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THE
QUESTION
 OF THE
PRECEDENCY
 OF THE
PEERS
 OF
IRELAND IN ENGLAND,
FAIRLY STATED.

*In a LETTER to an ENGLISH LORD,
 by a NOBLEMAN of the other Kingdom.*

LONDON:
 Printed for J. MORGAN, in *Pater-noster Row*,
 and C. G. SEYFFERT, in *Pall-Mall*.

MDCCLXI.

TO THE
P U B L I C K.

*T*HE following Treatise having
been written by a Noble Lord,
in the Year 1733, on Occasion of the
Solemnity of the Marriage of her
Royal Highness the late Princess
Royal with the late Prince of Orange,
and Part of it then delivered in Ma-
nuscript to his late Majesty; there
was afterwards, in the Year 1739,
a few Copies of it printed at Dublin.
But it appearing that it was never
publickly sold, and consequently the
Curious not supplied with it, as would
have been agreeable; an Unknown
Gentleman has put it into our Hands,

[iv]

improved with many Corrections, recommending it as a very interesting Piece, and requesting us to reprint it, now, upon Occasion of his present Majesty's approaching Marriage, and to prefix the above Account before the Preface. Therefore, considering it as an interesting Subject, we have thought proper to comply with the Advice of our unknown Gentleman, in publishing this new corrected and improved Edition, and flatter ourselves with a favourable and kind Reception by the Curious.

The PUBLISHERS.

T O

T O T H E

R E A D E R.

*T*HE Claim of the Peers of Ireland having been admitted upon the unhappy Occasion of the Proceſſion at the Funeral of her late Majesty Queen CAROLINE, in which they were reſtored to the Place and Rank which they had ever before enjoyed; till interrupted by a precipitate Settlement of the Ceremonial, upon the Marriage of the Princeſs of Orange, of which they had not ſufficient Notice to be then able to juſtify their Rights. It may ſeem ſomewhat unneceſſary, at this Time, to publiſh any Thing relating to this Diſpute. But, as it is preſumed, that there will ſhortly be another Marriage in the Royal Family, and as many other Occaſions may happen of new Ceremony, in which the ſame great Perſons may be concerned, it cannot be improper to ſhew this

Ar-

vi To the READER.

Argument in its true Light, which will inevitably take away all Occasion, or Pretence, to repine at that Determination which was at length so wisely made by his Majesty, † in a Matter never to have been contested, had it been truly understood.

It is a Misfortune to the Publick, that Men, either out of Prejudice or Vanity, so hastily give their Opinions upon Subjects with which they are wholly unacquainted; and this Misfortune is the greater, when it happens to concern the Pretensions of Nations, or of Bodies of Men of this Distinction. The Heat and Passion shewn in private Debates, too often communicate an improper Influence upon publick Councils, and create Divisions and Animosities of a dangerous Nature to the Commonwealth. It was upon this Ground, that one of the Articles of Impeachment, against the great Earl of Strafford was, That he had affirmed Ireland to be a conquered Country; and the famous Mr. Pymm, a Manager of that Impeachment, observed upon it, That no Speech could be fuller fraught with Treason to the English

† The late King.

State,

To the READER. vii

*State, since it tended to create a general Disaffection in that whole People to the common Government. Upon the same Principle it was, that the Commons of England * wisely expelled, and voted to the Tower, Sir Christopher Pigot, Knight of the Shire for Bucks, one of the most considerable Members of that House, for an Invektive against the Scottish Nation.*

If then it has been the Wisdom of the Legislature to endeavour, by Methods of the greatest Severity, even upon its own Members, to suppress such Opinions, as have a Tendency to create a Dissatisfaction in the Countries appendant on our Government, it must be meritorious to attempt, by a clearer State of any Dispute, which may occasion Discontents of this Kind, to remove the Causes of them: And the Circumstances of Europe, and of this Nation in particular, being such as now require, more than perhaps in any former Time, the strictest Union among ourselves; a Step which is taken to that desirable End, requires no Apology.

* Feb. 13, 1606.

It

viii To the READER.

It remains therefore for us, only to make our Excuses to the Noble Author, that this Copy is published without his Knowledge. Among some Transcripts of this curious Piece, which were handed about in Manuscript, at the Time of this Dispute, one happened to fall into our Hands, which, as we acquired without Restriction, it is hoped we may be allowed to publish without Offence.

THE

[1]

THE
QUESTION
OF THE
PRECEDENCY
OF THE
PEERS of *Ireland* in *England*,
FAIRLY STATED.

In a LETTER to an ENGLISH LORD.

MY LORD,

THE last Time I had the Honour of conversing with your Lordship, you may remember, that our Discourse was principally turned upon the Dispute concerning Precedency between the *English* and *Irish* Peers, and that I promised your Lordship to procure for you a Copy of

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those

2 *The Precedency of the*

those Papers which were presented to his Majesty by the Peers of *Ireland*, in Vindication of their Rights. Having made your Lordship this Promise, I think myself obliged to perform it, and now acquit myself of it, by sending you the following Sheets, which contain all the Precedents delivered to his Majesty on the part of that Peerage, relative thereto. After this, I shou'd willingly submit the Contest to your own Decision; tho' your Seat in the House of Lords in *England* might be thought a Reason against it. But your Lordship's known Candour and Integrity easily vanquish all Suspicions of Partiality.

I shall trouble your Lordship with little Introduction; you are already well enough acquainted with the Nature of the Dispute. Nor shall I offer you any Apology for the few Observations of my own, upon the Arguments used against our Body, since your Lordship desires to be Master of the Debate; and as these Observations are, in some measure, necessary to your being so.

I shall therefore proceed directly to give you the Memorial presented to his Majesty
by

PEERS of IRELAND. 3

by the (a) Earl of *Egmont*, upon the 2d of *November* 1733, in the Name, and on the Behalf of the Peers of *Ireland*, upon the Occasion of the Solemnity of the Marriage of his Serene Highness the Prince of *Orange* with the Princess Royal.

“ The M E M O R I A L.

“ To the King's Most Excellent Majesty,

“ The humble Memorial of the Peers of
“ your Majesty's Kingdom of *Ireland*,
“ now in *London*,

“ Sheweth,

“ THAT the Peers of your Majesty's
“ Kingdom of *Ireland* are now in
“ actual Possession, by Determinations of
“ King *James* I. King *Charles* I. and King
“ *Charles* II. of a Right of Place and Pre-
“ cedence in *England* (which has been al-
“ lowed them, as appears by the annexed
“ Schedules); and in Proceffions always
“ took Place of all *English* Peers of infe-
“ rior Quality, and were supported there-
“ in by your Majesty's Royal Predeces-
“ sors.

(a) Father to the present Earl of *Egmont*.

4 *The Precedency of the*

“ We therefore most humbly hope, that,
“ upon this joyful Occasion, when every
“ faithful Subject of your Majesty is desirous
“ to manifest the Part he takes, in what re-
“ gards your Majesty’s Illustrious Family,
“ they shall not be refused an Opportunity
“ of shewing their Zeal and Affection, as
“ your Majesty’s Peers of *Ireland*.
“ Which is humbly submitted, &c.

To this were annexed several of the In-
stances that follow.

The King is the Fountain of all Honour,
and as such your Majesty’s Predecessors have
ever determined all Matters of Precedency.

Officiary Earldoms were the first Honours
known in *England*; the Persons invested
with these Dignities were Magistrates who
governed the Provinces and Counties in
England before the Conquest, and they held
for the most part during the Pleasure of the
Prince only.

William the Conqueror first established in
this Kingdom the Feodal Honours of Earl
and Baron; they were held by Tenure of
Lands, in Capite, or in other Words, of Lands
held.

PEERS of IRELAND. 5

held by Knights Service immediately for the
Crown, and were Hereditary.

(b) These Barons were in Time distin-
guished into two Classes; the first were
called the *Barones Majores*, (such as had
preserved or acquired greater Portions of
this kind of Property) who had Summons
individually to the Parliament by the Title
of the principal Seats of their Baronies.
The second were called the *Barones Minores*,
(being such whose Properties were much
inferior) who also held by Knight’s Service
immediately of the King; they had a Right
also to come to Parliament, by one general
Summons from the Sheriffs of the Counties
in which they lived, but for Convenience
desired and were permitted to send two,
three, or more of their Number out of each
County, as Delegates for the rest, to the
great Council of the Kingdom.

King *Henry III.* discontinued the Right
of the *Barones Minores*, and substituted Ti-
tular Barons in their Place, who came to
Parliament by virtue of his special Writ
only, without regard to Tenure, or Heredita-
ry Claim; and thus, by his Prerogative, gave

(b) Preface to *Dugdale’s Baronage*, Vol. I.
Pre-

6 *The Precedency of the*

Precedency to a new Order of Men above the ancient Barons of the second Class. Some of the present Barons of *England* still hold their Titular Honours by this Appointment of that Prince, and yet maintain their Rank above the Descendants of the *Barones Minores*; many of whom are still existing in the Male Line at this Day.

King *Edward III.* created a new Order of Nobility, superior to all the ancient Noblemen of *England*, placing the DUKE above the EARL, which was the highest Title known in *England* from the Conquest to that Hour.

Richard II. created a new Order, bearing the Title of Marquis, which he ranked between the Dukes and Earls, depriving the latter a second time of their Precedency.

Henry VI. first introduced the Dignity of Viscount, and gave it Place before all Barons.

(c) The same Prince ordained by Charter, that *Henry Beauchamp* Earl of *Warwick*, should be *Primus Comes Angliæ*; and he had Place accordingly before all the Earls of *England*.

(c) Cart. de Annis 21, 22, 23 & 24 Hen. VI.

(d) The

PEERS of IRELAND. 7

(d) The same Earl being created Duke of *Warwick*, that Prince ordained also, that he should have Place next to *Mowbray* Duke of *Norfolk*, and before the Duke of *Bucks*.

(e) *Humphrey* Earl of *Buckingham* and *Stafford*, being created Duke, the same King *Henry* then ordained, that he should be reputed the first Duke in *England*, giving him Precedency over the whole Body of the Nobility.

(f) *Edmund* of *Hadham* was, by the said Prince, created Earl of *Richmond*, with Precedency of all Marquises as well as Earls.

(g) *Jasper* of *Hatfield*, Brother to the said *Edmund*, was also created Earl of *Pembroke*, with the same Precedency, saving that his Brother should have the Place immediately above him.

(h) In the 23d of the same Reign, *John* Duke of *Norfolk* had a Patent of Precedency next under the Duke of *Exeter*.

(i) King *Edward IV.* decreed, that *Ro-*

(d) Cart. 22. Hen. VI. Pat. 7. Ap.

(e) Cart. ab Annis 21. usq; 24 Hen. VI.

(f) Pat. vel Cart. 35 Hen. VI.

(g) Pat. Hen. VI.

(h) Pat. 23 Hen. VI.

(i) Pat. Edw. IV. 2da Pars, m. 13.

8 *The Precedency of the*

bert Botbell, Prior of *St. John of Jerusalem*, should be reputed the first Baron of *England*, and have Place and Precedency above all other Barons.

(k) *Anne Rocheford* was, by *Henry VIII.* created Marchioness of *Pembroke*, and had Precedency of all others of the same Quality (the King's Children alone excepted).

In the 31st of *Henry VIII.* a Statute was passed to settle the Precedency of the Great Officers of the Crown. But this affects the Prerogative no further, nor alters the Precedency of any Order of Men, otherwise than as to that Point. Which is evident both from the Letter of that Statute, and from the constant Usage ever since; which is the best Interpreter of the Law.

(l) Since that Statute, Sir *James Hay*, Knight, was, by Letters Patent under the Great Seal of *England*, empowered to take Place and enjoy Precedency as a Baron of the 4th of *James I.* during his Life, in all Assemblies and Meetings wheresoever he should appear; yet was he no Peer of *England* or *Scotland*, by plain Exception in his Patent.

(k) Pat. 24 Hen. VIII. p. 1.

(l) Privat. Sigill. 4 Jac. I.

(m) In

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(m) In the same Reign, *Samson Lennard*, who married the Sister and Heir of *Gregory*, late Lord *Dacre*, had Licence under the Great Seal, to take Place of the eldest Son of the Lord *Dacre* of the *South*, and above the eldest Sons of all other Barons beneath the said Lord *Dacre*.

(n) *Howard* Earl of *Nottingham*, obtained a Grant from the same Prince, to hold the Place of *John Mowbray* Earl of *Nottingham*, his maternal Ancestor, to himself for Life only, and not to his Wife; by which Grant he had Precedency of all the Earls of *England* created after the first of *Richard II.*

(o) The like Instances are frequent in late times, and many may be produced in every Reign.

These Instances are humbly offered to your Majesty, to shew forth the undoubted Prerogative of your Majesty to dispose and settle all Matters of Precedency, and to manifest that this Pre-eminence is not dependent on the Nature of any Order of No-

(m) Pat. Jac. I.

(n) Great Folio Vellum cover'd Book of Precedents, by Sir *Richard St. George*.

(o) Penes Comitum de *Egmont*.

bility;

10 *The Precedency of the*
 bility; but that it is merely temporary, and
 at the Disposal of the Crown.

“Your Majesty’s Subjects, the Peers of
 “*Ireland*, do therefore present this Claim of
 “Place and Precedency, with all Humility
 “and Submission to your Majesty’s unlimited
 “Authority in this Matter, begging Leave
 “only to lay before your Majesty, that they
 “have equal Pretensions to the Pre-emi-
 “nence contended for with the Peers of
 “*England*, who enjoy it with themselves,
 “upon no other Ground than the Grace
 “and Favour of your Majesty, and your
 “Royal Predecessors. And they trust,
 “that they have not, in any sort, deserved
 “a Discontinuance of the same Privileges
 “which have been allowed them, and in
 “which they have been constantly and stea-
 “dily maintained by all the Kings of *Eng-*
 “*land*, from the earliest Notices of Record.

“In farther Justification of these their
 “Pretensions, they humbly submit also the
 “following Precedents to your Majesty’s
 “most gracious Consideration.”

In the famous Charter of the Liberties of
England, called the *Magna Charta*, granted
 by King *John*, not many Years after the
 Acqui-

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Acquisition of *Ireland* by the Kings of *Eng-*
land, Henry Archbishop of *Dublin* signed
 immediately after the Archbishop of *Can-*
terbury, and before all the other Peers of
England.

(p) In that famous Indenture of Associa-
 tion between 5 Earls and 15 Barons, signed
 at *London*, the 13th of *December*, the 3d of
Edward II. Richard de Burgo, the Irish Earl
 of *Ulster*, signed in his Place, next after Gil-
 bert de Clare Earl of *Gloucester*, and before
 all the *English* Barons.

(q) In the Muster of Soldiers, in the
 Voyage of *Normandy*, before the Town of
Calais, in the 21st of *Edward III.* the Irish
 Earl of *Kildare* was ranked immediately after
 Hastings Earl of *Pembroke*, and before the
 Bishop of *Durham*, and the *English* Barons,
Stafford, *Talbot*, &c.

(r) In the Reign of *Richard II.* Vere Earl
 of *Oxford*, being created Marquis of *Dublin*,
 had Place of all the Earls of *England*.

(s) *Henry VI.* upon *Whitsunday*, in the

(p) Penes Comitem de Egmont.

(q) Lord *Stafford*’s Plea for Precedency before the
 Lord *Talbot*.

(r) Pat. 9 Ric. II. & 21 Ric. II.

(s) *Rymer*’s *Fœder*, Vol. 10. fol. 356.

12 *The Precedency of the*

4th Year of his Reign, was dubbed a Knight by the Regent his Uncle, *John Duke of Bedford*. Upon which Occasion, Writs being issued to those who were to attend the King, in order to be Knighted with him, among these were *James*, Son to the Earl of *Ormond*, who had Place before the Lord *Grey of Codenore*.

(t) In the 25th of *Edward IV*. 1475, the *Scotch* Earl of *Dowglas* signed before the Lords *Scroop*, *Stanly*, and *Hastings*, to the Conditions of a Treaty then made with the King of *France*, concerning the Retreat of the *English* Army out of that Kingdom.

(u) Among those Knighted at the Coronation of *Edward V*. the *Irish* Earl of *Ormond* had Precedency before the Lords *Sutton*, *Grey*, of *Ruthen*, and other *English* Lords.

(x) In 1484, in the Ratification of the Treaty between King *Richard III*. and the Crown of *Portugal*, the *Scotch* Earl of *Douglas* signed next to the *English* Earl of *Salop*; and before the Lords *Audley* and *Stanley*.

(t) *Rymer's Fœder*. Vol. 10. fol. 356.

(u) History of the Order of the *Bath*, by *John Anstis*, Garter King at Arms.

(x) *Rymer's Fœder*.

In

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(y) In the 9th of *Henry VII*. 1497, *Thomas* Earl of *Ormond*, being summoned only as an *English* Baron, did nevertheless take Place of all the *English* Barons of older Creation. And of the same Nature there are many other Instances.

In 1502, in the 14th of *Henry VII*. on *St. Paul's Day*, in *January*, at the King's Manor-house of *Richmond*, at the Marriage of *James* King of *Scots*, by Proxy, to *Margaret* eldest Daughter of our Sovereign Lord the King;

The King sent for the Substance of the Lords both Spiritual and Temporal, that were near *London*, to be present.

The *Irish* Earl of *Ormond* had place next after the Duke of *Buckingham*, the Marquis of *Dorset*, the Earls of *Arundel*, *Northumberland*, *Derby* High Constable of *England*, *Surrey* High Treasurer of *England*, and *Essex*, before the *English* Lord *Maltravers*, *Strange*, *Howard*, *Dawbeney* the King's Chamberlain, *Broke* Steward of the Household, *Bergavenny*, *Montjoy*, *Dacres* of the *North*, &c.

(y) *Rolls of Parliament*.

Note

14 *The Precedency of the*

Note, This is in a Book in the Herald's Office wrote by *Somerset* Herald, who attended by Order of the King; it is likewise in a Book marked W. K. fol. 144. in that Office.

In the other *Marriage Ceremonies*, that are recorded, the Names of the Lords are not entered in any Order of Procession.

(z) At an Interview between King *Henry VIII.* and the *French King*, the *Irish* Earl of *Kildare* took Place of all the *English* Peers of inferior Quality.

(a) At the Christening of King *Edward VI.* the Lord *Butler* was present in his Place at that Ceremony.

(b) Among the Knights of the *Bath*, made at the Coronation of King *Edward VI.* February the 20th, 1546, the *Irish* Earl of *Ormond* was placed next after the Earl of *Oxford*, and before the Lords *Maltravers*, *Talbot*, *Strange*, *Herbert*, *Lysle*, *Cromwell*, *Hastings*, &c.

(c) In a Letter from the Council, notify-

(z) *Fiddes's* History of Cardinal *Wolsey*.

(a) MSS. Collect. penes *Johan. Anstis*.

(b) History of the Knights of the *Bath*, ut supra.

(c) *Rymer's* *Fœdera*.

ing

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ing the Death of Queen *Elizabeth* to the Lord *Ewre*, and the rest of the Commissioners for negotiating the Treaty of *Breme*, the *Irish* Earls of *Kildare* and *Clanrickard* signed immediately after the Earl of *Lincoln*, and before the Lords *Howard*, *London*, *Delaware*, &c.

(d) At the Funeral of Queen *Elizabeth*, the Marchioness of *Northampton* was Chief Mourner, supported by the Lord Treasurer and the Earl of *Nottingham*; her Train was borne by the Countess of *Oxford* and the Countess of *Northumberland*, assisted by the Vice-Chamberlain. There were sixteen Countesses assistant to the Chief Mourner, among whom were the two *Irish* Countesses of *Kildare* and *Clanrickard*.

(e) At the famous Justing held at *Whitehall*, by *Henry* Prince of *Wales*, in 1609, the Lord *Gordon*, Son to the *Scotch* Marquis of *Huntley*, was marshalled, according to his Degree of Quality, immediately after the Earl of *Essex*, and before the *English* Ba-

(d) Manuscript Collection of *John Anstis*, Garter King at Arms.

(e) Manuscript, *Sir Richard St. George's* brown cover'd Book, fol, 53-29. penes Comit. de *Egmont*.

rons,

16 *The Precedency of the*
rons, *Waldon, Monteagle, Chandois and*
Compton.

(f) Among the Knights of the *Bath*,
elected on the 2d of *June*, 1610, *George*
Lord Gordon, Son and Heir to the *Scotch*
Marquis of Huntley, was placed before the
Lords Clifford and Fitzwalter, Sons and
Heirs of the *English* Earls of *Cumberland* and
Suffex. The *Lords Hay and Ereskine*, Sons
and Heirs to the *Scotch* Earls of *Athol* and
Mar, were placed before the *Lords Windsor*
and *Wentworth*. *Sir Francis Steward*, se-
cond Son to the *Scotch* Earl of *Murray*, and
Sir William Steward, eldest Son to the *Scotch*
Lord Blantyre, before the eldest Sons of the
English Barons *Dudley and Hunsdon, Ger-*
rard and Stanhope: *Sir Edward Bruce*, eldest
Son to the *Scotch* Lord *Kinlofs*, before *Sir*
William Sidney, second Son to the *English*
Viscount Lisle; and *Mervin Touchett*, se-
cond Son to the *Irish* Earl of *Castlehaven*,
before *Sir Peregrine Bertu*, second Brother
to the Earl of *Lindsay*.

At the *Marriage of the Palsgrave*, upon
Shrove-Tuesday 1612, which is mention'd
in *Sandford's* and *Stow's Annals*, it is ob-

(f) History of the Knights of the *Bath*.

served

served, That the *Lady Elizabeth* was led
back from Church by married Lords, viz.
the *Scotch* Duke of *Lenox*, not then an *Eng-*
lish Lord, and the Earl of *Nottingham* Lord
Admiral.

(g) At the Funeral of *Queen Anne* of
Denmark, Wife to King *James I.* the *Scotch*
Marquis of Hamilton had Place immediately
after the *Marquis of Buckingham*, and be-
fore the Earl of *Oxford*; and the *Irish* Earls
of *Glanrickard* and *Castlehaven*, had Prece-
dence in the Proceffion next after the Earl of
Devonshire, and before the Viscounts, and
the rest of the *English* Nobility.

(b) The *Scotch* Countefs of *Hume*, and
the *Irish* Countefs of *Kildare*, had likewise
Place after the Countefs of *Devonshire*, be-
fore the *Lady Dawbenny*, and all the *English*
Nobility of inferior Rank.

(i) The *Lady Ophalia*, Wife to the eldest
Son of the Earl of *Kildare*, had likewise
Place according to her Quality in that Pro-
ceffion.

And the Servants of the Countefs of *Kil-*

(g) Heralds Office, Funerals of Kings and Princes, J. 4.
(b) Ibid.
(i) Ibid.

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dare

18 *The Precedency of the*

dare did also walk in the Procession among the Servants of the *English* Peers.

(k) At the Creation of *Charles* Prince of *Wales*, afterwards King *Charles* I. the 4th of *November*, the 14th of *James* I. at *Westminster*;

There was a Contest raised concerning the marshalling the Witnesses or Testes to the Patent of the Prince of *Wales*, Sir *George Copping*, Clerk of the Crown, refusing to set them down without the Approbation of the Marshals.

The question was subdivided into three:

I. Whether the Earl of *Arundel*, being Marshal for the Day, should sign as Marshal or as an Earl according to his Antiquity.

II. Whether the *Scotch* Duke of *Lenox*, being Earl of *Richmond* in *England*, should sign, with Precedency, as Duke of *Lenox*, a Foreign Title, or as Earl of *Richmond*.

III. Whether the Sons of Earls, who were Barons by Writ or Patent, should hold their Places as Viscounts, according to their Birth, or as Barons, according to their Places in Parliament.

(k) Sir *Richard St. George's* Collection of Patents and Creations, penes Com. de *Egmont*, fol. 37. verso, & 74.

As

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As to the first Question, it was declar'd, that the Earl of *Arundel* should have Place as Marshal.

As to the second and third Question, it was declar'd;

I. That the said Duke of *Lenox* should sign with Precedency as a Duke, though by a Foreign Title, and an Honour merely titular in *England*.

II. That the eldest Sons of Earls, though Barons of Parliament, should have Precedence by the titular Honour of Viscounts, and not as Barons. Forasmuch as such Peers, though they sit and have Precedence in Parliament according to their Baronies; yet at large, and at all other Meetings, they ought to have Place according to the Dignity of their Birth and Title.

And accordingly the said *Scotch* Duke of *Lenox* took Place of all the *English* Earls, and the *Scotch* Viscount *Fenton* of all the *English* Bishops and Barons with like Precedency to all the rest, according to this Determination.

(l) On *Friday* the 24th of *March* 1620,

(l) Herald's Office, m. 3. p. 1619. Funerals of Kings and Princes.

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there

20 *The Precedency of the*

there was a grand Tournament; the Procession began from *Denmark House* in the *Strand*: Prince *Charles*, who was one of the Justors, went first, followed according to their several Precedencies by the rest of the Combātants; *viz.* next to the Prince, the Marquis of *Buckingham*, Earl of *Lincoln* and *Dorset*; and then the *Irish* Earl of *Desmond* before the *English* Lords *Walden*, *Compton*, *Scroope* and *Gerard*.

(*m*) In an Act of Council, made on occasion of a Petition of *Ralph Brooke*, the Herald, at *Whitehall*, the 7th of *December* 1622, the *Irish* Viscount *Grandison* sign'd immediately after the Lord Chamberlain, and before the *English* Baron *Brooke*, the Treasurer and Comptroller of the Household, the Secretary of State, the Chancellor of the Exchequer, and the Master of the Rolls.

(*n*) In a Commission appointed concerning the Assistance of the *Low Countries*, and the Security of *Ireland*, the *Irish* Viscount *Grandison* is ranked before the Lords *Carew* and *Brooke*.

(*m*) St. George's Book, brown cover, fol. 98, penes Comit. Egmont.

(*n*) Publick Acts, 1624.

In

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(*o*) In a Commission concerning the Jesuits, the *Irish* Viscount *Grandison* sign'd before the Bishop of *Winchester*, the Lords *Carew*, *Brooke*, &c.

(*p*) In another Ecclesiastical Commission, in 1625, the *Scotch* Viscount *Falkland*, and the *Irish* Viscount *Grandison*, were ranked before all the Bishops, and above the Lords *Zouche*, *Carew*, *Brooke*, &c.

(*q*) In the Powers given by King *James I.* to certain Lords to sign the Treaty of Marriage for his Son Prince *Charles* with the Infanta of *Spain*, the Lords are set down according to their respective Precedencies, and the *Irish* Viscount *Grandison* is there placed above all the *English* Barons.

(*r*) At the Funeral of King *James I.* the Viscounts *Grandison* and *Valentia* carried the Banners of *Ireland*; and the *Scotch* and *Irish* Peers preceded, according to their Degrees, next before the respective Degrees of the *English*.

(*s*) Among the Knights of the *Bath*, made

(*o*) Publick Acts, 1624.

(*p*) Ibid. 1625.

(*q*) Ibid. and Wilson's Inst. of King James.

(*r*) In the Herald's Office.

(*s*) History of the Knights of the Bath, ut supra.

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at

at the Coronation of King *Charles I.* 1625, *George Fielding*, Viscount *Callan* in *Ireland*, second Son to the Earl of *Denbigh*, had Precedency in the Creation of the Lord *Bazil Fielding* his elder Brother, Son and Heir to the said Earl, and also of the eldest Sons of the *English* Earls of *Derby*, *Salisbury*, *Montgomery*, *Warwick*, *Carlisle*, *Bolingbroke* and *Westmorland*.

(t) At another Tournament upon the 3d of *March* 1629, which, according to the Words of the Book, was had in the most Princely Manner that had been seen for many Years before, the *Irish* Earl of *Desmond* was one of the Tilters: There were two Marquises, seven Earls, and two Barons; the said Earl of *Desmond* followed immediately after the Earl of *Warwick*, and before the Lords *Walden* and *Gerard*.

(u) At the Christening of Prince *Charles*, afterwards King *Charles II.* on the 26th of *June* 1630, the Viscount *Falkland* had Place immediately after the Viscounts *Wentworth* and *Dorchester*, and before the English Barons. And some Copies have it, that the

(t) Herald's Office, m. 3. fol. 26.
(u) MSS. Collect. penes *Johan. Anstis*.

Irish

Irish Earl of *Thomond* was likewise present in his Place at that Ceremony.

(x) At the Marriage of the Princess of *Orange* in May 1641, it is remembered, that the King, with the Earl of *Arundel* Lord Steward bearing the Sword, the Earl of *Lindsey* Lord High Chamberlain, the Earl of *Holland*, the Scotch Duke of *Lenox*, and Scotch Marquises of *Hamilton* and *Huntley*, having Place of the Lord *Goring*, and Mr. Secretary, came upon the Stage; and in general, that the Seats *ex parte Cantoris* were reserved for the rest of the Nobility.

(y) At the Funeral of King *Charles II.* the 14th of *February* 1684, the Nobility of the three Kingdoms walked in Procession, according to the Precedency before observed.

(z) At the publick Entry of K. *William III.* thro' *London* to the Palace of *Whitehall*, on *Tuesday* the 16th of *November* 1697, the Nobility of *England*, *Scotland* and *Ireland*, were marshalled according to their respective Precedencies.

In the same Reign they frequently asserted

(x) MSS. Collect. penes *Johan. Anstis*.
(y) Herald's Office, m. 3. fol. 26.
(z) Ibid. Tiltings, m. 3.

C 4

and

24 *The Precedency of the*

and maintained their Rights in Proceffions made to *St. Paul's*, on account of the Successes of the *English* Arms.

(a) At the Funeral of King *William*, the *Irish* Peers walked as such, and took Place of all *English* Peers of inferior Quality; among others the Lord Viscount *Windsor*, not then a Peer of *England*, had Place of all the *English* Barons.

(b) At the Funeral of the late Queen *Anne* the *Irish* Peers walked as such; and the *Irish* Earls took Place of the *English* Viscounts, Barons, &c. in that Proceffion. The Earl of *Arran* being also an *English* Baron, had Place as an Earl, as had also the Earl of *Bellamont*, and his Lady had Mourning sent to her to walk as a Countess.

During the Reign of that Queen there were repeated Exercises of this Privilege in numerous Proceffions of the same Nature with those before observed on account of the several Thanksgivings for our Victories abroad.

In the last grand Instance of publick Ceremonies, viz. that solemn Proceffion from

(a) Herald's Office.

(b) *ibid.*

Green-

PEERS of IRELAND. 25

Greenwich to *London*, upon the first Arrival of his late Majesty, of glorious Memory, King *George* the First, the Peers of *Ireland*, (c) were marshalled according to their respective Degrees of Quality, with Precedency over all the *English* Peers of inferior Rank.

As to Precedents of this Kind, they are almost innumerable; the Charter Rolls in the *Tower*, from the earliest Times; the Books of the Council; the Originals of publick Instruments of all Sorts, containing Proofs sufficient to fill whole Volumes, if it were necessary to collect them.

And likewise on all other solemn and publick Occasions, of which many Traces of Remembrance do yet continue, they have ever been allowed the Precedency contended for, (excepting those of Coronations alone, of which at present they are not prepared to produce any Precedents) tho' from Parity of Reason, they most humbly think

(c) Earl Marshal's printed Order, and the Books of the Office of Arms.

them-

26 *The Precedency of the*

themselves intitled to the like Precedence in these Proceffions also.*

To this may be added, that in all Acts of the Legislature, the Peers of *Ireland* have been, and are named with the Precedency here mentioned. And in all Acts of Parliament, the *English* Lords are ever ranked beneath the *Irish* of superior Quality; and where an *English* Lord has a superior Title in *Ireland*, he is always known, styled, and ranked by the Title of his *Irish* Honour.

(d) That the House of Commons of *Great Britain*, notwithstanding the Service of the *Irish* Peers in that House, do receive them, when any Affair requires their Presence, (and they are not Members of that Assemb-

* The only rational Way of Accounting for a Defect of Precedents in Favour of the *Irish* Peerage, respecting Coronations, is this; 1st, That there can be no antient Precedents as to that Point, because 'till the Reign of King *Henry VIII.* the Kings of *England* only bore the Title of Lords of *Ireland*, which was erected into a Kingdom by an *Irish* Act of Parliament in that Reign. 2dly, That in the same Reign also, by the same Authority, whoever shall be King of *England*, is declared to be, *ipso facto*, King of *Ireland*, without any further Ceremony.

(p) Journal of the House of Commons, Jac. I.

ly)

PEERS of IRELAND. 27

ly) with the same Respect that they shew to an *English* Peer, on the like Occasion, permitting them Chairs to seat themselves upon within the Bar, and in the Body of the House; as may be seen in their Journals upon several Occasions, particularly in the Case of the Earl of *Corke*, in the Reign of King *James I.*

That in all publick Entries of Ambassadors, the *Irish* Peers have preceded according to their Degree of Quality, taking Place of the inferior Order of the *English*.

That *Irish* Peers have ever carried the Sword of State to and from Chapel, which is never permitted to an *English* Duke's eldest Son.

That they do, and have always, walked before the King to and from Chapel, and have equal Right with the *English* Peers to go there into the King's Clofet.

That the Queen never visits any but Peereffes, and of these none under the Degree of a Countess; yet that the *Irish* Countesses have ever been visited by the Queens of *England*.

It does not appear, that there ever was any Dispute upon the Head of Precedency
be-

28 *The Precedency of the*

between the *Irish* and *English* Peers for above 400 Years, during which Time the former had an uncontroverted and uninterrupted Right to the Privilege here contended for; till about the latter End of the Reign of Queen *Elizabeth*, when a Dispute arising in *Ireland* concerning Place, between the Lord *Audley*, second Baron of *England*, and the Barons of *Ireland*, none of them would yield it to him. Upon which the Lord *Audley* made Application to the Queen, who told him, “*That it was in her Power to give him Precedency, but that it was not in her Power to deprive others of it.*” And soon after created him Earl of *Castlevan* in *Ireland*.

(e) The next Difference that happened upon this Subject was in 1621, when the Prerogative having been exercised in creating Peers, both *English*, *Scotch* and *Irish*, in such a manner as to have caused very great Complaints, both with respect to the Numbers made, and the Persons so created; and the *English* Barons imagining, in particular, that they suffered great Diminution of Honour and Respect from the many of *English-*

(e) Camden's Annals.

men

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men who had procured Titles in *Ireland* and *Scotland*, took the Matter under Consideration, and presented a Petition to King *James I.* signed by 33 Barons, which was delivered by the Lord *Despencer*.

(f) In this Petition they only objected to the *Scotch* and *Irish* Viscounts, and took care to distinguish between the Peers of *Scotland* and *Ireland*, who had Estates in either Kingdom, and levelled their Complaint only against those who had no Fortunes where they enjoy'd their Titles.

(g) Mr. *Camden* relates, That the King gave no immediate Answer to this Petition, resenting it in the highest Degree; and being in particular extremely angry with the Lord *Despencer*, for presuming to offer any Thing of that Nature to him. But, after three Days, the Barons were ordered to wait upon the King; a few of them only were admitted, who kiss'd his Hand, and were severely reprimanded; and the King said, “*That he was, and that he would so approve himself, the common Father of all his People.*”

(f) Camden's Annals.

(g) Ibid.

(b) Upon

30 *The Precedency of the*

(b) Upon this Occasion the Heralds were consulted, and Sir Richard St. George, *Clarencieux*, delivered his Argument in Favour of the *Irish* and *Scottish* Peers, in the following Words:

The Question between the Viscounts of Scotland and Ireland, and the Barons of England, for Place and Precedency at their Assemblies and Meetings here in England.

“ ¶ The fundamental and auncient Degrees of Honors are these, and are thus ranked; first Dukes, then Marquisses, then Earles, then Viscounts, then Barons. As none but absolute Princes have Power to give these Honors; even so by their Regall Power they are to be distinguished, and by no other meanes.

“ ¶ These being thus settled, cannot be altered, or fit for Subjects or Parliaments to question (especially proceeding from one and the same Sovereign).

O B J E C T I O N.

“ ¶ *These being in severall Kingdoms, may*

(b) Original Book of Ceremonies, by Sir Richard St. George, penes Comit. de Egmont.

“ alter

PEERS of IRELAND. 31

“ *alter the Case, and make a material Difference; for there are diuers Priuiledges and Immunities due to the Barons of this Realm, settled and established by Acts of Parliament, wherein the Viscounts of Scotland and Ireland doe not participate, nor can challenge any Interest; as their Persones are freed from Arrests, their Triall by their Peers, upon which their Protestation of their Honor is instead of an Oath. They haue their Action of Scandalum Magnatum against those that shall use any deprauiing Speeches in Derogation of their Honor. The Lawes of the Land therefore having so much respect and tender Consideration unto the English Nobilitie, and none at all to the other, who are left as common Persones to the Lawe; the Condition and Quality of their Degree here in England cannot fail but receaue a Diminution.*

A N S W E R.

“ ¶ If Place and Precedency should be taken from them, because they are no Peers of the Realm, by the same Reason, Dukes, Marquisses and Earls of Scotland and Ireland shall take no Place here in England, before the Barons of England, which

“ which weare very preposterouse, and by
“ Experience is found contrary.

(i) Being no Peers,
they should take Place
under Barons: the
Reason is all one for
these, as for the Sco-
tische and Irishe.

(i) Sonnes and Heires
“ of Dukes, Marquisses and
“ Earls of *England* are no
“ Peers of the Realm, and

“ are deprived of those Priviledges and Imu-
“ nities that Barons have; and yet there
“ is no Diminution of their Precedency, and
“ Titles of Honor: For they have Place
“ above all Barons, notwithstanding they
“ are no Peers of the Kingdom.

(k) The Difference
between the King,
and the Consent of
both the Houses of
Parliament for con-
ferring of Honor.
The King may do
it without either, but
the Parliament can do
nothing without his
royal Consent.

“ ¶ *(k)* What Priviledges
“ the Lawes of the Land
“ may confer upon Barons
“ of this Kingdom is not
“ in Dispute, neither is
“ their Happines maligned,
“ on the other Parte; but

“ have they any Lawes that do give Place
“ to the Barons of *England* before the Vis-
“ counts of *Scotland* or *Ireland*? Or is
“ there precedent Use or Custome to con-
“ firm and ratify it? I am sure the Civill
“ Lawe holdeth this Maxime, That in
“ Paritie of Degrees, Priority is the Rule
“ to distinguish them; but it was never
“ before

“ before this Time heard of, that inferiour
“ Titles, or Degrees of Honor, should
“ have Place above superior, upon so weake
“ an Inference: And it is strange, that a
“ Mystery of this Nature should come with-
“ in the Compass of Dispute or Question
“ (especially being a transcendent Power
“ inherent only in the King, and his Regall
“ Prerogative).

“ ¶ Is not Honor proceeding alone from
“ the King, and inherent in the Blood of
“ him to whom he shall conferr it? Shall
“ the Diuersitie of the Kingdome, being
“ under one Soverain, worke so strange an
“ Effect as is suggested? Is not his Royal
“ Power as absolute in the one as in the
“ other? Shall the Aire or Diuersitie of the
“ Climate so eclipse his Dignitie, as he must
“ yield to such a preposterous Inconveni-
“ ence, so soon as he treadeth upon that
“ Soil? It is a strange Doctrine never
“ heard or published before.

O B J E C T I O N.

“ ¶ *But the Thing desired by the English*
“ *Barons is not meant, that the Scotish and*
“ *Irish Viscounts sholde lose the Appellation*
“ *and*

34 *The Precedency of the*

“ *and Titles of Viscounts here in England,*
 “ *but retaine them still: But only for the*
 “ *Time they be here, they may take their*
 “ *Places underneath the Barons of England.*
 “ *For by this means the Honour of the aun-*
 “ *tient Nobilitie and Baronage of this King-*
 “ *dom will be maintain'd, which hath flourish'd,*
 “ *and bene reputed as a Brazen Wall for*
 “ *the Defence of the Realme and Service of*
 “ *their Soueraigne, as Bracton, that famousse*
 “ *Lawyer, hath well observed: Sunt et alii*
 “ *Potentes sub Rege, qui dicuntur Barones,*
 “ *hoc est, Robur Belli.*

A N S W E R.

“ ¶ Let it then be indifferently consider-
 “ ed how this may be helped, (and his Ma-
 “ jesty's Prerogative preserved) and the fun-
 “ damental Titles of Honor not brought
 “ out of Frame. The Rank and Order of
 “ settled Degrees of Honor are these; first
 “ a Duke, then a Marquiss, then an Earle,
 “ then a Viscount, then a Baron; these
 “ know their Places, and this Rule guideth
 “ them, auoideth Confusion, and preserveth
 “ Love and Friendship. To breake this
 “ Rule, by placing of Barons aboue Vis-
 “ counts,

PEERS of IRELAND. 35

“ counts, or superior Titles under inferior,
 “ weare to set the Carte before the Horse,
 “ and to beget such a President as to the
 “ World might seeme monstrouse and ridi-
 “ culouse. Besides, to make this a Worke
 “ of his Majestie's (for otherwise it cannot
 “ be done) weare too great Boldness to re-
 “ quire it, or to capitulate with him under
 “ Pretence of a Right, and by that meanes
 “ take it as a Grievance. Wherein doth his
 “ Majestie wrong them? Doth he take from
 “ them, because he giveth to others? Or is
 “ it not in his Power to give or hold his
 “ Hand? Why then should this be taken
 “ as a Grievance? But the right Way weare
 “ for all those, unto whom this Grievance
 “ appertaineth, to seeke it of his Majestie in
 “ all Humilitie, that he wold be pleased to
 “ hold his Hand; for that is the right
 “ Course, otherwise their Labour will be lost,
 “ and his Majestie's Displeasure agrauated,
 “ for dealing in a Business wholly inherent
 “ in his Power, and nothing appertaining
 “ to them.

“ ¶ In Parity this hath ever bene the
 “ Rule and Custom both of auintient and
 “ moderne Times; that if any of the De-
 “ grees

36 *The Precedency of the*

“ grees of Honor, either of *Scotland* or *Ire-*
 “ *land*, shall meet in *England*, the Puiſnie
 “ of any of theſe Degrees of the Nobility
 “ of this Realm, ſhall take Place above the
 “ auintieſt of thoſe of *Scotland* or *Ireland*;
 “ and in like manner, the *English* meeting
 “ in any other of thoſe Kingdoms, ſhall do
 “ the like; and the Reaſon holds as well for
 “ the one as for the other, becauſe they are
 “ no Peers of each others Kingdomes; but
 “ this holdeth only in Parity, and this Pri-
 “ uiledge of the Kingdomes extends no
 “ farther.

“ ¶ If his Maſteſty had taken from them
 “ any of thoſe honorable Titles they for-
 “ merly helde either by Lawe or Cuſtome,
 “ or in any Sorte made a Diminution of
 “ them, then had there been Colour to com-
 “ plaine; but ſo far hath his Maſteſtie bene-
 “ for giving them the leaſt Cauſe of Dif-
 “ taſte, as in his royal and loving Diſpoſi-
 “ tion towards them, he hath multiplied
 “ upon them Honore, and honorable Tytles.
 “ If they will alleadge, that the Diſtribution
 “ was not indifferent, let them then know,
 “ that the Kinge is free in his Guiſts, neither
 “ to be taught, ſtrained, or wreſted to it; it
 “ is

PEERS of IRELAND. 37

“ is a Roiall Work of his owne, which he
 “ can do, and none elſe; neither can it be
 “ juſtly fayd, that he hath not dealt equally
 “ or indifferently; for it is great Reaſon he
 “ have a Freedom in thoſe Things which
 “ are in his Royal Power.

“ Sign'd,
 “ Ri. St. George, Clarencieux.”

“ Upon which his Maſteſty declar'd,

I (1) That all *English* Earls ſhould (in
England) take Place of all *Scotch* and *Irish*
 Peers of that Degree, but that both the
 latter ſhould take Place as laſt Earls of *Eng-*
land, according to their Creation; and that
 the ſame ſhould be obſerved in like Man-
 ner, by all other Degrees of Nobility, ei-
 ther above or below an Earl.

II. That in *Scotland*, the *Scotch* Peers
 were to take Place firſt, according to their
 Degrees of Nobility, then the *English*, and
 then the *Irish*.

III. And likewise the ſame in *Ireland*,
 where the *Irish* were to take Place firſt, ac-

(1) I. 26. p. 61. In Officio Armorum.
 D 2 cording

38 *The Precedency of the*
 cording to their Degree of Nobility, then the
English, and then the *Scotch*.

(m) The *English* Lords thought it prudent not to move any further in this Matter, during the same Reign; but a few Years after the Accession of King *Charles I.* in 1628, they presented a Petition to the King, in which they also utterly disclaimed any Intention to attack any other of the *Irish* or *Scotch* Nobility, excepting such only as had no Estates in those Kingdoms.

(n) His Majesty determined Nothing upon it for the present; but three Months after in Grand Council, in which the *Scotch* Earls of *Kelley* and *Moreton* took Place of the Viscount *Dorchester*, and the *Irish* Viscounts *Grandison* and *Wilmot*, of the Bishops of *London* and *Winchester*, and the *English* Barons *Saville* and *Newburgh*, a solemn Order was made and published, *Requiring all Men to demean themselves, according to the precedent Forms of Respect, to the Nobility of Ireland and Scotland, thereby meriting his Majesty's good Opinion for their discreet Car-*

(m) Journal of the House of Lords, 1628.

(n) Council Books, 4. Car. I. 28 June, 1629.

riage

PEERS of IRELAND. 39

riage in that Behalf; as on the contrary his Majesty will hold and esteem those Persons unworthy of his Favour, that hereafter shall any-ways, either in Words or Actions, raise any Debates or Quarrels for Precedency. Which Order is recorded in the Earl Marshal's Book. I. 25. fol. 61. in the Office of Arms.

(o) The King also confirmed again the Order of Precedency, which his Father King *James* had settled, in the Manner we have just mentioned.

(p) In 1667, a new Attempt was made to take away the Precedency of the *Scotch* and *Irish* Lords in England.

Die Jovis, 5^o. Decem. 1667.

(q) "The Earl of *Bollingbroke* reported,
 "That the Committee of Privileges have
 "taken into Consideration the Matter of
 "Complaint concerning Foreign Nobility;
 "and they have perused former Proceedings
 "concerning the Business; and upon serious
 "Thoughts thereof, their Lordships do con-

(o) Observations upon the Laws of Nations, as to Precedency, by Sir George Mackenzie.

(p) Journal of the House of Lords.

(q) Ibid.

D 4

ceive

40 *The Precedency of the*

“ceive the Statute of 31 of *Hen. VIII: cap.*
“10. to be the Fundamental Rule for Di-
“rection of Precedency, in all other Places
“within the Realm, as concerns the Peers of
“*England*; and that for these Reasons:”

I. “Because in the said Statute, there is
“no Mention made of any Foreign No-
“bility, but only of the Peers of this Realm
“of *England*.”

II. “The said Statute is in Force, not
“only in Meeting in Parliament, but also
“in the Star-Chamber, and in all other
“Assemblies and Conferences in Council.”

III. “Because, tho’ the Civility of Pre-
“cedency hath been in Courtesy permitted
“by the Peers of *England*, to the Foreign
“Nobility, when they come to attend on
“his Majesty here, by way of dutiful Re-
“pair for a short time; yet when they have
“*Domicilium* here, it is not fit it should
“be granted unto them, lest the Courtesy
“do become a Custom.”

IV. “His Majesty, by his Letters Pa-
“tents, giving Precedency only to such
“Persons, so created, to the Degree of Peers
“in those Kingdoms from whence they de-
“rive

PEERS of IRELAND. 41

“rive their Titles, it must needs be looked
“upon as a Deviation from the Law, and
“a high Dishonour and Derogation to his
“Majesty’s Letters Patents, and the No-
“bility of this Kingdom, that they should
“not enjoy those Privileges and Pre-emin-
“ces contained in them, and so highly af-
“fected and grounded on the Law of the
“Land.”

V. “More particularly, the Right of Pre-
“cedency doth concern the Peers of this
“House, *England* being the Seat of the
“*English* Empire, and without whose Af-
“sent no Laws can be made in this Realm.”

VI. This Settlement of Precedency will
“accord the Quarrels and Disputes which
“have, and may happen, in the Execution
“of his Majesty’s Service upon Commissions,
“and other publick Affairs of this King-
“dom.”

“Lastly, This Committee do humbly of-
“fer it to the House, *that the Lords will*
“*be pleased to establish this Assertion of the*
“*Right of Precedency of the Peers of Eng-*
“*land before all Foreign Nobility, by some*
“*solemn Declaration of the House of Peers.*”

“After

42 *The Precedency of the*

“ After a solemn Debate and Consideration, this House agreed with the Committee for Privileges in this Report, *Nem. Con.* and refer'd to the same Committee, to draw up a Declaration to the same Purpose as is mentioned in the Report, and to offer the same to this House, and also to address his Majesty thereupon.

Die Mercurii, 4^o. Die Martii 1667.

(r) “ The Lord Howard, of Charlton, reported from the Committee of Privileges, a Draught of an humble Address to be presented to the King, concerning Foreign Nobility, according to the Directions of this House, which Address was read as followeth:

“ To the King's Most Excellent Majesty,
“ The humble Petition and Address of your Majesty's most loyal Subjects, the Peers of your Kingdom of *England*,

“ Most humbly sheweth,
“ **T**HAT the Peers of this Realm having formerly made their Petition to

(r) Foreign Nobility, Report of.

“ the

PEERS of IRELAND. 43

“ the Crown (as the Fountain of all Honour) for Preservation of their ancient Rights and Privileges, they all derive from its Royal Grace, and Sovereign Dignity, which we humbly now renew unto your Majesty, finding what they then complained of daily increasing upon us for want of timely Remedy, the Nobility of *Scotland* and *Ireland* taking Place in this Kingdom, according to their Titles, without any Regard to the Precedency due to the Peerage of this your Majesty's Realm, to the great Disparagement and Injury of the *English* Nobility, as will appear to your Majesty by the following Reasons, which we humbly offer.”

I. “ That the Original Foundation of Precedency is the Nature of the Trust, and the Power joined with it; both which the Peerage derive from the Grace and Royal Dignity of the Crown, by an hereditary Right, so great a Share, and of so much Concern, that they ought to receive no Competition of Precedency from any others.”

II. “ That this Trust and Power is annexed

44 *The Precedency of the*

“ nexed to the Peerage, and the Difference
“ of Titles only gives the Precedency in the
“ same Body; and a Peer of *England*, tho’
“ a Baron, is of equal Consideration to a
“ Peer of any Country, tho’ the Custom of
“ that Country may give them all greater
“ Titles, which is demonstrable by our
“ Neighbours giving no Value to such when
“ not dignified with the Peerage.”

III. “ That the Right is evident by your
“ Majesty’s Laws, under which we all live,
“ which take no Notice of any such Ti-
“ tles, nor give them the least Privilege,
“ but are subject to personal Actions, Ar-
“ rests, &c. as other Commoners.

“ IV. “ That very many of them have
“ been, and are chosen, and do serve in
“ the House of Commons, and are not al-
“ lowed either to sit or be covered at any
“ publick Conferences of both Houses or
“ Committees.”

V. “ That that the Statute of the 31st of
“ King *Henry VIII.* Chap. 10. doth adjust
“ the Precedence of the Peers, and great
“ Officers, in all great Councils and Con-
“ gregations of Men so clear, that it leaves
“ no Room for interposing of any others,
upon

PEERS of IRELAND. 45

“ upon any of those Occasions, and it fully
“ evinceth the Right in all other Places.

“ If your Sacred Majesty shall consider
“ how much it imports to your Crown
“ and Dignity to preserve the Peerage
“ in their full Lustre and Fruition of
“ all their Privileges, they being the
“ best, safest, and most natural De-
“ fence of Monarchy, against the po-
“ pular Distempers of this last Age:
“ We shall, with great Assurance, hum-
“ bly beseech your Majesty, that you
“ will be graciously pleased to establish
“ some Rule for regulating this Mat-
“ ter in the future, that the Incon-
“ veniencies to your Nobility and Go-
“ vernment, which may happen there-
“ by, may be seasonably thereby pre-
“ vented and avoided.”

“ And after a serious Debate thereupon, it
“ was generally agreed to by the House.”

“ *Die Lunæ, 9^o. Die Martis, 1667.*

“ The Lord Keeper reported, that, ac-
“ cording to the Commands of this House,
“ he

46 *The Precedency of the*

“ he had presented the Petition and Address
 “ of the Peers of this Kingdom, concerning
 “ the Foreign Nobility, to his Majesty ; and
 “ after he had read the same, his Majesty’s
 “ Answer was ; *That it was a Business of*
 “ *great Concernment, and he would take it*
 “ *into his serious Consideration.*”
 “ But nothing farther was done in it,
 “ and the Peers of *Ireland* have been ever
 “ since maintained in these their Rights,
 “ by the Kings of *England* (s).”

AND now, my Lord, having laid before you some few Precedents out of an infinite Number which the Records and other indisputable Authorities afford as to this Point, and having presented to you the Proceedings of the *English* Lords in every Step they have taken since they first began

(s) Thus far the Matter of this Book was communicated to his late Majesty, Part before the Marriage of the Princess of *Orange*, and Part soon after. The Remainder was wrote not long after, but not published till the Year 1739, when this Pamphlet first appeared in Print. Note also, that since the Marriage of the Princess of *Orange* no Publick Ceremonies have happened, attended with Processions, in which the *Irish* Peers have not walked according to their Degrees, with the Precedency claimed by them, pursuant to the Authorities quoted in this Book.

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to controvert our Privilege ; it remains for me to offer some Observations upon the Inconvenience and Insufficiency of those Arguments which have been alledged in their Addresses to the Crown upon this Head ; in doing which, I shall, in Effect, answer all that is urged against us upon the present Occasion ; and I hope your Lordship will pardon the unavoidable Freedom which I am obliged to take in this Examination.

I shall begin with the Attempt of the *English* Peers in 1667.

(t) The Author of the History of the Duke of *Ormond*, a Writer in no Manner concerned in the Interest of *Ireland*, observes, that there was a Party then in *England*, which had a great Malignity against the Kingdom of *Ireland* in general, and a Design of exasperating all Orders of Men therein. This was the Time when the first Laws were made to prohibit the Importation of *Irish* Cattle, and to confound the Woollen Manufacture there : Measures which are discovered now to have been highly detri-

(t) Carte’s History of the Duke of *Ormond*, Book 6: Vol. II.

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mental to the Commerce of *England*, by the Increase of the Price of Provision and Labour, and by the Establishment of the Woollen Manufactures in almost every other State of *Europe*. He observes, that those Attempts were all made out of Wantonness, and a Spirit, to domineer, (as he terms it) and aggravated by personal Pique, and Envy of the Earl of *Shaftesbury*, the Duke of *Buckingham*, and others of the *Cabal*, at the Greatness of some of the *Irish* Noblemen, as the Duke of *Ormond*, the Earl of *Anglesea*, &c. His Reflections and Account of this Matter may well deserve to be read; but that Detail would be unnecessary here. It is sufficient to take Notice of the Principle upon which this Contest arose, and of the many evil Consequences that proceeded from it.

But to come closer to the Point, we shall particularly consider the Reasons reported by the Earl of *Bollingbroke* in 1667. The first of which was grounded upon a Statute passed the 31st of Henry VIII. by which a Settlement of Precedency was made, the only one that ever was made by Act of Parliament.

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The Statute here mentioned can never bear relation to the Point in Question, because the Peerage neither of *Ireland* or *Scotland* are mentioned in it—And yet it is notorious, that for many Centuries before that Act was made, the Peerage of *Ireland* and *Scotland* enjoyed that Right, for which the former now contend. It is further notorious, that the Peers of *Ireland* were from the Time of that Act, to this Period, still maintained in the same Privileges, without so much as a single Dispute upon this Head between the two Nations, except in the Case of the Lord *Audley* before-mentioned; a thing which could not have happened, if there had ever been before that Time the least Doubt concerning the Interpretation of it—The very making of that Act, without any Notice taken of the Pretensions of the *Irish* Peers, is the strongest Proof, that they were then looked upon as incontestable; for that was the natural Time to have settled this Matter, if it had not been thoroughly fixed before. But tho' a new Discovery should be made in this Age, that any thing were contained in it, which might now seem to render the Question

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tion dubious, even in such a Circumstance the Peers of *Ireland* would have an invincible Plea from Prescription, and from the constant Custom from that Period, which is surely the best Interpreter of Law. *Lastly*, This Act appears evidently to be no-way concerned in the general Business of Precedency, but singly relative to the Ranking of the great Officers of State, the Crown having often since that Act exercised the Prerogative of giving Precedency to later Peers over the more antient, as in the Case of *Howard* Earl of *Nottingham*, in the Reign of *James* the I. and other Instances, which we have cited before in the Schedule annexed to the Memorial.

The 2d Reason that this Statute is in Force in Parliament in the *Star-Chamber*, and in all other Assemblies and Conferences in Council, is partly true, and partly false.

That it has Force in Parliament is clear, nor can it be disputed by the Peers of *Ireland*, because they come not thither. That it is in Force also in all Assemblies, &c. is likewise true; but in both Cases only in this Sense, as it relates to the *English* Peers among

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among themselves, and among them only with respect to the great Officers of the Crown. That it does not affect the Precedency of the *Irish* Peers in the Assemblies there mentioned, is evident from the Records now remaining of the *Star-Chamber*, and from the Books of the Council in a Multitude of Instances. I need only mention one, which occurs among the Papers cited here, where you will find in a Council held upon this Subject, 28 June, 4 Car. I. 1629, that the *Scotch* Earls of *Kelly* and *Morton* took place of the Viscount *Dorchester*, and that the *Irish* Viscounts *Grandison* and *Wilmot* took place also before the Bishops of *London* and *Winchester*, and the *English* Barons *Savill* and *Newburgh*.

As to the 3d Reason contained in this Report, it gives up intirely the Question of antient Usage; for it is acknowledged, That the Civility of Precedency hath been in Courtesy permitted by the Peers of England to the Foreign Nobility, when they come to attend on his Majesty here; and tho' they seem to allow this reasonable for a short time, yet when they have Domicilium here, they think it

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not fit it should be granted to them, lest the
Courtesy do become a Custom.

The Peers of *England* at that Time seem to have assumed an Authority, which will certainly not meet with your Lordship's Approbation, *That their Civility had been the only Foundation of the Precedency enjoyed by the Irish Peerage*, was an Inflation injurious to the Royal Dignity; for tho' they applied to the Crown with a seeming Modesty for an Abolition of that Precedency, it is evident, if allowed to have created that Precedency themselves, the Inference was natural, that they might have taken it away themselves; and the *Premises* being yielded, the *Consequence* would have been undoubtedly and immediately deduced. But their Lordships could produce no Record or Evidence, as a Voucher for this polite Concession. And if any there be, it is more antient than the *Magna Charta* of King *John*; for in that *Æra*, the Peers of *Ireland* enjoy'd this Right, as it is evidently proved by the Schedule of Precedents annexed.

The Truth of the Case is this, that they hold it primarily from the standing Laws
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of Honour, which prevail over the whole civiliz'd World. (t) *La Roque*, an eminent Writer, in his Treatise of Nobility, tells us, That *celui qui est noble en un lieu, est noble partout, puisque la Qualité de l'Homme n'est pas plus indivisible que sa propre substance, & qu'il est de la bienfiance, & de l'utilité pour l'entretien de la Societé des Hommes de reconnoitre chez soi la Noblesse d'un Etranger*: Which is, "That a Nobleman in one Place
" is a Nobleman in another Place, and it
" is agreeable to general Convenience, and
" necessary for the good Governance of So-
" ciety, mutually to allow the Pre-eminence
" of the Nobility of Foreign Countries."

He says farther, *que la Noblesse est une Qualité adhérente à la Personne, qui se porte partout: Cælum, non animum mutant, qui trans mare currunt*; "Nobility is a Quality
" inherent to the Person notwithstanding
" any Change of Place or Country."

The Peers of *England*, from the Nature of their Office of hereditary Judges, ought to be well informed in the Laws of Nature and Nations, and in the Civil Law, as well

(t) *La Roque*, *Traite de la Noblesse*, 4to. Chap. lxxvi. fol. 230.

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as in that of their own Country. If they consult the Civil Law, they will find, that the Nobility of a Foreign Country are in all Parts of *Europe* received with such Respect, that they are even allowed the Place before the Nobility of their own Rank abroad. Thus a Foreign Baron is treated as a Viscount, and a Viscount as an Earl, out of their own respective Countries. This Rule is constantly observed in all Ceremonials, infomuch that if any Prince should charge an Officer of Arms with a Commission to a Foreign Court, that Officer, if a Pursuivant, will be received as an Herald; if an Herald, as a King at Arms.

The Civil Law is the Rule of all Matters of this Nature in all Nations, where the Law of the particular Land does not oppose it. And the Law of any particular Land is either *Positive* or *Prescriptive*. As it appears therefore, that the matter of Precedency is not in this Country regulated by any *positive* Law, should the *prescriptive* Law contended for by the *Irish* Peers, be not allowed to have its Force, the *Civil Law* will intervene, and the Peers of *England*

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land will unwarily establish a Precedency in Favour of the *Irish* Peerage far more injurious to themselves according to their Estimation of the Thing. For whereas the Peers of *Ireland* now claim only a Right of Precedency, before those of the inferior Orders of Nobility in *England*, if that Claim should be denied, they will instantly become intitled by the general Law of Nations to Precedency in *England*, even above all the *English* Nobility of their respective Degrees.

It seems somewhat extraordinary, that the Point of *constant Usage* should be in this Manner given up; and then in the same Breath, that a Change of that *Usage* in both Nations for so many hundred Years should be demanded upon such Reasons, as seem much more strongly to conclude, that this Privilege, if they had it not, should be yielded to them, than for taking it away, now that they are *actually* in Possession of it. If this Privilege was antiently permitted, when *England* drew no Profit from the Peerage of that Kingdom, the Argument seems of a very strange Nature, which urges their Deprivation of it, because they

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have Domicilium here (as they term it); that is, because they spend 200,000*l.* per Annum in this Kingdom. As to the Assertion of the Lords, *That it is fit to change this Usage*; Their Lordships cannot be the Judges of what is fit, and ought not to determine for themselves in a Matter of this kind, which (if Prescription be laid aside) is intirely the Business of Prerogative, and incontestably vested in the King.

In the 4th Place, it is affirmed, *That it would be a Deviation from the Law, and a high Dishonour and Derogation to his Majesty's Letters Patents, and the Nobility of this Kingdom, that they should not enjoy those Privileges and Pre-eminencies contained in them, and so highly attested and grounded on the Law of the Land.* There is no Doubt, but that it would be a Dishonour to the Nobility of *England*, to be deprived of Privileges and Pre-eminencies derived from the Law of the Land, and his Majesty's Patents.

But where is the Precedency grounded on the Law of the Land, or any Precedency exclusive of the Peers of *Ireland*, but such as is mentioned in the Act of *Henry VIII.* which
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how far it reaches, we have shewn? And what Pre-eminency or Precedency is contained in the Patents of the *English* Peers, which are not equally contained in those of the Peers of *Ireland* also? As to the Law of Precedency, it is nothing else than antient Custom and Prescription, which, the famous Civilian *Puffendorf* assures us (*u*), is a sufficient Law to determine all Questions of this Nature by. This Law is fully on the Side of the *Irish* Peers, and the Derogation of that Law can never happen from maintaining the Peers of that Kingdom in their antient Rights: The contrary indeed would not only be a Derogation, but a flagrant Violation of it. As to the Honour of his Majesty's Letters Patents, if they are vindicated by the Crown, in permitting them still to continue to draw the same Consequences that they have ever done, there can be no Violation of them. This Doctrine of those Peers of *England*, that the Faith, Credit and Honour of the Crown, are deserving of no Regard, where they concern the *Irish* Nation only, is such as would draw the most pernicious Consequences hereafter to the State, and more

(*u*) Puffendorf, Book viii. chap. 4.

immediately to themselves, since it undermines a Foundation common to the Fabrick of either House of Peers. And so it proved in the first Instance of this Attempt, being attended with Ill-conveniences naturally to be expected from it; for the Baronets, tho' a new Order of Men, who had bought their Titles but a few Years before, encouraged by this new Notion started by the *English* Peers, that *Precedency* was not a Matter to be settled by any Prescription, in their Turn made an Attack upon the *English* Peers themselves, pretending to take place before the younger Sons of the *English* Viscounts and Barons; and as monstrous as this Pretension appears in the first View, it was attended with much Trouble to the *English* Peers, before it was determined in their Favour; the King being pleased that they should learn by their own Experience what *ill Conveniences* arise from the Desire of such Innovations, in Matters so long settled and determined by the Practice of former Ages. (w) Nor was this all; for they were likewise attacked in the same manner by the Knights of

(w) *Sir Richard St. George's Vellum cover'd Book, penes Com. Egmont.*

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the Privy Council, who disputed the Precedency of the younger Sons of *English* Earls (x); nay, the eldest Sons of common Knights pretended to take place also before the eldest Sons of the younger Sons of the *English* Barons. These Contests were carried on with so much Heat and Passion on both Sides, that it was fear'd many dangerous Quarrels would have happen'd upon it: Infomuch that the King forbid either of the Parties from being present for some time at any publick Ceremony till the matter was determin'd, which tho' it was at last, and in favour of the Peers, it brought nevertheless no small Mortification, and was no small Detriment to their Dignity, to be engaged in a Contest of this kind with Persons, who had till then been ever considered so many Degrees beneath them, and even their *most remote Posterity*.

It is asserted in the 5th Place, *That the Right of Precedency doth concern the Peers of this House, because England is the Seat of the English Empire, and without their Assent no Law can be made in this Realm.*

(x) *Sir Richard St. George's Book of Ceremonies, penes Com. Egmont, fol. 48.*

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I submit to your Lordships, whether there is any Thing conclusive in this Argument; *The Right of Precedency particularly concerns the English Peers, because no Law can be made in England without them.* Does the Right of Precedency concern none but those who are Legislators in *England*? How came the great Officers of the Crown by their Precedency? How the Order of Baronets? How that of the Knights? And so on to every Degree, of which there are many more who have their stated Rules of Precedency as much confirmed to them, as to the greatest Peers of the Land. Their other Reason, *that England is the Seat of the English Empire,* is of the same kind, and is in Substance answered by the same Argument: But *does the Seat of Empire affect Precedency?* Does the King's living in this Part of his Dominions, give the Peers of this Dominion a better Right to any one Privilege in the Nature of the Peerage? If it does, they hold this Privilege upon a precarious Tenure; for it is in his Majesty's Breast to inhabit any Part of his Dominions that he shall see convenient. The Seat of his Majesty's Government is in or about *London*: Is my Lord *St. John*

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of *Battersea* therefore to have Place of other Barons, because the Place he derives his Title from is situate near the Town? Or is my Lord of *Warwick*, as Baron of *Kensington*, to have Precedency of all other Lords, because the Court doth now inhabit the Seat of his Barony?

If by the Seat of *English Empire* be understood, that *Ireland* is a dependent Kingdom, my Lord, this a Question of a Nature improper for me in a private Capacity to meddle with; and such as comes within the Reach of very few Men of the greatest Learning, and greatest Abilities in either Kingdom, even to state in a just and constitutional Light; but altho' this Truth should be admitted in the same Sense that it is vulgarly received, it would give no Force to this Pretension, because some Conditions must exist in every Dependence (which is not yet a State of downright Slavery); and these Conditions, when they are not express, are tacit, and then only to be explained by the constant Usage; which Usage is strong in Favour of the *Irish* Peers. If by Dependance be understood a legal and definite Subjection to

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the Crown of *England* only, such a general State does in no wise necessarily import the Subordination of the Individuals of the one Country, to the Individuals of the other. The Crown, according to the Maxims and Principles of the Revolution, derives its Power from the People, nay, the Person who wears the Crown, is inferior to them in a collective Body: By this Rule therefore, those noble Lords might as well have argued, that they ought to have had Precedency of the King himself.

As to this Particular, howsoever the Matter of Superiority and Dignity of either Nation may stand determined or defined it matters not; this Point in Question is sufficiently decided without it, not only by the Practice of all former Ages, but by the Opinions of the best Civilians, and the most judicious Writers. I shall only trouble your Lordship with the Sense of the great Author I have once before cited upon this Subject (x) He says, "That tho' it is unavoidable that one Office will be held as more honourable than another, yet it is no Reason that all and every particular Person entrusted in the more honourable

(y) Puffendorff, lib. viii. cap. 4.

“ Office,

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“ Office, should therefore challenge Precedency from all and every Person in the less honourable. It is sufficient, that the highest Person in the inferior Office should give Place to the first in the superior, and he may still have Preference to all who are in Subordination to the first.” Again, he says expressly, “That the Dignity of an Office which a Man bears in his own Commonwealth gives him no Right to prefer himself to the Subject of a foreign State, who may perhaps bear Offices which he in his own Country demands Precedence upon; and lastly, that because Marks of Honour are always presumed to be given as Rewards of Eminence and Virtue, therefore the civilized Part of the World abroad generally pay the same Degrees of Respect to the Honours of Foreign Nations, that are allowed them at Home.”

It is difficult to handle the sixth Argument of the Report with all the Decency desired. They say *that this Settlement of Precedency will accord the Quarrels and Disputes which may happen in the Execution of his Majesty's Service upon Commissions, and other*

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other publick Affairs of this Kingdom; which is in Effect to say, That his Majesty shall *be obliged* to make a Change in the Business of Precedency, and that *he must* at their Instance deprive the Peers of *Ireland* of their immemorable Right, and that they *will submit* to no other Determination of his Majesty. But if your Lordships must have the Candour to observe, that if Innovations could be made upon no better Grounds than the Will and Pleasure of a few Peers of *England*, and if a Language of this kind to the Crown should prove successful, it would be an Evidence of Weakness in our Government, greater than our History has afforded in the most troubled Times, and one which would not fail of drawing after it further Demands, perhaps of a more important Kind. It might be worthy Consideration, whether when the Peers of *Ireland* were removed out of the Way, the Commons of *England* might not be encountered soon after? They have also Privileges which have been at some Conjunctions Objects of Jealousy to the *English* Lords.

But how should this Settlement of Precedency answer the admirable End of preventing

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venting Quarrels and Disputes? For if a Settlement of Precedency, founded on the Law of Nations, corroborated by the constant Usage of 500 Years, maintained by many successive Princes, whenever it has been attacked, be not sufficient to restrain the Peers of *England* from quarrelling and disputing upon this Point, *even when the King's Business is concerned*; I know not upon what Grounds it is to be expected, that the Peers of *Ireland* should more patiently acquiesce under a new Determination, by which they would be deprived of Rights so ancient and authentick.

The last Resolution of this Committee contains a very extraordinary Advice to the House, that they would be pleased to *establish this Assertion of the Right of Precedency of the Peers of England before all Foreign Nobility, by some Declaration of the House of Peers.*

My Lord, I may well call this Advice extraordinary, since it was Advice at once to invade, not only the Privileges of another Nation, but the Prerogative of the Crown, nay, the very Law of the Land. That the Prerogative of the Crown was invaded by it,

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is very apparent; for this Prerogative was acknowledged amply by the *English* Lords themselves in their Application to the Crown in the Year 1624, and that the Law of the Land was invaded also, is evident in more Respects than one: First, from the known Principles of the Constitution by which the Law of the Land is always concerned in maintaining the Prerogative of the Crown; and farther, it is from the Endeavours of the *English* Nobility at that Time, to procure an Act of Parliament to settle the Precedency upon themselves, which, was a strong Acknowledgment, not only of the Extent of the Prerogative in this Case, but yet more, that even the Prerogative itself was insufficient to make so great an Innovation. At length the same Peers finding that they could not prevail upon the Crown to exert its Prerogative, nor procure a Statute for their Purpose (to which both the Crown and Commons must be ever averse on different Reasons) they came as you see in this Report, in Disregard of both, to invest themselves (so far as they were able) with this pretended Right by their own Decree.

In Consequence of this Report a Petition and

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and Address was drawn up, as we have observed before, and presented the 4th of *March* 1667, by the Lord Keeper, to which were annexed the Reasons recited above.

To begin then with the First of these Reasons; *That the original Foundation of Precedency is the Nature of the Trust, and the Power joined with it, both of which the Peerage derive from the Grace of the Crown by hereditary Right.*

That the Nature of the Trust, that is, the Power of the Peerage, is not the Foundation of Precedency, has been very sufficiently proved already in the Answer to the 5th Reason of the Report.

But with humble Submission, the noble Lords who presented this Address, were not only deficient in Point of Argument, but much mistaken in the Point of their own Interests, when they grounded their Pretensions upon this Plea. The Consequence had been bad for themselves, and worse for their Posterity, if this Maxim could have been established by them at that Time, that the Nature of their Trust, and the Power they were invested with, was a just Foundation

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 for Precedency. The House of Commons
 may lay Claim to Precedency upon the Foot
 of their Trust, and may possibly carry their
 Point against the very *English* Peers them-
 selves, if the Importance of Trust, or Weight
 of Power, should become the Regulator of
 this Dispute; nay, according to such Preten-
 sions, the Barber who was the grand Imple-
 ment of Power to *Lewis* the XIth of *France*,
 should have had Precedency of all the Princes
 of the Blood, and Peers, of that Kingdom.

With respect to the Second Reason of
 this Address; *That a Peer of England, tho'*
a Baron, is of equal Consideration to a Peer of
any other Country, tho' the Custom of that
Country may give them all greater Titles,
which is demonstrable by our Neighbours giv-
ing no Value to such, when not dignified with
Peerage.

My Lord, I confess I know not what Use
 the Peers of *England* propos'd to make of
 this Argument. If it be meant, that they are
 of *equal Consideration* at *Home*, Nobody can
 doubt, nor will Anybody deny, that the Peers
 of any Country are of *equal Consideration*
 to the Peers of another within their own
 Territories: If it be understood that they
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are of *equal Consideration* abroad, this implies
 that *Foreign Nobility* is in all Countries of
equal Consideration with the *Native Nobility*,
 which is an Argument full in favour of the
 Pretensions of the *Irish* Peers. If this be
 not allowed, I cannot see to what Purpose
 this Mention of Foreign Peers is made at
 all, or how any Comparison can with any
 Propriety be drawn between them and others
 of another Country. In Truth, there was a
 Necessity for some Shew of Argument to be
 produced in Defence of this new and strange
 Pretension of the *English* Peers; and as it
 often happens in a weak Cause, that bad
 Arguments are used for want of better, they
 were indiscreetly led to make Use of this,
 which probably they thought sufficient to
 amuse, and the more likely (because scarce
 intelligible) never to be answered: But since
 they took this Notice of the Practice of Fo-
 reign Nations, it naturally gives me Oppor-
 tunity to make this Observation, that the
 Dignity of Peerage is not singly considered
 abroad as the Foundation of Precedency. It
 will be sufficient to instance the Practice of
France: The Ladies of the antient private
 Families there, do not there yield the *Pas*

or Place to the greatest Dutcheffes and Peeresses of that Kingdom, unless their Families are more antient, which all who have lived any Time in that Country by daily Observation know; so that it is the Antiquity of Descent, and no Pretensions of the Peerage, which determines the Matter of Precedency there. And upon this Footing, I may venture to affirm, that the Peers of *Ireland* will join Issue, and to a Disquisition of this Kind they will readily refer their Claim, if it shall please his Majesty to permit them so to do. For, altho' this Dignity has been debased in many Reigns, by being conferr'd upon mean Persons in both Kingdoms, and possibly within a certain Period more; with respect to *Ireland* than *England*, there will yet be found a great Number of Families in the *Irish* Peerage, without Disparagement to that of *England*, equal to those of *England*, or any other Peers in *Europe*.

As to the third Argument in this Address, in which it is asserted, *That the Laws of England take no Notice of any such Titles, nor give them the least Privilege*, their Lordships were absolutely mistaken in this Fact. The Laws of the Land do take Notice of the

the Peerage of *Ireland*; for when the same Nobleman happens to be a Peer of both Kingdoms, and the *Irish* Title is superior to the other, that Title is constantly set down before the other, and is indeed generally the only one by which he is known or styled, not only in common Acceptation in all Commissions either private or publick, but even in all Acts of the Legislature itself; nor does this depend upon the Choice of the Person, or Courtesy of the People, since this Rule has ever been observ'd in all publick Transactions, from the Acquisition of *Ireland* to this Hour. Nay, the very House of Commons in *Great Britain* (notwithstanding the Service of the Peers of *Ireland* in that House as *English* Commoners) do receive them, when any Affair requires their Presence, and they are not Members of that House, with the same Respect that they give to an *English* Peer on the like Occasion, permitting Chairs to seat themselves upon within the Bar, and in the Body of the House, as may be seen in their Journals upon several Occasions, particularly in the Case of the Earl of *Corke*, in the Reign of King *James I.*

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But to pursue this Matter further: It is beyond all Dispute, that the Peerage of *Ireland* are under Cognizance of the Laws of *England*, and by the same Laws have various Privileges: for some of which I refer you to the *English* Statute of the 4th of *Henry V.* Chap. 6. in which there is some Regulation of them. You may see, moreover, in *Dyer's* Reports, 15 *Eliz.* pag. 306. in *Compton's* Book of the Jurisdiction of Courts, fol. 23. That it is the Opinion of both these Lawyers, who were of the greatest Note in their respective Times, *That an Irish Peer, by the Laws of this Realm, is not triable here in Capital Cases.* And that able Man *Mr. St. John* (a), Sollicitor General in the Time of *Charles I.* affirms the same thing, in his Argument before the *English* Lords themselves, upon presenting the Bill of Attainder of the Earl of *Strafford* from the Commons, in which he makes a remarkable Distinction of Privilege in Favour of the *Irish* Peerage, which I give you in his own Words: "It is true, says he, a *Scottish* or *French* Nobleman is triable here as a common Per-

(a) *Rushworth's* Collections.

"son;

"son; the Law takes no Notice of their Nobility, because those Countries are not govern'd by the Laws of *England*: But *Ireland* being governed by the same Laws, the Peers there are triable according to the Laws of *England* only *per Pares*, by their Peers." (b) As for the Law of Heraldry, how far they are taken Notice of by the Officers of Arms in this Kingdom, is apparent from a late Declaration of *Mr. Anstis*, Garter King at Arms, and all the Officers of that Court of Honour, "That they could not perform their Duty, if they did not call over the *Irish* Peers, together with the *English*, in the Order of Precedency here

(b) *N. B.* The first Precedent for the Trial of an *Irish* Peer by a Jury of Commoners in *England*, was in the Time of the Grand Rebellion — When the Parliament being Masters of all, and the Government in fact dissolved — They ordered the great *Irish* Rebel, the Lord *Macquire*, to be tried here in that Form, and over-ruled his Plea of Peerage — And he was condemned and executed accordingly. — Lord Chief Justice *Cook* had not long before laid down some Principles of Law in respect to *Ireland*, very different from those laid down before. — And it is well known how, and why his Works became their Oracles, and were often expounded, like other Oracles, to serve the Purpose of the Times.

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 "contended for." And it is also manifest, from the Order of the Earl Marshal, concerning the Fees of the *Irish* Nobility, in 1624, where the Reason for insisting upon those Fees, and upon the passing their Grants, under the Great Seal of *England*, is particularly given in these Words, *In order to preserve their due Rights of Precedency.* But this Point is so very evident, that I should be ashamed to dwell upon it.

I shall therefore now come to the 4th Argument of the Address; which is drawn from *the Service of the Irish Peers in the House of Commons here, and from their not sitting, or being covered, at any publick Conference of both Houses, or Committees.*

That the very Legislature itself does in several Cases pay Respect to the Dignity of the Peerage of that Kingdom, we have already proved sufficiently; but what can be worse Logick than this kind of Argument; *because they have not a Right to certain particular Privileges of Peerage, therefore they can have a Right to no Privilege of Peerage?* Must they have all, or none? Is this the Nature of Precedency? If it be, why do not the Sons of Peers take their Seats, and vote in
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Parliament with their Fathers? for they have a Precedency which is, for so much, of the same Kind with that contended for by the Peers of *Ireland*; and it is well known, that the eldest Son of a Duke takes Place on all Occasions (unless such as are relative to Acts of the Legislature) of every Earl; and every youngest Son of a Marquis, of every Baron in *England*. At the same time it is not unfit to be observed again in this Place, that an *Irish* Peer has ever had a Right to carry the Sword of State to and from Chapel, which the Son of no Peer of *England* of what Rank soever is admitted to do: *Irish* Countesses are also visited by the Queen, a Respect which is never shewn to any of the Nobility of any of these Kingdoms below that Degree of Quality. All which, with many other of their Privileges of a like Nature, can be derived from no other Principle than this Maxim; *That with respect to the King, the Peers of the three Kingdoms are upon an equal Foot, and are entitled to receive the same Countenance and Deference from him.*

As to the 5th Reason of this Report, it relates singly to the Act of *Henry VIIIth*; which has been so fully explained already, that

that there is no need of any further Answer to it.

We are come now to the close of this remarkable Address, where the whole Power of their Lordships Reasoning is collected, and where political Considerations are advanced as irrefragable Arguments for the Ruin of the Precedency of the *Irish* Peers. *His Majesty is desired to consider how much it imports his Crown and Dignity, to preserve the Peerage in its full Lustre and Fruition of Privileges, the Peers being the best, safest, and most natural Defence of Monarchy, against the popular Dissempers of the last Age.*

My Lord, it is as much the Interest of the Peers of *Ireland*, as it can be of the *English*, to desire his Majesty to preserve the Peerage in its full Lustre, and Fruition of their Privileges: They are indeed the only Noblemen that have at this time Reason to implore this Justice of the Crown: It is their Peerage alone, it is their Privilege, that has been attacked.

Whatever can be said of this Necessity of the Lustre, and of the Fruition of the Privileges of the Peers, might be urged against Attempts of the Commons, if any such should ever

ever be made; but to be urged against a Body of Men, who are indubitably Peers as much as they themselves, who have derived their Privileges under the same *Magna Charta*, and their Honours from the same Princes; their Peerage under the same great Seal, and in the very same Terms of Expression, can carry with it, to impartial Men, nothing but an Air of great Extravagance.

To consider this Matter in a true Light, the Peers of *England* are themselves contending for a Diminution of their Privileges. As the Law of Precedency is now established by reciprocal Allowance, they have Precedency in *Ireland* upon the same Foot that we have it here, according to the Regulation made by King *James* the First, as it appears in the Schedule annexed to the Memorial, and as it was again confirmed by King *Charles* the First. The Moment therefore that the Precedency of the *Irish* Peers in *England* shall be denied them, that of the *English* in *Ireland* must fail likewise; and this, though it may not prejudice so many of them occasionally there as may be gratified by it continually here, will yet affect a considerable Number of the *English* Lords, who from
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Time to Time may accept Employments, as also those who have married their Daughters, or have Occasion to visit large Properties, which many of them enjoy in that Kingdom; so that though they should hurt us, they would manifestly hurt themselves at the same time, and rather argue, as I said before, to diminish their own Privileges, than to preserve them.

As the Precedency of *Irish* Peers can never diminish the Fruition of the Privileges of the *English*, because the Privileges contended for, were never enjoyed by them; so neither does it *obscure the Lustre of their Nobility*.

I know but four Particulars, in which the Lustre of the Nobility may be injur'd by the *Irish* Peers: Either by something unworthy in their private Characters; the Addition of their Numbers, as to the Peerage in general; their want of Fortunes equal to their Dignities; or, their want of Birth. The Peerage of no Nation can be obscured, by a Conjunction with another Peerage, irreproachable in every one of these Particulars. Let us then consider the Peerage of *Ireland* by this Criterion: *Are they unworthy in their private Character?* To say the Truth for the Honour of both, it may possibly be most prudent

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dent not to make a Disquisition into private Life. In numerous Societies all the Members cannot be as perfect as might be wish'd; and therefore the Nobility of both Nations will, I presume, consent mutually to wave this Argument; and the rather, because it is indeed improper to decide this Question; for Character is but personal and temporary, dependent upon Accident and Education, and variable in every Generation; whereas the Peerage itself is perpetual and hereditary. I shall therefore quit this Point, after making this Remark, that the Denial of Privilege to the *Irish* Peers, would manifestly tend to create this Objection, and even to render it perpetual. For a Distinction of Privilege and Respect naturally begets a Sense of Dignity, which is an Incentive to that honourable and generous Conduct by which the Peerage ought to be distinguished; and therefore it is, that by the Consent of all Nations and Ages, Mankind have voluntarily attributed to Birth and Titles, and eminent Station, a Degree of Regard and Deference, which it would be absurd to suppose they would have yielded, but from an Expectation and Observation of this publick Virtue in general arising from it.

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Is the Lustre of the Nobility injured by its Number; and therefore the Addition of the Nobility in Ireland diminish that Lustre by their Presence here? If it be, the Crown should be decently applied to, to restrain the Exercise of its Prerogative for the future, in creating Peers of either Kingdom.

*Is it that the Nobility of that Kingdom want Fortunes to support their Dignity? It is a Misfortune to that Kingdom, that this Objection can be so well answer'd: For it is a Misfortune to any Country, that its Property should be divided with a great Inequality. This Inequality is notorious there, above the Example of any other Nation. So that notwithstanding the general Poverty and Distress which the Body of the People undergo, and the Difficulties which both the landing and trading Interest in common suffer, from the Restraints upon them in Commerce; by which, at a modest Computation, they do not see from their Estates the third Penny of the Profit which they might make of them, under a Government more equally conducted; yet many of the Peers are possess'd of Fortunes suited to any Degree of Quality whatever, and many enjoy great Properties also on the *English* Side. Is*

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*Is it that their Birth is unequal to their Dignities? If it were true, it is well known that most of their Titles have been at all times conferr'd upon them by the Advice and Interposition of an *English* Administration, who should have considered better the Consequences of such Creations; but we have already said enough to obviate all Reproach upon this Head: I shall therefore only observe further, that altho' it be impossible, until Interest and Prejudice, Passions and human Infirmitities, shall be banish'd from Courts, to prevent the Advancement of some Men, who are not entitled to the Honours they attain; yet I may venture to submit this Truth to the most rigid Scrutiny, that the Nobility of *Ireland* (excepting Four or Five of *Irish* Extraction, who themselves are very eminent) are wholly composed of Families transplanted from *England* thither, many of which are either the chief or the younger Branches of the greatest Houses of *Great Britain*, such as long before their Migration into that Kingdom, (where they were commonly employed for the Service of the *English* Crown and Government,) had enjoyed the greatest Offices*

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fices of the *English* and *Scotish* States, and had frequent Summons to their Parliaments: Families which had they remained on this Side, had many of them received *here*, on account of the Merits of their Ancestors alone, the Honours which they have acquired *there*, by their Service to the Commonwealth. Men who, had they entertained the least Suspicion, that in modern Times the vulgar Prejudices could have ever risen to such a Point as to cut them off from every valuable Pretension in their Mother Country, as they had no Necessity, so could they have had no *Inclination* to have hazarded their Lives, and neglected their ancient Interest in *this* Kingdom, in Defence of the *English* Interest in that, upon the precarious Prospect of the Advancement of their Fortunes there, in which many have been totally disappointed, and others only rewarded in a Proportion; which, considering the horrid Devastations they have suffered by the Revolutions of *former Times*, and the partial Restraint of the *present Age* upon their Properties, they might have easily attained in the same Course of Years with

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with Sloth and Indolence, Security and Peace at *Home*.

It may be allow'd, That the *Peers* are the most natural Defence of Monarchy against the popular Distempers of the Times. But with humble Submission, they may not always prove the safest; for if it should ever appear that they lust after too great Power, or if a future Prince should lean too much upon them, and the People should find, that the Publick should be played between their Hands and those of the Crown, it might rather tend to hazard, than to preserve the Monarchy: And it is no Question but that the Complaisance of that House, and the Dependance of the Crown upon them in the last Century, contributed in no small Degree to create those popular Distempers here spoken of.

The natural and safest Defence of Monarchy is the Justice of the Prince. We know of no History in which it appears, that a People, however wanton either in its Wealth or Privilege, have attempted to invade the Rights of their Sovereign, until the Attack had been first made on them. A Prince who lays it down as a *fundamental*

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Rule to venture upon no Innovations, forms in such a Resolution a Barrier too firm to be trespassed on by the most hardy or ambitious of his Subjects; but on the other hand, if this steady Scheme be unregarded, and if he once excentrate, there is no longer any fix'd Point for him to be directed by, and he becomes immediately distracted with the Discontents and Clamour of those he has injured, and with the farther and insatiable Demands of those he sought to favour.

To bear a little farther upon this Argument; I will acknowledge once more, *That the Peers are the natural Defence of Monarchy*: But are not the Peers of *Ireland* equally concerned in the Defence of Monarchy? As long as they have Privileges maintained to them, which are dependent on monarchical Government, and which must fall, if that Government should alter into a democratic Form, so long will they be a natural Defence to Monarchy: But to deprive them of these Privileges, is evidently not to strengthen Monarchy; on the contrary, it dismembers the Crown of a great Number of its best Supports, and in the natural Course
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of Things must weed out the very Root of that Principle in a whole People, whose Numbers make up at least One fifth of his Majesty's Subjects; so that a Counsel of this Kind, however plausible it may seem at first View, is in Reality, and in Truth, the most democratic that can be given.

I am ready to believe, that the Lords who laid this Scheme in 1667, were very far from foreseeing Consequences like these, from what they desired of the Crown; but had they not been too much hurried on by the Desire of *monopolizing*, as it were, all Honour to themselves, they must have discovered not only this Consequence with regard to that Kingdom, but they must have foreseen somewhat in it tending to the same End even here. The Lords mistake themselves, if they consider themselves as able to stand alone between the Prince and the People. They are not the antient Barons of *England*, who could raise Armies from among their own Dependents, and transfer the Crown as they thought proper: Their Number may be as great, and their nominal Privileges may be still retained; but they want the *Property*, which is the

only Basis of real *Power*; and wanting this, they have no other Way but that of drawing others in to support them by the Weight of *their* Property, which they furnish to that End, in Consideration of some inferior Degree of Privilege, with which they are engaged to maintain the same Interest. The Order of Baronets, and all other Ranks of Precedency, are to be considered as smaller Degrees of Nobility, created either from the judicious Observation of this Truth, or from Necessity, which enforces often a kind of mechanical Operation of it; and by these kinds of Artifice the Crown has learned to supply the Defects of the Fortunes of the antient Peerage. But among these, stand in a principal Place the Nobility of *Ireland*, who by their Property, and the Privileges of Respect, as yet remaining to them, afford a very large Contribution to the Security and Dignity of the Crown, and to that of the whole united Body of the Peerage; it therefore seems demonstrable, either that the Crown must be obliged to continue them in their Privileges from these political Considerations, or else proceed to augment very largely the Body of the *English* Peers, which would

would be a Remedy that might be thought to carry with it a greater Diminution of the Dignity of that Body than the other.

My Lord, I could follow this Reflection much farther, and argue much more strongly, both as to the Point of Right, and the Consideration of a political kind. But unwilling to move the Passions even of those who are prejudiced against us, I had rather leave my Defence of the Rights even of that illustrious Body, of which I have the Honour to be a Member, weaker than it might be made, than that any thing should drop from my Pen, which might be liable to Misconstruction. I shall therefore say little of the general Disgust which too frequent Attempts upon *Ireland*, both in great and small Matters, seldom well consider'd, must tend to create in that Kingdom.

I shall only observe, that it must seem to all prudent Men more adviseable at this Juncture, when the Power of the neighbouring Nations is so much enlarged, and their Jealousies of our Prosperity universally risen to a great and dangerous Degree, rather to take such Measures as might unite

with a chearful Zeal and Affection the Subjects of all his Majesty's Dominions in one common Interest, than thus to distract the Minds of Men in that Kingdom by a Perseverance in the weak System of partial Policy, to the long Continuance of which, and to no other Cause, must be ascribed an Event not ever paralleled elsewhere in the History of the whole World, that a People so great in Numbers, and in a Situation of such Importance, should remain for a Space of above 500 Years under the same Government, so generally and totally aliened in Attachment to that Government as they were found to be in the last Revolution, and which, from a Continuance of the same Conduct, cannot be supposed to have admitted such an Alteration for the better since that Period, as every wise and honest Man must wish.

To quit therefore a Consideration, which would carry me farther than would be convenient in this Place: From this and other Reasons of the last Importance, we may certainly expect both the *Crown* and *People* of *Great Britain* on our Side in this Dispute,

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The People of *Great Britain* can never have an Interest to aggrandize or add to the Distinction and Distance now between them and the Body of the Peers. Tho' Distinctions may be and indeed are highly necessary to our present Form of Government, yet Privileges too distinguished in their own Nature, and too limited as to the Number by whom they may be enjoy'd, are dangerous to Liberty, and will therefore never be encouraged or endured by a Nation so brave and prudent.

We may hope of *his Majesty*, considering the Services we have done to his Family in particular, considering our remarkable Advances in his Favour in the most critical Conjunction, at least a common Protection with the rest of his Subjects; at least, we may promise ourselves, that in his Reign we shall not be divested of those Remains of Privilege which former Reigns have left us, especially when they are Privileges which concern the Dignity and Honour of the Crown. We may hope this Justice from his Majesty, the rather, as it was in his Father's Reign that the first Attack upon the *Irish* Peers was made with any Success, when he gave his Assent to

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a Bill by which their Judicature was declared void. If his present Majesty should suffer himself to be prevailed upon by the Clamour or Sophistry of some few about him, to pursue the Conduct to which he is advised in this Instance; it will sooner or later grieve him, when he comes to reflect from a better Information of the Force of those Pretensions of the *Irish* Peerage, and from that just Disposition which even his worst Enemies acknowledge, that the Work of the Destruction of the Privileges of that Peerage should be both begun and ended in so few Years under his Family, which has been a Work unaccomplished for above 500 Years, under the worst and most arbitrary Princes we ever had.

We flatter ourselves, that his Majesty will rather act the Part of *Queen Elizabeth*, *King James I.* *King Charles I.* and *King Charles II.* in this Instance.

Queen Elizabeth absolutely denied it to be in her Power to deprive the Peers of *Ireland* of their Precedency. And *King James I.* upon the Attempt that was made in his Reign, received it as an Indignity and Affront offered personally to himself, and treated

treated the Lords concerned in it in a suitable Manner; yet in this Application the *Irish* and *Scottish* Peers, who had Estates in their respective Kingdoms, were exempted: *His Answer was, That he was the common Father of all his People.*

King Charles I. was applied to in the same Manner: The Peers in that Application acknowledge, that a Precedency hath been allowed to the Nobility of *Scotland*, according to their Ranks, which they declare it no ways their Intention to alter. But they complain, that Numbers of *Englishmen* have lately obtain'd Honours in the Kingdoms of *Scotland*, and *Ireland*, and that it is for a Remedy to this Ill-convenience only that they had addressed his Majesty. That this is, as it has been practised in some Reigns, a great Ill-convenience, must be acknowledged, and is as much desired to be seen redressed by the *Irish* as by the *English* Peers. But however as it was thought impossible (the Peerage once granted,) to make a Distinction between the Members of the same Body, the King then took the most prudent Course in answering as he did, *That it is easier to prevent an Inconvenience, than to redress it,*
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being happened: And soon after, by a Declaration in Council, required the Nobility of *England* to carry themselves in the same Manner to the Peers of *Scotland* and *Ireland*, as they had ever done.

When the Peers of *England* in 1667, applied themselves to *Charles* the Second, he answered as you may see above, *That the Business was of great Concernment, and he would take it into serious Consideration.* But nothing was done upon it, and from that Day to this, the Peers of *Ireland* have remained in full Enjoyment of these Rights.

My Lord, is this a Business now of *less Concernment*, or deserving *less serious Consideration*, than in the Reign of *Charles* the Second? Can our present Counsellors, more able than those who have gone before them, reconcile the Distinction to be made between the Members of the same Body, the Peers of *Ireland* who are merely *Englishmen*, and those who are *inherited* in that Kingdom? Or is the next Attempt to involve the latter also, whose Rights have never been before contested? Should it be required or expected of his present Majesty, more patiently to suffer the Prerogative to be invaded, than any of his Pre-

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Predecessors? Or are we to think him less the common Father of his People? Is that Prerogative raised higher than in the Reign of Queen *Elizabeth*? Or can the Crown now exercise a Power, which it disowned even in those Times?

My Lord, I must believe, that upon a little Reflection, the Peers of *England* themselves will desist from all future Applications of this Sort; nay, I dare venture to think, they will banish from their Minds all such Ideas, with Concern that they had ever adopted them at all. For besides the Arguments already given of actual and eventual Ill-conveniences, that have arisen and may arise from it, there remains another of the highest Importance, which it behoves them to consider well. To overthrow the Force of Precedent and Custom, would in a manner work a Dissolution of the *English* Peerage. Is it forgotten upon what Grounds all Baronies by Writ now stand? What Barony *in Fee* is a Barony, but by Precedent, Custom, and Prescription? Who is so ignorant as not to know that all the Peers, who hold hereditary Seats in Parliament by virtue of a Summons,

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or who derive their Honours from the Female Line, have no other Foundation for these Honours, than the same prescriptive Law, by which the Peers of *Ireland* defend this Privilege? The Writ of Summons is only personal, nor is there contained in it one Syllable, that can be construed into the Concession of hereditary Honour. If then this prescriptive Law be not allowed, one Species of the Peerage must for ever vanish, and a great Number of the most ancient and eminent of the Nobility will be returned again into the *plebeian Order*. But on the other hand, if *Precedent* and *Prescription* be found of such Force as to be able to create the fullest Privileges, and to transmit the Peerage itself to Posterity in its utmost Extent; Can it be doubted that *Precedent* and *Prescription* are not sufficient to establish a single Privilege of a Nature so much inferior? Or can Men of Sense and Honour offer this unjust Position, that what is Law in favour of *the one Peerage*, is not Law in favour of *the other*? Should this Argument, which I am sure cannot be *answered*, be *surmounted*, from an Opinion, that the *English* Peers have Authority to maintain their Seats and Privileges, whe-

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whether justly or unjustly founded, I shall not give myself the Trouble to dispute upon that Head, or concern myself to shew how little Security there may be in such a Dependence. It is sufficient, that no Man either of Honesty or Honour would desire or exercise such Authority; and I therefore will not admit a Supposition so injurious to their Lordships Honour. It would be a melancholy Consideration, if they who are intrusted with the absolute Disposal of the Property of other Men, should endeavour after all the Precedents here quoted, to grasp at the Privilege of another Peerage. Justice is, or ought to be, the grand Characteristick of their Body, and this is as much concerned in *Privilege* as *Property*.

My Lord, Having said enough upon the Ill-conveniences which such a Measure must create with respect to the *English* Peerage, give me leave to say a few Words with regard to the Mischief it would bring upon the Peers of *Ireland*.

Rights of this kind are of more Importance than they appear to the Generality of the World to be at the first View. Precedency, in itself, abstractedly considered, is
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below the Notice of any Man of Sense: But in its Consequences, it is a Matter of great Moment. As such, it has been contended for by Princes and crown'd Heads, even by Force of Arms: As such, it hath been insisted upon by the gravest Bodies of Men with the greatest Solemnity. Precedency, like Forms in Parliament, considered only in itself, is ridiculous and vain: But considered as a Means to the Support of Dignity and Order, is essential to the very Existence of Authority. These Tributes of Respect maintain the Veneration paid to the high Rank of Peerage; they are the Outworks of its more solid Privileges. The Diminution of them must inevitably lessen the Estimation of the Order, and reduce its Power. In a private Consideration it must create a Contempt for Individuals, fatal to their personal Interest in the Matter of Preferment and Alliance. From hence it becomes a Business of National, as well as Personal Concern. The Success of this Attempt would inevitably serve as a Precedent for some farther Violation of the Privileges of the *Irish* Peerage in new Instances. It would reduce them to the Dilemma, either of banishing themselves from
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this Kingdom, and from the Presence of the Prince, (about whom a natural Attendance is their Duty, or of submitting themselves to suffer such Indignities from Persons far beneath them, as cannot be borne by Men of great Qualities, Birth, and Fortunes. Nay more, it is to be questioned how far the Lords of that Kingdom here, may have it in their Power to submit to such a Regulation, without the previous Direction of their Conduct from the Parliament of *Ireland*.

It was resolved by the Peers, upon the 18th of June, 1678, in the Case of the Viscount *Purbeck*, That no Fine levied by a Peer of the Realm of his Honour, can bar a Title of Honour, or any Person claiming a Title under him that levied such a Fine. As it is then an adjudged Case, that no Man has Power by any Act, to resign his Peerage; may it not be well questioned, whether he has Power to resign any of the Pre-eminences or Privileges united with it? And if it should be so determined, as it is undoubtedly the Interest of the Peerage of all Nations that it should be, what must be the Consequence to any single Peer of *Ireland*, who should take upon him to yield up this Pretension in his
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own Instance? It is certain, in Circumstances of so nice a Nature, and such as may concern in their Consequences the Peerage of a whole Kingdom, particular Men are not at Liberty to follow their own private Judgments, Interests or Inclinations. And therefore those Disputes which may arise in the Publick, upon a Decision of this sort, may happen to be very frequent and dangerous. Nor can these Disorders if they do happen, be ascribed with any Justice to the *Irish* Peers, who may be concerned in them, since they neither can in Point of *Honour* (however they may disregard their own Privileges) abandon those of their Body, nor in point of *Prudence* venture to incur the general *Odium* and *Contempt* of their whole Nation, and the *Censure* of the House of Lords in that Kingdom, which in such an Instance would without Doubt fall with the whole Weight that their utmost Power could enforce it with. It must therefore concern any humane Government, to avoid, if possible, a Measure so much loaded with Inconveniencies and *Mischief*.

It is a Maxim in Reasoning, that an Argument which proves too much, proves nothing.
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The Argument against the Precedency of the *Irish* Peers is of this kind. For if those Lords have not the Precedency contended for, they have none at all. And having none, the first Nobleman of that Kingdom must give Place not only to some of the lowest Professions that are exercised in this Country, (which, mean as they are, have by the Custom of *England* their settled Degrees of Precedency) but even be obliged in strict Conclusion to yield it to the most beggarly Mechanick of *Great-Britain*. What Honour can be derived to the Nobility of *England* from hence, that a Nobleman of any Country should be reduced into Circumstances of such Contempt, requires a greater Degree of Penetration than I am Master of, to discover. And not to consider the general Alliance between the Peerage of each Kingdom, it should rather seem that such Insults as must naturally arise from such a Regulation, tolerated upon many of the greatest and most antient Families (exclusive both of their Honours and Estates) in these Dominions, can tend only to level and confound all Manner of Distinction whatsoever.

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My Lord, if your Lordship will pardon the Length of the Quotation, I shall conclude with an Instance not wholly impertinent to this Debate, from one of the noblest Authors in the World. The Writer is *Tacitus*, and the Country of which he speaks is the *Roman* Empire, whose glorious Example all Nations may be proud to follow; and whose Sentiments may serve as the Criterion for all that is of greatest Dignity and Wisdom in human Nature.

In the Consulate of *Vitellius* and *Vipsanius* in the Reign of *Claudius*, a Question was moved in the Senate concerning the Augmentation of that Body, by Admission of the Nobility of *Gallia Comata* into the Peerage of that Empire, a Privilege which that Nation then desired. Great Contention arose upon this Demand, and the Prince was much disturbed with the inveterate Consequences of this Dispute. There were not wanting, even in that illustrious House, Men who were actuated more by popular Prejudice, and narrow Notions, than by the true Interest of the Empire, or a generous Judgment. These Senators with Warmth and Passion alledged, That *Italy* was not yet fallen to so low a State,

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“ State, as that she was not able to supply
“ her own Senate out of her own Members:
“ That in antient Times, Times by the
“ Customs and Manners of which, the *Roman*
“ Empire had risen to that consummate
“ Glory, and from the Example of which
“ it would be happy for them never to decline,
“ the *Roman* Subjects were judged
“ sufficient for the *Roman* Senate. Was it
“ not enough, that this Dignity had been
“ already prostituted so far, as to admit the
“ *Venetian* and *Insubrian* Nations into that
“ Community of Privilege, unless they were
“ overborne and swallowed up in the Multitudes
“ of a Foreign Nobility, now proposed
“ to be introduced among them? Of what
“ Value would that Dignity hereafter be to
“ the *Roman* Senators? Or what Preferments
“ could the old Nobility of *Rome* expect
“ hereafter? What Prospect for them to
“ restore the Splendor of their Families, decay’d
“ by their Antiquity, when all the great
“ Employments of the State should come to
“ be conferr’d on a Foreign Nobility, against
“ the Influence of whose Estates, and greater
“ Fortunes, they would be unable to contend?
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" A foreign Nobility, whose Ancestors, even
 " in late Times, had been the Leaders of Ar-
 " mies flesh'd in the Slaughter of the Roman
 " Citizens, and in more antient Story were
 " recorded to have seiz'd by Violence the
 " Habitations of their Forefathers, violated
 " their Religion, and overthrown the Altars
 " of their Gods! That they might be indulg'd,
 " perhaps, to bear the Name of *Romans*, but
 " that they ought never to be allowed the
 " Rank of *Roman* Senators, or the Enjoy-
 " ment of the great Offices of State."

But the Emperor, having founded his own
 Opinion upon the most solid Reason, was
 steady to it, and having summon'd the Senate,
 condescended to bear a Part in this Debate
 himself. His Speech was to this Effect:
Majores mei (quorum antiquissimus Clausus
origine Sabinâ simul in civitatem Romanam &
in familias Patriciorum adscitus est) hortan-
tur uti paribus consiliis Rempublicam capeſſam,
transferendo huc quod usquam egregium fue-
rit. Neque enim ignoro Julios Albâ, Corunca-
nios Camerio, Porcios Tusculo; & ne vetera
scrutemur, Etruriâ Lucaniâque & omni Italiâ
in senatum accitos. Postremò ipsam ad Alpes
pro-

promotam, & non modò singuli viritim, sed
terræ gentesque in nomen nostrum coalescerunt.
Tunc solida domi quies, & adversus externa
florüimus, cum Transpadani in civitatem re-
cepti, cum specie deduëtarum per orbem terræ
legionum, additis provincialium validissimis,
fesso imperio subventum est. Num pœnitet
Balbos ex Hispaniâ, nec minius insignes viros
à Galliâ Narbonensi transivisse? Manent pos-
teri eorum, nec amore in hanc patriam nobis
concedunt. Quid aliud exitio Lacedæmoniis &
Atheniensibus fuit, quamquam armis pollerent,
nisi quod victos pro alienigenis arcebant? At
conditor noster Romulus tantum sapientia va-
luit, ut plerosque populos eodem die hostes, dein
cives habuerit. Advenæ in nos regnaverunt.
Libertinorum filiis magistratus mandari, non,
ut plerique falluntur, repens, sed priori populo
fæditatum est. At cum Senonibus pugnavi-
mus, scilicet Volsci & Æqui nunquam adversam
nobis aciem struxere? Capti à Gallis sumus,
sed & Tuscis obsides dedimus, & Samnitium
jugum subivimus. Attamen si cuncta bella
recensëas, nullum breviorè spatio quàm adver-
sus Gallos confectum, continua inde ac fida
pax. Jam moribus, artibus, affinitatibus no-
stris

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stis mixti, aurum & opes suas inferant potius, quam separati habeant. Omnia, patres conscripti, quæ nunc vetustissima creduntur, nova fuere. Plebei magistratus post Patricios, Latini post Plebeios, cæterarum Italiæ gentium post Latinos. Inveterascit hoc quoque: & quod hodiè exemplis tuemur, inter exempla erit.

“ *Clausus* my own Ancestor was of Foreign
 “ Extraction, by Birth a *Sabine*, admitted
 “ in one Day a Citizen and Senator of *Rome*.
 “ This Instance in my own Family, instructs
 “ me in the just Method of conducting the
 “ publick Interest to Advantage, and teaches
 “ me to reject no Man of signal Merit, in
 “ whatsoever Country he may happen to be
 “ born. The *Julii*, *Coruncanii* and the *Porcii*
 “ sprung from *Alba*, from *Camerium* and
 “ from *Tusculum*, *Tuscany*. *Lucania*, and the
 “ rest of *Italy*, have been all admitted to the
 “ Senate in the latter Ages of the Common-
 “ wealth. The Empire thus extended to
 “ the very *Alps*, proceeded no longer in this
 “ slow Degree: she united to herself not
 “ single Men alone, but at once whole Re-
 “ gions of a vast Extent, and mighty Na-
 “ tions. From this Time forward we en-
 “ joy’d

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“ joy’d a lasting Peace at home, and became
 “ the Terror of the World abroad. We
 “ flatter’d ourselves, that our Happiness de-
 “ pended on our mighty Armies; but in
 “ Truth our exhausted State derived its Se-
 “ curity from this prudent Coalition of the
 “ provincial Power, with the Remnant of our
 “ own. What Reason have we to repent,
 “ that our Forefathers called to the Senatorial
 “ Dignity the Family of the *Balbi*, who
 “ are deduced from *Spain*, or the rest of
 “ those great Houses which have been ac-
 “ quired to us from the *Narbonne Gaul*?
 “ Their Posterity still remain an Honour to
 “ the Senate, nor are they found, in their
 “ Attachment to the Empire, inferior to the
 “ worthiest *Roman* of us all. The potent
 “ Republicks both of *Lacedæmon* and of
 “ *Athens*, great as they were in Arms, fell
 “ by this narrow Principle, this savage Policy,
 “ of arbitrary Rule over their dependent Pro-
 “ vinces. *Romulus*, the wise Founder of our
 “ Empire, pursued a different Course. By
 “ his Address, they who were one Day Enemies
 “ of *Rome*, the next were Citizens of *Rome*,

I

“ and

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" and faithful Citizens Whence this Jea-
 " lousy of communicating to Foreign Fami-
 " lies, the Senatorial Honours, when a Fo-
 " reign Extraction has never been esteemed a
 " Bar to the supreme Administration of the
 " sovereign Power? It is not the Practice
 " only of these modern Times, but of all
 " Antiquity, to confer the first Employments
 " of the State on those, whose Ancestors were
 " not so much as free of *Rome*, when recommen-
 " ded their Merits to those Employments. If
 " the antient Enmity of this People should
 " be offer'd as an Argument against the Con-
 " cession of this Privilege, How often have
 " we fought with the *Vofci*, *Æqui*, and *Se-*
 " *nonnes*, who have long since effaced this Ob-
 " stacle of Union with us? We confess that
 " we have often suffer'd from the *Gauls* the
 " worst Event of War; but we have likewise
 " often suffer'd from the *Tuscans*, and the
 " *Samnites*, the most ignominious Defeats;
 " yet are they now one common People with us.
 " If we reflect upon the Course of our Wars
 " with this Nation, we shall find none brought
 " to happier Conclusion, than that which
 we

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" we have had with them. A faithful and a
 " permanent Peace has thence ensued; their
 " Manners and their Customs, their Arts
 " and Manufactures, are now become the
 " same with ours; they are bound to us by
 " Ties of Blood, and mutual Alliances. What
 " Madness would it be to force them, by
 " our unequal Government, to enjoy their
 " Fortunes, and to spend their Treasures in
 " their own remoter Provinces? How much
 " more prudent to invite them, by a mild
 " and equal Treatment, to draw hither their
 " Wealth, and to diffuse their Property
 " among us? Those Regulations which ap-
 " pear to us most antient, have had a Be-
 " ginning, and once were likewise new.
 " The Magistracy was at first committed
 " only to *Patrician* Families; the *Plebeian*
 " were admitted after; the *Latin* Nation
 " was then united to us, and they were also
 " entrusted with them. The other *Italian*
 " States were last permitted to be Par-
 " takers in them, and already the Memory is
 " almost effaced, that they have ever been a
 " different People. In like manner will this
 " Mea-

108. *The Precedency, &c.*

“ Measure, which we are now obliged to de-
“ fend by the Credit of former Precedents,
“ become itself a Precedent to future Ages.

The *Roman* Senate obey'd the Voice of
Reason: The *Gauls* obtained the Privi-
lege they fought.

My Lord,

I am, &c.

0335

