the Propositions of Monsieur *de Torcy* were thought by her and the States-General neither particular nor full enough, yet without any further Explication from the Enemy, her Majesty was prevail'd on, in manner aforesaid, to send over Propositions to *France* as general and ensnaring, and in all respects as destructive to the Interests of *Great Britain* and her Allies, as the Propositions of Monsieur *de Torcy*. And the said General Preliminaries, communicated to the States in manner aforesaid, were calculated only to amuse and deceive them into a General Negotiation with *France*. And in the Particulars aforesaid, as well as in the several others, the said Instructions contain'd Matters either false or grossly prevaricating and evasive. By which most wicked Counsels of him the said *Robert Earl of Oxford* and *Earl of Mortimer*, that unquestionable Truth and Sacredness which by the Laws of Nations ought to accompany and constitute the Instructions of Public Ambassadors to Princes in Friendship and Confederacy against the common Enemy, was most vilely prostituted to the most dangerous Purposes, to deceive and mislead her Majesty's good Allies, in Matters of the greatest Importance to their own Interests and the Interests of these Kingdoms; the Honour of her Majesty's sacred Person, and of the Imperial Crown of these Realms, which had been raised to the highest Pitch of Glory abroad, and had been justly held in Veneration with her good Allies, was scandalously debased and betrayed; and the Royal Hand, by the wicked Arts of him the said *Robert Earl of Oxford* and *Earl of Mortimer*, was made the Instrument to advance the Interest of the common Enemy.

ARTICLE IV.

That whereas the *Earl of Strafford*, pursuant to the said Instructions, had communicated the Preliminaries signed by Monsieur *Mesnager* only to the States-General, who being justly alarmed at the pressing Instances made on the part of her Majesty, that Conferences should be opened on Propositions as general and uncertain as those so lately offer'd by *France*, and signed by Monsieur *de Torcy*; and their High Mightinesses having been unsuccessful in their Remonstrances to the *Earl of Strafford* against opening the Conferences upon the said Propositions, did send over Monsieur *Buys* their Ambassador to represent to her Majesty, as well the Hazard of meeting the Ministers of *France* before the essential Articles were first settled by special Preliminaries, or at least explained by *France*, and made specific; as likewise the Advantages to the Enemy, who being but one Body, were influenced by one Council, and directed by one Power; whereas the Confederates consisted of several Powers, whose Interests are not only distinct, but in many Cases contrary to each other, whereby the *French* would have a fair Opportunity to divide the Allies, when it would be impossible for them to break in upon *France*; and further to represent, that the Propositions themselves were in some Instances very pre-

judicial, particularly in the Articles of Commerce, *Dunkirk*, and the Union of the Crowns of *France* and *Spain*. All which Representations of the said Monsieur *Buys*, by the evil Influence of him the said *Robert Earl of Oxford* and *Earl of Mortimer*, and others, were render'd ineffectual: but in order to prevail upon the States-General to open the Conferences upon the said general Preliminaries, by the Management and Contrivance of him the said *Robert Earl of Oxford* and *Earl of Mortimer*, and others, an Occasion was taken to declare to Monsieur *Buys*, at a Committee of Council in her Majesty's Name, her constant Affection and good Disposition to their State, and to the promoting their Interest, and to treat with their High-Mightinesses with a perfect Confidence and Harmony: And at the same time he the said *Robert Earl of Oxford* and *Earl of Mortimer* did then falsely and maliciously declare, or was privy to advising and consenting, that it should be, and so it was declared, in her Majesty's Name, that she had made no separate Treaty with *France*, nor would ever make any before she had fully complied with all Engagements to her Allies, and that each of them should have Opportunity to make good their Pretensions.

By which false, scandalous, and dishonourable Assurances, he the said *Robert Earl of Oxford* and *Earl of Mortimer* did not only highly dishonour her Majesty, by whose Privy the said separate Treaty with *France* had been before that Time concluded and signed; but their High Mightinesses, the good Friends and antient Allies of her Majesty, were grossly abused, and thereby induced to enter into a Negotiation with *France*, so dangerous in itself, and so fatal in its Consequences.

ARTICLE V.

That her sacred Majesty Queen *Anne* having in due Form of Law, and under her Great Seal, constituted the Right Reverend *John Lord Bishop of Bristol*, and the *Earl of Strafford*, her Plenipotentiaries, with full Powers to meet, treat, and conclude with the Plenipotentiaries of the Confederates, and those whom the *French King* shall on his part depute for that purpose, the Conditions of a good and general Peace, that shall be safe, honourable, and as far as is possible, agreeable to the reasonable Demands of all Parties; he the said *Robert Earl of Oxford* and *Earl of Mortimer* not contenting himself to abuse the Royal Authority, to the Delusion of the States-General, the nearest Allies of the Queen, but intending the Universal Prejudice of his Imperial Majesty, and all the Allies of these Kingdoms; and thereby the more successfully to carry on the Measures of *France*, wherein he was then engaged, contrived and prepared Instructions, or was privy to consenting and advising the same, for her Majesty's said Plenipotentiaries, which she was prevailed upon by the said *Robert Earl of Oxford* and *Earl of Mortimer's* evil Counsel to sign, and the same were delivered to the said Plenipotentiaries; wherein among other Things they are instructed to the Effect following, *viz.* If it shall be thought proper to begin by the Disposition of the *Spanish Monarchy*, you are to insist that the Security and reasonable Satisfaction which the Allies expect, and which his most Christian Majesty has promised, cannot be obtained, if *Spain* and the *West-Indies* be allotted to any Branch of the House of *Bourbon*: Whereas the said *Robert Earl of Oxford* and

and Earl *Mortimer* had at that Time privately and treacherously negotiated and agreed with the Ministers of *France*, that *Spain* and the *West-Indies* should remain in a Branch of the House of *Bourbon*; and had prevailed on her sacred Majesty to be Party to the said private Treaty, wherein the same is necessarily implied. And the said Plenipotentiaries are further instructed, in case the Enemy should object, as the Imperial Ministers had done, that the second Article of the seven signed by the *Sieur Mefnager* implies, that the Duke of *Anjou* shall continue on the Throne of *Spain*; you are to insist, that those Articles, as far as they extend, are indeed binding to *France*, but that they lay neither us nor our Allies under any positive Obligation; whereby the said *Robert Earl of Oxford* and *Earl Mortimer* basely entered into a Confederacy and Collusion even with the Ministers of the Enemy, and prevailed on her Majesty to give her Royal Consent thereto, the more effectually to impose on his Imperial Majesty and all the Allies, and to conceal the said secret Negotiations, and the separate Treaty that had then been agreed on between *Great Britain* and *France*. And the said *Robert Earl of Oxford* and *Earl Mortimer*, not only in the Particulars before-mentioned, but in many others contained in the said Instructions, has brought a lasting Reproach on the Crown of these Realms, and grossly violated the many Treaties wherein her sacred Majesty was then engaged to her Allies, to act in perfect Concert with them throughout the Negotiations of Peace.

ARTICLE VI.

That the Conferences of Peace being opened between the Plenipotentiaries of the Allies, and those of the Enemy, for the negotiating a general Peace upon the mutual and most solemn Engagements amongst the Allies, not only to act in perfect Confidence with each other, but to promote their common Interest, and to obtain from the Enemy all just and reasonable Satisfaction; and a specific Explanation of the General Preliminaries having been given by the Enemy at *Utrecht*, whereon the Allies delivered their respective Demands; by the Artifices of *France*, and the secret Encouragement and Concurrence of the Ministers of *Great Britain*, the progress of the said public Negotiation was delayed and kept in suspense, under Pretence of the Enemy's refusing to give their Answer in Writing: During which Time, he the said *Robert Earl of Oxford* and *Earl Mortimer* again assuming to himself Regal Power in Derogation of the Royal Authority, to treat of Peace with *France*, which was then delegated under the Great Seal of *Great Britain* to her Majesty's Plenipotentiaries at *Utrecht*, and for the promoting the Designs of the Enemy to the apparent Destruction of the common Cause of her Majesty and her Allies, contrary to the known Laws and Constitution of this Kingdom, in direct Violation of the several Alliances her Majesty then stood engaged in, and in Opposition to the many Assurances given by her Majesty to act in Concert with her Allies, and in Defiance of the express Instructions given to her said Plenipotentiaries, was not only wanting in his Duty to her Majesty, as far as in him lay to have put an end to, and prevented any further private and unlawful Negotiations with *France*, but did, with others his Accomplices, advise, concur, con-

tinue, and promote a private, separate, and unjustifiable Negotiation of Peace with *France*, directly from *England* to *France*, without any Communication thereof to the Allies; and in such private Negotiations did concert with the Ministers of the Enemy Terms of Peace highly prejudicial to the Interest of her Majesty and her Kingdoms, and of all her Allies, and whereby the good Effects of the said General Negotiations were entirely defeated.

ARTICLE VII.

That her sacred Majesty *Queen Anne* having been prevailed on by the false Counsels of him the said *Robert Earl of Oxford* and *Earl Mortimer* to accept of a Treaty with *France*, on the Supposition that the *Spanish* Monarchy should continue in the Possession of a Branch of the House of *Bourbon*; and it being acknowledged even by the *French King* in the General Preliminaries signed by *Monsieur Mefnager*, that the Excess of Power from the Re-union of the Crowns of *France* and *Spain* would be contrary to the good and general Repose of *Europe*: He the said *Robert Earl of Oxford* and *Earl Mortimer* having nothing so much in view as the aggrandizing the common Enemy, yet always intending to cover the Iniquity of his Heart under specious Pretences and false Appearances, did wickedly and treacherously advise and carry on a private and separate Negotiation with *France*, on the Subject of a Renunciation of his Right to the Kingdom of *France* by the Duke of *Anjou*, and that such Renunciation should be the Security against the Re-union of the two Kingdoms. And by the Influence of his evil Counsels her Majesty was prevailed on to accept and finally to conclude and ratify a Treaty of Peace with *France*, wherein the said Renunciation is taken as a sufficient Expedient to prevent the Mischiefs that threaten'd all *Europe*, in case the Crowns of *France* and *Spain* should be united upon the Head of one and the same Person; although he the said *Robert Earl of Oxford*, and *Earl Mortimer* well knew, that a Memorial had been, during the said separate Negotiation, transmitted by *Monsieur de Torcy*, Secretary of State and Minister to the *French King*, to one of her Majesty's Principal Secretaries of State; whereby it was declared, that the said Renunciation would be null and inallid by the Fundamental Laws of *France*, which Laws were looked upon as the Work of him who had established all Monarchies, and which he only could abolish; and that no Renunciation thereof could destroy it: And if the King of *Spain* should renounce, they would deceive themselves that should receive it as a sufficient Expedient to prevent the Mischiefs proposed to be avoided. By which false and treacherous Counsels, he the said *Robert Earl of Oxford* and *Earl Mortimer* did not only betray the Interests of the common Cause into the Hand of the most formidable Enemy, but wilfully and maliciously abused the Power and Influence which he had obtained with her Majesty, so far as to engage her sacred Majesty, and the Honour of the Imperial Crown of these Kingdoms, to become Party with *France* in so fatal a Deceit.

ARTICLE VIII.

That her late Majesty *Queen Anne* having on the Seventh Day of *December*, in the Year of our Lord

Lord One Thousand Seven Hundred and Eleven, earnestly recommended it from the Throne, that Provision might be made for an early Campaign, in order to carry on the War with Vigour, and as the best way to render the Treaty of Peace effectual ; in order to which, vast Supplies were granted, and Magazines provided at a great Expence for an early Campaign ; and in pursuance thereof, her Majesty having sent her Generals, *Lumley* and *Cadogan*, to give early Assurances to her Allies of her sincere Intentions, and likewise expressly instructed her General, the Duke of *Ormond*, not only to renew the same Assurances and declare her Resolutions of pushing on the War with the utmost Vigour, but to concert with the Generals of the Allies the proper Measures for entering on Action ; and the Confederate Army, which at that Time was the finest and strongest that had been in the Service during the whole Course of the War, and provided with all Necessaries to act with Vigour, having march'd, according to the Resolution taken in Concert with her Majesty's General, almost up to the Enemy, with a great Superiority both as to the Number and Goodness of Troops, and animated with a noble Courage and Zeal to acquit themselves bravely ; so that in all human Appearance, and with the divine Assistance, which had appeared so visibly for them on many other Occasions, they would have been able, either by Battle or Siege, to have gained great Advantages over the Enemy, to have better'd the Affairs of the Allies, and to have facilitated the Negotiations of Peace : And the Ministers of *France* have frequently and earnestly represented to the said *Robert Earl of Oxford* and *Earl Mortimer*, and others his Accomplices, during their secret Negotiations, their just Apprehensions from the Bravery and good Disposition of the Confederate Army ; he the said *Robert Earl of Oxford* and *Earl Mortimer*, being truly informed of the sure Prospect, which, by the Blessing of God, the Army of the Confederates then had, of gaining new Conquests over the Army of *France*, and whereby they would have been enabled to have forced Terms of Peace, safe, honourable, and lasting : In order to disappoint those comfortable Expectations of the Allies, and to give Success to his secret Negotiations with the Ministers of *France*, was privy to, consenting and advising, together with other false and evil Counsellors, and together with them did advise and consent, that an Order should be sent in her Majesty's Name, to the Duke of *Ormond* in *Flanders*, to avoid engaging in any Siege, or hazarding a Battle, till further Orders ; although nothing had then been settled in the said private Negotiations for the Interest and Security of *Great Britain* ; and although *Philip King of Spain* at that Time had not consented to the Renunciation of his Right to the Crown of *France*. And not contenting himself with having obtained that fatal Step, so highly advantageous to the Cause of *France*, but being wickedly determined to do all that in him lay to dissolve the whole Confederacy, he the said *Robert Earl of Oxford* and *Earl Mortimer*, with others was privy to, and did consent and advise, that Orders should be sent to the Bishop of *Bristol*, one of her Majesty's Plenipotentiaries then at *Utrecht*, to take the first solemn Opportunity to declare to the *Dutch* Ministers, that her Majesty looked on herself from their Conduct to be then under no Ob-

ligation whatsoever to them : Which two Declarations giving just Alarms to all the Allies, they represented to the Bishop of *Bristol* their general Dissatisfaction, and the inexpressible Consternation they were all in ; that these Proceedings were the unavoidable Ruin of *Europe* : They urged Religion, Liberty, and the Faith of Treaties, to shew the Enormity of this Usage ; and the States expressed their Uneasiness on no account so much, as that they could not come to the Knowledge of their own Lot. Which Representations the Bishop of *Bristol* did, at the Instance of the Allies, signify to one of her Majesty's Principal Secretaries of State ; but their High Mightinesses finding that all Applications to the Ministers of *Great Britain*, and in particular to the said *Robert Earl of Oxford* and *Earl Mortimer*, were of no avail against *France*, and for the Interest of the common Cause, thought it necessary, in a manner the most moving and respectful, to address directly to her Majesty by a Letter of the Fifth of *June*, One Thousand Seven Hundred and Twelve ; therein expressing their great Surprize and Affliction at the two Declarations aforementioned ; and finding it difficult to conceive how such Declarations, so prejudicial to the common Cause, given so suddenly without their Knowledge, and undoubtedly too without the Knowledge of the other Allies, could agree and consist with the Nature of an Alliance, and with those Assurances and Engagements her Majesty had so lately made ; and not knowing how to reconcile it with the great Goodness and Kindness which her Majesty had always honoured them with, and not being able to conceive how such a sudden Change could happen with respect to them, having carefully examined their own Conduct, and finding nothing therein that could have given Ground to her Majesty's Dissatisfaction ; and having represented the visible and immediate fatal Consequences of the said two Orders, not only to the common Interest of her Majesty and the States, but to the whole Confederacy and to the Protestant Religion ; they beseeched her Majesty, with all the Respect, and all the Earnestness they were capable of, that she would not persist in the Declarations made by the Bishop of *Bristol*, and would be pleased to revoke the Orders given to the Duke of *Ormond* ; and would authorize him to act according to Occurrences, and as the Exigency of the War, and the Advancement of the common Cause should require. Notwithstanding which, he the said *Robert Earl of Oxford* and *Earl Mortimer* being acquainted with the said Representations of the States, was not only wanting in his Duty to her Majesty, and to his Oath, and the great Trust reposed in him, in not advising, as he ought to have done, her sacred Majesty to have hearkened to the said several Instances made to her ; but persisting in his desperate and destructive Measures for the Advancement of the Interest of the common Enemy, did afterwards advise her Majesty to disregard and reject the same ; and did countenance, encourage, advise, and promote the said private, separate, and wicked Negotiations with *France*, without any Participation of the Allies, contrary to all her Majesty's Engagements, and to the apparent Ruin of the common Cause. By which several wicked and perfidious Counsels, the Progress of the victorious Arms of the Confederates was stopped, and an Opportunity lost for conquering the Enemy, the most favourable,

favourable, in the Opinion of all the General Officers and the Quarter-Masters of the Allies, who were sent out to view the *French* Camp, and whereby all Hopes of Confidence between her Majesty and her Allies was entirely destroyed, and the *French* King made absolute Master of the Negotiations of Peace, and the Affairs of *Europe* given into his Hands.

ARTICLE IX.

That to impose upon the Allies the fatal Necessity of submitting to the Terms of *France*, and in order thereto to leave the whole Confederate Army at the Mercy of the common Enemy, he the said *Robert* Earl of *Oxford* and Earl *Mortimer*, was privy and consenting to a secret and separate Concert with the Ministers of *France*, without the Knowledge of the Allies, for the separating the Troops in her Majesty's Pay from the rest of the Confederate Army: For the effecting whereof, instead of preventing as far as in him lay so fatal a Step, he was not only wanting to advise against so unwarrantable a Proceeding, but did consent to and advise her Majesty, that the Duke of *Ormond*, and all the Troops then in her Majesty's Pay, or such of them as would obey his Orders, should separate themselves from the Army of the Confederates: And having notice that the Generals of the Auxiliaries, paid by her Majesty, whose Honour and Consciences would not permit them to abandon the Confederates, and leave them as a Sacrifice to *France*, but for the Sake of the common Interest of *Europe*, and according to the true End and Design of their Conventions, did refuse to withdraw with the Duke of *Ormond*, without particular Orders from their respective Masters; he the said *Robert* Earl of *Oxford* and Earl *Mortimer*, being then Lord High-Treasurer of *Great-Britain*, and one of her Majesty's most Honourable Privy Council, in Violation of his Oath, and the Duty and Trust reposed in him, did take upon himself an arbitrary and illegal Power, to refuse and put a Stop to the Pay and Subsidies due on account of the said foreign Troops, although they were entitled thereto by the Conventions entered into with her sacred Majesty, and by express Provision made by Act of Parliament for the Payment of the same. By which fatal Separation, which pursuant to his evil Counsels was afterwards made, great Numbers of the Confederate Troops, who had before, on many Occasions, signaliz'd themselves in the Defence of the Cause of *Europe*, soon afterwards, at the unfortunate Action of *Denain*, fell as Sacrifices to the Fury and Revenge of *France*; the Siege of *Laudrecy* was raised, the important Towns and Fortresses of *Quesnoy*, *Bouchain*, and *Dorway* were retaken by the *French* Army; and not only the Fortune of the War, but the Fate of *Europe* decided in Favour of *France*.

ARTICLE X.

That in further Execution of his pernicious Designs to compleat the Destruction of the common Cause of *Europe*, and to render it impracticable for her Majesty to resume the War against *France*, in Conjunction with her Allies, or to recover the Union with her Majesty's old and faithful Allies, so necessary to the Preservation of

these Kingdoms; he the said *Robert* Earl of *Oxford* and Earl *Mortimer*, then Lord High-Treasurer of *Great Britain*, did carry on and concert with the Ministers of *France*, a private and separate Negotiation for a general Suspension by Sea and Land, between *Great Britain* and *France*; and to that end among others, did advise her Majesty to send over *Henry* Viscount *Bolingbroke*, one of her principal Secretaries of State, to the Court of *France*, with Powers to settle the said Suspension. In pursuance of which, a destructive Treaty of Suspension was made in *France*, on the Nineteenth of *August*, N. S. One Thousand Seven Hundred and Twelve, by the said *Henry* Viscount *Bolingbroke*, on the Part of her said Majesty, for four Months, without the Knowledge or any Participation of the Allies; and before any Terms of Peace were settled with the Enemy, either for *Great Britain* or the Allies. By which evil Counsels, the express Terms of several of the afore-mentioned Treaties were expressly contravened and broken, the good Friends and antient Allies of her Majesty and these Kingdoms were totally deprived of the just Assistance to which they were thereby entitled, and were left exposed to the Insults of the common Enemy; and the sacred Ties of Union and Friendship between her Majesty and her Allies being cut asunder, her Majesty's Person and Government, the Safety of her Kingdoms, and of the Protestant Succession to the Crown of these Realms, were left exposed to the Enterprizes of her most formidable Enemy.

ARTICLE XI.

That whereas the States-General of the *United Provinces* were, in or about the Months of *September* or *October*, in the Year of our Lord One Thousand Seven Hundred and Twelve, in Possession of the strong and important Town and Fortress of *Tournay*: And whereas the *French* King had, during the Course of the said private, separate, and traiterous Negotiation between him the said *Robert* Earl of *Oxford* and Earl *Mortimer*, and others, and the Ministers of *France*, signified his Consent to the Ministers of *Great Britain*, that the said Town and Fortress of *Tournay* should remain to the said States-General as Part of their Barrier: And whereas her Majesty, in her Instructions of *December* the Twenty-third, One Thousand Seven Hundred and Eleven, to her Plenipotentiaries at *Utrecht*, had expressly directed them to insist with the Plenipotentiaries of *France*, in the General Congress, that towards forming a sufficient Barrier for the States-General, *Tournay*, should remain to their High Mightinesses; and did afterwards declare herself conformably thereunto, in her Speech to both Houses of Parliament, on the Sixth of *June*, One Thousand Seven Hundred and Twelve, in which she communicated to them the Terms whereon a Peace might be made. And whereas for several Years before, and till the said Months of *September* and *October*, in the Year of our Lord One Thousand Seven Hundred and Eleven, there was open War between her late Majesty and the *French* King; and the said War continuing for all the said Time, and afterwards, the said *French* King and his Subjects were Enemies to her Majesty: He the said *Robert* Earl of *Oxford* and Earl *Mortimer*, then Lord High-Treasurer of *Great Britain*, and a
Subject

Subject of her Majesty's, not considering the Duty of his Allegiance, but having altogether withdrawn the cordial Love, and true and due Obedience, which every true and faithful Subject owed to her said Majesty; and designing to give Aid and Succour, and to adhere to the said *French King*, did in or about the Months of *September* or *October*, One Thousand Seven Hundred and Twelve, during the said War, falsly, maliciously, wickedly, and traiterously aid, help, and assist, and adhere to the *French King*, then an Enemy to her late Majesty: And in Execution and Performance of his aiding, assisting, and adhering, maliciously, falsly, and traiterously did counsel and advise the said Enemy, in what manner and by what Methods the said important Town and Fortrefs of *Ternay*, then in the Possession of the States-General, might be gained from them to the *French King*, contrary to the Duty of his Allegiance, and the Laws and Statutes of this Realm.

ARTICLE XII.

That whereas her late Majesty Queen *Anne*, not only in pursuance of the Treaties she stood engaged in to her good Allies, and in particular to his Imperial Majesty, for the Recovery of the Monarchy of *Spain* to the House of *Austria*, thereby to preserve a due Balance of Power in *Europe*, but also from her just Resentment against the Duke of *Anjou*, who then stil'd himself King of *Spain*, and who, in D defiance of her Majesty's Title to the Crown, acknowledged the Pretender as King of *Great Britain*; and on these just Foundations her Majesty had, in vindication of the Honour of the Crown, and in justice to her People, at a vast Expence of Blood and Treasure, and on the earnest and repeated Advices of her Parliament, prosecuted a vigorous War against the Duke of *Anjou*: And whereas, in the Years of our Lord One Thousand Seven Hundred and Ten, One Thousand Seven Hundred and Eleven, and One Thousand Seven Hundred and Twelve, the said open, bloody, and expensive War was carried on between her said late Majesty Queen *Anne*, and the said Duke of *Anjou*, and during all the time aforesaid, the said War did continue, and for all that time the said Duke of *Anjou*, and the Subjects of *Spain* adhering to him, were Enemies of her late Majesty: He the said *Robert Earl of Oxford* and Earl *Mortimer*, then Lord High Treasurer of *Great Britain*, and one of her Majesty's Privy-Council, and a Subject of her said Majesty, not considering the Duty of his Allegiance, but having withdrawn his true Obedience from her said late Majesty, did at several times, in the said Years of our Lord, One Thousand Seven Hundred and Ten, One Thousand Seven Hundred and Eleven, and One Thousand Seven Hundred and Twelve, falsly, maliciously, wickedly, and traiterously aid, help, assist, and adhere to the said Duke of *Anjou*, then an Enemy to her said late Majesty; and in the Execution and Performance of his said aiding, helping, assisting and adhering, and in Confederacy and Combination with the then Enemies of her late Majesty, and with divers other wicked and evil disposed Persons, did, at several times, in the Years aforesaid, advise and counsel the Enemies of her late Majesty, and in such counselling and advising, did concert with them, and did promote the yielding and giving up *Spain* and the *West-Indies*, or some part thereof, to the said Duke of

Anjou, then in Enmity with her Majesty, against the Duty of his Allegiance, and the Laws and Statutes of this Realm.

ARTICLE XIII.

That whereas the Riches, Power, and Strength of these Kingdoms depend entirely on the flourishing Condition of Trade and Navigation, and her late Majesty Queen *Anne* having due Regard thereto, as well as to the just Expectations of her People, after the vast Expences they had so cheerfully undergone in Support of the War, did, on the first Opening the Conferences for a General Peace, declare from the Throne to both Houses of Parliament, on the Seventh of *December* One Thousand Seven Hundred and Eleven, that she would endeavour, that after a War which had cost so much Blood and Treasure, the Nation might find their Interest in Trade and Commerce improved and enlarged by a Peace: And on the Sixth of *June* One Thousand Seven Hundred and Twelve, when she was pleased to communicate the Terms on which a General Peace might be made, did declare, that nothing had mov'd her Majesty from steddily pursuing the true Interest of her own Kingdoms, and that the Terms of Peace obtained for her own Subjects were such, as she had Reason to expect would make her People some Amends for the great and unequal Burden which they had laid under through the whole Course of the War; and hoped that none of the Confederates would envy her Share in the Glory and Advantage of the Peace; and afterwards declared to both Houses of Parliament her Satisfaction in the near View she had of a Peace; since it would, in some measure, recompense her Subjects for the vast Expence: And after the Conclusion of the Treaty of Peace and Commerce with *France*, did declare from the Throne, on the Ninth of *April* One Thousand Seven Hundred and Thirteen, that the many Advantages she had obtained for her Subjects, had occasioned much Opposition and long Delays to the Peace; but it afforded her great Satisfaction, that her People will have it in their Power, by degrees, to repair what they had suffered during so long and burthenome a War. Whereupon both Houses of Parliament did from time to time express their grateful Acknowledgments to her Majesty for her great Care and Concern for the Welfare of her People. And whereas at the setting on Foot, and the Progress of the said private, separate, and pernicious Negotiations between the Ministers of *Great Britain* and *France*, it was laid down as a Principle, on the part of *Great Britain*, never to be departed from, that *France* should consent to adjust the Interests of *Great Britain* in the first Place, that the Ministers of *Great Britain* might thereby be enabled to engage the Queen to make the Conclusion of the General Peace easy to *France*; and on this plausible Pretence it was insisted on by the Ministers of *Great Britain*, to remit the Discussion of the particular Interests of the Allies to General Conferences; and throughout the whole Course of the said separate Negotiation, all imaginable Concessions were not only made by the Ministers of *Great Britain* for a real Advantage of the Interests of *France* against the Allies, but all Measures were entered into and concerted between them, that even the Ministers of *France* could dictate, in order to strengthen their Hands, and

to enable them to impose the Terms of a General Peace : He the said *Robert Earl of Oxford* and *Earl Mortimer*, having nothing in view thro' the whole Course of the said Negotiation, wherein he was wickedly and principally engaged in Concert with *France*, but the final Destruction of his Country ; and to that end the sacrificing the Commerce of *Great Britain* to the Aggrandisement of *France*, was not only wanting in his Duty to her Majesty, in not insisting on in all Events, and not procuring, in the first Place, the most certain and strict Securities imaginable for the Safety and Advantage of the Commerce of these Kingdoms ; but did advise her late Majesty, that in the Proposition sent by his Privy and Advice, by Mr. *Prior* to *France*, and also in the said private and separate Treaty, signed on the Seven and Twentieth of *September*, One Thousand Seven Hundred and Eleven, wherein the Preliminary Demands for *Great Britain*, more particularly were intended to be adjusted with *France*, the Demands for *Great Britain*, in point of Commerce, should not only be made in loose, general, and insufficient Terms, but that the Liberty of Fishing, and Drying of Fish on *Newfoundland* should be expressly given up to *France*, tho' the Restitution of that small part of the Island, which *France* had taken during the War, was therein referred to be discuss'd to General Conferences. And having, by his wicked Artifices, engaged her Majesty in the said private Treaty with *France*, without any Security for the Commerce of *Great Britain*, he did artfully and cunningly contrive with the Ministers of *France* to keep in Suspence all Matters that concerned the Commerce of *Great Britain*, until, by means of his wicked and pernicious Counsels aforementioned, *France* was become Masters of the Negotiations, and the chief Advantages for the Commerce of *Great Britain* by that means remaining unsettled : And the Ministers of *France* afterwards disputing the most essential Articles which had been in agitation, and in particular that fundamental Principle of treating and being treated as *Gens Amicissima*, and endeavouring to elude what had been agreed on in the said private and separate Negotiation, for the supposed Advantage of *Great Britain* ; he the said *Robert Earl of Oxford* and *Earl Mortimer*, under pretence of removing a Difficulty then depending, by an Expedient advantageous to *Great Britain*, did treacherously advise the ninth Article of the Treaty of Commerce with *France*, a Bill for the rendering whereof effectual was afterwards rejected by the House of Commons, as highly prejudicial and destructive to the Commerce of these Kingdoms : But yet for the sake of gaining that destructive Article for *Great Britain*, as if the same had been advantageous, he the said *Robert Earl of Oxford* and *Earl Mortimer*, in Defiance of the express Provision of an Act of Parliament, as well as in Contempt of the frequent and earnest Representations of the Merchants of *Great Britain*, and of the Commissioners for Trade and Plantations, did advise her Majesty finally to agree with *France*, that the Subjects of *France* should have liberty of Fishing and drying Fish on *Newfoundland* ; and did also advise her Majesty to make a Cession to *France* of the Isle of *Cape Breton*, with liberty to fortify the same, altho' the Isle of *Cape Breton* was part of the antient Territories of the Crown of *Great Britain* ; and her Majesty had declared from the Throne, that *France* had consented to make an absolute Cession of *Nova Scotia*, or *Arcadia*,

whereof *Cape Breton* is part, to her Majesty. And the said *Robert Earl of Oxford* and *Earl Mortimer*, intending in all Events to secure to *France* the Advantages relating to the Fishery of *Newfoundland* and to *Cape Breton*, did, in conjunction with the Ministers of *France*, advise her Majesty to consent, that the same should be made an Article in the Treaty of Peace between *Great Britain* and *France* : whereas the only Advantages in Trade, pretended to be stipulated for *Great Britain*, being inserted in the Treaty of Commerce, were to depend on certain Conditions to be made good by Act of Parliament ; and pursuant to, and by the Influence of the said evil Counsel of him the said *Robert Earl of Oxford* and *Earl Mortimer*, her sacred Majesty was advised to ratify the said Article in the said Treaty of Peace and the said Treaty of Commerce. By means of which pernicious Counsels, the good Intentions of her sacred Majesty to have obtained for her People advantageous Terms of Commerce were entirely frustrated, the Trade and Manufactures of *Great Britain*, as far as in him lay, rendered precarious, and at the Mercy of the Enemy, and that beneficial Branch of Trade, always esteemed the great Support of the Naval Power, and the chief Nursery of the Seamen of *Great Britain*, yielded up to the Subjects of *France* : and the only Pretence for the avowed and notorious Violation of Treaties, and the carrying on the Measures of *France*, viz. the adjusting first the Interests of *Great Britain*, thro' the whole Course of the said private and separate Negotiations, terminated at last in the Sacrifice of the Commerce of *Great Britain* to *France*, without the least Shadow of Advantage in Trade procured for these Kingdoms.

ARTICLE XIV.

That he the said *Robert Earl of Oxford* and *Earl Mortimer* did, in concert with other evil and false Counsellors, even without any Application from his Royal Highness the Duke of *Savoy*, and after the *French King* had, in the Course of the said private and separate Negotiations, consented that the Kingdom of *Sicily* should remain to the House of *Austria*, form a Project and Design to dispose of the Kingdom of *Sicily* to the Duke of *Savoy* from the House of *Austria* : And to effect that his unjust, dishonourable, and pernicious Project, he did advise her Majesty to give Instructions, among other things, to *Henry Viscount Bolingbroke*, then appointed her Ambassador to *France*, to demand in her Majesty's Name, of the *French King*, the Kingdom of *Sicily* for his said Royal Highness. And a Treaty of Peace being afterwards made between the *French King*, his Royal Highness, and the Duke of *Anjou*, wherein a Cession is made to his Royal Highness of the Kingdom of *Sicily*, without any Concurrence or Participation of his Imperial Majesty ; he the said *Robert Earl of Oxford* and *Earl Mortimer* did basely and scandalously advise her sacred Majesty to consent to the same, by an Article inserted in the Treaty of Peace between her Majesty and the *French King*. And afterwards, by his Privy and Advice, her Majesty was prevailed on to assist his Royal Highness against the Emperor then in Alliance with her Majesty, with a part of her Royal Fleet at her own Expence, in order to put him in Possession of the said Kingdom of *Sicily*. Whereby the greatest Injustice was done to his Imperial Majesty, in direct Violation of the Grand Alliance, and contrary to her Majesty's frequent Declarations from the Throne, and her plain and full Instructions to her Plenipotentiaries

tentiaries at *Utrecht*, for obtaining his just and reasonable Satisfaction; and whereby National Faith, and the Honour of the Crown, was vilely betray'd, and the Naval Power of these Kingdoms, and the Supplies granted by Parliament for reducing the common Enemy, were perfidiously employ'd against the great and faithful Allies of this Kingdom.

ARTICLE XV.

That whereas the Dignity and Support of the Imperial Crown of these Realms has in all Ages greatly depended on the Wisdom and Truth of the Communications made from the Throne, especially in Parliament, as the sure and only means whereby the Kings and Queens of this Realm can receive the sincere and faithful Advice of their People in Matters of the highest Importance, and which by the Fundamental Laws and Constitution of this Government ought to be inviolably observ'd as the sacred Band of the Duty and Affection of Subjects to their Sovereign. And whereas by the most antient and known Laws of this Kingdom it is indispensably incumbent on the great Officers of State that surround the Throne, to maintain as far as in them lies the Sacredness of the Royal Word on all Occasions; it being most apparent that the greatest Dishonour to the Throne, and the greatest Danger to these Kingdoms must inevitably ensue, whenever that Fountain of Truth by wicked Counsels shall be in any degree corrupted, and thereby lose its just Influence and necessary Authority. And whereas the Power of making Peace and War, one of the antient, undoubted, and most important Prerogatives of the Crown, has been always exercis'd by the Sovereigns of these Realms, with the strictest Regard to the Honour of the Crown and the Welfare of the People; and for that end they have in great Wisdom in all Ages taken the Advice of Parliament on such weighty Occasions. And whereas her late Majesty Queen *Anne* declared from the Throne her gracious Intentions to communicate the Terms of Peace to her Parliament, for their deliberate and serious Advice therein, wisely foreseeing that the Safety of her Person and Government, of the Protestant Succession to the Crown, which she had nearest her Heart, and of the Protestant Religion, and of the Liberties of *Europe*, did inevitably depend on the happy Conclusion of the said Negotiations: He the said *Robert Earl of Oxford* and *Earl Mortimer*, then Lord High-Treasurer of *Great Britain*, having taken on himself throughout the said Negotiations a most arbitrary and unwarrantable Authority, and the chief Direction and Influence to her Majesty's Councils; and most wickedly designing to prostitute the Honour of the Crown, and the Dignity of Parliaments, and not only totally to deprive her Majesty of the wholesome and necessary Advice of her Parliament in so great a Conjuncture, but by misrepresenting the most essential Parts of the Negotiations of Peace, to obtain the Sanction of Parliament to his traiterous Proceedings, and thereby fatally to deceive her Majesty, her Allies, her Parliament, and her People; he the said *Robert Earl of Oxford* and *Earl Mortimer* was not only wanting in the Discharge of that Duty to his Sovereign which became his High Station, by not advising against, and as far as in him lay in all Events by not preventing even any Intimation from the Throne to the Parliament, which was not conformable to the exactest Truth and Impartiality; but taking Advantage of his ready Access to her

Majesty, and his exorbitant Influence in her Councils, did prepare, form, and concert, together with other false and evil Counsellors, several Speeches and Declarations to be made by her Majesty from the Throne to her Parliament, on the Subject of the said Negotiations of Peace, and did advise her Majesty to make the same to her Parliament: And particularly, by means of his false and evil Counsels, her Majesty did, amongst other things, on the seventh of *December*, One Thousand Seven Hundred and Eleven, declare from the Throne in the Words, or to the Effect following: *That notwithstanding the Arts of those who delight in War, both Place and Time are appointed for opening the Treaty of a General Peace. Our Allies, especially the States-General, whose Interest I look upon as inseparable from my own, have by their ready Concurrence express'd their Confidence in me.* Whereas it was then notorious to all *Europe*, and the said *Robert Earl of Oxford* and *Earl Mortimer*, and others his Accomplices, well knew, that the principal Allies of her Majesty, and particularly the States-General, then had in the strongest and most pressing manner represented not only to her Majesty's Ministers in *Holland*, but afterwards by a Minister of their own directly to her Majesty, the Insecurity and Danger to the Common Cause, by entering into general Negotiations with *France* on the Propositions signed by Monsieur *Mefnager*; and also their firm Opinion of the fatal Consequences that might ensue thereon: And although they had still great Apprehensions concerning the Method of opening the Conferences, and the Consequences that might happen thereupon; yet being wrought on by the Menaces and other extraordinary Methods used with them by her Majesty's Minister's, and relying on the solemn Assurances and Declarations of her Majesty to support the Interest and Concern of their State, and to act in perfect Confidence and Harmony with them; they did at last, with the greatest Reluctance, consent to enter upon a General Negotiation of Peace with *France*. And in the same Speech her Majesty was prevail'd on by the evil Counsels of him the said *Robert Earl of Oxford* and *Earl Mortimer*, and others, to declare in the Words, or to the Effect following: *That the Princes and States which have been engaged with us in this War, being by Treaties entitled to have their several Interests secured at a Peace; I will not only do my utmost to procure every one of them all reasonable Satisfaction, but I shall also unite with them in the strictest Engagements for continuing the Alliance, in order to render the General Peace secure and lasting.* And in her Message of the seventeenth of *January* following, her Majesty again expresses the Care she intended to take of all her Allies, and of the strict Union in which she proposed to join with them. Whereas by the evil Influence of him the said *Robert Earl of Oxford* and *Earl Mortimer*, her Majesty was not only induced to enter into a private Negotiation with *France*, exclusive of her Allies; but the same was in like manner carried on by him the said *Robert Earl of Oxford* and *Earl Mortimer*, and others. And the several Interests which the Allies were intitled to by their Treaties, were not only not secured to them by the Peace, nor any reasonable Satisfaction given to them, but the main Interests of her principal Allies, especially of his Imperial Majesty, were by the wicked Practices of him the said *Robert Earl of Oxford* and *Earl Mortimer*, and others, given up to *France*; and no Engagements

ments were obtained for continuing the Alliance, in order to render the general Peace secure and lasting. And her Majesty having on many former Occasions express'd her Resolutions never to make Peace with *France* and *Spain*, so long as *Spain* and the *West-Indies* remain'd in the House of *Bourbon*; she was prevail'd upon by the Advice of him the said *Robert Earl of Oxford* and *Earl Mortimer*, and others, to declare herself, in Answer to an Address of the House of Peers, the Eleventh of *December*, One Thousand Seven Hundred and Eleven, to the Effect following, viz. *I should be sorry any one could think I would not do my utmost to recover Spain and the Indies from the House of Bourbon.* Whereas it is most manifest, that the leaving the Kingdom of *Spain* and the *Indies* in the House of *Bourbon*, was the Foundation of the private and separate Treaty between *Great Britain* and *France*, which had been before that Time signed even with her Majesty's Consent; and the same fundamental Resolution was immutably observed between them to the Conclusion of the Peace. And her Majesty having frequently declared from the Throne, that her Resolutions in entering into the said Negotiations were to obtain a general, good, and lasting Peace, and the Plenipotentiaries at *Utrecht* being instructed to treat with *France* conformably to that End, he the said *Robert Earl of Oxford* and *Earl Mortimer*, in order to remove the just Suspicions which had been conceived of his private and separate Negotiations with *France*, did advise her Majesty to make this further Declaration in her said Message of the Seventeenth Day of *January*, That the World will now see how groundless those Reports are which have been spread Abroad by Men of evil Intentions to serve the worst Designs; as if a separate Peace had been treated, for which there has not been the least Colour given: Whereas a private and separate Negotiation had been carried on for five Months together between *Great Britain* and *France*; and during that Time private Propositions had been sent from *England*, and a private Treaty with a Minister of *France* signed, even by her Majesty's Privy, exclusive of all the Allies, before the said Declaration made by her Majesty: And private and separate Measures were thenceforth carried on by the said *Robert Earl of Oxford* and *Earl Mortimer*, and his Accomplices, on Behalf of her Majesty, with the Ministers of *France*, even to the Conclusion of the Peace with *France*. Her Majesty was further prevail'd on by the wicked Advice of him the said *Robert Earl of Oxford* and *Earl Mortimer*, in her Speech of *June* the Sixth, One Thousand Seven Hundred and Twelve, to declare, that to prevent the Union of the two Crowns, she would not be content with what was Speculative, but insist'd upon something Solid: And in the same Speech to the Effect following, *videlicet*, The Nature of the Proposal for a Renunciation is such, that it executes itself, and *France* and *Spain* are thereby more effectually divided than ever: Whereas the Ministers of *France* had before that Time assured the Ministers of her Majesty, that to accept of the Expedient propos'd on her Majesty's Behalf, would be to build on a sappy Foundation; and that the Renunciation would be null and void by the fundamental Laws of *France*; and that they would deceive themselves who accepted it as an Expedient to prevent the Union

of the two Crowns. And not only in the Particulars before-mentioned, but in many others contained in the said several Speeches and Messages made and sent to her Parliament, even while the said Negotiations of Peace with *France* were depending, the most essential Points relating to Peace and Commerce, and which concerned the Interest, as well of the Allies as of *Great Britain*, were grossly misrepresented. By all which wicked, treacherous, and unexampled evil Counsels he the said *Robert Earl of Oxford* and *Earl Mortimer* did most basely, ungratefully, and scandalously abuse the Favour of his Royal Mistress, and by means of her Authority did mislead her Parliament into groundless and fatal Resolutions; and thereby not only prevented the just Advice of the Parliament to her Majesty in that critical Juncture, but obtained the Approbation of Parliament to his mysterious and dangerous Practices; and did not only deprive her Majesty of the Confidence and Affection of her Allies, but expos'd her Majesty and her People to the Contempt of the common Enemy.

ARTICLE XVI.

That whereas the said *Robert Earl of Oxford* and *Earl Mortimer* having on all Occasions used his utmost Endeavours to subvert the antient established Constitution of Parliaments, the great and only Security of the Prerogative of the Crown, and of the Rights, Liberties and Properties of the People, and being most wickedly determined at one fatal Blow as far as in him lay to destroy the Freedom and Independency of the House of Lords, the great Ornament and nearest Support of the Imperial Crown of these Realms, and falsly intending to disguise his mischievous Purposes under a pretended Zeal for the Prerogative of the Crown; he the said *Robert Earl of Oxford* and *Earl Mortimer*, on or about the Months of *December* or *January*, One Thousand Seven Hundred and Eleven, whilst the House of Lords were under an Adjournment, and had Reason to expect that on their next Meeting Matters of the highest Importance would be communicated to them from the Throne, they having some few Days before given their humble Opinion and Advice to her Majesty, that no Peace could be safe or honourable to *Great Britain* or *Europe*, if *Spain* and the *West Indies* were to be allotted to any Branch of the House of *Bourbon*; being then Lord High-Treasurer of *Great Britain*, and one of her Majesty's Privy Council, and assuming to himself an arbitrary Direction and Controul in her Majesty's Councils, contrary to his Duty and his Oath, and in Violation of the great Trust reposed in him, and with an immediate Purpose to render ineffectual the many earnest Representations of her Majesty's Allies against the said Negotiations of Peace, as well as to prevent the good Effects of the said Advice of the House of Lords; and in order to obtain such further Resolutions of that House of Parliament on the important Subject of the Negotiations of Peace, as might shelter and promote his secret and unwarrantable Proceedings, together with other false and evil Counsellors, did advise her Majesty to make and create twelve Peers of this Realm, and Lords of Parliament; and pursuant to his destructive Counsels Letters Patents did forthwith pass, and Writs issued, whereby twelve Peers were made and created; and did likewise advise her Majesty immediately to call and summon them to Parliament; which being done accordingly,

ingly, they took their Seats in the House of Lords on or about the Second of January, One Thousand Seven Hundred and Eleven, to which Day the House then stood adjourned. Whereby the said *Robert Earl of Oxford* and *Earl Mortimer* did most highly abuse the Influence he then had with her Majesty, and prevailed on her to exercise in the most unprecedented and dangerous Manner that valuable and undoubted Prerogative, which the Wisdom of the Laws and Constitution of this Kingdom, hath entrusted with the Crown for the rewarding signal Virtue and distinguish'd Merit. By which desperate Advice he did not only, as far as in him lay, deprive her Majesty of the Continuance of those seasonable and wholesome Counsels in that critical Juncture, but wickedly perverted the true and only End of that great and useful Prerogative to the Dishonour of the Crown, and the irreparable Mischief to the Constitution of Parliaments. All which Crimes and Misdemeanours were committed and done by him the said Earl against our late Sovereign Lady the Queen, her Crown and Dignity, the Peace and Interest of this Kingdom, and in Breach of the several Trusts reposed in him the said Earl, and he the said Earl of Oxford and Earl Mortimer was Lord High Treasurer of Great Britain, and one of her Majesty's Privy Council, during the Time that all and every the Crimes before set forth were done and committed. For which Matters and Things, the Knights, Citizens, and Burgesses of the House of Commons in Parliament assembled, do, in the Name of themselves and of all the Commons of Great Britain, impeach the said *Robert Earl of Oxford* and *Earl Mortimer* of High-Treason, and other High Crimes and Misdemeanours in the said Articles contained. And the said Commons by Protestation saving to themselves the Liberty of exhibiting at any Time hereafter, any other Accusations or Impeachment against the said Earl, and also of replying to the Answers which the said *Robert Earl of Oxford* and *Earl Mortimer* shall make to the Premises; or any of them, or any Impeachment or Accusation that shall be by them exhibited, according to the Course and Proceedings of Parliament, do pray that the said *Robert Earl of Oxford* and *Earl Mortimer* be put to answer all and every the Premises; and that such Proceedings, Examinations, Trials and Judgments may be upon them, and every of them had and used, as shall be agreeable to Law and Justice. And they do further pray and demand, that the said *Robert Earl of Oxford* and *Earl Mortimer* may be sequestred from Parliament, and forthwith committed to safe Custody.

After these Articles were deliver'd and debated upon; a Motion was made, that the Earl of Oxford might be committed to safe Custody, when his Lordship spoke to this Effect.

My LORD,

I *is a very great Misfortune for any Man to fall under the Displeasure of so great and so powerful a Body as the Commons of Great Britain; and this Misfortune is the heavier upon me, because I had the Honour to be placed at the Head of the late Ministry, and must now, it seems, be made accountable for all the Measures that were then pursued: But on the other Hand, 'tis a very great Comfort to me under this Misfortune, that I have the Honour to be a Member of this august Assembly: An Assembly which always squares their Proceedings and Judgments by the Rules*

of Honour, Justice and Equity; and is not to be byass'd by a Spirit of Party.

My Lord. I could say a great deal to clear my self of the Charge which is brought against me: But as I now labour under an Indisposition of Body, besides the Fatigue of this long Sitting, I shall contract what I have to say within a very narrow Compass. This whole Accusation may, it seems, be reduced to the Negotiation and Conclusion of the Peace. That the Nation wanted a Peace, nobody will deny; and I hope it will be as easily made out, that the Conditions of this Peace are as good as could be expected, considering the Circumstances wherein it was made, and the Backwardness and Reluctancy which some of the Allies shew'd to come into the Queen's Measures. This is certain, that this Peace, as bad as it is now represented, was approved by two successive Parliaments. It is indeed suggested against this Peace, that it was a separate one; but I hope, my Lord, it will be made appear, that it was general; and that 'twas France, and not Great Britain, that made the first Steps towards a Negotiation. And, my Lord, I will be bold to say, that during my whole Administration, the Sovereign upon the Throne was loved at Home, and feared Abroad.

As to the Business of Tournay, which is made a capital Charge, I can safely aver, that I had no manner of Share in it; and that the same was wholly transferr'd by that unfortunate Nobleman who thought fit to step aside: But I dare say in his Behalf, that if this Charge could be proved, it would not amount to Treason. For my own part, as I always acted by the immediate Directions and Commands of the late Queen, and never offended against any known Law, I am justify'd in my own Conscience, and unconcern'd for the Life of an insignificant old Man. But I cannot, without the highest Ingratitude, be unconcern'd for the best of Queens: A Queen who heap'd upon me Honours and Preferments, tho' I never ask'd for them; and therefore I think myself under an Obligation to vindicate her Memory, and the Measures she pursued, to my dying Breath. My Lord, If Ministers of State, acting by the immediate Commands of their Sovereign, are afterwards to be made accountable for their Proceedings, it may one Day or other be the Case of all the Members of this august Assembly: I don't doubt, therefore, that out of Regard to your selves, your Lordships will give me an equitable Hearing; and I hope that, in the Prosecution of this Enquiry, it will appear, that I have merited not only the Indulgence, but likewise the Favour of the Government. My Lord, I am now to take my Leave of your Lordship, and of this honourable House, perhaps for ever! I shall lay down my Life with Pleasure, in a Cause favour'd by my late dear Royal Mistress. And when I consider that I am to be judge by the Justice, Honour and Virtue of my Peers, I shall acquiesce, and retire with great Content: And my Lords, God's Will be done.

Further Articles of Impeachment of High Crimes and Misdemeanours, against Robert Earl of Oxford and Earl Mortimer.

ARTICLE I.

THAT whereas in or about the Month of January, in the Year One Thousand Seven Hundred Ten-Eleven, a dangerous and destructive Expedition had been projected and set on Foot, under Pretence of making a Conquest on the Possessions of the French King in North America, but with a real Design to promote his Interests, by weakening the Confederate Army in Flanders, and dissipating the Naval Force of this Kingdom, as well as for the Sake of the private Interests and corrupt Gain of the Promoters of the said Expedition, he the said *Robert Earl of Oxford* and *Earl Mortimer*,

timer, being then one of her late Majesty's Privy-Council, and one of the Commissioners of her Majesty's Treasury, was not only wanting in his Duty to her late Majesty, by wilfully and industriously absenting from the Meetings of other Persons, then in high Trust under her Majesty, wherein the said Expedition was concerted, and by not advising her Majesty against, and doing what in him lay to have prevented the putting the same in Execution, but did, contrary to his Oath, and the high Trust then reposed in him, advise her Majesty to consent to the making an Expedition for the conquering *Canada* and the City of *Quebeck* on the River of *St. Laurence* in *North America*; and in Execution of his said evil Counsels, he did further advise her Majesty to give Orders for detaching several Battalions of the Forces then in the Service of her Majesty, in Conjunction with her Allies in *Flanders*, and to send the same with a large Squadron of Men of War on the said Enterprize; although the said *Robert Earl of Oxford* and *Earl Mortimer* well knew, that the said Project or Expedition having been frequently deliberated on and maturely considered, a short Time before, in a Committee of Council, was then laid aside as dangerous and impracticable. And a Demand being made at the Treasury on or about the Months of *May* or *June*, One Thousand Seven Hundred and Eleven, for the Sum of Twenty-eight Thousand Pounds or thereabouts, on Pretence of Arms and Merchandize said to be sent on the said Expedition to *Canada*, he the said *Robert Earl of Oxford* and *Earl Mortimer* being then Lord High Treasurer of *Great Britain*, and one of her Majesty's Privy Council, tho' he well knew, or had Reason to suspect, that the same was an unjust and exorbitant Demand, and a great Abuse on her Majesty and the Public, and such as ought not to have been complied with, was not only wanting in his Duty to her Majesty, in not giving his humble Advice against the said Demand, or at least in not representing to her Majesty the Grounds of such his Suspicion, but did, contrary to his Oath and his Duty, advise her Majesty, that the said Sums should be issued and paid; and did accordingly countersign a Warrant to the Paymaster of her Majesty's Forces for the Payment of the same, pursuant to which the same was issued and received. And in further Violation of his Oath, his Duty, and Trust, and with the most corrupt Design to prevent the Justice due to her Majesty and the Nation, he the said *Robert Earl of Oxford* and *Earl Mortimer*, being then Lord High Treasurer of *Great Britain*, and exercising a most unexampled arbitrary Power, not only in her Majesty's private Councils, but extending his evil Influences to the great Council of the Nation; after the said Expedition had proved unsuccessful, and it had been discover'd to him the said *Robert Earl of Oxford* and *Earl Mortimer*, that the Nation had been cheated of above Twenty Thousand Pounds on that Account, did most ungratefully and corruptly employ his wicked Arts, and the Credit which he had gained by his many false and crafty Insinuations and Practices, to keep the House of Commons from examining that Affair. And in or about the Month of *August*, One Thousand Seven Hundred and Fourteen, in a Letter or Memorial under his Hand to her late Majesty, he did presume, not only to insinuate the ill Opinion he therein pretended always to have had of the said Expedition, but did declare the Suspicions he had

of the great Injury and Abuse done to her Majesty and the Public, in the Demand of the said Twenty-eight Thousand Pounds, even at the Time when the same was made, and that the Public had been cheated of above Twenty Thousand Pounds on that Account; and in the said Memorial did presume further to declare to her Majesty, that he was forced to use all his Skill and Credit to keep the House of Commons from examining that Affair in the last Parliament; thereby vainly, but most wickedly, recommending himself to the Continuance of her Majesty's Favour, by the Success of his most profligate Measures. By all which unparallel'd Corruptions and most dangerous Councils and Practices of him the said *Robert Earl of Oxford* and *Earl Mortimer*, the good and faithful Allies of her Majesty were deprived of the Aid of her Majesty's Troops to which they were entitled by their Conventions, and the Confederate Army in *Flanders* was greatly diminished, to the apparent Advantage of the common Enemy: The Public Money, granted by Parliament for reducing the Power of *France*, and which was expressly appropriated for other special Services, was arbitrarily and illegally misapplied and embezzled, and an heavy Debt incurr'd on the Nation, not only sitting the Parliament, but even in Contempt and Defiance of a Representation made by the House of Commons to the Throne, even whilst the said Expedition was concerting; and whereby the highest Injustice was done, in suppressing an Enquiry so just to her Majesty and her People, and a lasting Reproach and Scandal brought on that House of Commons, of which he boasts, as having been wrought on by his corrupt Influence not to examine into so high and so scandalous an Abuse.

ARTICLE II.

That the said *Robert Earl of Oxford* and *Earl Mortimer*, not contented with the high Employments and Places of Honour and Profit bestowed on him by her late Majesty, nor with the large and excessive Gains by him made by the Incomes and Profits of the said Employments, on or about the Month of *October*, One Thousand Seven Hundred and Eleven, whilst the Nation was engaged in a most expensive War against *France* and *Spain*, for preserving the Liberties of *Europe*, and greatly exhausted with the Supplies and Taxes for carrying on the same, and was under such heavy Debts as were impossible to be satisfied, without the utmost Frugality or laying grievous Taxes upon the Commons of *Great Britain*: Contrary to his Oath and his high Trust, and making a most dishonourable and ungrateful Use of the ready Access he had to her late Majesty, did prevail on and advise her Majesty to sign a Warrant to himself, being then Lord High Treasurer of *Great Britain*, for the issuing and Payment of the Sum of Thirteen Thousand Pounds to *John Drummond*, Esq; or his Assigns, for such special Services relating to the War, as her Majesty had directed: And the said *Robert Earl of Oxford* and *Earl Mortimer*, on or about the Twenty-fourth Day of *November* following, in pursuance of the said Warrant under her Majesty's Sign Manual, did sign a Warrant for the Payment of the said Thirteen Thousand Pounds for such special Services of the War, as her Majesty had directed; although no special Services had been, or were at any Time afterwards directed by her Majesty, to which the said Monies were to be applied. And the said *Robert Earl of Oxford* and *Earl Mortimer*, having privately desired leave of the said

Drummond to strike some Tin-Tallies in his the said *Drummond's* Name, he did, pursuant thereto, direct that Orders amounting to the Sum of Thirteen Thousand Pounds should be charged in the Register of the Exchequer on the Monies arising by Sale of Tin, in the Name of the said *John Drummond*; and tho' the same were accordingly struck in the Name of the said *Drummond*, in or about the Month of *November*, One Thousand Seven Hundred and Eleven, they were not deliver'd out to the said *Drummond*, but were kept in the Treasury Chamber, or else were in the Power or Custody of the Earl, till about the End of *January* following, when the said *Drummond* having occasion, as the said *Robert Earl of Oxford* and *Earl Mortimer* well knew, to go into *Holland*, at the Desire and Request of the said Earl, he indorsed his Name on the said Orders, and the same were left, by his Privy, Direction, or Consent, in the Hands of Mr. *John Taylor*, a Clerk of the Treasury; and the said *Robert Earl of Oxford* and *Earl Mortimer* having afterwards got Possession of the said Orders, did in or about the Month of *June*, One Thousand Seven Hundred and Twelve, send an Order in Writing to the said Mr. *Taylor* to deliver the said Tallies to a Servant of the said Earl, which was done accordingly, the said Indorsements not being at that Time fill'd up: And the said *Robert Earl of Oxford* and *Earl Mortimer*, having by these corrupt and scandalous Methods got the said Tallies and Orders into his own Hands, did afterwards fill up Assignments of the said Orders for Twelve Thousand Pounds, Part of the said Thirteen Thousand Pounds, to himself, and the remaining Part to such other Persons as he thought fit; and did afterwards in or about the Months of *August*, *October*, and *November*, One Thousand Seven Hundred and Thirteen, at several Times, dispose of the said Orders and Tallies to his own private Use and Advantage. And to cover the said scandalous Embezzlements, he the said *Robert Earl of Oxford* and *Earl Mortimer* did afterwards, as he pretends, advise and prevail on her Majesty, on or about the Fourteenth of *December*, One Thousand Seven Hundred and Thirteen, to sign a Warrant prepared by himself, wherein after the Recitals of his own good, faithful, and acceptable Services, which had tended to the Quiet, Safety and Prosperity of her Majesty and her Realms, though accompanied with great Difficulties on himself, and Hazards to him and his Family; and that her Majesty was resolved to bestow upon him a Sum of ready Money: But the said Earl representing to her Majesty, that the Arrears then due to her Servants and Tradesmen were very great and pressing, her Majesty did therefore agree and determine that he should have, to his own Use, the said several Sums, amounting to Thirteen Thousand Pounds comprized in the Orders aforesaid: It was directed that the said *John Drummond* should assign the said Orders, and the whole Right and Benefit thereof to the said Earl and his Assigns; although the said Earl had privately and clandestinely procured from the said *Drummond* an Assignment of the said Orders near two Years before the said Warrant, and had fraudulently and corruptly disposed and converted them to his own Use, without her Majesty's Privy or Consent, some time before her Majesty was prevailed on to sign the said Warrant. And though the last mentioned Warrant, if any such there be, was not communicated to the said *Drummond* by the said Earl during her Majesty's Life, nor was the same countersigned nor entered in the Treasury, yet he the said *Robert Earl of Ox-*

ford and *Earl Mortimer*, even after his said Corruption had been discovered in Parliament, did presume, without the Privy of the said *Drummond*, to send the said Warrant to the Commissioners of his Majesty's Treasury, desiring that the same might then have been entered in the Treasury; but the same was with great Honour and Justice refused to be so entered. By which most vile and scandalous Corruption, he the said *Robert Earl of Oxford* and *Earl Mortimer* was guilty of the most notorious Breach of his Oath and Trust, as Lord High-Treasurer of *Great Britain*, of the highest Abuse of her Majesty's Goodness, and Embezzlement of her Treasure, and of the greatest Injustice and Oppression of other of her Majesty's Subjects.

ARTICLE III.

That whereas by the established and known Laws of this Kingdom, the Allowances or Appointments for the Maintenance and Support of Ambassadors, Envoys, Plenipotentiaries, and other public Ministers of the Crown in foreign Courts, ought to be ascertained in due Form of Law, as well in Honour as in Justice to the Imperial Crown of these Realms: And whereas the said *Robert Earl of Oxford* and *Earl Mortimer*, in or about the Month of *July* or *August*, One Thousand Seven Hundred and Twelve, sent *Matthew Prior*, Esq; an Instrument and Creature of his own, into *France*, for the carrying on his separate and dangerous Negotiations; and did afterwards in the Month of *November*, One Thousand Seven Hundred and Twelve, by his evil Counsels prevail on her late Majesty, without the Privy of, or any Communication with her Allies, to send the said *Matthew Prior* as her Majesty's Plenipotentiary to the *French King*, with Instructions to treat and conclude Matters of the highest Importance, relating to the general Negotiations of Peace: But the same was a treacherous and wicked Contrivance of him the said *Robert Earl of Oxford* and *Earl Mortimer*, for the more effectually carrying on and promoting his private, separate, and dangerous Practices with the Ministers of *France*, and the Enemies of her Majesty and her Kingdoms; he the said *Robert Earl of Oxford* and *Earl Mortimer* not regarding his Oath, or his high Trust, or the Laws of the Kingdom, did most corruptly and scandalously combine with the said *Matthew Prior* for the defrauding her Majesty of very great Sums, under the Colour of his said Employments in *France*; and to that End the said Earl did contrive that the said *Matthew Prior* should be sent into *France*, with the Character aforesaid, but without any settled Appointments or Allowances: But in the Stead and Lieu thereof, he the said *Robert Earl of Oxford* and *Earl Mortimer* did give the said *Matthew Prior* an unlimited Credit, and did promise to answer and pay such Bills as the said *Prior* should draw on him during his Residence in *France*; pursuant to which Contrivance and corrupt Agreement he the said *Matthew Prior* did, between the Twenty-seventh of *August*, in the Year One Thousand Seven Hundred and Twelve, New Stile, and the Tenth of *July*, One Thousand Seven Hundred and Fourteen, or thereabouts, at several times draw Bills of Exchange, to the Amount of Twelve Thousand Three Hundred and Sixty Pounds, or thereabouts, on him the said *Robert Earl of Oxford* and *Earl Mortimer*, which he being then Lord High Treasurer of *Great Britain*, did advise and prevail upon her Majesty to sign Warrants for the Payment of, and did countersign the same, although the said *Prior* was no way intitled to any such Allowances by Reason of his said

said Employment, and the same greatly exceeded the Allowance even of an Ambassador of the Crown of *Great Britain*. And the said *Robert Earl of Oxford* and *Earl Mortimer* did, in the Years One Thousand Seven Hundred and Twelve, One Thousand Seven Hundred and Thirteen, and One Thousand Seven Hundred and Fourteen, without any Colour or Authority, but for the further promoting his corrupt and wicked Purposes, prevail on and advise her Majesty to sign Warrants, which were countersign'd by himself, for the Payment of the Sum of Five Thousand Five Hundred and Sixty Pounds, or thereabouts, to the Use of *Thomas Harley*, Esq; a near Relation and Emissary of him the said *Robert Earl of Oxford* and *Earl Mortimer*, out of the Monies appropriated to the Use of her Majesty's Civil List: And did in like manner, at several Times in the Years aforesaid, most illegally, fraudulently, and corruptly issue, or direct, or advise the Direction and Payment of other large Sums of Money, to other Persons out of her Majesty's Treasury: By which most illegal and scandalous Management, he the said *Robert Earl of Oxford* and *Earl Mortimer* has introduced a Practice highly prejudicial to, and utterly inconsistent with the Constitution of this Kingdom, and of the most pernicious Consequence, by opening a Way for the most dangerous Corruption; and was not only guilty of a notorious Breach of his Oath, but enter'd into the most base and scandalous Combination with the Persons above-mentioned, and others, under the Pretence and Colour of promoting her Majesty's Service, to defraud her Majesty of the Public Money, which he was entrusted with the Management of for the Support of the Honour and Dignity of the Crown.

ARTICLE IV.

That whereas the Revenues arising to the Crown from the hereditary Excise and Post-Office, or some Parts thereof, were, by vertue of Letters Patents of the late King *James* the Second, charged with and made liable to certain Annuities or yearly Sums, in Trust for, or to the Use of *Mary*, the Consort of the said King *James* the Second, but the said Revenues were afterwards, by several Acts of Parliament, granted and settled for the Support of the Royal Household, and of the Honour and Dignity of the Crown; or for other public Uses, without any saving or exception of the said Letters Patents. And whereas by an Act made in the Twelfth Year of her late Majesty's Reign, the Sum of Five hundred thousand Pounds was granted to her late Majesty for the Discharge of divers Arrears of Salaries, Diet-Monies, and other Allowances, and sundry Debts for Pre-emptions, Provisions and other Causes, which had been then incurr'd and grown due to her late Majesty's Servants, Tradesmen and others, and were occasion'd by several extraordinary Expences since the Act for the better Support of her Majesty's Household, and of the Honour and Dignity of the Crown. And the said Sum of Five hundred thousand Pounds was expressly appropriated to the Uses aforesaid, in Aid of the said Revenues or Branches which were appointed for the Support of her Majesty's Household, and of the Honour and Dignity of the Crown. And whereas by an Act made in the Thirteenth and Fourteenth Years of his late Majesty King *William* the Third, it was Enacted, that for preventing traitorous Correspondence between his Majesty's Subjects and the pretended Prince of *Wales*, or his Adherents, that if any of the Subjects of the Crown of

England, from and after the first Day of *March*, One Thousand Seven hundred and One, should within this Realm, or without, hold, entertain, or keep any Intelligence or Correspondence in Person, or by Letters, Messages, or otherwise, with the said pretended Prince of *Wales*, or with any Person or Persons employed by him, knowing such Persons to be so employed, or should by Bills of Exchange, or otherwise, remit or pay any Sum or Sums of Money for the Use or Service of the said pretended Prince of *Wales*, knowing such Money to be for such Use or Service, such Person so offending being lawfully convicted, should be taken, deem'd, and adjudg'd to be guilty of High-Treason, and shall suffer and forfeit as in Cases of High-Treason. He the said *Robert Earl of Oxford* and *Earl Mortimer* having, by the means of the said *Matthew Prior*, held a private and unlawful Correspondence with the said Consort of the late King *James* the Second, then residing in *France*, and being determin'd secretly to promote, as far as in him lay, the Interest of the Pretender, but yet contriving to avoid the said Penalty of High-Treason: And the said Consort of his late Majesty King *James* the Second having empower'd *Abbot Gaultier* (a Popish Priest, and busy Emissary between *Great Britain* and *France*, during the said private and separate Negotiations of Peace, and who was particularly entrusted as the common Agent between the Ministers of *Great Britain* and *France*, in transacting the most secret Affairs relating to the Pretender) to concert with the said *Robert Earl of Oxford* and *Earl Mortimer* the settling the Payment and Remittance of a very great yearly Sum out of her Majesty's Treasure into *France*, under colour and pretence of the said Letters Patents; and the said *Robert Earl of Oxford* and *Earl Mortimer* having held frequent clandestine Conferences with the said *Abbot Gaultier*, on the Subject aforesaid, and having, by his evil Counsels, sacrificed to *France* the common Interests of *Europe*; and being resolv'd that the first Fruits of the Peace with *France* should be an Offering made, by his immediate Procurement, to the nearest and most avowed Adherent to the Pretender, tho' at the great Expence of the Honour and Safety of her Majesty and her People, did, soon after the Conclusion of the Peace with *France*, agree and undertake to procure the Payment of the yearly Sum of Forty seven thousand Pounds and upwards, to or to the Use of the said Consort, during her Life; and in execution of his said Purpose did afterwards, on or about the 23d of *December*, One Thousand Seven Hundred and Thirteen, being then Lord High Treasurer of *Great Britain*, and of her Majesty's Privy Council, advise her late Majesty to sign a Warrant to himself, in the Words or to the Effect following, *viz.* Anne R. *Whereas our late Royal Father King James the Second, by Letters Patents under his Great Seal, bearing date on or about the 28th Day of August, One Thousand Six Hundred and Eighty Five, did Grant unto Lawrence Earl of Rochester, Henry Earl of Peterborough, Sidney Lord Godolphin, Robert Worden, Esq; and Sir Edward Herbert, Kt. (who are all since deceas'd) divers Annuities, or yearly Sums, amounting to Thirty seven thousand three hundred and twenty eight Pounds, Thirteen Shillings and Seven Pence to hold to them and their Heirs, during the Life of his then Royal Consort Mary, now Queen Dowager, in Trust for her; and by other Letters Patents, bearing date on or about the 3d of December, One Thousand Six Hundred Eighty Six, did also grant unto the said Queen a farther Pension or yearly Sum of*

Ten Thousand Pounds to hold during her natural Life, all which were made payable in such a manner as in the said several Letters Patents is more fully exprest. Our Will and Pleasure now is, and we do hereby Direct, Authorize and Command, that you cause Payment to be made to the Heirs of such of the said Trustees as was the longest Liver of so much as since the 24th Day of March last, 1713, is incurred or grown due on the said Annuities or yearly Sums, amounting to Thirty seven thousand three hundred twenty eight Pounds, thirteen Shillings and Seven Pence, and to the said Queen Dowager or her Assigns, of so much as since the said 25th Day of March last, is incurred or grown due on the said Annuity of ten thousand Pounds, according to the purport of the several Grants, or Letters Patents above recited, as also of what shall hereafter become due and payable upon the said several Annuities Quarterly, during the Life of the said Queen Dowager; and for so doing, this shall be your Warrant. Given at our Court at Windsor-Castle, the twenty third Day of December, One Thousand Seven Hundred and Thirteen, in the Twelfth Year of our Reign. And did afterwards, on or about the twenty fourth of December following, sign a Warrant to the Auditor of the Receipt of her Majesty's Exchequer, requiring him to make and pass Debentures for paying to such Person or Persons as is, are, or shall be authorized to receive the same, the Sum of nine thousand three hundred thirty two Pounds, three Shillings and four Pence three Farthings, for one Quarter, incurred upon the said several yearly Sums therein mentioned, from Lady-Day One Thousand Seven Hundred and Thirteen, to Midsummer following, and appointed the same to be satisfied out of the Sum of five hundred thousand Pounds, appropriated by an Act passed the then last Session of Parliament, for or towards Payment of such Debts and Arrears as were therein mentioned. And another Warrant to the said Auditor to make and pass Debentures for paying to the said Queen, or to her Treasurer or Receiver, the Sum of two thousand five hundred Pounds for one Quarter, incurr'd on the said Pension of ten thousand Pounds per Ann. from Lady-Day, One Thousand Seven Hundred and Thirteen, to Midsummer then last past, and appointed the same to be satisfied out of the Sum of five hundred thousand Pounds, appropriated by an Act passed the then last Session of Parliament, for or towards Payment of such Debts and Arrears as were therein mentioned. And the said Robert Earl of Oxford and Earl Mortimer, on or about the twentieth of July, One Thousand Seven Hundred and Fourteen, being then Lord High Treasurer of Great Britain, and of her Majesty's Privy Council, having corruptly and deceitfully, in further Violation of his Oath, and his high Trust, advised her late Majesty to sign a Warrant, directing the Payment of one thousand Pound Sterling to Daniel Arthur, Esq; for Monies expended by him for her Majesty's special Service, and the same being accordingly issued and received by him the said Arthur out of her Majesty's Treasure, he the said Robert Earl of Oxford and Earl Mortimer being then Lord High Treasurer of Great Britain, did give private Direction to the said Arthur to pay the said Sum of one thousand Pounds to the said Abbot Gualtier, or to his Use, pursuant to which Direction the said Arthur did pay or cause to be paid the said Sum of one thousand Pounds to the said Abbot Gualtier, or to his Use; whereby the said Robert Earl of Oxford and Earl Mortimer did most wickedly betray the Honour of her late Majesty, and the Imperial

Crown of these Realms, in advising her, under Colour of the said Letters Patents, and without the Advice of her Council or her Parliament, to direct the issuing of the Revenue, provided by Parliament for the Support of the Honour and Dignity of the Crown, to the Use and Benefit of the open and avowed Adherent of the Pretender; and did not only defraud her Majesty of the said Sum of one thousand Pounds, but did most arbitrarily, illegally, and corruptly advise the Embezzlement and Misapplication of so much of the said Sum of five hundred thousand Pounds, in Contempt and Defiance of the express Appropriation of an Act of Parliament.

ARTICLE V.

That whereas by the antient and undoubted Laws of this Kingdom, no Person, being a natural born Subject of this Realm, or within any of the Dominions thereunto belonging, and having committed and being under the Guilt of High Treason, ought to be receiv'd within this Kingdom, as a public Minister, or with any Character from any Foreign Prince, State, or Potentate. And whereas some time in the Year One Thousand Seven Hundred and Thirteen, one Patrick Lilesh, stiling himself, and commonly known by the Name of Sir Patrick Lawless, an Irish Papist (who had served with the late King James the Second in the War in Ireland, against his late Majesty King William the Third of ever glorious Memory, had follow'd the said King James into France, and continu'd in the most open and avowed manner in his Interests and Service, and in Rebellion against his said Majesty King William, and had bore high Commission against, and had been in open Arms against her late Majesty Queen Anne in the late War in Spain) did come into this Kingdom, and pretended to have and did take on himself the Character of a Minister sent from King Philip of Spain, to her late Majesty, to treat of Matters of the greatest Importance to the Honour and Safety of her Majesty and her Kingdoms; and having given notice of the same to Robert Earl of Oxford and Earl Mortimer, then Lord High Treasurer of Great Britain, and of her Majesty's Privy Council, and who then assumed to himself the supreme Direction in her Majesty's Councils; he the said Robert Earl of Oxford and Earl Mortimer was not only wanting in his Duty to her Majesty, in not advising her Majesty against receiving and admitting the said Lilesh aliàs Lawless in the Quality aforesaid, but did, together with other false and evil Counsellors, advise her Majesty to receive and admit him as a Minister from his said Catholic Majesty; and the said Earl did presume frequently too meet, confer and negotiate the most important Affairs of the Nation with the said Lilesh aliàs Lawless in the Quality aforesaid. And the better to conceal his said illegal and dangerous Measures from her said Majesty, he the said Robert Earl of Oxford and Earl Mortimer was privy to, consenting, and advising that the said Lilesh aliàs Lawless should be introduced to her said Majesty, and should be received and treated by her Minister, under the false and disguised Name of Don Carlo Moro. And the House of Lords, some time in the Month of April, One Thousand Seven Hundred and Fourteen, having notice of the said dangerous Attempt of the said Lilesh aliàs Lawless, on or about the Ninth of the said Month, made an humble Address to her Majesty, that she would be graciously pleased to issue her Royal Proclamation, commanding all proper Officers and Magistrates to make diligent Search for, and to apprehend

prehend all Popish Priests, and to put the Laws in Execution against them; and likewise to enquire after and apprehend all such Persons as have serv'd in Arms against her Majesty, or their late Majesties King *William* and Queen *Mary*, and who were then within the Kingdom, contrary to Law, to the End that they might be brought to Justice. To which her Majesty was graciously pleas'd to return an Answer to the Effect following, *viz.* That she would give Orders pursuant thereto, and a Proclamation did accordingly issue. And on the said ninth Day of *April*, the House of Lords (having under their Consideration what further Security could be provided for strengthening the Protestant Succession in the House of *Hanover*) came to the following Resolution, *viz.* *That no Person, being a Natural born Subject of Great Britain, or within any of the Dominions thereunto belonging, and who having traiterously serv'd against her Majesty, ought to be receiv'd as a public Minister, or with any Character within this Kingdom:* Notwithstanding which, he the said *Robert* Earl of *Oxford* and Earl *Mortimer*, having no regard to the Safety of her Majesty's Person, or to the Security of the Protestant Succession; and setting himself in utter Defiance not only of the said Advice and Resolution of the House of Lords, but of her Majesty's Assurances to that House of Parliament, and of her Royal Authority and Command, by her Proclamation under the Great Seal: Instead of doing what in him lay to have apprehended and brought, or causing the said *Lilesh* aliàs *Lawless* to be brought to Justice, did afterwards, on or about the Fifteenth Day of *March*, One Thousand Seven Hundred and Fourteen, most wickedly and traiterously advise her Majesty to sign a Warrant, directing the Payment of one thousand Pounds Sterling to *Daniel Arthur*, Esq; for special Services, which being accordingly issued and received by the said *Arthur*, he the said Earl did privately and corruptly direct the said *Arthur* to pay the same, and accordingly the said one thousand Pounds was paid to the Use of the said *Lilesh* aliàs *Lawless*: And the said *Robert* Earl of *Oxford* and Earl *Mortimer* did at other times, in a fictitious and scandalous manner, direct the Payment of other considerable Sums of Money, out of her Majesty's Treasure, to the said *Lilesh* aliàs *Lawless*, which were accordingly paid to him; altho' it was notorious, that the said *Lilesh* aliàs *Lawless* had not only traiterously serv'd in Arms against her Majesty, but had been the Minister or Agent of the Pretender at the Court of *Madrid*; and was under strong Suspicions of being sent into *England*, tho' under the Pretences aforesaid, secretly to promote the Interest of the Pretender in these Kingdoms. By all which corrupt and evil Counsels he the said *Robert* Earl of *Oxford* and Earl *Mortimer* did most basely and ungratefully expose the Person of her Sacred Majesty, did what in him lay to enervate and render ineffectual the Advice of Parliament, and her Majesty's most solemn Declarations, in a matter of the nearest Concern to her Majesty and Kingdoms, and by countenancing, in the most corrupt and scandalous manner, the secret Emissaries of the Pretender, did greatly encourage his open Adherents, to the apparent Danger of the Protestant Succession to the Imperial Crown of these Realms.

ARTICLE VI.

That whereas her late Majesty Queen *Anne*, after several unsuccessful Attempts, in Conjunction with her Allies, to establish his present Imperial Majesty on the Throne of *Spain*, being inform'd, that the People of *Catalonia* were inclin'd to cast off the Yoke

impos'd upon them by the *French*, and to return to the Obedience of the House of *Austria*; and her Majesty being desirous to maintain and improve that good Disposition in them, and to induce them to put the same speedily in Execution; did send *Milford Crow*, Esq; to them, with necessary Powers and Instructions to carry on so great a Work, for the Advantage of her Service, and the Good of the Common Cause; and to that End to treat with the *Catalans*, or any other People of *Spain*, about their coming into the Interest of King *Charles* the Third, his present Imperial Majesty, and joining with her Majesty and her Allies against the Common Enemy; and her Majesty, after her gracious Assurances to assist them with Men and Money, was pleas'd to authorize her said Minister to give them her utmost Assurances, to procure the Establishment of all such Rights and Immunities as they had formerly enjoy'd under the House of *Austria*; and that for their further Satisfaction, she had sent for Powers from King *Charles* the Third, for confirming the same, and was willing to become Guarantee that it should be done: Nevertheless on this express Condition, that they should receive the said King *Charles* as lawful King of *Spain*, and utterly renounce the House of *Bourbon*. And, together with the said Instructions, her Majesty was pleas'd to sign and cause to be deliver'd to her said Minister, Credential Letters to the Nobility, Magistrates, and all other Officers Civil and Military of *Catalonia*, desiring them to depend on the Promises he should make them in her Name. And in her Majesty's Instructions to the Earl of *Peterborow* and Sir *Cloudeſly Shovel*, in or about the Month of *May*, One Thousand Seven Hundred and Five, they are ordered to use their utmost Endeavours to induce the *Catalans* to join with them in their Undertaking, and to assure them of her late Majesty's Support, and to promise them, in the Queen's Name, that she would secure them a Confirmation of their Rights and Privileges from the King of *Spain*, that they might be settled on a lasting Foundation to them and their Posterity. And in case Persuasions should not prevail, and the *Catalans* should not make a suitable Return to those kind Offers, they were ordered to annoy their Towns on the Coasts of *Spain*, and to reduce them by Force. And, in Conformity to these Instructions, a *Manifesto*, or Declaration was prepared, by the Privity and Advice of *Robert* Earl of *Oxford* and Earl *Mortimer*, then one of her Majesty's principal Secretaries of State, and deliver'd to the said Earl of *Peterborow*, full, on the one Hand, of the Assurances aforementioned, and on the other hand, of Menaces to them, in case they declined her Majesty's Overtures, which *Manifesto* was afterwards published by him the said Earl of *Peterborow* in *Catalonia*: And whereas the Nobility, Clergy, and the whole Principality of *Catalonia*, and the Inhabitants of the Isle of *Majorca*, relying on the Faith of those Royal Assurances, did utterly abandon the House of *Bourbon*, and acknowledged King *Charles* the Third, his present Imperial Majesty, for their lawful Sovereign, and did join their Arms with those of her Majesty and her Allies, against the Duke of *Anjou*; and it having pleas'd Almighty God so far to bless her Majesty's pious and generous Undertaking, as by most signal Successes, in a short time, to deliver the Principality of *Catalonia* from the heavy Yoke of *French* Bondage; and great Supplies having been granted by Parliament, for the reducing the whole Kingdom of *Spain* to the

Obedience of the House of *Austria*; the Arms of her Majesty and her Allies were attended with vast Successes, having twice entered the Capital City of that Kingdom, and obtained many other signal Conquests, to the great Advantage of the Common Cause: And thro' the whole Progress thereof, the Bravery and Firmness of the *Catalans* being always remarkable, thereby, as well as from the repeated Assurances given to them from time to time, in her Majesty's Name, by every General and Minister sent from *Great Britain* to *Spain*, the Hearts of that brave People were united under the strongest Tyes of Affection and Gratitude to her Majesty; and they were justly held in the strictest Dependence on the continuance of her Royal Protection; he the said *Robert Earl of Oxford* and *Earl Mortimer*, being an Enemy to the Common Liberty of *Europe*, and having traiterously enter'd into Conspiracies for subjecting the whole *Spanish* Monarchy to the House of *Bourbon*, and designing most maliciously the utter Ruin and Destruction of the antient Rights, Liberties and Privileges of the *Catalans*, who had made so glorious a Stand for the Preservation of them, did, together with other false and evil Counsellors, form a most dishonourable, wicked, and cruel Contrivance, not only for abandoning the *Catalans* to the Fury and Revenge of the Duke of *Anjou* and his Adherents, but for the final Extirpation of all their Rights, Liberties, and Privileges. And in Execution of that his Intention, during the private, separate, and pernicious Negotiation of Peace, which was carry'd on between him and the Ministers of *France*, and before any Negotiation of Peace was set on Foot, in due Form of Law, between the Crowns of *Great Britain* and *Spain*, did advise her Majesty to give Directions to the Lord *Lexington*, her Ambassador to the Court of *Spain*, to acknowledge the Duke of *Anjou* King of *Spain*, but was greatly wanting in his Duty to her Majesty, in not advising her to give Instructions to her said Minister, at the same time to rempitorily and absolutely to insist on the securing the *Catalans* Liberties at the Conclusion of the Peace. And altho' the private, separate and treacherous Practices of him the said *Robert Earl of Oxford* and *Earl Mortimer*, and others, in Combination with the Ministers of *France*, did afterwards, on or about the Fourteenth of *March* One Thousand Seven Hundred and Thirteen, necessitate his present Imperial Majesty to conclude a Treaty for the evacuating *Catalonia*, (whereof her Majesty was Guarantee) without any express and positive Stipulation for the *Catalans* Liberties, (his Imperial Majesty relying, in that respect, on her Majesty's Declaration, to interpose for them in the most effectual manner, and on the Promises of the *French* King to join his Endeavours for the same Purpose.) And altho' her sacred Majesty did, both before and after, frequently declare by her Ministers in *Spain*, that she thought herself under the strongest Tyes of Honour and Conscience, not to abandon a People whom the Necessities of the War had obliged her to draw into her Interest. And tho' the *French* King did not join his Endeavours for the Purposes aforesaid; he the said *Robert Earl of Oxford* and *Earl Mortimer*, together with other false and wicked Counsellors, having from time to time amused and deceived the distress'd *Catalans*, with groundless Hopes of her Majesty's effectual Interpositions in their Favour, thereby engaging them in a more obstinate Defence of their Territories against the Duke of *Anjou*, was not only highly wanting in his Duty to her Majesty, by not doing what in him

lay, as a faithful Minister, to have prevented the Conclusion of the Treaty of Peace with *Spain*, till just and honourable Conditions were secured for the *Catalans*, but did falsely, maliciously, and treacherously advise her Majesty to conclude a Peace with the King of *Spain*, without any Security for the ancient and just Rights, Liberties and Privileges of that brave, but unhappy Nation. And did further advise her Majesty to send Sir *James Wisbart*, her Admiral, with a large Squadron of Men of War, at a great Expence, to favour the said King of *Spain* in the Siege of *Barcelona*, the Capital City of *Catalonia*, and with express Instructions, that in case the Inhabitants of *Majorca* should refuse the Terms that should be offer'd them by the Duke of *Anjou*, to employ his Squadron, in countenancing and assisting all Attempts that should be made, for reducing them to a due Obedience. By which most vile and detestable Counsels, her sacred Majesty, contrary to her most pious Intentions, the Faith of Nations, and the Duties of Religion, and Humanity it self, and contrary to her solemn and repeated Assurances, was prevailed on to abandon a distressed People, drawn in, and engaged by her own Invitation, into an open War with the Duke of *Anjou*, for the Preservation of the Liberties of *Europe*, and the Commerce of *Great Britain*. And the Persons, Estates, Dignities, Rights, Liberties and Privileges of the *Catalans* were given up as a Sacrifice to the implacable Resentment of their enraged and powerful Enemy; and the Honour of the *British* Nation, always renown'd for the Love of Liberty, and for giving Protection to the Asserters of it, was most basely prostituted; and a free and generous People, the faithful and useful Allies of this Kingdom, were betray'd, in the most unparallel'd manner, into irrevocable Slavery: And, in Consequence of which most dishonourable and perfidious Councils, the most execrable Hostilities, Burnings and Plunderings were committed upon them, throughout their whole Province, without sparing the Effusion of innocent Blood, and without the Distinction of Age or Sex; and that unfortunate People were afterwards forc'd to undergo the utmost Miseries of a Siege in their Capital City of *Barcelona*; during which great Multitudes of them perished by Famine and the Sword, many of them have since been executed: And great Numbers of the Nobility of *Catalonia*, who were for their Constancy and Bravery, in Defence of their Liberties, and for their Services in Conjunction with her Majesty and her Allies, had, in all Honour, Justice and Conscience, the highest Claim to her Majesty's Protection, are now dispersed in Dungeons, throughout the *Spanish* Dominions; and not only the *Catalan* Liberties extirpated, but by those wicked Counsels of him the said *Robert Earl of Oxford* and *Earl Mortimer*, *Catalonia* it self is almost become desolate.

All which Crimes and Misdemeanours were committed and done by him the said Earl against our late Sovereign Lady the Queen, her Crown and Dignity, the Peace and Interest of this Kingdom, and in Breach of the several Trusts reposed in him the said Earl.

And he the said *Robert Earl of Oxford* and *Earl Mortimer* was either Commissioner of the Treasury, or Lord High Treasurer of *Great Britain*, and one of her Majesty's Privy Council, during the time that all and every the Crimes before set forth were done and committed.

For which Matters and Things, the Knights, Citizens and Burgeses of the House of Commons

in Parliament assembled, do, in the Name of themselves, and of all the Commons of *Great Britain*, further impeach the said *Robert Earl of Oxford* and *Earl Mortimer* of other High Crimes and Misdemeanours in the said Articles contained. And the said Commons by Protestation, saving to themselves the Liberty of exhibiting at any time hereafter any other Accusations or Impeachments against the said Earl, and also of replying to the Answers which the said *Robert Earl of Oxford* and *Earl Mortimer* shall make to the Premises, or any of them, or to any Impeachment or Accusation that shall be by them exhibited, according to the Course and Proceedings of Parliament, do pray, that the said *Robert Earl of Oxford* and *Earl Mortimer* be put to answer all and every the Premises; and that such Proceedings, Examinations, Trials and Judgments may be upon them, and every of them had and used, as shall be agreeable to Law and Justice.

L. H. Steward. Read the Answer to the Impeachment.

The Clerk reads the Answer.

The ANSWER of Robert Earl of Oxford and Earl Mortimer, to the Articles exhibited by the Knights, Citizens and Burgesses in Parliament assembled, in the Name of Themselves, and of all the Commons of Great-Britain, in Maintainance of their Impeachment against him for High-Treason, and other High-Crimes and Misdemeanours, supposed to have been by him committed.

THE said Earl, saving to himself all Advantages of Exception to the said Articles, and of not being prejudiced by any Words, or want of Form in this his Answer; and also saving to himself all Rights and Privileges belonging to him as one of the Peers of this Realm, for Answer to the said Articles saith: He admits many *solemn Treaties and Alliances* have been formerly entered into, between the Crown of England, and other Princes and Potentates of Europe, for their mutual Security, and to prevent the immoderate Growth of the Power of France, which might prove dangerous to the neighbouring Princes and States; and that therefore it was laid down as a fundamental Principle and Maxim of Union amongst the Allies, *That France and Spain should never come and be united under the same Government, and that one and the same Person should not be King of both those Kingdoms*; and he apprehends, that the principal View and Aim of the Allies was to settle and maintain an equal Ballance of Power in Europe; and, since the Conjunction of Spain to the Dominions of France might possibly ensue from the Duke of *Anjou's* being possessed of that Crown, the dispossessing him was desir'd, as the most likely Means to prevent that Conjunction; and for the same Reason the Union of Spain with the *Empire* must have been equally fatal, and the Prevention of it equally the Design of the Alliance; nor could the Continuance of Spain in the House of *Bourbon* be in any Respect prejudicial to the Allies, if the Union of that Crown with France could be prevented. As new Dangers of such Union have been apprehended, new Treaties and Stipulations have been entered into among the Allies, to obviate such Dangers, and particularly the Treaty for an intended Partition seems to have been concluded upon that View; and though he acknowledges the Wisdom of Parliament in condemning that Treaty, as prejudicial and fatal in its Consequences to *England*, and the Peace of *Europe*, yet,

he presumes, it was not condemn'd, because Part of the Dominions of the Crown of *Spain* were thereby allotted to the House of *Bourbon*; but because such considerable Parts of those Dominions, as the Kingdoms of *Naples* and *Sicily*, the Province of *Guipuscoa* and other Territories were allotted to that Branch of the House of *Bourbon*, to whom the Crown of *France* was to descend, which might have been a great and dangerous Addition to the then formidable Strength of that Crown; and because it was made against the repeated Remonstrances of *Charles* the Second, then King of *Spain*, who declared by his Ambassador, *That such Partition-Treaty could have no other Effect, than to force Spain to throw itself into the Arms of France, to prevent the dismembring of the Spanish Monarchy.* And, that it had this Consequence, appear'd upon the Death of that Prince, who seems to have been induced by that Consideration to bequeath the entire Monarch of *Spain* to the Duke of *Anjou*, a younger Branch of the House of *Bourbon*; who accordingly, upon the Demise of the said King *Charles* the Second, took Possession of the Monarchy of *Spain*. But this Accession of the Duke of *Anjou* to the Crown of *Spain* did not produce the Alliance, in the Article mentioned, between *Leopold*, then Emperor of *Germany*, his late Majesty, King *William* the Third of ever-glorious Memory, and the States-General, as immediately necessary at that Juncture: For King *William*, as well as the States-General, acknowledged the Duke of *Anjou* as King of *Spain*; thereby allowing, that the Duke of *Anjou's* Enjoyment of the Monarchy of *Spain*, while he was but a younger Branch of the House of *Bourbon*, was not destructive of the Liberties of *Europe*, or the Preservation of a due Ballance of Power. And afterwards, when the *French* King had seiz'd the *Spanish Netherlands*, King *William*, by Advice of Parliament, came into the Assistance of the States, as an Auxiliary only, by sending, upon their Request, Ten Thousand Men, which *England* was obliged by Treaties to furnish, in Case the States were attacked; after which, many Conferences pass'd at the *Hague* betwixt the Ministers of *England* and the States, and those of *France*, in order to find out some Expedient, by which, upon a reasonable Division of the Dominions of *Spain*, a new War might be prevented; and the States, in the Course of those Conferences, often asserted, *That, though they had acknowledged Philip King of Spain, yet such an Acknowledgement was not contrary to the Demand of a reasonable Satisfaction to be given to the Emperor for his Pretensions to the Spanish Succession*; which was, in Effect, to declare, *that the Satisfaction demanded for the Emperor was such, as would leave King Philip in Possession of Spain.* But those Conferences broke off, about *August*, One Thousand Seven Hundred and One, without Effect; and in *September* following, King *William* entered into the Grand Alliance with the Emperor, and the States-General; whereby it was agreed, *That, in the first Place, Endeavours should be used by amicable Means to obtain the Satisfaction desired for the Emperor, who probably, at that Time, would have accepted a very easy Composition for his Pretensions*: But when the *French* King acknowledged the Pretender as King of *England* (which not long after happened) his Majesty King *William*, and the Parliament of *England*, justly provoked by this Affront, resolv'd to enter into the War which had been begun by the Emperor alone, in *Italy*, the Year before; and the late Queen mentions this Indignity, as the

chief Motive of her engaging in it, as appears by her Declaration of War against *France* and *Spain* in *May*, One Thousand Seven Hundred and Two. The said Earl admits the several Treaties set forth in the Preamble to the said Articles, and that such Advice was given by Parliament, and such Speeches were made from the Throne, as in the said Preamble are mentioned; but, for more Certainty, begs leave to refer himself to the very Treaties, Addresses of Parliament, and Speeches, when they shall be produced: And he humbly hopes, your Lordships will allow him to observe, that those Treaties manifestly shew, that the Design of the Allies, in endeavouring the Recovery of *Spain* from the House of *Bourbon*, was to prevent the Union of those two Potent Kingdoms in one and the same Person. In the Grand Alliance in One Thousand Seven Hundred and One, the avow'd Ends are, the procuring an equitable and reasonable Satisfaction to his Imperial Majesty for his Pretensions to the *Spanish* Succession, the Security of the Dominions of the King of *Great Britain*, and States-General, with the Navigation and Commerce of their Subjects, and the preventing the Union of *France* and *Spain* under the same Government. And the Territories and Provinces, pointed out in the Fifth Article, were the farthest Views of that Alliance; whereby it was thought, his Imperial Majesty would receive the utmost Satisfaction, which he could reasonably demand, for his Pretension to the *Spanish* Succession. No mention is made of the Recovery of the whole Monarchy of *Spain* to the House of *Austria*, either in the Grand Alliance, or in the Defensive one made the same Year between his Majesty King *William* and the States-General: And when, in the Treaty between the Emperor, the Queen of *Great Britain*, and the States-General, on the one Part, and the King of *Portugal* on the other, about *May*, One Thousand Seven Hundred and Three, it was concerted to place Archduke *Charles* the present Emperor, upon the Throne of *Spain*, he was then but a younger Branch of the House of *Austria*; and there is great Reason to believe that the Queen, as well as other Princes of *Europe*, and, in particular, the King of *Portugal*, did not think a Treaty to procure the Crown of *Spain* for the Arch-duke, when a younger Branch of the House of *Austria*, did lay an Obligation of procuring that Monarchy for him, when he became first of that House, and was elected Emperor; since the Imperial and Hereditary Dominions, join'd to the whole *Spanish* Monarchy, would have given such an Excess of Power to one Prince, as would have been formidable to *Europe*, and a Means to destroy that Ballance of Power which her Majesty in all her Treaties, had constantly labour'd to preserve: And it is a known and an allow'd Rule by the Law of Nations, in Reference to Leagues between Princes, that if there happens a material Change in what was the principal Ground and Cause of the Treaty, the Obligation thereof ceases. If therefore, in the Preliminary Articles in One Thousand Seven Hundred and Nine, and afterwards in the Conferences at *Gertruydenberg*, a Cession of the *Spanish* Monarchy to King *Charles* the Third, who was then younger Brother to the Emperor, was thought reasonable to be insisted on; yet the said Earl humbly submits to your Lordships great Judgment, whether there was equal Reason for insisting on such Cession, when King *Charles* the Third was become Head of that House, and had Possession of the Empire and all

the hereditary Countries of *Austria*, as a Condition, without which no Peace should be made. The States-General were so far from admitting, or yielding that the Monarchy of *Spain* should in all Events be given to the House of *Austria*, that he, the said Earl, hath heard, they refus'd to admit it to be inserted as a Condition of their Barrier-Treaty, when propos'd by her Majesty's Ambassador at the *Hague*, and chose rather to put a Stop to the Proceedings of that Treaty, and hazard the Advantages they thereby expected, than comply with that Proposal. The Advice of Parliament is of great Weight, to which her late Majesty always gave, and he the said Earl always paid, a just Regard; and he doubts not but the House of Peers had proper Inducements when they gave their Advice to the Throne, *That no Peace could be safe, honourable, or lasting, so long as the Kingdom of Spain and the West-Indies continued in the Possession of any Branch of the House of Bourbon.* But, if he may be permitted to offer his humble Conjecture concerning the Motives of that Advice, he conceiveth it might proceed from an Apprehension of a future Union of those two Crowns as likely to ensue, in Case *Spain* should continue in the Possession of any who might become Heir to the Crown of *France*, and that even the Conjunction of the Empire and *Spain* would be less dangerous than such a Union. But when her Majesty communicated to her Parliament, the Sixth of *June* One Thousand Seven Hundred and Twelve, the Terms upon which a Peace might be made, and thereby inform'd them, *That France had been brought to offer, that the Duke of Anjou should, for himself and his Descendants, renounce for ever all Claim to the Crown of France; and at the same time the Succession of the Crown of France was to be declared, after the Death of the then Dauphin and his Sons, to be in the Duke of Berry and his Sons, in the Duke of Orleans and his Sons, and so on to the rest of the House of Bourbon; and that the Succession to Spain and the West-Indies, after the Duke of Anjou and his Children, was to descend to such a Prince as should be agreed upon at a Treaty of Peace, for ever excluding the rest of the House of Bourbon; both Houses of Parliament, by their respective Addresses to her Majesty, in the same Month, expressed their entire Satisfaction: And as the House of Commons desired her Majesty to proceed in the Negotiations then depending for obtaining a speedy Peace; so that the House of Lords assured her Majesty, *That they entirely relied on her Majesty's Wisdom to finish that great and good Work.* And after her Majesty had concluded a Peace on those Terms, both Houses of Parliament severally congratulated her Majesty on the Conclusion of the Peace; and also join'd in an Address of the Twenty-second of *April*, One Thousand Seven Hundred and Fourteen, expressing their just Sense of her Majesty's Goodness to her People in delivering them by a safe, honourable, and advantageous Peace with *France* and *Spain*, from the heavy Burthen of a consuming Land-War, unequally carried on, and become at last impracticable. He the said Earl acknowledg'es, that her Majesty was pleas'd about *August*, One Thousand Seven Hundred and Ten, to re-admit him, among others, to a Place in her Council, and to require his Service in Offices of Trust; to which he submitted purely in Obedience to her Majesty's Commands, with great Reluctance from the Prospect of the Difficulties with which he was likely to struggle. But as he never ask'd any Employment, nor us'd any wicked Arts, or base Insinuations, to obtain the same from her*

her Majesty; so in all Employments, with which her Majesty was pleased to honour him, he sincerely endeavoured to discharge his Duty with the utmost Integrity, having always, with the truest Zeal, desired and endeavoured, as far as he could, to promote the Honour and Service of her Majesty, whose Aim he knew to be the Welfare of her Kingdoms, in the first Place, and as far as she judg'd it consistent with that, the common Good of her Allies. In or about the Month of *September*, One Thousand Seven Hundred and Ten, her Majesty (whose undoubted Prerogative it was) thought fit to dissolve the Parliament then in being, and to call a new One. In the Year One Thousand Seven Hundred and Eleven, Propositions were made by *France* to her Majesty for a Peace, without the Contrivance or previous Knowledge of the said Earl: Her Majesty, out of her Affection for her People, having it much at her Heart to establish Peace in her own Days, expressed her Concern for the Disappointment of former Negotiations, and her earnest Desire to put a speedy End to the War, and to the Effusion of Christian Blood, and to ease her Subjects from the heavy Burthen of their Taxes. The said Earl doth acknowledge, that he thought a Peace was very much for the Interest and Advantage of *Great Britain*: And, in his humble Opinion, the most favourable Juncture for obtaining advantageous Terms of Peace, was immediately after the signal Victories gained by her Majesty's Arms, in the Year One Thousand Seven Hundred and Six. For, after the Reduction of the Dominions of the Electors of *Bevaria* and *Cologne*, with other important Conquests in *Germany*; after the entire Destruction of Three great Armies of *France*, in *Flanders*, *Spain*, and *Piedmont*; after the Allies had recovered the *Spanijsh Netherlands*, *Milan*, and other Territories in *Italy*; it might have been hoped, from the great Distress in which the Enemy then was, a just and reasonable Peace would have been obtained; since so much was at that Time gained from the Enemy, and so much more in all Probability would have been yielded by them, as would have fully answered the Ends of the Grand Alliance. Peace was at that time sought by the Enemy; and the said Earl, who had the Honour to be one of the Principal Secretaries of State, owns he then advised the accepting of it. And he humbly begs leave to observe, that the War had been continued upon so unequal a Foot, that the Burthen of it annually encreased, and, at the Time when these Proposals were made by *France*, was become almost insupportable. It had indeed been stipulated by the Grand Alliance, that the Allies should assist one another with all their Forces, according to a Specification to be agreed on in a particular Convention for that Purpose: But it doth not appear any such Convention was made, otherwise than as the House of Commons were inform'd by one of the Principal Secretaries of State to his late Majesty King *William*, that by the Proportions adjust'd with the States, *England* was to furnish two Parts of five by Land, and the States the other three; and *England* was to furnish five Parts of Eight by Sea, and the States the other three: But the States not always allowing themselves to be under an Obligation to furnish such Proportions, gave Occasion to *England's* bearing an unequal Part in the War, with respect to the Allies. The States had that prudent Regard to the frugal ordering of their Affairs, that they frequently insisted they ought not to be press'd beyond their Ability, and made themselves the sole Judges of what came

within the Compass of it, and by that means avoided the supplying any Quota, or Proportion, which they thought improper for them to furnish. In the mean time the Charge of the War was greatly increased upon the Subjects of *Great Britain*: In the Year One Thousand Seven Hundred and Two, it was under Four Millions; from thence it gradually increased till the Year One Thousand Seven Hundred and Six, the Charge of which Year amounted to above Five Millions and an Half; and still advancing, till the Year One Thousand Seven Hundred and Eleven, it was then grown to near Seven Millions; and, at the same time, there was a Debt contracted, not provided for by Parliament, amounting to Seven or Eight Millions; the very Interest of which, and other Debts, wherein the Nation was involved, amounted to Three Millions *per Annum*; and the Revenues of *Great Britain* were under such Anticipations, that it was found difficult to raise above Two Millions and an Half for the growing Service, to be paid within the Compass of the Year. So that, when the Duties and Difficulties upon Trade, and the Continuance of the Taxes upon Land, which had lain so heavy above Twenty Years, are consider'd, the said Earl believes it could not be thought for the public Interest to prolong the War, without an absolute Necessity. During this Time the States had managed with so good Oeconomy, that the said Earl hath not heard of any additional Duty laid by them upon Trade, from the Year One Thousand Seven Hundred and Two, to the Year One Thousand Seven Hundred and Eleven. And what Acquisitions were made upon the Continent, during the Continuance of the War; tho' at the Expence of *British* Blood and Treasure, accrued to the Share of the Allies; and the *Dutch*, being under no Prohibition of Commerce with *France*, had a further Advantage of the *British* Merchants, in respect to a free Trade. Altho' the Princes of the Empire were engag'd by previous Treaties to furnish their Quota's to the common Cause, yet when they were often press'd to do it, they alledg'd in Excuse, *That those Troops which they were obliged to furnish at their own Expence, were in the Pay of the Crown of Great Britain.* The Emperor left it to her Majesty to provide for those Troops, which by the *Portugal* Treaty, in the Year One Thousand Seven Hundred and Three, he was to furnish. The King of *Portugal* not only neglected the Proportion of Twelve Thousand Foot and Three Thousand Horse, which by the said Treaty he was to provide at his own Expence, but even refused to permit the Eleven Thousand Foot and Two Thousand Horse, for which he had a Subsidy from her Majesty, to be paid by Musters, according to an Article of that Treaty; and, when press'd to furnish his full Number of Troops, alledg'd his Inability, for want of that Part of the Subsidies which the States ought to have paid him: So that almost the whole Charge of the War in *Spain* was left upon her Majesty; the States having sent few or no Troops thither, after the Battle of *Almanza*; and all the other Allies being likewise defective in their Proportions. This was the Condition of Affairs, with respect to the Charge of the War; nor did there appear, from the then Situation of Affairs, any more promising Prospect, with regard to the Event: For, although it had pleased God to bless her Majesty's Arms with wonderful Success, at which the said Earl, most sincerely rejoic'd, yet it did not appear, that after the Year One Thousand Seven Hundred and Six, our Successes in
other

other Parts had countervailed our Losses in *Spain*; for after two great Battles, wherein we had been there defeated, after our Forces had been twice obliged to retire from *Madrid*, and after the taking the *British* Troops at *Bribuega*, the Recovery of *Spain*, (which was the main Article that retarded the Conclusion of the Peace at *Gertruydenberg*) seemed almost desperate, especially since the *French* in the Year 1711, by their plentiful Vintages and Harvests, had well nigh recovered the Effects of the Famine; and since some of the Allies at the same time made pressing Instances for recalling part of their Troops, as they had done frequently during the course of the War; from whence it appears how just the Grounds were, upon which both Houses of Parliament represented to her Majesty, *That the War had been unequally carried on, and was at last become impracticable.* And the said Earl humbly hopes, he shall not be thought to have designed any Disservice to his Country, if, in such a Condition of Affairs, he did not dissuade her Majesty from hearkening to the Overtures of Peace made to her from *France*; or if, during the Negotiations, he endeavoured, by Corresponding, with her Majesty's Knowledge and Approbation, in any Courts concern'd therein, to rectify any Mistakes, or contribute in any Measure towards the Conclusion of a general Peace. But the said Earl believes, that, in all the Negotiations towards such Peace, the Allies had such Knowledge and Communication of all Measures therein taken by her Majesty, as the Treaties her Majesty was engaged in required: That the Propositions transmitted from *France* about *April* 1711, were immediately communicated to the Pensionary and Ministers of *Holland*: That her Majesty did at the same time, assure them of her Resolution to act in Concert with them, in making Peace as in making War. That when the States had expressed their Desires to be equal with those of *Great Britain* for a general and lasting Peace, and had declared, that they were ready to join in proper Measures to procure it, and desired *France* might explain itself more particularly upon the Points contain'd in those Propositions; her Majesty endeavour'd to obtain such Explanations, and afterwards communicated them to the States: And if her Majesty thought it not expedient to proceed in the Method of a Preliminary Treaty, which had prov'd so ineffectual in the Year 1709 and 1710, but thought it might be sufficient, upon Articles sign'd by a Minister of *France*, by his Sovereign's Command, to open Conferences for a Peace; the said Earl humbly hopes, that this Proceeding will appear to be so far from being an unreasonable Deviation from the Methods of former Transactions in that kind, that it will be justified by many Precedents of such Treaties. The said Earl can affirm, that, during the whole Negotiation, so far as he was concerned, he acted with a sincere Intention to obtain a general Peace for the Welfare and Honour of her Majesty and her Kingdoms, and such as might give reasonable Satisfaction to her Allies, and answer all the Obligations her Majesty was under, by any Treaties with any of the Confederates; and is not conscious to himself that he hath, in any respect, transgressed that Duty, which, as a Privy Counsellor, or Officer of State, he did owe to her Majesty, or to the Public. He is not insensible that many of the Articles, wherewith he stands charged, are complicated with such Circumstances, Aggravations and Inferences, as may render it difficult for him

to acknowledge some Facts alledged, without acknowledging, or seeming at least to acknowledge those Circumstances or Inferences. And, as he is not conscious to himself of being guilty of any Crime he stands charged with, so he takes it to be agreeable to the common Course of Proceedings of this Nature, and to your Lordships Justice, that he should not admit any Circumstances which may tend to the Accusation of himself. He therefore begs leave that he may be allowed to distinguish between the Acts themselves, and the Inferences drawn from them; and that wherever he acknowledges any Fact, he may not be understood to acknowledge those Consequences which are in the Articles deduced from it, unless it shall appear that that Consequence was the Aim and Design of the said Earl, or is the necessary Result of any Act he hath done.

In answer to the First Article, the said Earl saith, that he always had the greatest Regard to the Honour and Safety of her late Majesty and her Kingdoms, to all the Engagements she was under to the Allies of this Nation, and to the common Liberties of *Europe*, that he never was devoted to the Interest or Service of the *French* King; that he is not conscious to himself of having acted, whilst he had the Honour to be her late Majesty's *High Treasurer*, or one of her most Honourable Privy Council, contrary to his Oath, or in Violation of his Duty, and Trust, or with Disregard to, much less Defiance of any Treaties in the said Article mentioned, the Advices of Parliament, her Majesty's Declarations from the Throne, or any mutual Assurances which had been made or renewed between her Majesty and the States to act in perfect Concert with each other in making Peace as in making War: And he utterly denies, that in or about the Months of *July* or *August* One Thousand Seven Hundred and Eleven, or at any other Time, he did form any Contrivance or Confederacy to set on Foot a private, separate, dishonourable or destructive Negotiation of Peace between *Great Britain* and *France*; nor doth he know of any such Contrivance or Confederacy formed by any of her Majesty's Privy Council, or that such Negotiation was at any time set on Foot. But the said Earl saith, he doth believe, that about the Month of *April* One Thousand Seven Hundred and Eleven, her late Majesty did receive from *France* some Proposals, in order to set on Foot a Treaty for a general Peace, signed by Monsieur *de Torcy*, Secretary of State to the most Christian King, which, as he believes, were immediately communicated by her Ambassador in *Holland* to the States-General: Whereupon, as he has been informed, they thanked her Majesty for her Confidence in them, declared themselves to be weary of the War, and ready to join in any Measures her Majesty should think proper for obtaining a good Peace, and that they hoped her Majesty would bring the *French* to explain more particularly the several Points contained in the above-mentioned Proposals, or to that Effect; and that after such Request her Majesty sent *Matthew Prior*, Esq; to the Court of *France*, in order to obtain as full and ample an Explanation as he could of the first general Offers: But the said Earl denies that he did advise her Majesty to send the said Mr. *Prior* to the Court of *France*, to make Propositions of Peace, without communicating the same to her Allies; or that the said Mr. *Prior* did,

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by his Advice or Privity, communicate any Propositions to the Ministers of *France*, wherein the Interests of *Great Britain*, or the common Interest of *Europe* were betray'd; nor doth the said Earl know, that the said Mr. *Prior* had any Power to communicate Propositions to the Ministers of *France*, which betray'd either the Interests of *Great Britain*, or the common Interest of *Europe*. Therefore the said Earl insists, that there is no Ground to charge him with the treacherous or pernicious Contrivances in this Article mentioned. And if any Article was inserted in any Propositions to be communicated by the said Mr. *Prior*, that the Secret should be inviolably kept till allowed to be divulged by the mutual Consent of both Parties; yet the said Earl denies that such Article was inserted by his Advice; and if any such there was, he cannot however believe it was designed to exclude her Majesty's Allies from their just Share in the said Negotiations, and hopes he may be allowed to observe, that in case any Instructions were given for not divulging Propositions which concerned *Great Britain* in particular, the same were far from manifesting such Design as is before-mentioned, since it is well known to be the undoubted Right of every Member of a Confederacy to demand particular Advantages for themselves, not inconsistent with their Alliances, and which are not to take place but on the Conclusion of a General Peace: And it has been usual for those to whom the first Overtures of Peace are made, to make Demands for themselves in the first place; as the States particularly did in the Negotiations at the *Hague* in the Year One Thousand Seven Hundred and Nine, and at *Gertruydenberg* in the Year One Thousand Seven Hundred and Ten. And though he apprehends that an Agreement not to divulge the Propositions without the mutual Consent of both Parties, could not be to the Prejudice of the Allies; yet he believes, that in order to prevent any unreasonable Jealousies among them, even those Propositions which related to *Great Britain* in particular, were communicated to them; and that it will likewise appear, that the Propositions signed by Monsieur *de Torcy*, and transmitted in the Month of *April* One Thousand Seven Hundred and Eleven, in the said Articles mentioned, whereby it is said, the *French King* offered to treat with the Plenipotentiaries of *England* or *Holland* alone, or jointly with those of the Allies, at the Choice of *England*, were Proposals relating only to the manner of Treating, when the Conferences should be opened; and that her Majesty was so far from taking upon her to treat singly for the Allies, that she chose to have all the Parties admitted to the Congress, where they might have an Opportunity of treating and adjusting their respective Interests; that being, in her Opinion, the fairest Method of proceeding, most advantageous to the Confederates, and most likely to prevent Jealousies and Discords among them. And the said Earl saith, that he doth not know that any Negotiation of Peace was contriv'd or set on Foot by any Persons employ'd in her Majesty's Service, which was in any respect more advantageous to *France* than *France* had asked, or which had a Tendency to give the Enemy a Power to create Misunderstandings between her Majesty and her Allies, or to destroy the Confidence between them.

In answer to the Second Article, the said Earl

saith, that he believes Monsieur *Mesnager*, a Subject of the *French King*, did some time in the Year One Thousand Seven Hundred and Eleven, with her Majesty's leave, come into the Kingdom of *Great Britain*, and bring with him a Letter from the said *French King* to her late Majesty, acknowledging her Majesty Queen of *Great Britain*, and likewise expressing a Desire to re-establish Peace with her, and that he was furnished with full Powers from the said *French King* for that Purpose. The said Earl further saith, that it hath been the usual and allowed Practice in most Nations, especially in *England*, for Privy Counsellors by verbal Orders from the Sovereign to confer within the Realm with Ministers of foreign Princes, and he conceives such Practice to be agreeable to the Laws of this Realm: And that full Powers are usually granted to Ministers who are sent abroad for the Justification of Persons with whom they shall treat, rather than to justify such Ministers themselves. And the said Earl denies, that he did in the Month of *September* One Thousand Seven Hundred and Eleven, or at any other time, secretly and unlawfully, or without Authority, confer or treat with the said *Sieur Mesnager* on the Negotiations of Peace between *Great Britain* and *France*, or that he did advise or promote the making a private and separate Treaty or Agreement between the said Crowns: But he hath been informed, and doth believe, that there was a Paper stiled, *The Answer of France to the Preliminary Demands of Great Britain more particularly*, signed by Monsieur *Mesnager* only, to which was subjoined a Declaration of the Queen's Acceptance of those Preliminary Articles, as Conditions his most Christian Majesty consented to grant, which were to be reduced into the usual Form of Treaties, and explained after the most clear and most intelligible manner, to the common Satisfaction of *Great Britain* and *France*, and this only in case of a general Peace: And this Declaration, or some other Declaration to the like Effect, he believes might be signed by the Lord *Dartmouth* and Mr. Secretary *St. John*, as in the said Article is set forth. But the said Earl must crave leave to submit it to the Judgment of your Lordships, whether a Paper of that sort (if any such there was) containing Offers from *France*, which were not to take effect but in case of a general Peace, can be called a separate Treaty. He believes the Allies had early Knowledge and Participation of the said Proposals from the Ministers of *Great Britain*; but denies that the Interests of *Great Britain* were thereby given up to *France*, or the Duke of *Anjou* admitted to be King of *Spain*; since in the Declaration annexed to the said Proposals he believes it is expressed, that her Majesty might in Justice expect the Securities and Advantages mentioned in those Proposals, what Prince soever he should be to whom the Monarchy of *Spain* should be allotted; and the said Earl, recollecting as well as he can what were her Majesty's Views at that time, is persuaded that her Majesty had then a Prospect, that the Monarchy of *Spain* would fall to the Share of another Prince. The said Earl denies, that by his Privity, Consent, or Advice, any private or separate Treaty or Agreement, whereby the Interests of *Great Britain* were given up to *France*, or the Duke of *Anjou* was admitted to be King of *Spain*, was agreed, concluded, and signed by the *Sieur Mesnager* on the part of *France*, and by the Lord *Dartmouth* and *Henry St. John*, or either

either of them, in Behalf of her late Majesty; much less did the said Earl, at any Time, assume to himself Regal Power, or take upon him to meet and treat with the Enemy without Authority from her Majesty, or do any thing to subvert the ancient and established Constitution of the Government of these Kingdoms, or introduce any illegal or dangerous Methods of transacting the Affairs of State. And the said Earl further saith, that he did never aim at, or endeavour by any separate Treaty to dissolve or cancel any of those solemn Treaties, in which her Majesty stood engaged to her Allies, nor was he privy to any Treaty, whereby the Queen was brought under a Dilemma, either to submit to the Dictates of *France* in the Progress of this Negotiation, or to lose the Confidence of her Allies.

In answer to the Third Article, the said Earl denies, that to disguise, or carry an any private, separate, or dangerous Negotiations, he did contrive or advise the preparing and forming the Set of General Preliminaries in the Article mentioned, intitled, Preliminary Articles on the Part of *France*, to come to a general Peace; or any other Set of general Preliminaries of like Nature; or that the same should be signed by the *Sieur Mefnager*; or that he did advise her sacred Majesty, that the same should be received by her Majesty: But the said Earl hath been informed, that certain Articles, called Preliminary Articles on the Part of *France*, to come to a general Peace, signed by the *Sieur Mefnager* only, were received by her Majesty, and believes the same might be communicated to the Ministers of the Allies then residing in *England*, as a Ground whereon the Confederates might treat or negotiate concerning a general Peace; but whether the same were communicated as the only Transactions that had been on that Subject, between *Great Britain* and *France*, the said Earl knows not: But since it is termed impious Advice, and contrary to the Duty and Trust of a Minister of State of *Great Britain*, to advise the receiving such Articles; the said Earl, from his Concern for the Honour of her late Majesty's Administration, and the future Welfare of these Kingdoms, doth submit, Whether it is criminal for such Minister to advise the receiving Articles from a Minister of a Prince in War, containing Proposals for giving reasonable Satisfaction to *Great Britain* and all her Allies, and which being signed by the Minister of that Prince only, were not intended to bind any other. And since Preliminary Articles are no essential Step towards a general Negotiation, (there being, as he believes, but few Instances where any Matters of Importance have been settled before the opening of general Conferences) the said Earl doth not conceive, That if any Minister of State had advised her Majesty to accept the Preliminaries or Offers from *France*, said to be signed by Monsieur *Mefnager* the Twenty Seventh Day of *September*, One Thousand Seven Hundred and Eleven, as the Foundation of a Treaty, he had thereby offended against any known Law, since the Proceedings upon such Preliminaries could not be more unsafe than proceeding without any at all. The said Earl denies, that any Treaty, signed by the Earl of *Dartmouth* or Mr. *St. John*, or either of them, on the Part of *England*, and the *Sieur Mefnager* on the Part of *France* (if any such there be) was in-

dustriously concealed from the Allies, her Majesty's Council, or Parliament, by his Advice or Contrivance; or that he dissuaded her Majesty from laying any such Treaty before her Allies, her Council or Parliament; or that he advised her Majesty to receive the said general Preliminaries, or to communicate the same in her Name, or by her Authority, to the States-General, as a sufficient Foundation whereon to open the Conferences of Peace with *France*. The said Earl hath been informed, and doth believe, that there were certain Instructions prepared and signed by her Majesty, and delivered to the Earl of *Strafford*, her Majesty's Ambassador to the States-General, wherein the said Ambassador might be directed to represent to the Pensionary of *Holland*, and such others as should be appointed to confer with him, in such manner as is set forth in this Article, or to the like Effect; but he denies, that the said Instructions were prepared, signed, or delivered by his Advice: Nevertheless the said Earl believes, the said Instructions were well warranted by the Truth of such Facts, as in the said Article are set forth to be contained in those Instructions, since the said Earl hath had credible Information, that after her Majesty had received an Account of the Sense of some Persons in *Holland*, concerning the Overtures made by *France*, for the setting a general Negotiation of Peace on foot, very pressing Instances were made on her Majesty's Behalf, with the Enemy, to explain the first Offers made by Monsieur *de Torcy* more particularly, and to form a distinct Project of such a Peace as they were willing to conclude; and that such Instances had Effect, will appear from the Preliminaries said to be signed by Monsieur *Mefnager*, *September* the Twenty-seventh One Thousand Seven Hundred and Eleven, wherein several Explications are made, and many Particulars of Moment are contained, which were not in the Propositions of Monsieur *de Torcy*: Wherefore the said Earl apprehends, that the Propositions said in this Article to be sent over to *France*, (if any such were sent) were not so general as the Propositions of Monsieur *de Torcy*, nor in any respect ensnaring, or destructive to the Interests of *Great Britain* or the Allies: But yet the said Earl believes that her Majesty, at the same Time she did communicate the said Preliminaries to the States-General, did likewise order her Ambassador to acquaint them, that she judged those Articles did not contain such particular Concessions as *France* would probably be obliged to make in the Course of the Negotiations, or to that Effect. If therefore her Majesty did, for the Good and Ease of her People, endeavour to prevail with her Allies to enter into a Negotiation of Peace, and did communicate the said Preliminaries to them, with that View, the said Earl cannot be induced to believe, that the said general Preliminaries, communicated to the States by her Majesty in manner aforesaid, were calculated to amuse and deceive them; nor doth the said Earl know or believe, that her Majesty's Instructions to her said Ambassador, either in the Particulars aforesaid, or in any other, contained Matters false, prevaricating, or evasive.

And the said Earl must take the Liberty to affirm, that in the late Negotiations of Peace, as well as in all other public Transactions of State, as far as he was concerned, he acted with the highest Regard to the Honour of her Majesty, and with the utmost Zeal for the Welfare both
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of her and her People, and is not conscious to himself that he ever gave any Counsels, whereby the Truth and Sacredness which ought to constitute and accompany the Instructions of public Ambassadors to Princes in Friendship and Confederacy, against the common Enemy, were in any wise prostituted, or the Honour of her Majesty and of the Imperial Crown of these Realms in any sort debased or betrayed: And he humbly hopes no Instance can be given, wherein the Royal Hand of her late Majesty was made the Instrument to advance the Interest of the common Enemy.

In answer to the Fourth Article, the said Earl doth not remember what Representations were made by Monsieur *Buy*s to her Majesty in relation to the Propositions in the said Article mentioned, but saith, that if any Representations were made, the same were not rendered ineffectual by any Influence of the said Earl: And the said Earl doth admit, that at a Committee of Council there might be made some Declaration in her Majesty's Name to Monsieur *Buy*s to the Effect in the said Article mentioned; but doth not admit that any such Declaration was made by him the said Earl, or by his Management or Contrivance. And the said Earl believes, that what was so declared to the said Monsieur *Buy*s, was agreeable to Truth, and to the real Sentiments and Intentions of her Majesty; nor doth he know wherein the said Articles, signed by Monsieur *Mesnager*, and accepted by the Lord *Dartmouth* and Mr. *St. John*, if any such were then signed, were inconsistent with such Declaration, or how her Majesty was thereby dishonoured, or her Allies abused, or that any Negotiation entered into with *France* was either dangerous in itself, or fatal in its Consequences.

In answer to the Fifth Article, the said Earl admits, that her sacred Majesty Queen *Anne* did in due Form of Law, and under her Great Seal, constitute the Right Reverend *John* Lord Bishop of *Bristol*, and the Earl of *Strafford* her Plenipotentiaries, with full Powers to meet, treat and conclude with the Plenipotentiaries of the Confederates, and those whom the *French* King should on his part depute for that Purpose, the Conditions of a good and general Peace, that should be safe, honourable, and as far as was possible, agreeable to the reasonable Demands of all Parties, and believes Instructions were prepared and delivered to them, wherein they were instructed, among other Things, to the Effect in the said Article set forth; and is firmly persuaded, that when the said Plenipotentiaries were so instructed to insist, that *Spain* and the *West-Indies* should not be allotted to the House of *Bourbon*, no Treaty had been negotiated and agreed, that *Spain* and the *West-Indies* should remain in a Branch of that House: And he has Reason to believe, that at the Time when the said Instructions were given to her Majesty's said Plenipotentiaries, there was just Ground to believe, that King *Philip* would be induced to abandon *Spain* and the *West-Indies*, and content himself with the Dominions of *Savoy* and the Kingdom of *Sicily*: And he believes he may so far depend on his Memory, as to say, that he heard the late Queen declare, she believ'd the Prospect King *Philip* had of succeeding to the Crown of *France*, would be an Inducement to

him to be easy with that Allotment. And it seemed probable, that the Addition of the Dominions of *Savoy* to the Crown of *France*, in Case King *Philip* should succeed to it, would be esteemed by the *French* Court as a Thing more to be desired by them, than that *Spain* and the *Indies* should remain in the Possession of a younger Prince of the House of *Bourbon*, under the Condition of his renouncing the Right he would have to the Crown of *France*, if the eldest Branch should fail. These seem to him to have been her Majesty's Views at the Time when the said Instructions were given to the Bishop of *Bristol* and the Earl of *Strafford*; and he therefore believes, that whoever contrived or prepared the same, did prepare them conformable to her Majesty's real Sentiments, and was far from any Thought or Design to abuse the Royal Authority, delude the States-General, prejudice his Imperial Majesty, or any of the Allies, or to carry on the Measures of *France*: And if King *Philip* afterwards upon Information, that the then *Dauphin* was likely to live, or at the pressing Instances of the *Spaniards*, and Influence of *Spanish* Counsels, or upon any other Motives, refused to accept of *Savoy* and *Sicily*, and chose rather to renounce the *French* Monarchy; he thinks no Person who acts in the Service of the Crown can be safe, if it may be charged on him as a Crime, that he advised Instructions, which by intervening Circumstances afterwards became improper. But he the said Earl doth not admit, that he contrived or prepared the said Instructions, or was consenting or advising to the contriving or preparing of them, or prevailed on her Majesty to sign them; much less that he abused the Royal Authority, to the Delusion of the States-General, or intended the Prejudice of his Imperial Majesty or any of the Allies, or was engaged to carry on the Measures of *France*, or had, when the said Instructions were prepared, negotiated or agreed with the Ministers of *France*, that *Spain* and the *West-Indies* should remain in a Branch of the House of *Bourbon*, or had prevailed on her Majesty to be Party to any private Treaty, wherein the same is necessarily implied. If the Plenipotentiaries were instructed, in Case the Enemy should object, that the Second Article of the Seven, signed by Monsieur *Mesnager*, implied the Duke of *Anjou* should continue on the Throne of *Spain*, to insist that those Articles were binding to *France*, but laid neither the Queen nor her Allies under any Obligation, the said Earl doth not apprehend how an Instruction to her Majesty's Plenipotentiaries, to make a just Answer to a false Inference, that might happen to be drawn by the Enemy from the Words of such an Article, can be interpreted an entering into a Confederacy or Collusion with the Ministers of the Enemy; or that her Majesty's Consent to such Instructions could imply any Design to impose on his Imperial Majesty or the Allies, or to conceal any Negotiations between *Great Britain* and *France*. But the said Earl is confident it will not appear by any of his Actions on the strictest Scrutiny, that he ever entered into any Confederacy or Collusion with the Ministers of the Enemy, or prevailed on the Queen to give her Consent thereto, or had any Designs to impose upon his Imperial Majesty, or any of the Allies, or ever was privy to any secret Negotiations or separate Treaty between *Great Britain* and *France*, whereby either in the before-mentioned,

tioned, or in any other Particulars, any Reproach could be brought on the Crown of these Realms, or any Treaties wherein her Majesty was engaged to her Allies were violated.

In answer to the Sixth Article, the said Earl doth admit, that after the Conferences of Peace between the Plenipotentiaries of the Allies, and those of the Enemy, for negotiating a general Peace, were opened, wherein he is persuaded her Majesty and her Ministers did act in perfect Confidence with the Allies, in order to promote their common Interest, and to obtain from the Enemy all just and reasonable Satisfaction; the Progress of the said Negotiation was delayed by Debates, concerning the Enemy's Refusal to give their Answer in Writing to the Demands of the Allies; but he doth not know that any of the Ministers of *Great Britain* did, by any Encouragement or Concurrence, contribute thereunto: And if, during that time, her Majesty thought fit to authorize any of her Ministers to write or negotiate upon any particular Points relating to the Peace, directly from *England* to *France*, in order to facilitate the general Negotiations of Peace, which he the said Earl doth not admit to have been done by his Privy; yet he the said Earl doth not apprehend, that by the Constitution of the Kingdom, or any Law in being, the Queen was debarr'd from doing so; or that by constituting the said Plenipotentiaries, she had so far delegated to them her Royal Authority, as to be disabled, without revoking their Commission, to treat or negotiate any Matters conducing to that End, in such other manner as she should think fit. The said Earl saith, that he did not advise, contrive, or promote any private, separate, or unjustifiable Negotiation with *France*, nor doth he know any Negotiation relating to the Peace was carried on without Communication thereof to the Allies. And the said Earl denies that he ever assumed Regal Authority, or that he treated of Peace with *France* in any manner that could be liable to such Imputation, or did promote the Design of the Enemy to the Destruction of the Common Cause of her Majesty, or of her Allies, contrary to the Laws or Constitution of this Kingdom, or in Violation of any of the Alliances her Majesty stood engaged in, or of the Assurances given by her Majesty, or of her Instructions to her Plenipotentiaries; or that any Terms of Peace were by him at any time concerted, prejudicial to the Interest of her Majesty, or her Kingdoms, or Allies, or whereby the good Effects of the general Negotiation were defeated.

In answer to the Seventh Article, the said Earl saith, that he never advised her late Majesty to accept of a Treaty with *France*, on a Supposition that the *Spanish* Monarchy should continue in the Possession of a Branch of the House of *Bourbon*; nor did he advise, or carry on any private or separate Negotiation with *France*, on the Subject of a Renunciation to be made by the Duke of *Anjou*, of the Right he might have to the Kingdom of *France*, and that such Renunciation should be the Security against the Re-union of the two Kingdoms: Or that by his Counsels her Majesty was prevailed on to accept, and finally to conclude and ratify a Treaty of Peace with *France*, wherein the said Renunciation is taken as a sufficient Expedient to prevent the Mischiefs that threatned all *Europe*, in case the Crowns of *France* and *Spain*

should be United upon the Head of one and the same Person: Nor doth he know, that during the said Negotiation, any such Memorial, as in the said Article is set forth, was transmitted by the said Monsieur *de Torcy* to any of her Majesty's Principal Secretaries of State: But he the said Earl doth freely acknowledge, that if he had been called upon to give his Opinion concerning the leaving of *Spain* and the *West-Indies* in the Possession of a Branch of the House of *Bourbon*, and accepting the Renunciation of his Right to the Kingdom of *France* by the Duke of *Anjou*, he doth not at present see any Reason why he might not have been of Opinion for leaving *Spain* and the *West-Indies* to the present Possessor, and accepting the Renunciation, rather than have continued the War so burthensome to the People, and so impracticable upon the Foot on which it then stood, especially since all Endeavours to remove him by Treaties or Force had so long proved ineffectual. And in case any such Memorial as is set forth in the said Article, was sent by any Minister of *France* to the Secretary of the late Queen, he should look upon the same as a Proof of the Earnestness of the Court of *France* to avoid such Renunciation, which might more effectually prevent all possibility of annexing the Crown of *Spain* to that of *France*. But whatever Inducements might be for such a Memorial (if any such was transmitted) the said Earl doth affirm, that he never gave any Counsels by which the Interest of the Common Cause could be betray'd into the Hands of the Enemy; nor doth he think it was possible by any Power and Influence, to engage her Majesty to become Party with *France* in any Deceit; but whatever Credit he at any time had by her Favour, he always used it with the utmost Sincerity for her Service, and the Good of her People.

In answer to the Eighth Article, the said Earl believes, that her late Majesty Queen *Anne* did, on the Seventh Day of *December*, in the Year of our Lord One Thousand Seven Hundred and Eleven, recommend it from the Throne, that Provision might be made for an early Campaign, in order to carry on the War with Vigour, and as the best way to render the Treaty of Peace effectual; and he doth believe, that in order thereto Supplies were granted, and Magazines provided at a great Expence for an early Campaign, and that in pursuance thereof her Majesty might send some General Officers to explain her Intentions to her Allies; and likewise instructed her General the Duke of *Ormond* to declare her Resolutions of carrying on the War, and to concert with the Generals of the Allies the proper Measures for entering upon Action: And he doth believe, that the Confederate Army was provided with all Necessaries: But whether the said Army had approached, or how near they had approached to the Enemy; whether they had any, or what Superiority, as to the number of Troops; or what likelihood there was, that they would have been able, either by Battle or Siege, to have better'd the Affairs of the Allies, or to have facilitated the Negotiations of Peace, the said Earl is not able to say: But it must be obvious to every one, that any Miscarriage or Disaster on the part of the Allies, at such a Juncture, must have been fatal to them: And though the Divine Assistance had been very remarkable in the many Victories her Majesty's Forces had obtained, yet her Majesty's

Piety

Piety was so great, that it is not likely she should, without the greatest necessity, have been willing to have tempted that Providence which had been so signal in her Favour, by hazarding the Blood of her Subjects at a time when she had so near a Prospect of the Conclusion of a Peace: And the said Earl believes it might be owing to this Piety of the Queen, and her Knowledge of some important Matters then depending, that Directions were sent to the Duke of *Ormond* (if any such were sent) to avoid engaging in any Siege, or hazarding any Battle till further Orders; which he supposeth her Majesty might do upon any Causes she thought proper, as well as the Deputies of the States, who, as the said Earl hath been informed, have often refused to engage in Siege or Battle, upon such Ground as they alone thought fit, when their own Generals, and the Generals of the other Allies, were of Opinion they had a visible Advantage of the Enemy, and might engage in such Siege or Battle with great Probability of Success. But he doth affirm that the Ministers of *France* never represented to him or to any others, as far as he knows, during any Negotiation, any Apprehensions they had from the Bravery and good Disposition of the Confederate Army; nor was he ever informed of any sure Prospect which it is alleged the Army of the Confederates then had of gaining new Conquests over the Army of *France*, or whereby they would have been enabled to have forced any better Terms of Peace than there was at that time likelihood of: But on the contrary he has been informed, that the Forces of *France* were superior in Number to those of the Confederates, especially in Horse. However the said Earl doth not admit, that he did advise or consent that any Order should be dispatched in her Majesty's Name to the Duke of *Ormond* to the afore-mentioned Effect; nor had he any View or Design to disappoint the Expectations of the Allies, or to give Success to any secret Negotiations with the Ministers of *France*. The said Earl likewise denies, that he did consent or advise that Orders should be sent to the Bishop of *Bristol*, one of her Majesty's Plenipotentiaries then at *Utrecht*, to declare to the *Dutch* Ministers, that her Majesty looked on herself, from their Conduct, to be then under no Obligation whatsoever to them. He doth not know what Alarm the Allies might take, or what Representations they made to the Bishop of *Bristol* of their Dissatisfaction or Consternation, but doubts not the said Bishop would readily represent what they desired, tho' such Representation made by his Lordship, (if any such there was), fell not under the Knowledge of the said Earl, nor doth he admit that any Application of that kind was made to him. And in case the States-General made such Address directly to her Majesty, by a Letter of the Fifth Day of *June*, as in the said Article is set forth, he the said Earl not being acquainted therewith, could neither advise her Majesty to hearken to the Instances therein made, nor to disregard or reject the same. He saith, he never entered into Measures for the Advancement of the Interest of the common Enemy, or countenanced, encouraged, advised, or promoted any Negotiations with *France*, without Participation of the Allies, or contrary to her Majesty's Engagement, or to the Ruin of the Common Cause; nor is he conscious to himself, that he ever gave any Counsels, by which the Progress of the victorious Arms of the Confederates was stopped, or any Opportuni-

ty lost for conquering the Enemy, or which had any Tendency to destroy the Confidence between her Majesty and her Allies, or make the *French* King Master of the Negotiations of Peace, or which could put the Affairs of *Europe* into his Hands.

In answer to the ninth Article, the said Earl denies he was privy or consenting to any Concert with the Ministers of *France* for the separating the Troops in her Majesty's Pay from the rest of the Confederate Army; and not being privy to any such Concert he hopes it will not be imputed to him as any want of Duty, that he did not advise against such a Proceeding. He denies also, that he ever entertained the least Design of imposing upon the Allies any Necessity of submitting to the Terms of *France*, or of leaving the Confederate Army to the Mercy of the Enemy, or that he did consent or advise her Majesty that the Duke of *Ormond* and the Troops in her Majesty's Pay, or such of them as would obey his Orders, should separate themselves from the Army of the Confederates. The said Earl hath been informed, and believes it to be true, that the Imperial General, and some other Generals, did propose to the Duke of *Ormond* in *June* or *July*, in the Year one Thousand Seven Hundred and Twelve, to decamp from the Ground where they lay, and to proceed towards *Landrecy*, in order to form the Siege of that Place, and that the Duke of *Ormond* thought it not proper to consent thereto, and gave notice to the said Generals, that if they decamped they must not expect him to follow them. And the said Earl believes, Instances may be given where Generals of other Potentates in the Alliance have refused to comply with what has been proposed to them by her late Majesty's General. The said Earl hath likewise heard, that, notwithstanding such Notice from the Duke of *Ormond*, the said Generals separated themselves and their Forces from the said Duke, and marched towards *Landrecy* without him, and that the said Duke continued for some time in his former Camp after such Separation: And that the Generals of the Auxiliary Troops paid by her Majesty, although required by the said Duke of *Ormond*, under whose Command they then were, to continue with him, and to obey his Orders, refused so to do. He the said Earl supposes it might proceed from her Majesty's Resentment of that Instance of Disobedience in the Auxiliary Troops to the Commands of her General, that she did not think fit immediately to pay the Arrears of those Forces which had so obstinately withdrawn themselves from her General, and marched without him towards *Landrecy*, as not apprehending herself obliged by any Conventions, or the Provision of any Act of Parliament, so to do. But whatever might be the Causes or Occasions of her Majesty's Resentment, the said Earl saith, that he being in the Office of High Treasurer under her Majesty, could not, by the Duty of his Place, issue out any Monies without a proper Warrant or Authority from her Majesty; and denies that he ever received any Warrant or Authority from her Majesty for issuing any Sum or Sums of Money for, or towards the Pay or Subsidies on account of the said Foreign Troops who had so separated, without which the issuing or directing any Monies for the Payment of them had been a Violation of his Duty. And the said Earl denies, that he did at any time refuse or put

a stop to any such Pay or Subsidies; but on the contrary, when the Ministers of the Princes to whom those Forces belonged did apply for the Payment of the said Troops, the said Earl desired them to make application to her Majesty for the necessary Warrants in order thereunto. And as the said Earl had no Notice of any Separation intended between her Majesty's Forces and those of the Allies before the same was made; so he absolutely denies, that by his Advice or Counsel, or with his Privacy, any such Separation was made: And humbly apprehends that he ought not in Justice to be charged with any Consequences of it. He believes, that the Forces of some of the Allies were engaged in the unfortunate Action of *Denain*, and that the Siege of *Landrecy* was raised, and the Towns of *Quefroy*, *Bouchain*, and *Doway* were some time after re-taken by the *French* Army: But whether those Disasters might not have been prevented by a Compliance with the Measures her Majesty had taken for the common Good, the said Earl submits to your Lordships.

In answer to the Tenth Article, the said Earl denies that he did carry on, or concert with the Ministers of *France*, a private or separate Negotiation for a general Suspension by Sea and Land between *Great Britain* and *France*; or that he did advise her Majesty to send over *Henry* Viscount *Bolingbroke* to the Court of *France*; with Powers to settle such Suspension; but hath been informed, and believes it may be true, that about the Nineteenth of *August* One Thousand Seven Hundred and Twelve, *N. S.* a Suspension of Arms was agreed on in *France* by the said Viscount *Bolingbroke* on her Majesty's part for four Months; but whether such Agreements was made without the Knowledge or Participation of her Majesty's Allies, or how far the Terms of Peace were then settled with *France*, either for *Great Britain*, or the Allies, the said Earl is not able to set forth: But from the Information he hath received of that Affair, believes it will appear, that the said Suspension was a Continuation only of a former Agreement for a Cessation of Arms, which had been not only communicated to the Allies, but into which they had been invited; and believes her Majesty might be induced to desire such Cessation, as was usual amongst Princes and States in War during Negotiations of Peace, by which means the *British* Merchants enjoy'd a free Trade, and had an Opportunity of carrying the Merchandizes of other Countries to several Parts of *Europe*, as the *Dutch* had done during the War; and therefore the said Earl doth not conceive that her Majesty, by the said Suspension, did in the least intend the Violation of any Treaties between her and her Allies, or to deprive them of any Assistance to which they were entitled, or expose them to the Insults of the common Enemy: nor doth he discern how these Consequences could ensue, without the Default of the Allies themselves; much less how the Ties of Union and Friendship between her Majesty and them were cut asunder, or her Majesty's Person or Government, or the Safety of her Kingdoms, or the Protestant Succession, were exposed thereby. But the said Earl assures himself, that he shall never stand chargeable with any Consequences of such Suspension which he never advised; nor did he the said Earl ever entertain the least Thought or Design of occasioning the Destruction of the Common Cause of *Europe*,

or hindering her Majesty from resuming the War against *France*, in Conjunction with her Allies, if it had been so thought fit, or of weakening the Union between her Majesty and them.

In answer to the Eleventh Article, the said Earl saith, he believes it to be true, that in or about the Months of *September* or *October* One Thousand Seven Hundred and Twelve, the States General were in Possession of the Town and Fortress of *Tournay*; and that her Majesty, in her Instructions of *December* the Twenty Third, One Thousand Seven Hundred and Eleven, to her Plenipotentiaries at *Utrecht*, did direct 'em to insist with the Plenipotentiaries of *France*, in the general Congress, that towards forming a Barrier for the States-General, *Tournay* shall remain to the States; and doth believe the *French* King did at one time incline thereto: But doth not know that her Majesty in her Speech in the said Article mentioned, did declare herself as in the said Article is set forth. The said Earl admits, that until and after the Months of *September* and *October* One Thousand Seven Hundred and Eleven, there was open War between her late Majesty and the *French* King; and that during such War, the *French* King and his Subjects were Enemies to the late Queen: But the said Earl hath been informed, and believes, that full Powers were given by her Majesty, and the States-General of the United Provinces, to their respective Ministers, and by the *French* King to his Ministers, to negotiate and treat of Peace between her Majesty and the States-General, and said *French* King; upon which Negotiations a Peace was afterwards concluded between them; during which Negotiations he hath heard, that the *French* King did insist upon the yielding up the Town and Fort of *Tournay* by the States to him; and the said States-General desired her Majesty's Interposition with the *French* King on their behalf; and that at such Request her Majesty interposed her best Offices on behalf of the States-General, and did at last prevail, that the said Town and Fortress of *Tournay* should be, and he believes the same is continued to the States-General as part of their Barrier. But the said Earl absolutely denies that he did design to give Aid, or Succour, or to adhere to the *French* King; or that he did in or about the Month of *October* One Thousand Seven Hundred and Twelve, or at any other time, during the said War, aid, help or assist, or adhere to the said *French* King; or, that he did ever counsel or advise the said Enemy in what Manner, or by what Methods the said Town and Fortress of *Tournay*, or either of them, might be gained from the States-General to the *French* King, in Manner and Form as in the said Article is charged. On the contrary, he the said Earl did use his best Offices to preserve the said Town and Fortress of *Tournay* to the States-General. But the said Earl saith, that during the Negotiations of the late Peace, he had the Honour to be one of her Majesty's Privy-Council; and whatsoever Counsel or Advice he gave, relating to any Terms of the said Peace, he acted therein as a Privy-Councillor and Minister of State, and no otherwise: And doth insist, that for any Privy-Councillor and Minister of State, during the Negotiations of Peace, to advise or negotiate, concerning the yielding or giving up any Town, Province or Dominion, upon the Conclusion of the Peace, as part of the Terms and Conditions of such Peace, is not High Treason by any

any Law of this Realm; and that such Construction might hereafter deprive the Crown of the Advice and Assistance of several Members of the Privy-Council, in Matters of the greatest Importance, by deterring them from give such Advice as, by their Oaths, and the Duty of their Place, they are obliged to do; would overthrow all means of restoring Amity between Princes, and render the Law, in case of High Treason, uncertain, which by reason of its being the most penal, ought to be most plain; and would be highly dangerous and destructive to the Lives and Liberties of the Subject.

In answer to the Twelfth Article, the said Earl (not admitting that her late Majesty Queen *Anne* stood engaged by Treaties in manner as in the said Article is alledged, but referring himself to the Treaties, when they shall be produced) for answer, denies, that he did in any of the Years One Thousand Seven Hundred and Ten, One Thousand Seven Hundred and Eleven, One Thousand Seven Hundred and Twelve, or at any other time, aid, help, assist, or adhere to the Duke of *Anjou*, in the said Article named, or advise or counsel any of the Enemies of her said late Majesty, or concert with any of them, or promote the yielding or giving up of *Spain* and the *West-Indies*, or any Part thereof to the said Duke of *Anjou*, in Manner and Form as in the said Article is alledged. And the said Earl saith, as in his Answer to the Eleventh Article he hath already said, that during the Negotiations of the late Peace, he had the Honour to be one of her said late Majesty's Privy-Council, and whatever Counsel or Advice he gave, relating to any Term of the said Peace, he acted therein as a Privy-Counsellor and Minister of State, and no otherwise; and insists as in his Answer to the Eleventh Article he has insisted.

In answer to the Thirteenth Article the said Earl admits, that the flourishing Condition of Trade and Navigation contributes much to the Riches, Power and Strength of these Kingdoms; and believes, that her late Majesty had a just Regard thereto, and a sincere Desire to obtain some Advantages therein for her People; and did make the several Declarations from the Throne set forth in this Article: And that both Houses of Parliament did, from time to time, express their grateful Acknowledgements to her Majesty, for her great Care and Concern for the Welfare of her People; and believes her Majesty might think it reasonable, considering the Share and Burthen she and her People had sustained in the War, that *France* should, in the first Place, adjust the Interests of *Great Britain*, which were to be secured on the Conclusion of a general Peace: But the said Earl doth not know or believe that at the setting on foot, or in the Progress of any Negotiation between the Ministers of *Great Britain* and *France*, it was laid down as a Principle that *France* should in the first place, consent to adjust the Interests of *Great Britain*, to the Intent that the Ministers of *Great Britain* might thereby be enabled to engage the Queen to make the Conclusion of the Peace easy to *France*; nor doth he know that any Concessions were made by the Ministers of *Great Britain*, with intent to promote the Interests of *France* against the Allies; or that any Measures were entered into or concerted between them, in order to strengthen the Hands of the *French*, or to enable

them to impose the Terms of a general Peace. And the said Earl doth absolutely deny that he was engaged, in Concert with *France*, in any Negotiation destructive to his Country, or that he ever had the least Imagination or Thought tending that way, or to the sacrificing the Commerce of *Great Britain* to the Aggrandisement of *France*: But on the contrary, he hath always had the most real and sincere Desires to secure and advance the Commerce of *Great Britain*, and to preserve his Country, in whose Service he hath been always ready to sacrifice himself, and every private Interest whatsoever. And the said Earl is not conscious to himself of any want of Duty, either in not insisting upon, or not procuring the most certain Securities that could be obtained for the Safety and Advantage of the Commerce of these Kingdoms. And the said Earl doth not admit, that he did advise her late Majesty, that any Proposition should be sent by Mr. *Prior* to *France*; or that any private or separate Treaty, or the Preliminary Articles, which are said to be signed the Twenty Seventh Day of *September* One Thousand Seven Hundred and Eleven, should be signed. But the said Earl hath been informed, and believes that in a Paper intitled, *The Answer of France to the Demands of Great Britain more particularly*, it is said, that the entire Restitution of *Newfoundland*, and of the Bay and Streights of *Hudson*, was demanded for the English: And that the *French King's* Answer was, That the Discussion of that Article should be referred to the general Conferences of the Peace, provided the Liberty of fishing and drying of Codfish upon the Isle of *Newfoundland* should be reserved to the French. And the said Earl conceives that Paper was not conclusive, but was to be the Subject of future Conferences, wherein the whole Matter might be entirely considered; and consequently that the entering into Conferences on that Paper, was not the yielding to the French the Liberty of fishing and drying Fish on *Newfoundland*, which they insisted on. And the said Earl denies, that he advised the Demands for *Great Britain*, in Point of Commerce, should be made in loose, general, or insufficient Terms; or that he advised the Liberties insisted on by the French should be given up to *France*, as in the said Article is alledged: And he believes that when it is considered what Advantages were likely to ensue to the Commerce of *Great Britain* by the *Assien's* Contract, and the Liberty of Trading to the *Spanish West-Indies* by the Cession of *Arcadie*, the Bay and Streights of *Hudson*, the Island of *St. Christopher*, *Newfoundland*, the Island of *St. Peter*, with other adjacent Islands by the Demolition of *Dunkirk*, and the Cession of *Pert-Mahon* and *Gibraltar*, it will not be thought the Commerce of *Great Britain* was neglected by her Majesty, in the late Treaties of Peace. And as the said Earl doth not know that *France* was at any time Master of the Negotiations, so he denies that he did engage her Majesty in any private Treaties with *France*, without Security for the Commerce of *Great Britain*; or that he did contrive, with any of the Ministers of *France*, to keep in Suspence any Matter that concerned the said Commerce, or that he was any ways instrumental to the preventing any Advantages of the said Commerce from being settled, or that he endeavoured to elude any thing that had been agreed on in any Negotiations for the Benefit of *Great Britain*. And although the said Earl doth not admit, that he

he advised the Ninth Article of the Treaty of Commerce with *France*, yet he begs leave to observe, that nothing is positively stipulated in that Article, but the whole is conditional, and left to be determined by the Wisdom of Parliament; and hopes it will never be thought an Act of Treachery, to refer any Article of any Treaty to the Judgment and Consideration of Parliament, whatever Judgment the Parliament shall think fit to make thereon. And the said Earl denies, that he advised her Majesty to agree with *France*, that the Subjects of *France* should have Liberty of Fishing, and Drying Fish on *Newfoundland*: But the said Earl believes, that what her late Majesty agreed with *France*, relating thereto, will not seem unreasonable, if it be considered, that the *French* long ago claim'd a Right to, and were in Possession of great Part on *Newfoundland*; and that they were allowed to continue in Possession thereof by the Crown of *England*, in a Treaty made at *Whitehall* in the Year One Thousand Six Hundred and Eighty-Six; and in another Treaty made at *Ryswick*, in the Year One Thousand Six Hundred and Ninety Seven. And the said Earl doth not know that such Agreement of her Majesty is contrary to the express Provision of any Act of Parliament, since he presumes the Act made in the Tenth and Eleventh Years of the Reign of King *William* the Third, intitled, *An Act to encourage the Trade to Newfoundland*, cannot reasonably be intended, or construed to extend to any part of the Island, other than what was at the Time of making that Act in the Possession of the *English*. And the said Earl is informed, that at that Time the Part of *Newfoundland*, where the Subjects of *France* are, by the Treaty of *Utrecht*, allowed the Liberty of Fishing, and drying Fish, was not in the Possession of the *English*. The said Earl denies, that he advised her Majesty to make a Cession to *France* of the Isle of *Cape Breton*; or that he advised her Majesty to consent, that what is agreed in the Treaty of *Utrecht*, concerning the Fishery of *Newfoundland*, or *Cape Breton*, should be made an Article of that Treaty: However, the said Earl doth not know that *Cape Breton* was Part of the Territories of the Crown of *Great Britain*; nor doth he apprehend, that her Majesty, who in her Speech from the Throne declared, that *France* had consented to make an absolute Cession of *Annapolis*, with the rest of *Nova Scotia*, or *Arcadia*, should be understood to speak of *Cape Breton*, which is no Part of that Continent, but an Island distinct from it. The said Earl further saith, he conceives, that the only Advantages in Trade, stipulated for *Great Britain*, did not depend on Conditions to be made good by Act of Parliament: On the contrary, he doubts not to make it appear, that many Advantages in Trade were stipulated for *Great Britain*, in the late Treaties of Peace and Commerce, which have been enjoyed by the Subjects of *Great Britain*, since the Conclusion of the said Treaties, notwithstanding the Parliament hath not thought fit to make any Act to enforce the Ninth Article of the Treaty of Commerce with *France*. And the said Earl denies, that by his Counsels, the good Intentions of her sacred Majesty to have obtained for her People advantageous Terms of Commerce were frustrated, or the Trade or Manufactures of *Great Britain* render'd precarious, or at the Mercy of the Enemy; or any beneficial Branch of Trade

yielded up to the Subjects of *France*. And as the said Earl disowns the being concerned in any Violation of Treaties, or in carrying on the Measures of *France*, or in any Negotiation which could terminate in the Sacrifice of the Commerce of *Great Britain* to *France*; so he observes, with great Satisfaction, the flourishing Condition of the Trade and Navigation of these Kingdoms, since the Conclusion, and by Means of the late Peace, in the great Increase of the Number and Tonnage of Shipping, of the Exportation of the Woollen Manufactures, the Fish, and other Produce of this Kingdom; in Consequence whereof, the Customs have been greatly advanced, near three Millions of Gold and Silver hath been coined, and the Exchange has been all along in the Favour of *England*, to and from all Parts of *Europe*.

In answer to the Fourteenth Article, the said Earl doth not admit that he formed any Project, or Design, for disposing the Kingdom of *Sicily* to the Duke of *Savoy*, from the House of *Austria*; or that he did advise her Majesty to give any such Instructions to *Henry Viscount Ealingbroke*, as in the said Article mentioned, or to consent to any Treaty wherein a Cession is made of the said Kingdom to his Royal Highness without any Concurrence or Participation of his Imperial Majesty; nor doth he admit that her Majesty was prevailed on, by his Advice, to assist his said Royal Highness with her Fleet, against the Emperor, in order to obtain the Possession of that Kingdom. But in Justification of her Majesty's Proceedings, in relation to the said Kingdom, the said Earl doth beg leave to observe, that by the Grand Alliance, it was agreed, among other Things, that the Confederates should use their utmost Endeavours to recover the Kingdom of *Sicily* out of the Hands of the Enemy; and that the principal Ends for endeavouring the Recovery of *Sicily* were, that his Imperial Majesty might have a reasonable Satisfaction for his Pretension to the *Spanish* Monarchy; and that the Trade and Navigation of the Subjects of *Great Britain* and *Holland* might thereby be better secured. Since therefore the Empire, and Hereditary Countries of *Austria*, were now fallen to *Charles* the Third, who at the Time of that Treaty was a younger Branch of that House: Since several Towns in the *French* *Islanders*, which were not in the Possession of King *Charles* the Second, at the Time of his Death, together with *Spanish* *Flanders*, *Milan* and *Naples*, might seem a reasonable Satisfaction for his Imperial Majesty's Pretensions to the *Spanish* Succession: And since the Trade and Navigation of the Subjects of *Great Britain* and *Holland* would be as effectually secured, by the Disposition of the Kingdom of *Sicily* to the Duke of *Savoy*, as if the said Kingdom had fallen to the Share of the Emperor: And greater Difficulties would be likely to arise, in obtaining the Disposition thereof to the House of *Austria*, than to that Duke, in as much as King *Philip* might be more easily induced to yield it to the Duke of *Savoy*, than to so potent a Prince as the Emperor; and there were Grounds to believe that all, or most of the Princes and States of *Italy*, were so apprehensive of the growing Power of the House of *Austria* in *Italy*, that they would suffer any Extremities, rather than submit that *Sicily*, together with *Milan* and *Naples*, should be

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in the Hands of the Emperor, the said Earl doth not discern how any Project to dispose the said Kingdom to that Duke could be thought unjust, dishonourable, or pernicious, or an Act of Injustice to his Imperial Majesty, or Violation of the Grand Alliance: Nor doth the said Earl remember, in what respect it was contradictory to any Declaration of her Majesty, or the Instructions she had given her Plenipotentiaries: And in Case her Majesty thought fit, afterwards, to employ any Part of her Fleet to assist that Duke, her good and faithful Ally, to take Possession of that Kingdom from the Enemy, in Consideration of the said Duke's steady Adherence to the Confederacy, and great Sufferings by such Adherence; he the said Earl is not able to discover why such Assistance might not be given to the said Duke, as well as to any other of her Allies whatsoever. And since it is allowed by this Article, that the then Duke of Savoy never made any Application, in order to obtain the said Kingdom for himself, it seems an Evidence at least, that the Person or Persons who advised the late Queen to agree to such Allotment, did not act upon any private Interest, or had any other View than the Preservation of a Bullance of Power in *Europe*, and the Security of the Trade and Navigation of the Subjects of *Great Britain* and *Holland*; and cannot reasonably be thought, upon a fair and candid Interpretation, to have been guilty of betraying the National Faith, or Honour of the Crown, or employing the Naval Power of these Kingdoms, or the Supplies granted by Parliament, against an Ally of this Kingdom.

In answer to the Fifteenth Article, the said Earl saith, he is and always was of Opinion, that the Word of the Sovereign is sacred, and that all Communications from the Throne to Parliament ought to be true, and that it becomes all Ministers of State, as far as in them lies, to maintain the Honour of the Crown, in such Cases, with the utmost Exactness; nor doth the said Earl know that he hath, at any Time, been defective in his Duty, in this Particular, or ever took upon himself any arbitrary or unwarrantable Authority, much less the chief Direction and Influence in her Majesty's Counsels: Nor did he ever prostitute the Honour of the Crown or Dignity of Parliament, by misrepresenting any Part of the late Negotiations of Peace, to deceive either her Majesty, her Allies, her Parliament, or her People; nor did ever prepare, form, or concert, or advise her Majesty to make any Speech or Declaration from the Throne, to her Parliament, that was not conformable to Truth. He believes her Majesty might make several Speeches from the Throne to her Parliament, at the several Times in the said Article mentioned, to which the said Earl refers; and particularly, that her Majesty did on the Seventh of *December*, One Thousand Seven Hundred and Eleven, declare, that her Allies, especially the States-General had, by their ready Compliance for opening a Treaty of a general Peace, expressed their Confidence in her; but the said Earl not admitting there were such Representations as suggested in this Article, begs leave, in Vindication of the Honour of his Royal Mistress, who was a Princess of strict Piety and Truth, to observe, that the States-General sent over Monsieur *Biys* to her Majesty, with Letters full of Assurances of their Respect for her Person,

and their Resolutions not to separate themselves from her; and likewise signified by him to her Ministers, their Readiness to concur with her Majesty. And the said Monsieur *Biys*, immediately upon his Arrival at *London*, delivered Passports for the *French* Ministers to come to *Utrecht*; and at a Meeting of several Lords of the Council, shewed his Approbation of sending circular Letters to invite the rest of the Allies to the general Congress: And the said Monsieur *Biys* exhibited full Powers for preparing and signing a new Treaty, whereby her Majesty and the States should be mutually engaged to each other in making War and Peace, to guarantee the Peace when made, and to invite the rest of the Allies into such Guarantee; all which Matters and Transactions being previous to the Seventh of *December*, One Thousand Seven Hundred and Eleven, her Majesty might justly regard the aforesaid authentic Acts and Assurances, as greater Proofs of the Confidence the States had in her, and of their Readiness to concur with her, than any Representations or Reports before that Time; and that the said Declaration of her Majesty from the Throne was founded upon the strictest Truth. And the said Earl believes, that every one who impartially considers the Steps taken in the late Negotiations of Peace, the Length of the Treaty, the several Letters from one of her Majesty's Principal Secretaries of State to her Plenipotentiary at *Utrecht*, the Ratification of the Engagement signed by her Ministers and Monsieur *Biys*, the Eighteenth of *December* One Thousand Seven Hundred and Eleven, and her exhorting the States to ratify the same; her pressing Instances to the Princes and States of the Empire, and the many other Acts which were done by her Majesty's Orders during that Transaction for the Service and Satisfaction of her Allies, will readily acknowledge, that her Majesty did her utmost to procure for her Allies, and in particular for his Imperial Majesty, all reasonable Satisfaction; and to unite with them in the strictest Engagements, to render the Peace secure and lasting, agreeable to her Speech of the said Seventh Day of *December*, and her Message of the Seventeenth of *January* following, in this Article mention'd: And if by any extraordinary Demand or groundless Jealousies of any of the Allies, or other Accidents, her Majesty was not able to obtain for them all the Advantages she desired, this will not derogate from the Truth and Sincerity of her Majesty's Expressions. And it is evident her Majesty did procure them so great Satisfaction, that the Allies did all sign the Peace at the same Time with her Majesty, excepting only the Emperor; and even his Interests were so far adjusted, that what remained in dispute was not thought sufficient to delay so great and good a Work: And it is well known the Emperors of *Germany* have frequently declined signing their Treaties of Peace at the same Time with their Allies. But that her Majesty was induced by any Influence of the said Earl to enter into any Negotiation with *France*, exclusive of her Allies; or that the said Earl carried on any such Negotiation; or that the Interest of the said Allies, or in particular of the Emperor, were, by any Practices of his, giving up to *France*, he utterly denies. And when it is considered, that much *British* Blood and Treasure had been spent to recover *Spain* and the *West-Indies* from the House of *Bourbon*, that an ex-

penfive War had for many Years continued, which her Majesty ftill fupplied with new Recruits and redoubled Expence; that her Armies, and thofe of the Allies, had been beaten in *Spain*; that Prince *Eugene* had declared, that Forty Thoufand Men, and Four Millions of Crowns *per Annum* would be neceffary for carrying on that War, and that his Mafter could fupply no more than a Fourth Part of that Charge; that it was found by long Experience, how averfe the People of *Spain* in general were to fubmit themfelves to the Houfe of *Austria*; that her Majesty difcerned the Charge of renewing the War in *Spain* would be a Burthen too great for her Subjects, and that there was little Probability of its being fucceffful: that the hereditary Countries were then, by the Death of the Emperor *Joseph*, fallen to King *Charles*, who was foon after chofen Emperor (by which Event the Intereft of the Princes and States of *Europe* were changed;) it cannot be doubted but that her late Majesty had, at the Time when fhe made the aforefaid Declaration, done her utmoft to recover *Spain* and the *West-Indies* by Force of Arms: And the moft fhe could do afterwards, was by way of Negotiation, wherein fhe infifted with that Earneftnefs on King *Philip's* quitting *Spain*, that *France* complied with her Majesty's Propofals: But when King *Philip* could not be prevailed on to give up *Spain*, her Majesty thought his Renunciation of the Crown of *France*, as Circumftances then ftood, the moft practicable, if not the only Method left to prevent the Union of thofe two Monarchies. But the faid Earl doth not think it probable, that the leaving *Spain* and the *West-Indies* to the Houfe of *Bourbon*, was the Foundation of the Preliminary Articles figned by Monsieur *Mefnager*, and of the Declaration annexed, which had been figned by the Lord *Dartmouth* and Mr. *St. John*, with her Majesty's Confeht (and which the faid Earl fuppofes is what is call'd the private Treaty in this Article) fince he believes it was then thought more likely that the Crown of *Spain* might fall to fome other Prince. And the faid Earl doth not obferve, how her Majesty can be charged with uttering any Falftiy in her Message of the Seventeenth Day of *January*, wherein fhe takes notice, how groundlefs the Reports were that had been fpread of a feparate Peace being treated, for which Report there was not then, nor at any other Time, the leaft Foundation; fince only fome few Points were adjusted, relating to the particular Interefts of her own Kingdoms, and even thofe were to have no Effect but upon the Conclusion of a general Peace, and were likewife, before fuch Conclusion, communicated to the Allies. And the faid Earl denies, that thenceforth, or at any Time, there were carried on, by him, any feparate Meafures with the Minifters of *France*; nor doth he conceive, that the Propofal about the Renunciation was merely fpeculative, but that it was of fuch a Nature as would execute itfelf, and keep the Crowns of *France* and *Spain* more effectually divided than ever; if it be confidered, that it did not confift only in a Renunciation to be made by *Philip*, then in Poffeffion of the Crown of *Spain*, of his contingent Right to that of *France*; but that there was a Title to the Crown of *France* thereby given to the Duke of *Orleans*, and after him to the reft of the Princes of the Houfe of *Bourbon*, who could not be prefumed to want the Will

nor would be likely to want the Power, to take Poffeffion of the Crown of *France*, by Vertue of fuch Title, in Oppofition to a Prince at fuch a Difftance, and who had folemnly renounced all his Pretentions to it. Nor can the faid Earl think, the Declaration of any Minifter of *France*, againft fuch Expedient (if any fuch were made) a fufficient Ground for her Majesty to decline it. The faid Earl therefore muft beg leave to repeat, that he is not able to difcover, from any Thing that appears in thofe Speeches, that in the Particulars afore-mentioned, or any other, the effential Points relating to Peace and Commerce, or which concerned the Interefts, as well of the Allies as of *Great Britain*, were mifrepresented by her Majesty; nor doth he know or believe, that any Inftance can be given wherein he abufed the Favour of his Royal Miftrefs, to whom he did always bear and pay the moft fincere Veneration and Duty; or wherein he did miflead her Parliament into any groundlefs or fatal Refolution, or prevented their Advice to her Majesty, or obtained their Approbation to any dangerous Practices, or whereby her Majesty could be ever deprived of the Confidence of her Allies, or expofed to Contempt.

In answer to the Sixteenth Article the faid Earl doth infift, that by the Laws and Conftitution of this Realm, it is the undoubted Right and Prerogative of the Sovereign, who is the Fountain of Honour, to create Peers of this Realm, as well in time of Parliament, as when there is no Parliament fitting or in being; and that the Exercife of this Branch of the Prerogative is declared in the Form or Preamble of all Patents of Honour, to proceed *ex mero motu*, as an Act of mere Grace and Favour; and that fuch Acts are not done, as many other Acts of a public Nature are, by and with the Advice of the Privy-Council; or as Acts of Pardon ufually run, upon a favourable Representation of feveral Circumftances, or upon Reports from the Attorney-General, or other Officers, that fuch Acts are lawful or expedient, or for the Safety or Advantage of the Crown; but flows entirely from the beneficent and gracious Difpofition of the Sovereign. He farther fays, that neither the Warrants for Patents of Honour, the Bills or other Ingroffments of fuch Patents are at any time communicated to the Council, or the Treasury, as feveral other Patents are; and therefore the faid Earl, either as High-Treasurer or Privy-Counfellor, could not have any Knowledge of the fame: Nevertheless, if her late Sacred Majesty had thought fit to acquaint him with her moft gracious Intentions of creating any Number of Peers of this Realm, and had asked his Opinion whether the Perfons whom fhe then intended to create, were Perfons proper to have been promoted to that Dignity? He does believe he fhould have highly approved her Majesty's Choice; and doth not apprehend that in fo doing he had been guilty of any Breach of his Duty, or Violation of the Truft in him reposed; fince they were all Perfons of Honour and diftinguifhed Merit, and the Peerage thereby was not greatly encreafed, confidering fome of thofe created would have been Peers by Defcent, and that many Titles of Honour were then lately extinct. And the faid Earl believes many Inftances may be given, where this Prerogative hath been exercifed by former Princes of this Realm in as extenfive a manner; and particularly

cularly in the Reigns of King *Henry* the Eighth, King *James* the First, and his late Majesty King *William*. The said Earl begs leave to add, that in the whole Course of his Life he hath always lov'd the establish'd Constitution, and in his private Capacity, as well as in all public Stations, when he had the Honour to be employ'd, hath done his utmost to preserve it, and shall always continue so to do.

In answer to the further Articles of Impeachment exhibited against the said Earl: As to the First of these Articles he saith, that he believes, in or about the Month of *January*, One Thousand Seven Hundred and Ten, an Expedition was projected, for making a Conquest of the City *Quebeck*, on the River of *St. Laurence*, *Canada*, or other Possessions of the *French King* in *North America*; but denies he advised her Majesty either to consent to the making such Expedition, or to give Orders for detaching any Battalions of the Forces in her Majesty's Service in *Flanders*, or to send any such Battalions, or any Squadron of Men of War on the said Enterprize: But having heard that the said Project, or some Expedition of the like Nature, had been some time before considered in a Committee of Council, and afterwards laid aside for that Time, and not being fully apprized of the whole Project, nor so well vers'd in the Affairs of that Part of the World as others, who had more Opportunity of knowing them; and least the Expedition might not at that Time prove so feasible or advantageous as others of better Knowledge in those Matters than himself did expect, he did all that he apprehends his Duty required to prevent the putting the same in Execution, and expressed his Concern at it to some Persons about the Queen. And having so far shewn his Opinion of the said Design at that Time, believes it would not have been thought proper for him to have appeared at the Meetings, where the Methods only of carrying on the Expedition were to be adjusted; of which Meetings there had been but few, before a Misfortune befel him, which confined him to his Bed. But the said Earl denies, that he knew the said Expedition was dangerous or destructive, nor did he hear that it was laid aside formerly by a Committee of Council, as dangerous or impracticable, but only as improper in the Circumstances of Affairs at that Time: Nor doth the said Earl know or believe the said Expedition was set on foot with any design to promote the Interest of the *French King*, or to weaken the Confederate Army in *Flanders*, or to dissipate the Naval Forces of this Kingdom. And when others of her Majesty's Council, better acquainted with that Affair, did judge it to be proper and practicable, he did not think it became him, upon the Strength of his own single Judgment, further to oppose an Expedition, which if it had succeeded, most certainly would have given a great and sensible Blow to the Settlements and Trade of *France* in that part of the World. And the said Earl, with good Reason, is persuaded your Lordships will not think it unfit that her Majesty should take the Opinion of those who better understood Affairs of that Nature; or that your Lordships can judge the said Earl in that respect to have been wanting in his Duty to her Majesty; but hopes it will be rather an Evidence of his Fidelity to the Queen and his Country, that he so far discouraged what in his

own Judgment he was diffident of. However he is satisfied, that those of her Majesty's Council who did approve the Expedition, acted therein with a sincere Desire for the public Good, notwithstanding the ill Success it was attended with; which might chiefly be owing to Delays by contrary Winds, and other unforeseen Accidents. And he doth not believe, that her Majesty's Allies did suffer any Prejudice, or the common Enemy receive any Advantage by the detaching of Forces from *Flanders* to serve on this Enterprize; and is inform'd, that to prevent any such Danger, her Majesty's General who commanded at that Time in *Flanders*, had Orders for providing other Forces in their Place, if he judg'd it necessary. And the said Earl doth acknowledge, that the Sum of twenty eight thousand Pounds, or thereabouts, was demanded at the Treasury about *June* One Thousand Seven Hundred and Eleven, on account of Arms, Accoutrements, Goods, and Merchandize, said to be sent on the said Expedition to *Canada*; but he saith, that he was so far from advising her late Majesty that the said Sum should be issu'd and paid, that on the contrary he put a Stop to the Payment of the same, until he had done all he could at that time to examine into the Expenditure of the said Money: But being then High Treasurer of *Great Britain*, and having receiv'd her Majesty's Orders to pay the said Sum, and not being able, with his utmost Precaution then, to discover any just Cause why it should not be paid; he did afterwards, in Obedience to those Orders, and according to the Duty of his Place, countersign a Warrant to the Paymaster of her Majesty's Forces for the Payment of the same, pursuant to which, he believes the same was issued and received. And as to that Part of the said Article, which charges the said Earl with employing his Arts or Credit to keep the House of Commons from examining that Affair; he begs leave to say, that whatever Suspicions he might entertain in his own Mind, he did not upon Examination find, that there was sufficient Proof to justify the laying them before either House of Parliament. And although he had been inform'd, that the Papers relating to that Expedition, were laid before the last, and have been all along in the Power of the present House of Commons, yet he hath not heard that any Fraud hath been made out in that Affair, notwithstanding the Gentlemen who had them under their Inspection neither wanted Abilities to make the utmost Discoveries, nor could be supposed to be prevented therein by any Influence of the said Earl: And he hopes it will not be imputed to him as a Fault, if he had used any Skill or Credit to keep the House of Commons from examining this Affair at that Juncture, when by an unseasonable Enquiry, before a proper Proof could be had, the Fraud, if any such there were, would be likely for ever to escape unpunished. But the said Earl denies that he ever exercised or had any arbitrary Power or Influence, either in her Majesty's private Council, or the great Council of the Nation, or entertained any Design to prevent the Justice due to the Queen or the Nation, or that any Discovery had been made to him, further than what might give Suspicion to one who was always jealous (as became him) of any Misapplication of the public Treasure. And the said Earl saith, that he is not conscious, that by any Letter or Memorial to her Majesty, he hath acted contrary to his Duty; but humbly hopes he

may be allowed to observe, that it would be a Matter of particular Hardship, and what seems to him inconsistent with the Rules of Government, and without Precedent, if the most secret and intimate Papers and Letters, wrote to that most renowned and pious Princess, her late Majesty, by her own special Command, and for her own private Perusal, should be imputed to any as a Crime; and if any Quotation from any such Letter or Paper could be alledged against the said Earl, he doubts not but there might appear from other of her Majesty's private Papers what would justify him in many Particulars wherewith he is charged, and would give further Proof (if it were needful) how tender and affectionate her Majesty was to all her Subjects.

In answer to the second additional Article the said Earl doth admit, that about *October* One Thousand Seven Hundred and Eleven, her late Majesty did sign a Warrant directed to him, then her Treasurer of *Great Britain*, for the issuing and Payment of the Sum of Thirteen Thousand Pounds to *John Drummond*, Esq; in the Article named; and that on or about the Twenty Fourth of *November* following, in pursuance of the said Warrant, under her Majesty's Sign Manual, he the said Earl did sign a Warrant for the Payment of the said Thirteen Thousand Pounds, but for more certainty, begs leave to refer to the said several Warrants when the same shall be produced: And the said Earl takes the Words [*for special Services of the War*] to have been inserted by Mistake of the Clerks; for he absolutely denies that he gave any Direction for those Words, or any other of like Import, to be inserted: And he believes all the Clerks of the Treasury know, that the Monies which arose from the Sale of Tin were the Queen's proper Money for the Support of her Household, and such Occasions as she should please to direct, and not appropriated to the Services of the War; altho' sometimes it hath been practised that Loans have been taken upon Tin Tallies for the Service of the War, and other public Services, and afterwards repaid to the Civil List, which might possibly give occasion for such Mistake. And the said Earl saith, that having been acquainted with the Services the said *Mr. Drummond* had performed, by Order of the late Earl of *Godolphin*, in borrowing Money upon Tin at a low Interest, the said Earl asked *Mr. Drummond's* Consent that a Sum in Tin-Tallies might be struck in his Name, and with such Consent did direct, that Orders amounting to the Sum of Thirteen Thousand Pounds should be charged in the Register of the Exchequer, on the Monies arising by the Sale of Tin, in the Name of the said *Mr. Drummond*, who afterwards, before his going to *Holland*, endorsed the said Orders at the said Earl's Request, and left them in the Treasury; but how long it was before the said Orders were endorsed, or how long they remained afterwards in the Treasury, the said Earl doth not particularly remember; but doth not acknowledge that the said Orders and Tallies came afterwards to his own Hands, and were disposed for his own Use. But in order to lay the true State of this Affair before your Lordships, the said Earl humbly represents, that upon his first attending the late Queen, after his being wounded, her Majesty had the Goodness to tell him, that she designed him a Sum of Money: Upon which he represented to her Majesty the bad

Condition of her Civil List: But several times after her Majesty asked him, why he did not find a way for receiving the Money she intended him, and bring the necessary Warrant for that Purpose? He still urged the same Reason against it, and for near Six Months made no Step in it, till at last her Majesty was pleased to say, she was resolved to have it done. And as her Majesty had, in Matters of her Bounty, made use of Tin-Tallies for other Persons, she was pleased to mention the same herself, and ordered proper Warrants to be prepared for the Sum which her Majesty of her Royal Bounty intended him: That after her Majesty had so positively signified her Royal Pleasure, to bestow such Mark of her Favour upon the said Earl, the said Tallies and Orders were struck in *Mr. Drummond's* Name, with her Majesty's Knowledge, and at the said Earl's Nomination; and from that time the same were kept under the said Earl's Direction for his Use. And the said Earl was advised, that nothing further was requisite to be done, after the Assignment of the said *Mr. Drummond*, for securing the said Earl's Interest in the said Tallies, till an Accident happened which made it necessary for further Security, to have the said Warrant as a Declaration of Trust, which was accordingly signed by her Majesty, and is to the Effect following.

A N N E. R.

WHEREAS in the Year of our Lord One Thousand Seven Hundred and Eleven, in Consideration of the many good, faithful, and acceptable Services which before that time had been performed unto us, by our Right Trusty and Well-beloved Cousin and Counsellor Robert Earl of Oxford (then and now our High Treasurer of Great Britain) which Services have tended to the Quiet, Safety, and Prosperity of us and our Realm, tho' the same were accompanied with great Difficulties upon himself, and Hazards to him and his Family. And particularly respecting upon the impious Attempt made upon his Life: We did then fully resolve, as a particular Mark of our Favour, and of our Gracious Acceptance of the said Earl's Services, to bestow upon him a Sum in ready Money. But the said Earl representing to us, that the Arrears then due to our Servants and Tradesmen, chargeable upon our Civil List, were very great and pressing, we did therefore agree and determine, that the said Earl should have to his own Use the several Sums amounting to Thirteen Thousand Pounds, comprised in certain Orders of Loans bearing date in or about the Eleventh Day of December One Thousand Seven Hundred and Eleven, in your Name, and charged upon the Register in our Exchequer on the Monies arising by Sale of our Tin, which Orders are not yet in Course of Payment. Now we do hereby declare and make known, that the said several Sums amounting to Thirteen Thousand Pounds, contained in the said Orders, and the Interest thereof due and to be due, are, and shall be the proper Monies of the said Earl of Oxford. And we do hereby direct and authorize you to transfer and Assign the said Orders, and the whole Right and Benefit thereof, to the said Earl and his Assigns, or to such Person or Persons as he shall appoint in that behalf. And in case any the Monies due, or to be due, or payable upon the said Orders shall come to your Hands; in such Case our Pleasure is, that you forthwith pay over the same to the said Earl, his Executors, Administrators, or Assigns, to his and their own Use and Beboof, without any Account to be therefore rendered to us, our

Heirs,

Heirs, or Successors. And this our Warrant, or an attested Copy thereof, shall be your sufficient Warrant and Discharge for so doing.

Given at our Court at *Windsor-Castle* the Fourteenth Day of *December*, in the Twelfth Year of our Reign, *Anno Dom. 1713.*

To our Trusty and Well-beloved
John Drummond, *Esq;*

And the said Earl believes the said Warrant was drawn by Mr. *Lowndes* Secretary to the Treasury, and by what Means the same was omitted to be enter'd in the Treasury he knows not: But upon hearing there was a Discourse about the said Thirteen Thousand Pounds in Tin-Tallies, he sent a Copy of the said Warrant to the Officers of the Treasury, without signifying any Desire to have the same enter'd, well knowing it receiv'd its Authority from the Sign Manual, which wanted no additional Force from any Entry thereof in the Treasury-Books. And the said Earl saith, that her Majesty was pleas'd, of her mere Goodness and Bounty, and of her own free Will to give him the said Sum of Money in Reward of his faithful Services, and for his Sufferings in her Service. And the said Earl saith, that the said Grant, according to the Discount upon those Tallies at that Time, amounted to the Sum of ten thousand Pounds, or thereabouts; wherein he acknowledgeth the great Bounty of her Majesty, and takes notice, that Grants much larger have been made from the Crown to other Ministers of State, while the Necessities of the Crown have been equally pressing. And the said Earl doth not know that in this or any other Part of his Administration, he ever was guilty of any Corruption, or any Breach of his Oath or Trust as High Treasurer of *Great Britain*; or that he did in any Manner abuse her Majesty's Goodness, or make an ill Use of his Access to her Majesty, or embezzle the public Treasure, or did at any time knowingly injure or oppress her Majesty's Subjects; but on the contrary, the said Earl saith, that he managed the public Money in the most frugal Manner, in order to lessen, as much as might be, the Charge of the War; and to ease, if he could, the Commons of *Great Britain* from all grievous Taxes. And in further Vindication of himself against all the Imputations of Avarice or Corruption insinuated in this Article, the said Earl saith, that in every Employment to which he was called by her Majesty's Favour, he was always contended with the accustomed Incomes and Profits of the said Employments, without endeavouring to encrease his Gain by unwarrantable or extraordinary Perquisites; that whilst he was in any Office of Trust about her Majesty, he never abused that Trust in making any Manner of Profit or Advantage to himself, either by the Disposal of Places in his own Gift, or by the Recommendation of Persons to her Majesty for such as were granted immediately by herself; that neither in nor out of Place did he ever receive any Pension from the Crown; that as he came with clean Hands into her Majesty's Service, so went not only with clean but almost with empty Hands out of it, having spent therein most Part of the Profits which accrued to him from the Places he enjoy'd; so that at this Time, notwithstanding all the Advantages he received from them, and the extraordinary Bounty of the Queen to him, in this Article mentioned, he can with great Truth affirm, that his

private Fortune hath received very inconsiderable Addition thereby.

In answer to the Third Additional Article the said Earl saith, that *Matthew Prior*, *Esq;* being employed by her Majesty at the Court of *France*, Warrants were signed in the usual Form for Payment of several Sums of Money to the said Mr. *Prior*, which he believes from the Twenty Seventh of *August* One Thousand Seven Hundred and Twelve, to the Tenth of *July* One Thousand Seven Hundred and Fourteen, might amount to the Sum of Twelve Thousand Three Hundred and Sixty Pounds, as in the said Article is set forth; and he believes he did pay, or cause to be paid at several Times the said Sums, pursuant to the Authority he had from her late Majesty for that purpose, which he conceives was not only lawful, but a Duty incumbent on him. He further saith, that he doth not know that by any Law there ought to be certain Appointments or Allowances for the Maintenance and Support of Ambassadors, Envoys, Plenipotentiaries, and other public Ministers of the Crown in foreign Courts; but that her Majesty was at Liberty to vary such Appointments, and the Manner of paying them, as she in her Wisdom should think fit, out of any Funds appropriated to the Civil List. He doth believe, that there are several Instances where Persons employed to negotiate Matters of Importance, as Ambassadors or Plenipotentiaries, have been allowed one thousand five hundred Pounds for their Equipage; one hundred Pounds a Week for their ordinary Entertainment, and one thousand six hundred Pounds for Extraordinaries, and likewise further Sums for Services, performed by special Order: And if the said Mr. *Prior* had been paid upon that Foot, he would have been entitled to a greater Sum from the Crown, for the Time wherein he was employed by her Majesty as aforesaid, over and above all Disbursements for special Services. And the said Earl saith, that he takes the said *Matthew Prior* to have been sent by her Majesty into *France* for her Majesty's Service, and in order to carry on the Negotiations of a general Peace; but denies that he was any Creature of the said Earl, or sent by the said Earl into *France*, or that he carried on any Negotiations of the said Earl, or that her Majesty was prevailed on by his Counsels to send the said *Matthew Prior* as her Plenipotentiary to the *French* King, without the Privity of or any Communication with the Allies, or that the said Earl used the least Contrivance for carrying on, or did carry on or promote any dangerous Practices with the Ministers of *France*, or the Enemies of her Majesty or her Kingdoms, or that he did at any Time combine with the said *Matthew Prior* to defraud her Majesty of any Sum of Money whatsoever, under Colour of his Employment; or that the said *Matthew Prior* was sent into *France* with the Character aforesaid; without any settled Appointment or Allowance for any such End; or that he the said Earl did give the said *Matthew Prior* an unlimited Credit, or promise to pay him any Bills whatsoever, other than what he should be duly authorized to pay; or that any Bills of Exchange, in the said Article mentioned, were drawn in pursuance of any such Contrivance. The said Earl saith, that *Thomas Harley*, *Esq;* having been twice sent by her late Majesty to the Court of *Hanover*, he the said Earl being then High Treasurer of *Great Britain*, paid

or cause to be paid to the said Mr. *Harley* the Sum of five thousand five hundred and sixty Pounds, or thereabouts, by Authority from her Majesty, and according to the Duty of his Office, out of Monies appropriated to the Use of the Civil List. And he believes, that if Mr. *Harley* had received an Allowance in Proportion to what hath been paid to Ambassadors, it would have amounted to a greater Sum. But denies, that the said Sum of five thousand five hundred and sixty Pounds, or any Part of it, was paid without Authority, or for promoting any wicked Purposes of the said Earl, or that he did either illegally or fraudulently issue, direct, or advise the Direction or Payment of any Sum or Sums of Money out of her Majesty's Treasury, to any Person whatsoever, or that he ever entered into any Combination with the Persons abovementioned, or any other Person whatsoever, to defraud her Majesty of any of the public Money which he was entrusted with the Management of.

In answer to the fourth additional Article, the said Earl denies, that he ever held any Correspondence with *Mery* the late Consort of the late King *James* the Second, either by the Means of Mr. *Prior*, or by any other Means whatsoever, or that he ever intended, or had the least Design any way to promote the Interest of the *Pretender*; nor doth the said Earl know or believe that Monsieur *Gaultier*, in the said Article named, was entrusted or employed as an Agent between any of the Ministers of *Great Britain* and *France*, in transacting any Affairs relating to the *Pretender*; and denies that he the said Earl had any Conferences with him the said Monsieur *Gaultier* on that Subject: Nor doth the said Earl know or believe that he the said Monsieur *Gaultier* was empowered to concert with him the said Earl, particularly the settling any Payment or Remittance of the Annuities hereafter mentioned, or any other yearly Sum to be paid or remitted out of her Majesty's Treasury into *France*: Neither had the said Earl the least Design, that any of the Fruits or Advantages of the Peace should be made an Offering to any Adherent of the *Pretender*; nor did he agree or undertake to procure the Payment of the yearly Sum of forty seven thousand Pounds, or any other yearly Sum, to the Use of the said late Consort, during her Life. But the said Earl doth admit, that the late King *James* the Second by Letters Patents under the Great Seal of *England*, bearing Date on or about the Twenty Eight Day of *August*, in the Year One Thousand Six Hundred and Eighty Five, granted unto *Lawrence* Earl of *Rochester*, *Henry* Earl of *Peterborough*, *Sidney* Lord *Godolphin*, *Robert* *Worden*, Esq; and Sir *Edward* *Herbert*, Kt. (who are all since deceased) divers Annuities or yearly Sums of Money, amounting to thirty seven thousand three hundred twenty eight Pounds thirteen Shillings and seven Pence, payable out of the Hereditary Duty of Excise, and the Post-Office, and other Revenues in the said Letters Patents mentioned, to hold to them and their Heirs, during the Life of the said Consort, in trust for her: And by other Letters Patents, bearing date on or about the Third Day of *December*, in the Year One Thousand Six Hundred and Eighty Six, also granted unto the said Consort a further Pension, or yearly Sum of ten thousand Pounds, to hold during her natural Life; whereby the said Revenues arising from the Hereditary Excise and Post Office, and other the Revenues in the

said Letters Patents mentioned, became charged with, and were liable to the said Annuities or yearly Sums, as in this Article is mentioned. And the said Earl doth admit, that the said Revenues were by several Acts of Parliament granted and settled during the Life of his late Majesty King *William* the Third, for the Use and Service of his Household and Family, and for other his necessary Expences and Occasions; and after his Demise, during the Life of her late Majesty Queen *Anne*, were appointed to be for the Support of her Household, and of the Honour and Dignity of the Crown; but saith, that in the same Act of Parliament whereby the said Revenues are so appointed, there is a general Saving to all and every Person or Persons of all such Rights, Titles, Estates, Interests, Claims, and Demands whatsoever, of, in, or to, or out of the said Revenues and Hereditaments, or any of them, as they, or any of them had, or ought to have had before the making the said Act, as fully, to all Intents and Purposes, as if the said Act had never been made. And the said Earl doth admit, that an Act of Parliament was made in the Twelfth Year of her late Majesty's Reign, whereby the Sum of five hundred thousand Pounds, for the Causes therein mentioned, was to be applied in Aid of the Revenues or Branches which were appointed for the Support of her Majesty's Household, and of the Honour and Dignity of the Crown, for, or towards the paying and discharging such Arrears of Salaries, Wages, Diet-money, and other Allowances, and such Debts for Emptions, Provisions, and other Causes, as should appear to be due and owing to her Majesty's Servants, Tradesmen, and others. But the said Earl saith, he hath heard that the said late Consort of the late King *James* the Second, esteeming herself to be entitled by the Laws of *England*, by vertue of the said Letters Patents, to the several Sums of Money therein mentioned, did, by Letter of Attorney, empower and authorize the said Monsieur *Gaultier* to demand and receive for the only Use, Benefit, and Behoof, all Sums of Money which from and after the Feast of the *Annunciation* of the Blessed Virgin *Mary*, One Thousand Seven Hundred and Thirteen, were become due and payable upon the several Annuities, amounting to thirty seven thousand three hundred and twenty eight Pounds thirteen Shillings and seven Pence, and the other Annuity or yearly Sum of ten thousand Pounds, and to give Acquittances and Discharges for the Monies he should so receive to her only Use and Behoof as aforesaid; and that thereupon he the said Monsieur *Gaultier* applied himself to her Majesty for the Payment of the Monies which were incurred or grown due on the said several Annuities, from the said Twenty Fifth Day of *March* One Thousand Seven Hundred and Thirteen, and that her Majesty was pleased to sign a Warrant, directed to him the said Earl, being then her Majesty's High Treasurer, or the High Treasurer or Commissioners of the Treasury for the Time being, in the Words or to the Effect in the said Article set forth; but for more certainty refers himself to the said Warrant, when the same shall be produced. And that in Obedience to her Majesty's Commands signified by the said Warrant, he the said Earl did direct two several Warrants to the Auditor of the Receipt of the *Exchequer*, to the Effect in the said Article set forth; but for more Certainty refers to the said several Warrants when the

the same shall be produced. But he denies he advised her Majesty to sign the said Warrant of the twenty third of *December* one thousand seven hundred and thirteen; but when such Warrant was brought to him, and he knew that the Jointure of the said Consort had been confirmed by Act of Parliament; and had heard that by some private Article of Agreement at the Treaty of *Ryfwick*, Provision had been made in relation to it; and the Legality of the Demand not being doubted by her Majesty's Council learned in the Law, the said Earl thought it his Duty to pay Obedience to it. And the Sum of five hundred thousand Pounds intended to be raised by the said Act of the Twelfth Year of her Majesty's Reign, together with a great additional Sum in Tallies, being design'd for discharge of her Majesty's Debts, the said Earl thought himself sufficiently authorized to direct that the said Sum of Money mentioned in the said Warrants, which he was advised was a Debt from her Majesty, should be paid out of the said five hundred thousand Pounds: Yet the Sum in the said Warrants mentioned or any part thereof, was not paid out of the said appropriated Sum of five hundred thousand Pounds, or otherwise; but the whole Sum of five hundred thousand Pounds was applied to other Uses for which it was appropriated. And the said Earl humbly hopes, that he hath not hereby betrayed the Honour of her late Majesty, or the Imperial Crown of these Realms, or acted contrary to his Duty. And the said Earl doth acknowledge, that the said Monsieur *Gaultier* coming into *England* with Letters of Credence from the *French* King to her late Majesty, after having resided some time in *England*, her Majesty was pleased, before his Departure hence, to direct a Present should be made to the said Monsieur *Gaultier*, as hath been usual in like Cases to public Ministers: And he believes her said Majesty was the rather inclined to make such Present to the said Monsieur *Gaultier*, because the said Earl hath heard, and takes it to be true, that the said *Gaultier* had been instrumental with the *French* King to obtain the Delivery and Release of those poor Protestants who had suffered aboard the Gallies on account of their Religion, whose Rescue from Slavery her Majesty, out of her known Zeal to the Protestant Religion, and out of her wonted Piety and Compassion to the Confessors in so good a Cause, had much at Heart, and had prevailed therein beyond Expectation; it being what by his Majesty King *William* had been attempted in vain, and was thought by many impossible ever to be obtained: And the good Offices of the said *Gaultier* in that Affair having been very acceptable to her Majesty, she was pleased to encrease his Present in respect thereof, and therefore ordered it to be paid in the same manner as had been done to others, whose Present her Majesty thought fit to augment. And for this end her Majesty, about the time in this Article mentioned, did sign a Warrant directing the Payment of one thousand Pounds Sterling to *Daniel Arthur*, Esq; in the same Article mentioned, to the Intent it might be paid to the said Monsieur *Gaultier* on the account aforesaid. And the said Earl believes the said Monies were issued and paid accordingly, and doth not apprehend he hath therein acted contrary to his Duty.

In answer to the Fifth additional Article, the said Earl doth admit the Sovereign of this Realm

may refuse to receive any natural born Subject who hath committed, and is under the Guilt of High Treason, as a public Minister, or with any Character from any Foreign Prince, State, or Potentate: And that where such Person is known to be guilty of such Crime, it may in most Cases be fit so to do; But the said Earl apprehends that the Sovereign is the proper Judge whom to refuse or receive with such Character. The said Earl believes that a Person stiling himself, or commonly known by the Name of *Lilish* or *Lawless*, did about the Year one thousand seven hundred and twelve, or one thousand seven hundred and thirteen, come into *England* with Letters of Credence to her Majesty from the King and late Queen of *Spain*, and Authority to treat about carrying *British* Merchandizes to the *Spanish West-Indies*; and that her Majesty was pleased to admit such Person with such Letters of Credence; and before his return to *Spain* was pleased to order, for the Use of such Person, the Sum of one thousand Pounds, to be paid out of the Monies appropriated to the Civil List, which the said Earl, in Obedience to such Orders, caused to be paid, and humbly apprehends it was his Duty so to do. But the said Earl believes, that when the said *Lilish* or *Lawless* was so admitted, he was generally thought to be a natural *Spaniard*, and that from the Advantages of those Licences which he brought for carrying the *British* Merchandizes to the *West-Indies*, he expected much a larger Present: However, the said Earl denies that he knew, or was informed, before the Arrival of the said *Lawless* in *England*, any thing of his coming hither, nor after his Arrival did he see him, or know of his being here before he had been introduced to her Majesty, it being usual for public Ministers to be introduced by those Servants of her Majesty to whose Office it belongs, as matter of Duty and common Dispatch, without consulting therein other Ministers of State. And upon the Notice taken of this Affair formerly in the House of Peers, it appeared that the noble Lord who introduced the said *Lawless* to the Queen, by vertue of his Office, did it as of Course, and did not then know he was other than a Native of *Spain*. And the said Earl saith, that of a long time after he had been so introduced, the said Earl neither knew nor heard that he was other than a natural *Spaniard*: But when the said Person had continued in *England* a considerable time, there was a Rumour, and the said Earl was afterwards informed that he was a Native of *Ireland*, and departed out of that Kingdom in his Youth, and had since been in the *Spanish* Service; but doth not know, nor was informed, that he had committed or been guilty of High Treason, or that he had served the late King *James* the Second in the War in *Ireland* against King *William* the Third, or had followed the said King *James* the Second into *France*, or been in his Interest or Service, or had been in Rebellion against King *William*, or in Arms against the late Queen. And the said Earl having no notice of the said Person's Arival before his being admitted to her Majesty, nor any Knowledge of any Crime he was guilty of, submits whether it shall be computed to him as any want of Duty, that he did not advise her Majesty against admitting or receiving him in the Character aforesaid, or that he did, by her Majesty's Authority, meet, confer, or negotiate with him concerning any Affairs about which he was authorized to treat (in case he had

had so done, which however the said Earl doth not admit) or that by Authority from her Majesty he paid the said Sum of One Thousand Pounds to the said *Daniel Arthur*, which after came to his Use. But the said Earl doth deny, that he advised her Majesty to sign the Warrant for Payment of the said One Thousand Pounds, or gave any Directions for Payment thereof contrary to what was intended by her Majesty: And the said Earl admits, that some other Sums of Money (which might amount in the whole to Nine Hundred and Fifteen Pounds, or thereabouts) were paid in Satisfaction of Monies advanced to the said *Lawless*, as Part of the Monies agreed to be advanced to his Catholic Majesty by the *Affiento* Contract: But denies that he directed the Payment of any other Monies whatsoever out of her Majesty's Treasury to the said *Lilesh* alias *Lawless*, or knows that any other Monies were paid to him, beside the aforementioned Sum of One Thousand Pounds, and the Monies paid in Satisfaction of what was advanced to him towards the Part due to his Catholic Majesty by the said *Affiento* Contract. And the said Earl never assumed the supreme Direction in her Majesty's Councils, neither was he advising that the said Person should be introduced to her Majesty, or should be received or treated by her Ministers under the disguised Name of *Don Carlo Moro*, or should at all be received as a public Minister here. And the said Earl doth acknowledge, that the House of Lords with commendable Zeal made such Address, and came to such Resolution, and that her Majesty made such Answer, and issued such Proclamation, as in the said Article is mentioned. And as the said Earl had always the highest Regard to the Safety of her Majesty's Person, the Security of the Protestant Succession, and Advice and Resolutions of the House of Peers; so he denieth, that he had the least Knowledge, that the said *Lilesh* alias *Lawless*, had ever been Minister or Agent to the Pretender at the Court of *Madrid*, or the least Suspicion that he was sent into *England* to promote the Interest of the Pretender in these Kingdoms, nor is he conscious to himself, that he hath done any thing to expose the Person of her most sacred Majesty; to enervate or render ineffectual the Advice of Parliament, or her Majesty's Declaration; to countenance any Emissary of the Pretender, or encourage his Adherents, to the Danger of the Protestant Succession as by Law establish'd in the serene House of *Hanover*: But on the contrary is persuaded his Conduct in that Affair is so well known, as not to need any further Justification; but if it should at any Time be thought necessary, he is able to produce those Proofs of it, which are the best Authority in the World for his Vindication.

In answer to the Sixth additional Article, the said Earl hath been informed, and doth believe it may be true, that after several unsuccessful Attempts by her late Majesty, in Conjunction with her Allies, to establish his present Imperial Majesty upon the Throne of *Spain*, Instructions in Writing were given to *Mitford Crow*, Esq; about the Seventh Day of *March*, One Thousand Seven Hundred and Five, taking notice her Majesty had been informed, that the People of *Catalonia* were inclined to cast off the Yoke imposed on them by the *French*, and to return the Obedience of the

House of *Austria*; and that her Majesty, desiring to maintain and improve that good Disposition in them, and to induce them to put the same speedily in Execution, had made choice of him to carry on so great a Work, for the Advantage of her Service, and the Good of the common Cause, as was the making a Treaty with the *Catalans* or any other People of *Spain*, for the Purpose aforesaid: and that the said *Mitford Crow* was thereby empower'd to give the *Catalans*, or other *Spaniards*, Assurances of her Majesty's utmost Endeavours to procure the Establishment of all such Rights and Immunities, as they had formerly enjoyed under the House of *Austria*, and the Confirmation of such Titles as had been conferr'd on any of them by the Duke of *Anjou*: And that for their further Satisfaction, her Majesty had sent to King *Charles* the Third for Powers for confirming the same to them, and was willing, if they insisted on it, to become Guarantee that it should be done. And the said Earl hath been likewise informed that her Majesty, in a Commission granted to the said *Mitford Crow*, expressed, that she thought fit to enter into a Treaty with the Principality of *Catalonia*, or any other Province of *Spain*, on Condition they would acknowledge and receive *Charles* the Third as lawful King of *Spain*, and utterly abdicate the House of *Bourbon*, and join their Forces with her Majesty's; and that her Majesty was pleas'd also to sign and deliver to the said *Mitford Crow*, Credential Letters, directed to the Nobility, Magistracy and other Officers of *Catalonia*, or any other Province of *Spain*, desiring them to give Faith to every thing the said *Mitford Crow* would tell them in her Majesty's Name: And that Instructions were likewise given to the Earl of *Peterborough* and Sir *Cloudefly Shovel*, about the Time and to the Effect in the said Article mentioned; and that a Manifesto or Declaration was afterwards publish'd by the said Earl of *Peterborough*, to the Effect in the said Article set forth: But the said Earl denies, that such Manifesto or Declaration was prepared by his Advice or Privity. And the said Earl believes it may be true, that some Part of the Nobility, Clergy, and Inhabitants of the Principality of *Catalonia*, and also of the Inhabitants of the Island of *Majorca*, did afterwards acknowledge King *Charles* the Third (now Emperor) for their lawful Sovereign, and did join their Arms with those of her Majesty and her Allies against the present King of *Spain*; but by what Motives they were induced thereunto, the said Earl doth not know. And the said Earl doth acknowledge, that for some Time the Arms of her Majesty and her Allies in *Spain* were attended with considerable Successes, in which the Bravery of the *Catalans* appear'd, and the Forces of the Confederates twice enter'd the capital City of that Kingdom: by which signal Conquests, and the great Supplies that have been granted by Parliament for their Assistance, the said People were under the highest Obligations of Gratitude to her Majesty: But the Advantages those Successes had given King *Charles* the Third being lost, her Majesty found the Burthen of that War very heavy to her Subjects, the Conquest of *Spain* for the present Emperor impracticable, and after the Accession of the Empire and Descent of the Hereditary Countries to him, esteemed inconsistent with the Interest of many of her Allies, and therefore thought it necessary for the Good of her

People,

People, and the Tranquility of *Europe*, to enter into Negotiations for a general Peace. But the said Earl denies that he entered into any Conspiracy for subjecting the *Spanish* Monarchy to the House of *Bourbon*, or ever had the least Design of the Ruin or Destruction of any of the Rights, Liberties, or Privileges of the *Catalans*, or that he ever formed any Contrivance for abandoning them to the Fury or Revenge of the Duke of *Anjou*, or his Adherent; or for the Extirpation of any of their Rights, Liberties, or Privileges; or that he advised her Majesty to give Directions to the Lord *Lexington* to acknowledge the Duke of *Anjou* King of *Spain*, before any Negotiation of Peace was set on foot in form of Law, between the Crowns of *Great Britain* and *Spain*. On the contrary the said Earl saith, that by Letters and Papers sent by one of her Majesty's Principal Secretaries of State to the Lord *Lexington*, it will appear, that after her Majesty had hearkened to the Proposals for a general Peace, for the Good of her own People, and her Allies, she used her best Endeavours for obtaining the Liberties of the *Catalans*, at the Conclusion of the Peace, and that his Lordship was directed peremptorily and absolutely to insist thereon: Nor doth the said Earl know or believe, that any Orders were ever sent from or given by her Majesty, to any of her Ministers, to recede from that Demand; or that the said Lord *Lexington* ever desisted from making the utmost Efforts he could for obtaining it. And if from any Measures of the *Catalans*, or of his Imperial Majesty, or from any other Cause, her Majesty's Endeavours had not their full Effect; the said Earl conceives it cannot be imputed to any Neglect of her Majesty, or any Want of Duty in him the said Earl. He believes, that about the Time in the said Article mentioned, his Imperial Majesty did enter into a Convention or Agreement for evacuating *Catalonia*; and that her Majesty, out of Inclination to perform her best Offices to the Emperor, was prevailed on to become one of the Guarantees thereof; but denies, that his Imperial Majesty was necessitated by any Practices of the said Earl to make any such Convention, and is ignorant for what Causes his Imperial Majesty, whom it most concerned, omitted, in such Convention, to make express and positive Stipulations for the Liberties of the *Catalans*. If it proceeded from any Dependence upon the Declaration of her Majesty, to interpose her best Offices on their Behalf, and the Promises of the *French* King to join his Endeavour therein; he is confident it will appear, her Majesty's best Offices were employed in that Affair, when it is considered what repeated Instances she made by her Ministers, and in the most pathetic Manner to obtain for them the Privileges they desired. And that her Majesty, by her earnest Interposition, did obtain a Grant and Confirmation to all the Inhabitants of *Catalonia*, of a perpetual Amnesty and Oblivion of all that was done in the late War, the full Possession of all their Estates and Honours, and a further Grant of all their Privileges which the Inhabitants of both *Castiles* (who of all the *Spaniards* were most dear to the King of *Spain*) enjoy'd, or might at any Time after have or enjoy; whereby the *Catalans*, if they obtained not all the antient Privileges they pretended to, received however in Compensation thereof, the Advantage of trading directly to the *West-Indies*, and other Privileges, to which they

were never before intitled. And the House of Peers, upon Consideration of several Papers laid before them, relating to this Affair, in Pursuance of their Address to her Majesty in that Behalf, expressed their utmost Thankfulness and Satisfaction for her Majesty's repeated and earnest Endeavours for preserving to the *Catalans* the full Enjoyment of all their just and antient Liberties. And it is probable her Majesty had prevailed to obtain for them the antient Privileges and Liberties, in the largest Extent, if they had waited the Event of her gracious Interpositions in their Favour, and not determined to carry on the War by themselves against King *Philip*, after the Emperor had signed the Convention for evacuating their Country, which incensed the King of *Spain* in the highest Degree, and was look'd upon by him as the most obstinate Rebellion. However, the said Earl saith, he never amus'd the *Catalans* with any Expectations whatsoever, nor in any degree contributed to engage them in any obstinate Defence against the Duke of *Anjou*; nor advised her Majesty to conclude a Peace with *Spain* without Security for the antient Rights, Liberties and Privileges of that People; or to send Sir *James Wisbart* with a Squadron of Men of War, for the Purposes in the said Article mentioned: But believes her Majesty might think herself obliged, by being Guarantee to the said Convention, for the evacuating *Catalonia*, to send the said Sir *James Wisbart* into the *Mediterranean* with a Squadron of Men of War, although he knows not the Orders or Instructions given on that Occasion; and humbly apprehends, that he cannot, in Justice, be charged with any Consequences from that unhappy People's Refusal to comply in their Submission to the King of *Spain*, upon the Terms her Majesty had stipulated for them.

Thus the said Earl has laid his Case before your Lordships, wherein he hopes he hath fully answered the several Articles exhibited against him: Yet, lest there should be any Omission in his Answer, which may be made use of to his Prejudice, he says, he is not guilty of all, or any of the Matters contained in the said Articles, or any of them, in Manner and Form as they are therein charged against him; and humbly hopes that your Lordships will excuse any Imperfections, or Defects in the said Answer, with Regard to Expression or Form; and impute whatever of that Kind may appear, to the great Weakness of Body, and ill State of Health which the said Earl now labours, and hath for some Months past laboured under; and that your Lordships will be induced to make all farther due Allowances in his Favour, from the following Considerations, which relate to the Nature of the Charge in general, and the Difficulties with which his Defence of himself, against the Particulars contained in that Charge, is, and must be attended.

Most of the Articles, with which he stands charged, relate entirely to the Negotiations of Peace lately concluded at *Utrecht*; he doubts not but your Lordships will consider, that he must of necessity be under great Difficulties, in giving a full and particular Account of such a great Variety of Facts as are contained in these Articles; that several of these Facts concern Transactions with the Ministers of Foreign States, who cannot be produced as Witnesses in his Defence, be their Testimony never so material; that many

Steps and Proceedings in an Affair of this Nature, where the Interests of several Parties, not only separate from, but some of them also contrary to each other, are to be adjusted, do require great Secrecy and Address in the Management; and that in Treaties between Enemies, such Terms are often proposed, and such Arguments used, as carry a different Appearance from the real Intentions of those that treat: Upon which Accounts, it must be very difficult to set every thing that pass in the late Negotiations, with regard to the Enemy, and to the Allies, in a clear Light, and to justify every Step that was taken towards conducting them to the End proposed; especially since the Account of those Transactions, and of the Reasons on which they were founded, cannot, as he conceives, be duly cleared, but by inspecting the entire Series of Letters and Papers, which passed, during the Continuance of these Transactions, and by comparing together such Passages in them, as might give Light to each other, and to the Whole: All which Letters and Papers are (as he is inform'd) now in the Possession of the Honourable House of Commons; nor was it thought fit, upon his humble Application to your Lordships, that he should be indulged with a Copy of them.

He hopes it may not misbecome him, on this Occasion, to observe to your Lordships, that the House of Commons, by being possessed of those Papers, have a fuller View of the whole Progress, and of all the secret Steps of that Negotiation, than perhaps was even in the like Case imparted to any House of Parliament; and they have therefore all the Advantage possible towards forming the Charge against him upon the Articles of his Impeachment; whereas he (the said Earl) being destitute of all Assistance from those Papers, is under great and particular Disadvantages towards making his Defence, in the Points whereof he there stands accused; and he is therefore humbly assured, that, as your Lordships, on the one Side, will not expect from him any such Proofs of his Innocence as can only be drawn from a Perusal of those Papers; so, on the other, you will not admit of all, or any of those Articles, as made good against him, unless the Accusations therein contained, be supported by the clearest and most unquestionable Evidence, of which the Nature of the Facts is capable.

He submits it likewise to your Lordships Consideration, whether in a Negotiation, drawn out into a great Length, where the Advice of all those in high Trust about her Majesty was to be taken, and where several Persons were to be entrusted with the Management of what was agreed upon, he can, with any Colour of Equity, be made answerable for advising and conducting the Whole?

He desires also farther to observe, that every Thing, with which he is charged, was done in the Reign of a gracious Princess, now deceased, who, by Reason of the perfect Knowledge she had of the ill State of Affairs at Home, of the Advances made towards Peace from abroad, and of the Commands, which she at several Times laid on her Servants, had been the best, and indeed could be the only competent Judge, whether she was fraudulently dealt with, led by ill Advice into Measures which she did not direct, and approve, or made an Instrument of sacrificing the Interests of her Kingdoms to the Enemy. It is

with great Grief that he finds such Things suggested, as seem to lay a Stain upon the Character of so excellent a Queen, whose Memory he is confident will be for ever dear to this Country: And therefore he takes leave, in the most solemn Manner, to assure your Lordships, that as far as he knows, or can remember, every thing relating to the Transactions of Peace was communicated to her late Majesty, and maturely considered by her, before any Thing was determined thereupon; nor was any Step taken, but in Pursuance of such Determination.

As to the Peace in general, he the said Earl thinks he has very good Reason to say, that the Queen had nothing more at Heart, than to procure so great a Blessing for her People; and that, when it was obtained, she had this Satisfaction in herself, that she had taken the most proper Measures to justify her Conduct, both toward her Allies and toward her own Subjects: For, upon a Review of her Majesty whole Proceeding, in relation to War and Peace, he believes it will appear, and hath in Part appeared by the Answer of the said Earl, to the said Articles, that, as her Majesty entered further into the War than she was obliged by any Treaties subsisting at the Time of her Accession to the Throne, so she contributed more Men and Money towards the carrying it on afterwards, than she was engaged to provide by any subsequent Treaties: That her earnest Desires of Peace being twice frustrated, when such Conditions might have been obtained, as would have fully answered all the Ends for which War was at first declared; that, all our Successes and Victories ending in the annual Increase of the Charge of *England*, without any further Assistance from our Allies, and her Kingdoms being exhausted to such a Degree (notwithstanding the great Advantages obtained by her Arms) that she was not able to continue the War, upon the Foot it then stood, one Year longer; whilst her Allies refused to continue it, upon those equal Conditions, to which they were by Treaties obliged: She was at last constrained, in Compassion to her People, to hearken to the Overtures of Peace then made her from *France*, without relying further on the vain Hopes of gaining more advantageous Terms, by protracting the War a Year longer. She had carried it on, for some Time, under that Prospect, without reaping the Benefits proposed, even at Junctures that seemed most favourable to her Demands, and to the Pretensions of her Allies: She had indeed, by that means, raised the Glory of her Arms; but she could not think this a sufficient Recompence for the encreasing Miseries of her People; and therefore resolved to lay hold of the Opportunity, then offered to her, of ending the War by a Peace, if it might be obtained upon Terms every way just, safe and honourable: And those who were then employ'd in her Majesty's Councils, thought themselves obliged to second her good Intentions in this Case, and to obey her Commands with all readiness.

The said Earl presumes, on this Occasion, to mention to your Lordships the Saying of as wise a Man, and as great a General as the last Age produced, the Duke of *Parma*; when *France* was in a far lower Condition than now, being almost equally divided between two contending Parties, and *Spain* was at the Height of its Glory, and he himself at the Head of a *Spanish* Army,

Army, supporting one of those Parties, after *Paris* itself had been besieged by the other; it was his Opinion (and the Advice he gave to his Master the King of *Spain*, was grounded upon it) That if *France* were to be got only by reducing its Towns, the World would be sooner at an End than such a War. The Queen seemed at this Time, with better Reason, to frame the like Judgment; and it was therefore her Pleasure, and a great Instance (as the said Earl conceives) of her Wisdom and Goodness, to think of securing a Peace while she appeared able to carry on the War (her Armies being full and numerous) and before the exhausted Condition of her Kingdoms, and the Impossibility, on her Side, of maintaining so disproportioned an Expence, was discovered by her Enemies. At this Juncture the Queen entered upon a Negotiation of Peace, with Circumstances of great Honour to herself; *France* applying to her first, on this Account, previously owning her Title, and acknowledging the Right of the Protestant Succession; two chief Grounds, upon which the Declaration of the last War was built. And to the Allies, it was conducted in the same manner as all Treaties of Peace in Confederacies have ever been, and according to the known Laws of Nations in such Cases; the first Motion, and the several Steps of it, as fast as they ripened into Proposals fit for Consideration, being without delay communicated to the States-General.

By the Terms of this Peace, as all reasonable Satisfaction and Security due to any of the Allies, by Treaty, were obtained for them by the Queen, and their just pretensions effectually supported; so larger Advantages were actually procured for *Great Britain* in particular, than ever had been demanded before, in any Treaty, or Negotiation between this and any other foreign State. The said Earl craves leave, on this Occasion, to appeal to your Lordships, whether all the Ends for which the War was entered into have not, by this Treaty, been fully attained? Whether it does not appear, by the best of Proofs, Experience, that the Kingdoms of *France* and *Spain* are by the Conventions of this Treaty most effectually separated? And whether any other Expedient could have been so successful to this purpose, as that whereby it is now happily brought about? Whether the Ballance of Power in *Europe* be not now upon a better Foot than it has been for a Hundred Years past? Whether the Advantages that have accrued to *Great Britain*, by this Treaty, do not appear, and have not appeared in the Security of the Protestant Succession, and in his Majesty's peaceable Accession to the Throne, with the universal Applause of his Subjects, in the Additions made to our Wealth by the great Quantities of Ballion lately coined at the Mint, by the vast increase of Shipping, employed since the Peace, in the Fishery, and the Merchandize, and by the remarkable Rise of the Customs upon Import, and of our Manufacture, and the Growth of our Country, upon Export? For the Proof of which Particulars he refers himself to those Offices and Books, wherein an Authentic Account of them is contained.

And as the Terms of the Peace were in these and other Respects manifestly profitable to *Great Britain*: so the said Earl begs leave humbly to remind your Lordships, that they were communicated to the Parliament, and with their Con-

currence, agreed on; that the Peace, thus concluded, was afterwards highly approved by both Houses; that solemn Thanks were rendered to God for it, in all our Churches, as well as in the Churches of the *United Provinces*; and that her Majesty received, on this Subject, the hearty and unfeigned Congratulations of her People, from all Parts of her Dominions.

These being the real Effects, and this a true Representation of her Majesty's Conduct in the Affairs both of War and Peace; the said Earl sees not how he, or any others then in her Majesty's Service, can be justly charged with betraying the Interests of their own Country, and of the Allies, by negotiating and promoting that Peace, which then was, and (as he hath good Grounds to believe) still continues to be very acceptable and advantageous to these Kingdoms. And, if the Peace itself be not condemned, and it be not even charged upon the said Earl as a Crime, that he advised her Majesty to conclude that Peace, (neither of which appear to him from the Articles) he humbly conceives, it is a particular and extraordinary Hardship upon him, that rough Draughts and Essays towards a Peace, with other Preliminary Steps in a Negotiation, all leading to an End, which he looks upon to be just and profitable, and which is not in any of the Articles alledged to be otherwise, should be brought into so many distinct Heads of Accusation against him. For supposing that, in the Process of so nice and difficult an Affair, subject to divers unforeseen Obstructions and Events, any improper Steps had been taken, which the said Earl doth not admit, but altogether, on his Part, denies; yet, if Things were at last conducted to a right Issue, and ended in an honourable and advantageous Peace, there can be (as he conceives) no just Ground to find fault with the Measures made use of to compass it, because they seemed, before the Accomplishment, to have a different Tendency; especially if it be considered, that scarce any Peace hath been made by a Confederacy, where less Occasion was administer'd for Jealousy among the several Parties, and less Reason given to complain, that every Nicety, required by the Letter of such an Alliance, was not strictly observed. And therefore he humbly hopes, that no Steps taken for obtaining a Peace, approved by the Wisdom of former Parliaments, shall by any succeeding Parliament be accounted criminal, unless it can be made appear, that those Steps were taken contrary to the Queen's Orders, or upon corrupt Views of private Advantage: But that no Charge of this Nature can be made good against him, he presumes to affirm, with great Assurance; nor does he know of any other Persons, justly chargeable upon either of these Accounts.

And as a further Proof, that those who had the Honour to serve her Majesty in the Negotiations of Peace, acted with upright Views and Intentions, and without being conscious to themselves of any Failure in their Duty, either to their Queen, or their Country; the said Earl craves leave to observe to your Lordships, that they never attempted to cover their Actions from public Censure by any Pardon, or Indemnity, thought they have very good Reason to believe, that, had they judged or imagined themselves to have wanted such Security, it might (through the Goodness of the Queen) have easily been obtained.

Nor can he think it an Observation unfit to be made, that, in few of the Articles which concern the Negotiations of Peace, the Charge is founded on any Breach of the Laws of *Great Britain*; but it is in most of them chiefly on the supposed Infraction of certain Treaties and Alliances with foreign Princes, or States; and he conceives that such Infractions of Public Treaties, where they do not particularly affect the Interests of *Great Britain*; being cognizable by the Laws of Nations only, and not by those of the Realm, are not wont to be examined into here at home, and prosecuted as Criminal, but upon the Complaint of some Prince or State, pretending by that means to be injured, and lodging such Complaint in some reasonable Time with the Prince, by the Advice of whose Ministers and Servants such Injury is supposed to have been done. But he knows not, that any such Steps have been taken, since the Peace, by any of the Powers concerned: On the contrary, he believes, that all the Allies, except the Emperor and Empire, made their Peace with the Enemy at the same Time the Queen did; and that none of them did afterwards complain to her Majesty (who survived the said Peace a Year and almost four Months) of any Hardships imposed upon them in it; that the Princes of the Empire, who contributed very little to the War, might have concluded their Peace upon reasonable Terms, at the same Time the other Allies did; and would probably have done it, if the Emperor, on his Part, had been willing to sign together with them, which, he is informed, at the Conclusion of any general Peace, has been seldom done; and particularly at the several Conclusions of the Peace of *Munster*, that of *Nimwegen*, and that of *Ryswick* was not practised. And he submits it to your Lordships Consideration, whether the Emperor, having had all reasonable and equitable Satisfaction made him for his Pretensions to the Succession of the *Spanish* Monarchy, according to the Terms of the Grand Alliance, could have any just Reason to complain of the Queen's Ministers, or those of her Allies, for concluding a Peace, without insisting (on his Account) upon impossible Conditions; especially, when no Provision is made, or offered to be made, to reimburse her Majesty any Part of those vast Sums she had already expended, in Support of his Pretensions: whilst he failed of supplying his Quota, almost in every Part of the War, notwithstanding his new and great Acquisitions. But whether the Emperor, or any other of the Allies, had any just Ground of Complaint, or not, still the said Earl presumes to insist, that it ought to have been signified to the Queen; who upon such Complaint, had she found any of her Servants justly blameable, as disobeying her Orders, or misleading her by their Advice, into unjustifiable and dishonourable Measures, might have punished them forthwith as their Offences deserved: But nothing of this kind having been done he humbly leaves it to be considered by your Lordships, Whether the Silence of the Powers concerned doth not carry in it a strong Presumption, either that they had no real and just Ground of Complaint, in relation to the Terms of the Peace itself, or at least did not look upon the Minister of the Queen as any ways liable to Blame on that Account; and therefore he must again beg leave to express to your Lordships his Concern, that he should be charged

as a criminal by the Laws of this Land, for supposed Breaches of Treaties with foreign States, which never were complained of, as such, by those States themselves, during the Life of her Majesty.

He desires farther to observe to your Lordships, that where-ever he is charged with carrying on a private and separate Negotiation, 'tis all along understood, with regard only to the States of the United Provinces; no Step, that was communicated to them, being censured, upon this Account: Whereas all the other Allies had, by Virtue of their Treaties with the Queen, a like Right to a Communication of Councils; and her Majesty was under no Stipulation to act more in Concert with any one, than with all of them.

He does indeed allow it to have been most agreeable to Reason, and to the Interests of State, that the Queen should act in a closer Conjunction with *Holland*, than with any other of her Allies, because that, next to *Great Britain*, *Holland* bore the greatest Share in the Charge of the War: But then, he hopes it will be allowed also, that the States being more interested in the Success of the War than *England*, and that *England* having submitted to a greater Share of the Burthen, in order to procure, not only a fitting Security for the States, but such as brought great Advantages to them, though no Benefit to *England*; it was very reasonable for the Queen to take care of the Interest of her own Kingdoms some other Way: And, since the Advantages she demanded from the Enemy, were such as she might obtain without any Prejudice to the States, it was as lawful for her to negotiate this Matter without communicating it originally, and in the first Rise of it, to them, as it was for her, and the States, to concert their mutual Interests together, without the immediate and express Participation of the other Allies; which, being known to be done, without a Design to Defeat any of the main Ends of the Alliance, was never complained of by any of the Confederates.

And as for the Matters concerted previously with *France*, for the particular Interest of *England*, without the original Invention of *Holland*, the State were so far from Protesting against her Majesty's Measures, and condemning her Conduct in this Respect, that their Minister proffer'd several Times, in their Name, to have led the Way, in the most difficult Part of the whole Negotiation, and to have done his utmost to facilitate the Conclusion of it, provided his Masters might have a Share in the *Affiento* Contract, and Trade to the *Spanish West-Indies*; one of those Advantages, which *France* had discovered its Willingness should be allowed previously and entirely to *England*.

These few general Observations the said Earl has thought fit to add in the Close of his Answer to the several Articles of his Impeachment; not only in his own necessary Vindication, but also in Defence of her late Majesty's Conduct in the negotiating and concluding a Peace, the perfecting of which she esteemed the greatest Happiness of the Reign. Upon Review of the Two and Twenty Articles with which he is charged, as he is not conscious of any Offence committed by him, with respect to any one of them, so it is with a particular Concern and Surprize that he reflects on these two, wherein he is accused of High-Treason,

Treason, for endeavouring to procure *Tournay* to *France*, and so deprive the States of that intended part of their Barrier; and for procuring *Spain* and the *West-Indies* to the Duke of *Anjou*, upon his Renunciation of the Crown of *France*, referring himself to what he has said in his Answer to both these Articles, he here further assures your Lordships (and thinks it is sufficiently known both at home and abroad) that his Opinion and Endeavour, as Occasion offer'd, always were for *Tournay's* remaining, as it now does, to the States-General. And as to the latter, he doubts not but that what has lately happen'd in *France*, is a convincing Proof to your Lordships, and to all the World, that the Renunciation was the best Expedient that could have been propos'd towards hindering the two Kingdoms from being united under one and the same Monarch; that that Branch of the Treaty which relates to this Expedient, has fully answer'd its End, and made good the Character given of it by the Queen, *That it would execute it self*; and therefore, that whoever advis'd this Method of separating the two Crowns, was so far from being guilty of any traiterous Design, that he eminently promoted the Welfare of *Great Britain* and the Good of *Christendom*.

The said Earl, with all the Assurances of an innocent Man, begs leave to repeat, that as well in this, as in all other Affairs of State, in which he had the Honour to be employed by her late Majesty, he ever acted according to the best of his Skill and Judgment, with sincere Desires and Intentions to serve the Public, and without any View to his own private Advantage. As he was in several great Stations under her Majesty, he came into all of them by her own special Command, without his seeking or desiring them, and he serv'd her in all with the utmost Respect, Zeal, and Faithfulness. And while he continued in those Stations for many Years, it was with great Wonder and Pleasure that he observ'd, how her Majesty's whole Thoughts, Endeavours, and Time were divided between her Duty to God, and her Love to her People; whose Good and Security she preferred always to her own Ease, and often hazarded her Health, and Life itself to procure it. He knew that the most effectual way for one to recommend himself to her good Opinion, was to act upon the same Principles of Justice, and Love to his Country that she did: And as she abhor'd the Thoughts of any thing Burthensome or Injurious to her People; so she often expressed herself with the greatest Satisfaction and Delight, when she reflected on the Advantages obtained by her for her own Subjects, and the Quiet and Repose she had gained for *Europe*, by that just and honourable Peace, for which, as the present Age doth, so Generations to come will, bless the Memory of that Excellent and Renowned Queen.

OXFORD.

L. H. Steward. Read the Replication of the House of Commons.

The Clerk read the Replication as followeth.

The Commons REPLICATION to the Answer of Robert Earl of Oxford and Earl Mortimer.

THE Commons have considered the Answer of Robert Earl of Oxford and Earl Mortimer, to the Articles of Impeachment exhibited against him, by the Knights, Citizens, and Burgeses in Par-

liament assembled; and do with Astonishment observe, that the said Earl, instead of giving a reasonable and pertinent Answer to the just and heavy Charge brought against him by the Commons of *Great Britain*, has presum'd not only to deny his advising and being concerned in any Matters of State, in the Articles charged against him; tho' confessed to be done under an Administration, wherein he was notoriously the first Minister and chief Director: But has also joined therewith a false and malicious Libel; laying upon his Royal Mistress the Blame of every thing, which, by imposing upon her, he had effected against her Honour, and the Good of his Country; thereby attempting to reflect upon the Honour and Justice of the House of Commons, and to cast an Odium upon their Proceedings against him, as tending to asperse the Memory of the late Queen.

But the Commons are of Opinion, that if it were possible to add to the heavy Load of Guilt, in which the Treasons and other most flagitious Crimes committed by the said Earl, have already involv'd him; this base and ungrateful Attempt, to impute them to his Royal Mistress, must bring such a new Weight of Infamy upon him, and to justly provoke the Indignation of the Commons, that they might think themselves obliged to demand your Lordships immediate Justice, for this unwarrantable Attempt upon the Honour of the late Queen, and the Proceedings of Parliament.

But the Commons being sensible that the Treasons and other Crimes whereof the said Earl stands impeached, and the Necessity of bringing him to speedy and exemplary Justice, require that all Occasions of Delay should be avoided; and not doubting that your Lordships will in due time vindicate the Honour of the late Queen, and of the Commons of *Great Britain*, and the Justice of their Proceedings: The Commons do aver their Charge against the said Earl of Oxford and Earl Mortimer for High Treason, and other High Crimes and Misdemeanours, to be true; and that the said Earl is guilty of all and singular the Articles and Charges therein respectively contained, in such Manner as he stands impeached; and that the Commons will be ready to prove their Charge against him, at such convenient Time as shall be appointed for that Purpose.

L. H. Steward. Robert Earl of Oxford and Earl Mortimer, it has been usual before the Commons proceed, to say something from this Place to Persons in your Lordship's present Condition; partly by way of Exhortation to a reasonable Confidence in the great Honour, Justice, Wisdom, Integrity and Candour of their Judges, their Peers, the House of Lords in Parliament assembled; and partly by way of Direction, to assist them in their Behaviour and Conduct during the course of their Trial.

But considering the many great Offices your Lordship has borne in the State, your long Experience and known Learning in all Parliamentary Proceedings, I cannot but think it would seem improper for me to be speaking to your Lordship in that Manner.

Wherefore I proceed barely to acquaint your Lordship and others whom it may concern, with such Orders as the Lords have made, which 'tis fit should be taken Notice of thus Early in this Trial.