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A  
CORRECT REPORT

OF THE

SPEECH

Delivered by

MR. ADAM,

IN THE HOUSE OF COMMONS,

ON

THE CONDUCT

OF

H. R. H. THE DUKE OF YORK.

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1809.

## SPEECH,

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MR. SPEAKER,

I am sure the House will not be surprised that I should take the first moment to present myself to you after what has fallen from the noble Lord, respecting the testimony which I have been called upon to give in this proceeding.

After having passed my life as it were in this House, or in its presence; having been a member of this House before the noble Lord was born; having had the honor of a seat here from 1774 to 1796, and generally taking a pretty considerable share in its business and discussion; after having in the year 1796, retired from this House to pass my time almost constantly in its presence in the discharge of professional duties, in which I trust I have never dishonored myself; having returned again to this House in 1806, the representative of as enlightened a body of constituents as any in the kingdom, and chosen on principles of perfect freedom, I cannot but be most anxious to maintain and vindicate that character, to preserve to myself that reputation with this House and with the Public, which I hope I may have acquired by

a long public life of activity, industry, and independence.

Sir, I am not so weak, and I trust I do not so ill understand the situation in which I have lately been placed, as to take offence at the noble Lord for having observed upon my evidence—every person who is a witness is liable to have his testimony discussed with freedom—justice, which is no respecter of persons, requires it. But when the noble Lord has stated that I have given inconsistent evidence; that I have been contradicted by other witnesses; and that I have varied in my testimony in material parts of this case, it is most natural that I should not let an instant intervene in calling the attention of the House to the evidence which I gave, and to which the noble Lord refers, and I have no doubt that I shall convince even the noble Lord himself, that he has been completely mistaken in all that he has said respecting my testimony.

Sir, I am sorry to consume the time of the House with what may be supposed to be personal matter, but it is essential to justice as well as to myself, that the matter should be cleared up, that the evidence which I have given should be well understood.

The noble Lord first states that my evidence has been inconsistent in the account which I have given of my connexion with the financial concerns of the Royal Duke; that I at one time held out that I was acquainted with the whole of his Royal Highness's concerns in that respect, and then confined it to my situation as his trustee. If Gentlemen will look to the evidence which I gave on the first day of this proceeding, they will find that on that day I stated distinctly that the only funds of his Royal Highness, the application of which fell within my knowledge, were those which were appropriated to his creditors; that I knew nothing of the application of

that part of his income which he reserved for his own expenditure; that I could not tell whether a private pension to this or that person was or was not paid. This appears from my testimony in page 25 of the printed evidence. On a future day an honourable Gentleman, now under the gallery, (Mr. Charles Adams) asked me, (that part of the evidence is in page 265) Whether the annuity was or was not paid to Mrs. Clarke? To which I answered by referring to my former evidence, by which he would see that I could know nothing respecting the payment or non-payment of the annuity. The same Gentleman on a subsequent day examined me again respecting the payment of the annuity, and if the noble Lord will look to that part of the testimony, he will find my evidence to be perfectly conformable to that which I have already stated. On this part, therefore, of my testimony, I hope the House will be satisfied that there is nothing contradictory.

The noble Lord next asserts that I was contradicted by Mr. Comrie, in the evidence which I had given respecting a loan which was proposed to be made by the Duke of York. Here the noble Lord is again in a mistake. I never gave any testimony whatever relating to that subject; there is I will venture to say nothing of the kind to be found in my evidence. It is very true that in a speech which I made on the day in which the honourable Gentleman (Mr. Wardle) opened these charges, I did state to the House that I had uniformly found his Royal Highness to be accurate in his statements respecting his pecuniary obligations, and that the correctness of his statements in that respect, afforded a strong presumption in my mind of his correctness in other respects; that I had likewise every reason to believe that in every case where there had been any proposal made to him to raise money that he had referred to

me. Now it was professedly to contradict this part of my speech that Mr. Comrie was called by the honourable Member, (Mr. Wardle) and it will be seen, that instead of contradicting, Mr. Comrie distinctly confirms my statement in my speech on the first day of these proceedings; for he says in his evidence, page 64, that he had been referred by the Duke of York to me, and was asked by the Duke (to whom he went upon the subject of a loan on mortgage of 10,000l.) whether he knew Mr. Adam of Bloomsbury Square. Mr. Comrie answers thus:—"I said not personally, but by reputation I knew him to be a man of very high character. I shortly afterwards called on Mr. Adam—we proceeded to discuss the business—Mr. Adam said his Royal Highness had occasion for that sum, I think he said to 'complete the payment of some tythes in the vicinity of Oatlands; and that his Royal Highness's Solicitors, Messrs. Farrers, would send me the abstract, which they did. In the mean time I applied to a rich client, who agreed to lend the money. The abstracts were referred to a conveyancer by me, who made some queries. In the mean time the money was ready to be advanced; and the abstracts were returned to Messrs. Farrers to answer the queries; but they were never sent back to me, and the loan was afterwards declined, and Messrs. Farrers desired me to send in my bill."

Here again I think the House will be satisfied that I have been confirmed most positively by Mr. Comrie; a witness called by the promoters of these charges under the express declaration that he was to contradict, not what I had given in evidence, but what I had stated in a speech.

The next matter of which I am accused by the noble Lord is for inconsistency in the evidence which I gave in Kennett's case. Now I must submit to the House

that it is not quite correct in the noble Lord, to charge that evidence with inconsistency which is characterized only by want of recollection; there was nothing that should have fixed my recollection particularly to that case, I had very little share in it, and had left town immediately on its commencement, and did not return till its conclusion. I stated to the House in my evidence that until the first witness to it, Mr. Duff, by something he said, and by the description he gave of Kennett, recalled it to my memory, that it had totally escaped me that such a person or such a transaction had ever existed. Mr. Duff's testimony had revived my memory, and when two short notes of mine were put into my hand by the noble Lord, and a short letter written from my residence in Scotland, my memory became more clear; but I cannot say that even now after all that has been said on the subject, that I have any distinct memory respecting it; a circumstance which will not seem strange to those who are accustomed to go through much business; but surely there is nothing in all this nor in any of the evidence which I gave on that subject, that warrants the charge of my having given inconsistent or contradictory testimony on the subject of Kennett's loan.

The next charge made against me by the noble Lord, is, that I gave an inconsistent account of the cause of the Duke's separation from Mrs. Clarke. Here again I am confident that I shall satisfy the House, that the noble Lord's charge against me is without foundation.

The noble Lord said that I put it upon the ground of pecuniary matters, and that it was because her conduct had prejudiced his Royal Highness's name, with regard to money. And when Mr. Lowten and Mr. Wilkinson were called, they did not confirm me in that part of my evidence.

The House will give me leave to observe that I stated the circumstance of money, as one ingredient only in the cause of separation; that I stated the account of Mrs. Clarke's conduct in other respects, which had been the subject of investigation, to be the cause, and indeed to afford the principal reasons for the separation, as they had been the principal grounds of the investigation which had been directed. I submit that when I was asked at different times as to one cause of separation, namely, money, it was not to be supposed, that because I did not repeat every other cause, that I therefore excluded them—it would be hard indeed if witnesses were in that way to be convicted of contradictory testimony. When I stated a single cause in answer to a question applying to that single cause, the other causes must in justice and in common sense, be held to operate in my mind, and to make part of my testimony. But it was said that I was not confirmed by Mr. Lowten and Mr. Wilkinson—the House will recollect that I went through a long examination by an honourable Baronet (Sir T. Turton) on that subject—that he asked me among other things, whether I had ever seen the narrative respecting Mrs. Clarke's conduct, from the time I had caused it to be delivered to his Royal Highness, on the 7th of May 1806, now near three years ago—I said I never had, that I had not had any opportunity of refreshing my memory with its contents, and that I had made no written memorandum of the transaction. I conceived upon that distant recollection of a long paper, that the pecuniary matter must have been contained in it. And here I must beg leave to call the attention of the House to what my conduct has been throughout this anxious, and to me most particularly distressing case. I have been ready, I think the House will do me the justice to say, to answer every question at any moment; but I have myself uniformly ab-

stained from examining the witnesses, except three or four short questions put to Colonel Hamilton, in order to ascertain that he had not had any communication whatever with me, from the Sunday when he told me that the note respecting Tonym was destroyed, I did not put a question to any witness, during this proceeding, until Mr. Lowten was at the bar; and to him at the close of his examination, I only put three questions, to ascertain whether a certain cause, *Turner v. Mary Ann Clarke*, had been entered for trial at the Westminster Sitting, after Hilary Term 1806, being the cause in which it appeared that the Duke of York had been subpoenaed. In this situation I thought it my duty to leave that case; and I certainly agree that it does not appear from the testimony of Mr. Lowten and Mr. Wilkinson that I obtained the information respecting the money transactions which were among the causes of the separation; but that my information must have been derived from another source. That my information was correct I shall immediately shew from the evidence of a witness to whom the noble Lord gives the most perfect and implicit credit; and I am astonished after what fell from my honourable Friend near me (Mr. Whitbread) on this very point, that the noble Lord should have made the observations he has made respecting my testimony on this head of the evidence; for my honourable Friend in the course of his very able and powerful speech, referred to a passage in Mrs. Clarke's evidence, which I shall state a little more at large than he did. In page 264 of the printed evidence, Mrs. Clarke is asked,—“Do you know why the Duke of York withdrew his protection from you?—Mr. Adam states that it was in consequence of my pleading my marriage to a bill of 130l. but I can prove the contrary to that, as I had done it once before, and he knew it; and the man had sent threatening letters

to him, and to the whole of his Royal Highness's family; his name is Charman, a silversmith in St. James's Street.—I have my own opinion of the separation.”—“Did his Royal Highness assign any reason for it?—No, he did not; but I guess the reason.” “Was it on account of your interferences in Military Promotions?—No, it was what Mr. Adam stated, upon money matters, but not that one of the bill.”

So that it is quite manifest that the only error in my testimony, is an inaccurate recollection in the source of my information, which is extremely natural at such a distance of time, and when a reference to the persons employed in some of the most important parts of the investigation was extremely likely to create an opinion or belief that that was the source.

The only other point in which the noble Lord charges me with inaccuracy, is what relates to the account I gave of the Duke of York's declarations as to his correspondence with Mrs. Clarke on Military Promotion.

The noble Lord says that I first admitted that the Royal Duke had corresponded with her on military subjects—that I had afterwards contradicted that, and desired that answer to be altered. Now, Sir, I think here I have some reason to complain of the noble Lord for not stating this transaction exactly as it took place, as that statement I am confident would of itself completely satisfy the House that I had done nothing but what was most perfectly right and fair, according to the most rigid rule, and as long as it is permitted by the course of proceeding in every court in the kingdom, for a witness who makes the application within proper time, to correct his testimony, I must be held to have acted with perfect correctness.

After having been obliged to give a very long answer upon the subject of the note regarding Tonyn's prome-

tion; which is in page 431, and after two or three short answers on that subject, as to what the Duke had said to me regarding that note, the noble Lord put the following question to me.—(It is to be found near the bottom of p. 432.) “Did he (the Duke of York) state to you that he had never written to Mrs. Clarke on the subject of military affairs?”—I answered—“He always stated to me, that to the best of his recollection he had never written to Mrs. Clarke on the subject of military affairs; but that if he had done it it must have been very rarely.”

Upon considering this answer it appeared to me to be very inaccurate, because the latter part of it was giving the result which I had drawn from what the Duke said to me, whereas to make evidence correct the fact or declaration should be given for those who are to judge to draw the conclusion; and the evidence should not contain the inference or conclusion of the witness as this answer did. Accordingly as soon as the examination of the witness next called was concluded, I desired that my answer might be read, not to expunge what I had said, but leaving that as it originally stood, to correct it and to leave the whole on the evidence. Accordingly in the next page but one (p. 435) my correction appears. I desired the latter part of the answer to be left out, viz. The words “or if he had very rarely.”---The noble Lord immediately asked me---“Did the Duke of York state to you that he did not recollect ever having written to Mrs. Clarke about any military business whatever?”---To which I answered---“The Duke of York certainly stated to me that he did not recollect to have written to Mrs. Clarke on any military matter whatever. He afterwards said that if he had ever written to Mrs. Clarke on any military matter whatever it must have been in answer to some questions put in some letter of her's; and his Royal Highness said expressly that when she once stated something to him

early in their acquaintance, respecting promotion in the Army, he said that was a business he could not listen to, and he never heard more of it afterwards."

Now, Sir, what I have to submit is that there is not the least ground in this case, any more than in all the others, for the charge made by the noble Lord; but that the evidence I gave at first was an impression on my mind, a conclusion drawn by me, which was unfit to stand as evidence; that the correction was as instantaneous as the nature of the thing would admit; that it was perfectly correct in point of time and circumstance, and that the manner in which the evidence now stands, is the correct mode of giving testimony of this sort, namely, to give as near as memory will serve, the expressions of the person whose declarations are the subject of inquiry. On these grounds I feel perfectly satisfied that I could not in justice either to the Royal Duke, the House, or myself, permit the evidence to stand in the shape in which I originally gave it.

I trust, Sir, I have now done enough to satisfy the House, and even to satisfy the noble Lord, that my testimony in all the parts of it has been uniformly consistent, and that the observations made on it by the noble Lord are without any foundations. Sir, it is most painful to me to have occupied so large a portion of the time of the House at so late an hour with a matter which though important evidence in the cause, is yet so personal. I have felt much and deeply throughout the whole of this proceeding. It is impossible—it would have been unnatural for me, considering the situation in which I have so long stood with the Royal Person accused, not to feel deeply interested in what relates to his fame, his honor, and his station. Sir, I have besides had the feelings nearest and dearest to my heart torn by the representation of weekly journals, on a subject on

which it would be unfit and offensive for me to detain the House; yet I cannot refrain from stating that it has been remarked in those publications that the backs of 1000 men were exposed to the commander of a battalion—that the government of a corps should not be exposed to the heated passions of youth. From these general observations it is natural to conclude that the evils alluded to, namely, severity of punishment and irregularity of discipline, must have prevailed in the particular case in which the promotion is censured; and thus the calumny is spread and gains belief, while I have it not in my power to shew that no corps in the service could boast of fewer corporal punishments than that in question, and that every means from the first entry of that officer to the command, has been directed with a view to promote regularity of behaviour and useful military pursuits, while there has never been any thing like severity of military discipline.

But, Sir, I have to beg pardon of the House for permitting myself to be led by the wounded feelings of a Parent to this allusion, and I will now proceed to examine the question before us, I am anxious to do so with a mind as judicially framed as I can bring to any subject, and if in endeavouring to secure the attention of a numerous and popular audience I speak with more eagerness than becomes a Judge, they will consider the matter and not the manner, and in attending to the mode of reasoning I trust they will pardon the eagerness in which I may announce myself.

If I had been able to address the House after the Speech of the right honourable Gentleman (Mr. Bathurst) and after all those who have spoken until my honourable Friend near me (Mr. Whitbread) spoke, I should have had no occasion to have entered into the question, of how far the Royal Duke was involved in the corruption which

Mrs. Clarke has proved against herself, or in any knowledge of or connivance at that corruption. Because except the speech of the honourable Mover of this inquiry, that of my honourable Friend Mr. Whitbread and that of the noble Lord who spoke last, every speaker on this subject hitherto, has in distinct terms declared that the Duke of York was entirely innocent of corruption, or of connivance at Mrs. Clarke's corruption. But corruption or connivance is now contended for by these three Gentlemen, and therefore it is necessary to discuss the evidence according to that view of the case. But before I enter upon the evidence it is most material to consider the precise nature of the question before the House. The honourable Gentleman who proposed the inquiry, moved an Address, calculated to charge the Duke of York with corruption or connivance and therefore to remove him from his situation; upon that the right honourable the Chancellor of the Exchequer moved an amendment, which is to leave out the Address and substitute Resolutions, expressing first, that it is fit we should resolve as to the guilt or innocence, and secondly, to resolve that the Royal Duke is not guilty of the corruption or connivance with which he is charged; and then he means to follow these Resolutions with an Address which is to convey them to his Majesty, but upon that it is unnecessary at present to say anything.

Since the amendment of my right honourable Friend the Chancellor of the Exchequer, the honourable Gentleman below me (Mr. Bankes) has moved another Address, and the right honourable Gentleman below him (Mr. Bathurst) has given notice of a Resolution which is to free His Royal Highness from any charge of corruption, but to fix upon him the charge of having permitted Mrs. Clarke to communicate with him and to

interfere on the subject of Military Promotion. The simple question therefore for the House to consider is whether it is most proper to proceed by Address or by Resolution, and whether the Resolution proposed by the right honourable the Chancellor of the Exchequer, is not the fit Resolution to be come to. It is material therefore in the present state of the question to consider whether Justice does not require that the House should come to a fair distinct question, of guilty or not guilty, and on the determination of that question to build your future measures.

With that state of the question in view, I shall proceed to observe on the Evidence. In considering this case, it is the duty of the House to bear in mind a dogma of one of the most profound Philosophers, and most eminent Lawyers that this Country ever produced: Lord Bacon, I think, says, "In matters of Judgement  
"do not by strains of art or wit seek to play prizes, but  
"carry the lanthorn of Justice (which is the evidence)  
"before your eyes upright to light you to the just conclusion."

I am anxious to make this the rule and guide of my conduct in this most important and interesting case, but I shall not travel through matter which has been already fully discussed; I shall content myself by merely referring to those observations, which have established the conclusions which I agree to. The numerous contradictions and their effect, which have been stated so conclusively, and with so much perspicuity and ability, by my learned Friend (Mr. Leach), I shall not repeat. The detection of false testimony accomplished so perfectly by the speech of my right honourable Friend the Chancellor of the Exchequer, I should never think of following with any observations of mine to the same effect. As that speech, which was eminent for its clo-

quence and reasoning, was still more so for the strain of sincerity which pervaded it and rendered it peculiarly impressive, had its full effect with the House. I shall therefore leave all his topicks upon the effect of his speech. But it still remains to be considered what the plan and nature of the testimony is which was to be given, and by attending to its mode and character it will be seen how completely fallacious it is and how it has failed.

Mrs. Clarke was necessarily the principal witness in all the cases: to fix the guilt of corruption on his Royal Highness. But to illustrate my view of the subject it will be sufficient if I consider her testimony, and that which was to confirm her in the three cases of Knight's Exchange, French's Levy, and Tonyn's Promotion. In all of them, and in all the other transactions there is a character belonging to Mrs. Clarke's testimony, most material to be attended to. She inculcated (according to the account of all the witnesses) the greatest secrecy while the business was going forward; Dr. Thynne is enjoined to secrecy, Mr. Knight is enjoined to secrecy, Corry is enjoined to secrecy, and all his papers are directed to be destroyed, Sandon in every letter is enjoined to secrecy. To one who will attentively and impartially consider her situation it cannot fail to appear that her motives for secrecy were of the most urgent nature; she had to conceal her transactions from the Duke to prevent his suspecting them, and to hide from him the objects of her inquiries; she had to conceal it even from her Agents, in case they should discover that she had not the influence with the Duke that she pretended to have; for it is manifest from the whole circumstances of the case, and only contradicted by her declarations, that she had not the means of obtaining the objects which she pretended. The very few in-

stances in all the numerous transactions of the office of Commander in Chief which she seems to have had any hand in proves this; the correspondence with Sandon clearly shews it, and her continuing the transactions after her separation from the Duke, and still holding herself out as having the power to influence him likewise shews that it must have been her object to conceal that she might prevent those she imposed upon discovering her want of influence. All these causes combined to induce her to inculcate secrecy during the progress of the transactions, and accordingly she inculcates secrecy in the strictest manner to every body pending the transaction; this is universal and invariable; it is the result of the testimony of all the witnesses, and of the evidence which arises out of the transaction and documents; yet now when she gives her testimony she would have it to be believed that there was no attempt at secrecy; that her injunctions to secrecy were useless; that the whole was carried on with so little reserve, that it was the subject of conversation at her table, and that it was a matter which she conducted with so little caution that it must have been known to every servant in her house; that she pinned the list of promotions to the curtain of her bed, so that all who could read might read it and tell it to them who could not; this marks such an inconsistency of proceeding, that it is quite manifest that the secrecy inculcated, pending the transactions, was enforced in order to prevent the Duke from coming to the knowledge of the proceedings, to keep her Agents and those she imposed upon equally in the dark, while on the other hand, the publicity, the openness, the disclosure at her table and to her whole family, is now brought forward to this House in order to fix what it is the whole object of the case and of her as the accuser, namely, to use every means to get the

Duke's knowledge of the corrupt part of the transaction to be believed.

This contradiction of testimony between her and the other witnesses, taken in a general view, without entering into particular contradictions, is most important in the consideration of this case, and when coupled with the minute facts and circumstances of inconsistency which have been established against her, shakes her credit to the foundation.

There is another most important view of this subject, as it regards the character of the evidence. Mrs. Clarke is to prove the fact, that Knight's Exchange, that French's Levy, that Tonym's Promotion, were obtained by her influence; but this by itself is mere interference without corruption, and although this might be supposed to warrant such a motion as has been opened by the right honourable Gentleman (Mr. Bathurst) on which I shall make some observations hereafter; it does not establish the crime of corruption in the Duke of York, which Mrs. Clarke as his accuser was determined to make good; to do that she must make good his knowledge of her corrupt transactions; she therefore is to prove that the Duke knew that she took money. It is perfectly clear that her saying so would not be sufficient to establish by credible testimony the existence of that knowledge, and that taken by itself, in a case where no contradiction could be given to it, where she had such avowed motives for such a charge, and where the whole tenor of the Duke's official duty repelled the inference, it must fall to the ground. The plan of the evidence is therefore to endeavour by corroborating facts and confirmatory proof to give effect to her declarations of the Duke's knowledge of *her* guilt, and consequently to fix *his* guilt. Accordingly in all the cases, more or less, her evidence is attempted to be aided in this way, by

confirmatory proof. Now if the corroboration is sound; if the confirmatory evidence is clear and certain, the declarations, absurd and incredible as they are, would have something to support them. Even the declaration which she gave in evidence, that the Duke said "if she was clever she need never want money" might receive some credit and obtain some belief, if supported by collateral and confirmatory facts; but if on the contrary the corroborating facts which are all of her suggesting, all equally brought forward by her the accuser, are unsound, if they will not bear the test but fall from under her, then no credit whatever is to be given to her declarations of the Duke's knowledge of her corruption; on the contrary, all belief of it must be refused, and the whole must vanish as a false fabricated story. Having no basis but that which we all know, and which is true, namely, that Colonel Knight and Colonel Brook exchanged, that Colonel French had a Levy and so on, but that she procured them for the parties, far less that she informed the Duke that she got money for so doing must become utterly devoid of credit, and be rejected as untrue, when it rests merely on her unsupported unconfirmed declarations.

In the first case, namely, the exchange of Colonel Knight, the corroborating circumstances by which she means to give credit to her declaration of the Duke's knowledge of the money transaction, is the slip of paper on which the names were written, and the changing the Bank Note; as to the first of these the slip of paper, my honourable Friend near me (Mr. Whitbread) seemed to rely on that as a very material circumstance of confirmation. He says, how should she have thought of saying that she shewed the Duke the slip with the names of Knight and Brookes, given her by Doctor Thynne, if she had not done it. Now to my conception this is

no feature of confirmation; she knew then, she may have heard since that the names were so communicated to her, and it was as easy for her to state that she shewed the paper as that she mentioned the names; but this is not confirmation of corruption, it is at most only confirmation of interference, and as far as it yet goes is quite innocent, except in this last light. To establish the Duke's knowledge of the corruption she introduces the changing of the Notes which she received from Mr. Knight. Now it is very material to attend to the detail of the evidence in this part of the case, and I think it will be found that it is accompanied with such circumstances in the representation of it as to leave it entirely without effect, as evidence of corroboration.

In page 9 of the evidence, Mrs. Clarke says that Dr. Thynne made the proposal to her to get the exchange, and it appears from the Doctor's evidence and from Mr. Knight's, that the object was to get her to expedite the exchange, that she was to have 200l. for it, that it was paid after the exchange was gazetted; Mr. Knight thinks in two notes of 100l. each sent in the Morning to her. Mrs. Clarke says that she told the Duke they were to make her some sort of compliment, but she does not say what it was to be; but on the Evening of the day on which she received the Money she intimated to him that she had received it and she represents that it was sent in a *Bank note of 200l.* Now this representation which differs from Mr. Knight's is very material to be attended to, not because it differs from Mr. Knight's, but because her account of the amount of the Note is most important in considering the truth or falsehood of the story which she brings forward to confirm her evidence and by which she attempts to fix on the Duke, the knowledge of her corrupt dealing. It is farther ma-

terial to attend to the very words which she uses to establish the Duke's knowledge of her having received the Money. She is asked "after receiving the 200l. do you recollect at any time making that known to the Commander in Chief—Yes I do." "When did you mention it to him—The same day." "What passed upon the subject—I only merely said they had kept their promise." "Did the Commander in Chief know the amount of the Money you had received—He knew the amount because I shewed him the note, and I think I got one of his servant's to exchange it for me through his Royal Highness."

Before I observe on the singular nature of this confirmatory evidence, founded on the note being changed by the Duke's means, it is most material to remark, that she states the payment to have been made in one note of 200l. that she says she shewed the Duke *the note*, establishing that she shewed him a note of £200, and that she got one of his servant's to exchange it, that is, that she in the presence of his Royal Highness got a note of 200l. exchanged; a note of that amount is thus said by her three or four different ways to have been the note received of Mr. Knight, and that note so received is fixed upon as the note which was sent to be exchanged. The amount of the note, the time it was to be exchanged, an unusually late hour for such a thing, the mode by which it was procured to be exchanged, are all things which must have fixed the amount, and the other facts distinctly in the memory of the witness if they had been true.

The witness thus makes a first representation of the changing the note and the representation is, "*I think I got one of his servant's to exchange it for me through his Royal Highness.*"

Here in the first account of the change of the note, she

introduces it in a way to connect it, but not very positively with his Royal Highness. Preparatory to her being to bring it home positively to be his Royal Highness's act, so as to fix him with the knowledge of a 200l. bank note in her possession changed by his means and by his order, leading to the inference, that he directed a bank note in her possession to be changed, too large for her to be possessed of, unless by such means as these in question.

The second account of the change of the note, is thus: she is asked, "what time of the year was it;" she answers, "his Royal Highness was going down to Weymouth on the night that I changed the note, which was the reason that I got the note changed; my servant's could not get it changed, and his servant's got it changed for me."

Here it is still one note, and therefore a note such as she before stated it to be of 200l. which is to be changed, and now it is stated that her servant's could not get it changed, that the Duke's servant did get it changed, and this is stated positively as a distinct well recollected fact, namely, that a fruitless attempt to get change for a 200l. bank note was made by her servant, and that the change was effected by the Duke's servant late at night, "in the end of July or beginning of August." All this is in pages 9 and 10 of the evidence, and is given upon the examination in chief, that is, the first examination. She afterwards on the same evening, in the examination by my learned Friend the Attorney General, on being asked what circumstances respecting the transaction, she had not mentioned to Colonel Wardle, she says, "I did not mention to Colonel Wardle that I shewed *the note* to his Royal Highness, nor did I tell him that his Royal Highness got change for it; *it was for me he got change*; he was going out of town at

1 o'clock, and I at 4, and I wanted the *change to leave* some with my servants in Town, and some I wanted with me." Here again the note is represented as one note, and must be of £200 as stated before. Here again it was represented that it was changed, and in very peculiar terms, for it is represented here that his Royal Highness got change for it, and got change for it for her, so that it may not be mistaken, but that it may be taken as a firm undoubted assertion that his Royal Highness was the person to order or direct the change to be got for a 200l. bank note, at a late hour, by his own servant, her servant having failed to get it changed for her, thus meaning to identify his Royal Highness with changing the note got for procuring the exchange for Colonel Knight. It must therefore be taken that in her first examination she gave clear distinct unhesitating testimony, that his Royal Highness procured a bank note of 200l. to be exchanged for her at a late hour in the end of July, 1805.

In the close of her evidence, on the first day, p. 19, in answer to a question whether it was the same day, (meaning the day she was paid the money by Mr. Knight) that she desired the Duke to get the note changed for her, she says, "I did not desire his Royal Highness to get it changed for me, he wished it himself, as I could not do it." This closes the evidence respecting the changing the note, on the first day of her examination,---and again leaves it as the note originally spoken of,---a 200l. Bank note,---and is meant to fix the getting it changed as the act of his Royal Highness.

There is one other question put relating to this matter, which may as well be observed on now; she is asked "what was the name of the servant by whom the note was changed?"---she answers, "I do not know---I am sure it is a very unusual thing to ask servants their

names."---Now, Sir, it is impossible to pass over this answer without observation; and it is as well, as it falls in the way, to observe upon it now. Does it not characterize the testimony of this witness, and shew that her mind is disposed to evade the truth, by avoiding an answer to the question? Would any one conclude from this testimony that there was but one servant of the Duke of York's who ever went to Mrs. Clarke's house? yet that only one servant of his Royal Highness ever went there is established to be the fact, not only by the evidence of that servant, but by the concurring testimony of Mrs. Clarke's servants. How the name of Loudovick, the Duke's servant, who alone attended his Royal Highness in Gloucester-place, could be unknown to Mrs. Clarke, it is difficult to conceive. But it is easy to find a reason to account for her desire to hold out by her answer that more than one servant of his Royal Highness attended there, and why she wished to avoid giving a direct answer as to the name of the servant who was said to be employed in changing the note.

I now return to the subject of changing the note, and I have to request the attention of the House to this; That having stated four accounts of the changing of the note,---all referring to a note of 200l. and all intended to establish that the Duke interfered to get the note changed, knowing how she had got it;---that it was got changed by his servant, and by his order. There is next to be considered a fifth account, which appears in p. 108 of the Evidence, which was given in her examination. It was on Thursday, the 9th of February. The question is material, it is this,---"You stated, on the first day of your examination, that a bill of 200l. which you received from Mr. Knight, was sent from your house to be changed by a servant of the Duke of York;---how do

you know it was taken by a servant of his Royal Highness, and not one of your own servants."---Now mark the answer, and bear in recollection, that on the first day of her examination she represented it thus: "*My servant could not get it changed---his servant got it changed,---his Royal Highness got change for it,---it was for me he got it changed.*" These are the answers she makes on the first day. But now in her fifth account in answer to the question of "how do you know it was taken by a servant of the Duke, and not one of your own," she says, "*I believe that I did not state that it was his Royal Highness's servant who took it, but that his Royal Highness had something to do with changing that note.*" Can there be a more palpable direct deviation from her original accounts given on the first day, from the impression attempted to be made by her testimony on the first day, and that which she now states? She now wishes to have it believed that his Royal Highness had only something to do with it, whereas before his Royal Highness got change for it,---she now believes that she did not state that it was his Royal Highness's servant who took it, whereas before she stated, and the whole import of the evidence rest on it, that it was his servant who took it to be changed; and she even assigned as a reason for his servant having taken it, that her servants could not get change for it. Can any thing be more decisive than this as to the credit of this witness?---can any thing establish more conclusively that the evidence of confirmation set up to support her testimony in this case falls from under her, and that it rests upon her own incredible declarations only, that all her transactions in these matters were made known to the Duke. But when it is discovered that there is a direct motive for this change of story, and for this contradiction in her evidence, when it shall, as it does appear from what

follows, that there is a motive for this change, the strength of the observation against her testimony is greatly increased.

When she gave evidence to this point on the 9th of February, she had learnt that her story would not be confirmed by the testimony of her butler, Pierson; she had seen that witness on the Saturday, or the Monday, after her first examination, and had got an account from him that he was the person who had gone to change the note,---that the Duke, according to Mrs. Clarke's account of Pierson's story, desired him, Pierson, to go to Stephen's, in Bond-street, his wine-merchant, to get the change. It became necessary that her evidence should be made to fall in with his account, and accordingly she says, that she "believes she did not state that it was his Royal Highness's servant who took it, but that his Royal Highness had something to do with it,"---an account which coincides with what she says she had learnt from Pierson, but directly contradicts what she herself had before said, to render the transaction respecting the change of the note confirmatory of her declarations as to the Duke's knowledge of her receipt of money for military promotion. Now the accounts given by Pierson, and that given by her, as Pierson's account to her, even if true, do not confirm her in her declarations. She says, Pierson called it a 50l. note; but in her evidence she has always referred to a 200l. Bank note, and no other. Pierson, on his first examination, p. 66, says, that the note which Loudovick changed, was changed in the morning, not the evening; that it was given by the housekeeper; and that it was some morning, a little time before Mrs. Clarke went to Worthing, in 1805. When asked if he saw a note given to Loudovick to change in the evening, he says, he did not. This evidence, therefore, cannot avail. But he is called

back on a future day, it being represented by the honourable Mover of these charges that on his first examination he had laboured under a head-ach, which deprived him of his memory. In p. 147 he has his former evidence read to him, and is asked if he has any alteration or addition to make to it, he says, "no alteration;" and then goes on to say, "one night that the Duke of York went to Weymouth, about eleven o'clock I was sent out to get a bill changed; I went out and got it changed, and brought it in to Mrs. Clarke, who looked it over and said it was all right. The Duke was present when I received it from Mrs. Clarke and gave it back to her." In p. 148 he says, "he thinks it was 100l. but is not certain. That he got it changed at Byfield and Bridgeman's, confectioners,---Mr. and Mrs. Bridgeman changed it,---that he went to Stephen's, in Bond-street, and they could not do it for him." Here is not one word of the Duke directing him to Stephens's, nor any evidence of his Royal Highness interfering, or having any thing to do with it, further than being present.

Mrs. Bridgeman is called, and in p. 271 she says, "she remembers Pierson calling in the end of July, 1805, with a note; she cannot recollect exactly what passed, *but she did not change the note.* She did not see the note, but thinks he said it was 100l." Loudovick in his evidence proved to be the only servant of his Royal Highness who ever attended him in Gloucester-place, says, that he never was sent with any note to change from Gloucester-place. So that this confirmatory evidence to support Mrs. Clarke's declarations of the Duke's knowledge of her guilt is reduced to nothing. The 200l. note turns out not to be a 200l. but a 100l. note; and according to Mrs. Clarke's own account of Pierson's testimony, a 50l. The order of the Duke to his servant to get changed what her servants could not

get changed, proves to be without foundation. What ever note was carried, was done by her servant, not by the Duke's;---by her orders, not by the Duke's; and where it was changed, or whether it was ever changed does not appear. It is clear, from Pierson's evidence, that it was not changed at Stephens's,---and it is clear from Mrs. Bridgeman's evidence that it was not changed by her.

The main confirmation brought forward by her to support her evidence being thus in the end absolutely given up and controverted by her concluding declaration, it seems unnecessary even to refer to the contradictions which have been so incontrovertibly established by my learned Friend, (Mr. Leach.) I should not therefore, even allude to what she said with regard to the time of her application to the Duke for the exchange, were it not important to observe, that when she differs as to the time, from Mr. Knight, and Dr. Thynne, that the time she fixes for having made her application is material, because it proves her determination to ascribe a time near the gazetting, in order to shew the influence she possessed, and with what dispatch she promoted the exchange; but in doing so, she fixes on a day, unfortunately, subsequent to that on which it appears by the official documents that the exchange was accomplished.

The knowledge, then, which the Duke of York had of her share in this transaction is reduced to her mere declaration, unsupported by any other testimony of any kind; and as she is discredited in the very circumstances which she brings forward as corroborative, there cannot be any conclusion of guilt, or of a guilty knowledge or connivance on the part of his Royal Highness.

I come now to the confirmatory, or corroborative evi-

dence, in the case of French's Levy, and I think I shall be able to shew, that that evidence is equally ineffectual, as to the proof of the Duke of York's knowledge of the corrupt transactions respecting it; and that the payment of money for that Levy by French, or Sandon, to Mrs. Clarke, was never known to his Royal Highness. The evidence of confirmation in this case consists---*First*, of the manner in which the Levy was disbanded, or put an end to,---*Secondly*, in the circumstance of the plate having been bought from Parker by her payment of 500l. of that money, as part of the price of it, and that the remainder of the payment, the Duke knowing this first source, was paid by his Royal Highness;---*Thirdly*, the conversation related by Miss Taylor.

The first of these grounds arises out of the documents, and does not originate with Mrs. Clarke. The two last originate entirely from her, and under circumstances such as will receive, when I come to them, observations which I conceive to be of the utmost importance in order to destroy this testimony, and to shew that it falls from under her. As to the first it has been observed by my honourable Friend (Mr. Whitbread) and by the noble Lord who spoke last, that the unwillingness with which the Duke put an end to the Levy, and the gentle terms in which he expressed himself when he did disband it, are strong circumstances to prove that he knew of the benefit which Mrs. Clarke derived from it. In this part of the case there are many observations to be made which I shall omit, because they have been already made, and as I think, conclusively; I shall confine myself merely to the facts which relate to the Levy being put an end to.

It appears that representations came from Dublin early in January, 1805, respecting the impediments to the recruiting the Levy---that his Royal Highness imme-

diately ordered an inquiry into it—that this, however, did not prevent the Commander in Chief from directing General Whitelocke to communicate to Colonel French his determination to discontinue the Levy, unless a very considerable increase should take place in the numbers recruited. General Whitelocke's letter is dated the 2d of February, 1805, and appears clearly to be in obedience to the Duke of York's commands. Here there is evidence that his Royal Highness had taken steps to announce the eventual discontinuance of the Levy. This at least is no proof that he was apprehensive of any discovery. The correspondence afterwards with Mr. Kirkman takes place, and by a letter dated 14th of April, from General Whitelocke to Colonel Gordon, which must have reached the 15th, the conduct of the temporary serjeants in London, is represented as disgraceful. On the 16th of April, 1805, (No. 20 of the Appendix,) his Royal Highness writes to the Secretary at War, that his Majesty had been pleased to approve of the discontinuance of the Levy which he had recommended to his Majesty. It is contended that the manner in which his Royal Highness expresses himself is so gentle, that it indicates a knowledge of the corrupt practices which existed between Mrs. Clarke and Colonel French. On this I have to observe,—*First*, that the letter of his Royal Highness contains impressions conformable to the letter on which he acted.—*Secondly*, that it seems most extraordinary that more should be required than the act of discontinuance—that act constitutes the real substantial injury to French. The corps had been a most losing concern to him. He had paid a large sum to Mrs. Clarke, and was left in debt to his agent. The continuance of the corps might have relieved him—the discontinuance ruined him. It was the act of discontinuance, therefore, that he must have felt; and it

was that act, if the Duke had been apprehensive of discovery, which he must have resisted and avoided—yet he stopped the Levy the very day after he received Whitelocke's letter. The language, therefore, which he used to the Secretary at War in his official letter, could not operate as an alleviation in the mind of Colonel French for such an injury, and the mere fact that the Duke did discontinue the Levy is of itself sufficient to shew that he did not act under any apprehension. But, Sir, the whole tenor of the conduct of his Royal Highness shews, that he had no apprehension for any discovery in any part of his conduct. When he separated from Mrs. Clarke, when upon a full knowledge of her character from the written report which I conveyed to him, his mind was satisfied, he took his determination with a firmness—he suppressed his affection with a resolution quite inconsistent with the fear of discovery. When she attempted to renew the intercourse, he was equally firm in withstanding it. In the non-payment of the annuity there is again proof of his acting from motives which shewed no fear of a discovery of any knowledge, on his part, of her corrupt conduct. The same conclusion is to be drawn from the conduct of his Royal Highness when I communicated to him her letters of June, 1808, which contain a direct threat of discovery, and that it amounted to *something serious*. From the time that these letters were written, whatever might have been the wish, or inclination, respecting the annuity before that period—whatever might have been proper to have been done in it, it became impossible for his Royal Highness to act otherwise than he did. He shewed no inclination whatever, as I have stated in my evidence, to give way to that threat, and no fear or apprehension of any thing that she could communicate. The Royal Duke certainly never shewed any inclination by acting

the unbecoming part of compromise, or settlement, in consequence of that threat. And his Royal Highness, I trust, knew me too well to suppose that I would have been the agent in such a transaction, if he had been so inclined.

On the whole I cannot help being clearly of opinion, that there was nothing in the Duke's general conduct which denoted a fear of discovery; and that in the particular instance of discontinuing the Levy, the language in which it was conveyed does not afford an argument to that effect, especially when put against the act itself, (which was the real injury) which had been long resolved upon; and the resolution having been announced two months and more before the accomplishment of it, gave room for such communications as might have excited apprehension if there had been guilt, yet nothing of the kind appears.

I now come to the question of the purchase of the plate, and the corroboration supposed to be derived from the mode in which it was paid.

This testimony was opened by the honourable Gentleman on the day on which he preferred his charges, and must have proceeded distinctly from the information of Mrs. Clarke. It was meant to shew that the Duke of York knew of the first payment for the plate being made by Mrs. Clarke; and that he knew that it was made by money derived from French for having promised him his levy, that the Duke by paying the balance must have known the source from whence Mrs. Clarke derived the money, which made the first payment. In order to shew how fallacious this part of the confirmatory testimony is, it is necessary to examine the account, and to discuss the evidence which relates to it. The account is in page 129 of the evidence. The sum total at the debit side is 1821l. and a fraction. The first payment

on the credit side is 500l. said to be paid by Mrs. Clarke from French's money. Now it is material to observe, that this payment was made on the 18th of May, 1804; from whom it comes does not appear on the face of the account, only that the account is entitled as the account of Mrs. Clarke.

The next payment is 200l. the 12th of July, by a bill at two months, but whose bill does not appear on the face of the account; but it is to be remarked, that there is a long interval between the first and second payment, consequently whatever connexion the Duke of York may have with the second payment, there is no necessary connexion between the first and the second, from which to infer, or even to conjecture, that he knew any thing of the sort. Having made these observations, respecting the account, I must now turn to the evidence of Mr. Dockery, page 248. That witness is asked "Whether he knows that the plate was sent to Gloucester-place for the inspection of the Duke of York and Mrs. Clarke:" he answers, "Not to my recollection." "Whether he recollects the Duke of York and Mrs. Clarke going to Birkitt's to examine the plate," "No."

There is then no evidence whatever of the Duke of York having ever seen the plate in company with Mrs. Clarke, or any evidence of his having ever seen it at all.

The witness is next asked as to the payment of the plate. He says, 500l. was paid when delivered, the remainder was settled by bills at different dates. He does not know by whom the 500l. was paid: but it was paid in two notes of 300l. and 200l.

The evidence then is entirely defective as to who paid the money; and whoever paid it, there is not the smallest proof that the Duke of York was privy to its payment; nor is it to be inferred, or conjectured even, that it was known any how to his Royal Highness that it was

paid on account of the plate; and the account is not one to which the Duke of York had any access, or with which he had any privity.

The witness then says, "That the bills by which the remainder was paid, were drawn by Mrs. Clarke upon the Duke of York; and that they were afterwards paid by the Duke by drafts on Coutts and Co.; that he offered the bills to the Duke as they became due, but that his Royal Highness never spoke on the subject of the service."

From this then it appears that the Duke, as the bills became due, gave orders for them, but that he attained no knowledge of the transaction by any conversation with the witness, and there is no evidence of his having obtained any from any other quarter, consequently all that can be said to have been known by his Royal Highness was, that he was to pay bills for a service of plate to the amount of something more than 1300*l.* Here it is necessary again to turn to the account. From the debit side of the account it appears that the value of the plate was 1363*l.* and from the credit side of the account it appears that the Duke paid 1321*l.* the other part of the account relates to the other matter with which the Duke had no connexion; and whether the 500*l.* was specifically applied to the plate, or not; or whether the Duke was thus taken in to pay what remained due of Mr. Birkitt's bill, of a different date from the service of plate. The first on the 16th of May, the other, the 16th of June, is of no importance in the present consideration. The question here is, as to the Duke's knowledge of the 500*l.* having been paid for the plate in part, and having been the 500*l.* paid by French to Mrs. Clarke. First, then the 500*l.* being French's money is not made out, nor is there the slightest evidence that it was French's money. Secondly, 500*l.* being paid at all for the plate,

to the knowledge of the Duke of York, is not made out. The only thing that is made out is the payment of an account equal to the service, by the Duke, and therefore his knowledge of the payment of the 500*l.* being paid for the plate is negatived; and thus this piece of corroboratory evidence, ushered in with so much particularity by the Mover of these charges, and suggested to him by Mrs. Clarke, falls from under them, and leaves the case on her unsupported assertion, unless the evidence of Miss Taylor is to be considered as conferring that support on Mrs. Clarke's evidence.

But, Sir, before I leave this question of the plate, I must request the attention of the House to a collateral matter introduced by my honourable Friend, (Mr. Whitbread.) My honourable Friend in a very eloquent passage of his speech, endeavoured to impress a sort of lesson of political morality on the House, mentioned that this plate was the Duc de Berri's plate, a prince of the monarchy of France, who had been driven by the misfortune of revolution into this country, and by necessity had been obliged to part with this service of plate: and he seemed to infer from his statement, and from the lesson which it might teach, as if the Royal Duke had known and permitted the plate of the unfortunate Duc de Berri to become the property of Mrs. Clarke. Now, Sir, I do feel extremely anxious to remove the possibility of such an impression in addition to all the other unfavourable views that are now endeavoured to be attached to the character of the Royal Duke. His having given this plate to such a person, with such a knowledge, is a thing he is incapable of; and by looking at the evidence, page 247, it appears that the witness who states it to have belonged to the Duc de Berri, states in the answers which immediately

follow, that the Duke of York never saw the plate, or knew to whom it belonged.

I shall now endeavour to discuss the subject of Miss Taylor's evidence, in a manner that I trust will not raise a prejudice against me, even by those who are the most anxious to protect Miss Taylor. I am aware how ineffectual it is to attempt to do any good with any tribunal, especially with a popular tribunal like this, by counteracting their prepossessions. I see that in many there is a prepossession in favour of Miss Taylor, or rather a prejudice against the manner in which she has been cross-examined, and in which evidence has been brought to discredit her. Without admitting that these prepossessions are well-founded, but on the contrary, considering the course taken as perfectly legitimate, I do not feel it necessary for my argument to call that course in aid. The noble Lord (Lord Folkstone,) has told us, that Miss Taylor has suffered cruelly in consequence of what passed in this House respecting her. If that be so, I say sincerely, that I am very sorry for her sufferings; but I cannot therefore agree, that the rules of justice are not to be followed out, that witnesses are not to be detected, that they are not to be traced in their lives and connections, and that their evidence is not to be commented upon, whatever the consequence may be. It is a misfortune, but it is one in which all of us in our turn must be liable for the sake of justice. The noble Lord, who commiserates Miss Taylor, does not think therefore that he should abstain from the most severe observations on other witnesses. He attacks, without reserve, the official veracity and the correctness of Colonel Gordon's testimony, (a witness above all exception,) without consideration as to the effect it may have; and in doing so, he does his duty, when he makes the observation which his conscience justifies, and his judgment dictates. But

while I say this in defence of justice, I do not require it to serve me in the course which I shall take in discussing Miss Taylor's evidence.

In my view of it, her character, her course of life, her connexions, shall not have a single observation made upon them.

On this subject I beg the most serious attention of the House, as I conceive it, in the view I take of it, to be one of the most important features in this most cruel, most extraordinary, and unprecedented case.

The nature of the evidence which Miss Taylor has given, is well known to the law; upon which it will appear that much doctrine of great importance is to be found. It is in ordinary criminal cases known as evidence of confession. In other words it is the verbal declaration of the party, brought against him to convict him; and, though admissible, is invariably considered as the slightest and most ineffectual of all testimony, unless supported by a strong foundation of fact, that is, by the *Res Gestæ*, and without such support is not permitted to have any influence in any case civil or criminal. Now, before I cite authority on this subject, permit me to state some principles and rules which govern in matters of evidence of this nature. If I were asked what *legal demonstration* is, I should say that *legal demonstration* is that evidence, in which, if the witness speaks true, the fact to which he speaks must be true. That it is the highest evidence which human affairs admit of from the testimony of witnesses. Thus an event, which happens in the sight of the witness must be believed to be true, provided the witness who proves it is a witness of veracity. In proportion as the matter to be given in evidence fall short of that character, in the same proportion (however pure and credible the witness) the testimony falls short of *legal demonstration*.

And in the same proportion the conviction to arise from it diminishes. Now the evidence of *verbal declaration*, of words spoken, or conversations held, is directly the reverse of that which I have termed *legal demonstration*, for in all testimony of this kind, the witness may be the witness of perfect truth, and yet the fact to which he speaks may not be true; nay, it may be perfectly false; or, to speak more correctly, it may be true in the conception and belief of the witness, according to his recollection, and yet in fact different, and give an impression perfectly different from the words spoken.

There is another character belonging to this species of evidence, very material to be attended to, namely, that it is impossible to contradict it. It is a declaration in words, and all that can be said by any other witness, than the witness who proves them, is, that he did not hear the party speak them. When two persons are present to see an act done, you can have contradictory proof. The negative can be proved; but in the case of verbal declaration, the negation cannot be established: it is remarked therefore by all law authors on this subject, that the witness to confessional evidence, or verbal declarations cannot, in those Courts where oaths are administered, be indicted for perjury. Accordingly, Mr. Justice Blackstone in his Commentaries says, "Words are the weakest and most suspicious testimony, seldom remembered accurately, or reported with due precision, and incapable in their nature of being disproved by other negative evidence." That incomparable judge and writer, who at once breathes the spirit of liberty and justice, Mr. Foster, of whom it was truly said, that his works would last as long as the constitution of England should endure, says, "Words are transient and fleeting as the wind, easily misunderstood, and often misreported; whether through ignorance, inattention, or malice, it mattereth not to the defendant, he is equally

"affected in either case; and they are extremely liable to misconception; and withal this evidence is not in the course of things to be disproved by that sort of *negative evidence* by which the proof of plain facts may be, and is so often confronted. Hasty confessions made to persons having no authority to examine, are the weakest and most suspicious of all evidence; as proof of them may be too easily procured, and cannot be by any means contradicted."

If these doctrines and principles are applicable to any case, I am sure it must be allowed, that they are applicable to that under consideration; for a case of verbal declaration more fraught with every circumstance which leads to the disbelief of its accuracy never was attempted to be brought before any tribunal.

First of all, it will be recollected, and I beg the attention of the House to this most important observation, that the testimony given by Miss Taylor; her confirmation of the evidence of Mrs. Clarke; the existence of such a person, or of such a proof was never hinted at by the Mover of these charges, when he opened them; nay, it appears that it was not only not known to that Gentleman, but that it could not be known to him, and that it has been thought of and discovered by Mrs. Clarke since the charges were brought, and yet this was a charge in which corroborating evidence had been thought of before hand, but was made to rest at the opening upon the payment for the plate, and on that alone. Another proof that no confirmation by Miss Taylor was then thought of.

Dates here are of the greatest importance. The honourable Gentleman made his opening speech on the 27th of January. The evidence was opened on the 1st of February. Miss Taylor, page 472, in her second examination is asked, "Did you at any time afterwards

have any conversation with Mrs. Clarke relative to the observations of the Duke of York upon Colonel French's business." "Not till within three weeks or a month." "What was the conversation you had at that time." "She asked me if I recollected the Duke of York mentioning Colonel French's name in my presence. I immediately recollected the circumstance and told her." She says this passed within three weeks or a month. A month will carry it to a day or two before the time of the opening; three weeks will carry it to the day of the evidence beginning. Now is it probable, nay, is it possible, if a piece of confirmatory evidence, so relied on as this, had been known at the time of the opening, that in the intercourse between the honourable Mover and Mrs. Clarke it would not have been known to him, and if known, that it would not have been stated.

What I have to remark on this evidence, is first, the different manner in which she proves the different parts of the conversation. The first branch she speaks of most positively. She says, "The Duke's words were, as nearly as I can recollect, 'I am continually worried by Colonel French; he worries me continually about his levy business, and is always wanting something more in his own favour.' Then turning to Mrs. Clarke, I *think* he said, 'how does he behave to you?' She said, 'middling, not very well.'" Being desired to relate the rest, she says, "the Duke said, 'Master French must mind what he is about, or I'll cut him up and his levy too.' That was all he said." Now, Sir, it is clear, that the middle part of the conversation is that which infers guilt; the first part and the last part are perfectly innocent, might have been spoken at any time, and before any body; and may be admitted to have been spoken by the Duke of York without prejudice. It is remarkable

that she asserts the first passage of the conversation with a very firm recollection, and she recites the last part with perfect confidence; but she interposes a most material term of qualification where she introduces the second, which is what the whole turns upon. She then says, "I *think* the Duke said, how does he behave to you." This part of the conversation, the shortest branch of it, the easiest recollected, the most likely to be impressed upon the mind, because it is that which disclosed or confirmed the guilty knowledge, consisting of a few words she speaks of with doubt and hesitation. She introduces it with *I think*: she is afraid of being too certain: she speaks like a person who had something infused into her memory recently, which had not been there before; but in the long passage which precedes it, and in the passage which follows it, she introduces no such qualification. Now observe, when this conversation is said to have passed. It must have passed, if it passed at all, early in the spring of 1805, for the levy was put an end to on the 16th of April, 1805; that is very near four years ago. Now, if the principles which I have laid down; if the doctrine which I have derived from the most pure legal sources are well founded as to recent declarations, as to words spoken within a short time and under circumstances which excite accuracy of recollection; they are much more suited to affect the credit due to an account of words spoken at a very distant period under no particular circumstances, not likely from any cause ever to have been called up in the witness's memory, and never brought to her recollection by any conversation, or any other course, until three weeks before the evidence is given, and then brought to her recollection by Mrs. Clarke, after the accusation had been instituted, and while it was proceeding; when the impressions arising from the proceedings were calculated to mislead the witness, and to induce the accuser to create

or encourage a false impression. But this is not all; the manner in which this is brought out, I mean the manner in which Mrs. Clarke's reminding Miss Taylor is brought to the knowledge of the House is most material. Miss Taylor is examined on the 9th of February, the first time. She then gives an account of the conversation, but there is not in that day's evidence one word of her having had any conversation with Mrs. Clarke upon the subject. On the 22nd of February she is examined a second time; and being asked, "If at any time afterwards she had any conversation with Mrs. Clarke relative to the Duke's observation on French's business." She answered, "Not till within these three weeks or a month. That Mrs. Clarke asked her, if she recollected the Duke of York mentioning Colonel French's name in her presence; and she said I immediately recollected the circumstance and told her." And she there goes on to say, "that she does not recollect what Mrs. Clarke said upon it."

Here then there is distinct evidence of two things, most important in the consideration of evidence of this description. First, that during all the intermediate period that passed, now three years and eleven months ago, she never had mentioned it to any body, that even at this time, that is three weeks or four weeks since, she does not suggest the subject from her own memory. But it remains there, dead and inanimate, until it is revived by a question from Mrs. Clarke. Is evidence to a verbal declaration, which passed in a conversation at such a distance of time, likely to be correctly what passed at that time; or more likely to partake of the character which would be given to it by the person who received it? Can evidence, the most weak and uncertain, the most discouraged for that reason in all criminal proceedings, be held sufficient, in any respect, to fix guilt, of so mean a sort, upon such a person as the Duke of

York; or could it be permitted, in any case, in any Court, to have the least influence as confirmatory testimony. But there is still something behind, still farther to destroy the effect of this weak and most suspicious of all evidence. On the day on which Miss Taylor was examined last, the 22d of February, Mrs. Clarke is likewise examined, and she was examined before Miss Taylor; so that Mrs. Clarke could not then know what questions would be put to Miss Taylor. It was, therefore, her object, conformably to the plan of the evidence, to give the utmost belief to the Duke's free communications in the presence of Miss Taylor. Mrs. Clarke is asked, "If, in the presence of Miss Taylor, the Duke of York and yourself ever talked of military promotions?" To which she answers, "I am sure I cannot say; the Duke was very fond of Miss Taylor, and he did not mind what he said before her." Now, *first* of all, it is a little singular that a person who, within three weeks or a little more, had reminded Miss Taylor of French's levy, should have so little recollection of what the Duke had said before Miss Taylor. In the next place, it was calculated to produce an impression, that the Duke was very open before Miss Taylor, even on military subjects, and that he saw her often, and familiarly. Yet, in the course of the same evening, Miss Taylor, who gives the evidence already stated, respecting the being reminded by Mrs. Clarke of the conversation respecting French, represents herself as having never heard Mrs. Clarke and the Duke of York converse on military promotions. And, in another part of the same testimony, she declares, that she has no memory of any thing that passed in the conversation three weeks ago upon the subject of this conversation which passed nearly four years ago; and yet she recollects with precision, at this distance of time, the terms and words of that conversation. Now, without imputing to her in

this argument any thing that affects her veracity, giving her credit at present for having been in the Duke of York's society at Gloucester-place, (though Mrs. Clarke's servant, Pierson, the butler, who was always in attendance when the Duke was there, says that Miss Taylor never was there,) giving her credit for a regard to truth, as far as her memory will serve her, I conclude, and with confidence too, that the criminating part of this confirming testimony cannot be taken to be true. It comes at such a distance of time, from a witness who recollects so little of what has passed recently, with impressions made upon her mind so calculated to give it a bias, that though the witness may, according to her confession, *speak true*, the declaration which she states *cannot be true*, but must fall within all the exceptions which I have taken to this sort of evidence, and for which I have cited the greatest authorities.

There still remains behind however some evidence upon this part of the case, which has not been touched upon by any person who has yet spoken, which seems to bear very strongly on the credit due to the memory of Miss Taylor, and which likewise strongly affects her credibility in point of veracity. In the evidence of Miss Taylor given the first day of her examination, she is questioned particularly as to the time when this conversation took place, and she says it was at the time that she removed with her father's family from Bayswater to Islington. In order to ascertain when this was, it will be necessary to look particularly to the evidence which she gives as to her places of residence. In page 123, she says, "I lived at Chelsea from last Michaelmas twelvemonth." This carries the commencement of her residence at Chelsea to Michaelmas, 1807; she lived at Kentish-Town immediately before that, and she says, "I lived there not three quarters of a year." This carries the commencement of her living there back to Christmas,

1806, at farthest; she had gone from Islington to Kentish-Town, and she is asked how long she lived at Islington; she answers "a little more than a year." This would carry her beginning to live at Islington, and her leaving Bayswater, back to Christmas, 1805, or a little before that period; however, when she is asked again about the length of time she resided at Bayswater, she enlarges the time. The first question is, page 124, "How long did you reside at Islington?" "A little more than a twelvemonth." "How much more?" "Seven or eight months." Now seven or eight months seem an odd explanation of little more than a year. But suppose this to be correct, though I knew it not to be so, and that it will be impossible to prove that she remained at Bayswater longer than Michaelmas, 1805; the eight months, a tolerable stretch for a little more than a year, carries it back to the month of May, 1805. Now the levy was discontinued on the 16th of April, 1805; the notice of its discontinuance, was on the 2d of February, 1805; consequently, the conversation, to be true, could not have passed later than the interval between the 2d of February and the 16th of April; and the time which Miss Taylor assigns for having heard it, after stretching that time to the utmost, explaining a little more than a year by seven or eight months, fixes a time for it, after the levy was at an end. If this is to be taken as a correct account of the time, it is fatal to her veracity; if it is to be considered as erroneous, it is fatal to the correctness of her memory. In either case, it is destructive of her testimony, as to evidence of the description in question, which, to be available, must come from a mind capable of clear and accurate recollection, so as to insure to a certainty that the words repeated were the words spoken; whereas, we have here an additional instance (to put it in the most favourable light), of the vagueness of her

recollections. On these grounds, Sir, the conclusion which I draw is, that the evidence to corroborate Mrs. Clarke, in the case of French's levy, completely fails; and that this case again rests upon Mrs. Clarke's unconfirmed assertion, and upon that the Duke of York cannot be held to be guilty of participation in, or a connivance at, her corrupt dealings, considering the nature of that testimony, and the influence which dictates it.

I come now to the matter of Tonym's promotion, and having consumed so much time, at so late an hour on the other subjects, on this I shall be extremely short. If this case had stood as it did at first, no question could have been made to involve the Duke of York's criminal knowledge of Mrs. Clarke's receipt of money. It then rested merely on her assertion, and the documentary evidence which, proving the nature and circumstances of the promotion, completely controvert any conclusion injurious to the Duke. But the mysterious note, as it has been justly called, gives a colour to that charge which makes it necessary for me to say a word or two upon it. With regard to the hand-writing of the note, it would be indelicate in me, having been one of the witnesses on that subject, to say a word; but supposing it to be the hand-writing of the Duke, I submit that there is nothing to connect it with pecuniary guilt, and that there are circumstances which render it impossible so to connect it. The note from Mrs. Clarke to Sandon, received the 17th of August, 1804, shews that she had not taken any such mode of stopping the promotion, but if she had taken any, she took it in conversation; and that she had no means of accomplishing it. Now the cover which accompanied the note, as Sandon states, is dated 23d August, and as the promotion was then both made and published in the Gazette, it was too late, by that means, to have been of any use. It must apply, there-

fore, if applicable at all, to some point of time which does not suit the money transactions, and is to be placed as proof of mere interference. In that view, it falls within that head of the subject which is proposed to be taken up by the right honourable Gentleman on the floor (Mr. Bathurst), to which I shall now take the liberty of calling the attention of the House.

The proposition of the right honourable Gentleman is ushered in with a positive declaration of the Duke's innocence, as to all pecuniary corruption, either by participation, knowledge, or connivance: but he considers it necessary to resolve, that there has been a dangerous interference in matters of military promotion by Mrs. Clarke, and this ought to be particularly marked by the House. It is impossible, Sir, to consider this in any light, but one as a motion to remove the Royal Duke from his office, as Commander in Chief: because, certainly, if the resolution which he proposes were to pass, his Royal Highness could not remain in office under such a stigma. The question then is fairly this: are the three cases of interference, which are said to be proved, and there are but three, enough to warrant such a proceeding, when taken against the whole strain and tenor of his official life. There is the case of Tonym's promotion, which the note may be said to bring home to his Royal Highness, as a mere matter of interference. There is the case of the letter about Clavering, from which it appears, that she wrote to him, and that he answered her, and did not find fault with her for writing to him on military appointments. But, farther than this, it proves nothing; for the terms of the answer set aside the application; and, lastly, the case of that poor young man, Carter, whose case seems as it were by unanimous consent to have been given up from pity, and which in mercy should never have been brought forward at all; a case in which the application had been made by

an officer, at a former period, and whose natural son General Rochfort represents Carter to be; whose letters prove his education to have been excellent, and that he has been only brought back to a rank in life from which he had been driven by misfortune, and by the poverty of his real and reputed parent. Sir, I have been no adulator of the Royal Duke; whenever my duty has required it, I trust that I have stated, with the respect due to his rank, but with the firmness due to truth, and to an honourable discharge of my duty, what appeared to me to be fit and necessary. I trust that I shall not now be considered to flatter, when I say, that it would be strange indeed, to visit such services as the Duke of York's, for such and so few causes of improper interference, with such severity as the right honourable Gentleman's censure. Is it to be said, that because a person, living in the connection in which Mrs. Clarke lived with his Royal Highness, had a slight influence, or a slight interference, in the disposal of a few commissions, that this is to stamp him with a crime, and to operate his removal from office? Is it possible in human nature to prevent a person in that situation from having the knowledge of many things that are proceeding in a manner the most innocent, and to prevent such a person, if she is so inclined, from availing herself of such knowledge? Is it possible, that what occupies a person during the day should not make part of his conversation in the evening, and that he should not, in a moment of relaxation, or from feelings of affection, express himself innocently, respecting persons who have been the subject of his consideration during the hours of business? I trust, Sir, that there is still liberality enough in the world to see this subject in this light; and that it would be too much to say, that fourteen years of incessant labour, for many many hours in the day, and every day of the year; admirable regulations for the comfort of the soldiers,

for the education and support of their children, and for the military education of officers; the laws for which brought forward by the Royal Duke fill your Statute-Book and load your table; that the constant, and conscientious, and pure discharge of his duty, from 1795 to 1804, without spot or fault; again, during the two years when Mrs. Clarke lived in Gloucester Place without spot or fault, unless these three instances are to be considered as such, and from that time to the present, with equal diligence and with equal honour, with so extensive a patronage never misused; that all this, set against the two instances in which he answered her letter and note, and the single instance in which he promoted Carter, supposing it to be at her desire, should not avail? I am sure this is not the way in which this House and this country have been accustomed to judge. Sir, I have now concluded my observations upon this most anxious, most interesting, and most unprecedented proceeding; in which the conduct of the Royal Duke has been sifted in his most unguarded moments. His conversation, and his declarations of the most unreserved nature, brought in every shape, and from every quarter against him; and I feel satisfied, that I have stated grounds for my judgment in this case, which would guide my conscience on the most solemn occasion. I have omitted many topics, on which I might have observed, but I trust that the House will consider this as a tribute due to them for their kind attention, and not from any feeling that I have not strong reasons to give for my conclusions of innocence on the points which I have passed over, as well as on those on which I have been observing.

But before I sit down I cannot forbear mentioning an anecdote which discloses at once the correctness of sentiment, the justly laudable anguish of feeling, and

the firmness of mind, of his Royal Highness, in respect to this most distressing, unfortunate, and calamitous proceeding, which shews, that his anxious attention to his official duties, to the interests, and even to the gratification of others, were unabated, while his mind was torn and agitated with the accounts of this proceeding; and while it displays his attention to the interests of a most gallant and meritorious officer, it serves to explain, by a most apt illustration, how innocently his Royal Highness might communicate that knowledge which might enable a designing and unprincipled person to accomplish the purposes of illicit and shameful gain.

At a period of this proceeding when some matter had been brought forward, which, when conveyed to his Royal Highness affected him deeply, by finding the meanness of pecuniary corruption cruelly and falsely imputed to him at a moment when his heart was wrung with this imputation, so that the utmost exertions of his fortitude, could hardly restrain his tears; he communicated to me the promotion of General Graham, (lately a Member of this House,) a person whose high character is well known; whose peculiar turn to military affairs has greatly distinguished him; whose promotion had, at a former period, been refused, for reasons which were then thought conclusive; with regard to whose promotion the objections had been removed by subsequent events, and the long continuation of voluntary services. This gallant officer, who fought at the battle of Corunna, and stood by the side of his friend, Sir John Moore, when he fell, General Hope had recommended to the Commander in Chief, at the dying request of Sir John Moore, in order that he might get his rank. When his Royal Highness communicated this subject to me, under the circumstances which I have just set forth, he said, "I know, from your attachment to Graham, that it will give you pleasure to learn that I have passed a

great part of this morning in writing to his Majesty my reasons for thinking that the obstacles to Colonel Graham's promotion are removed; and I trust I have given such reasons as will induce his Majesty to authorize the promoting him to the rank of Major-General. The King's answer has not yet come back, but I impart the matter to you because I know how much you will be gratified in being told what is so truly interesting and important to your friend." I felt the kindness of the communication, and being particularly impressed with the whole scene, with the excess of feeling, the fortitude in repressing it, and the kindness in devoting himself, under these circumstances, to the interests of others, that I could not refrain from shewing and expressing what I felt. After a little time his Royal Highness said, "you may now discover from the communication which I have imparted to you, several days before it can be known to the public, how I may have been abused in similar cases, and by what means communications, which might drop in conversation with motives perfectly pure on my part, might be turned to purposes the most criminal and corrupt. If I had mentioned such a matter as Colonel Graham's intended promotion in the parlour at Gloucester-place, I have now reason to see that a communication, innocent on my part, would have been immediately made the subject of a base and scandalous traffick, from which I could only be secured by the honour of the man who was the object of promotion." Sir, it is impossible that these circumstances should not make a deep impression on the House, and it would be a strange perversion of understanding to say, that such a communication violated the rule I have given in evidence as to the Duke's conduct, in not communicating with Mrs. Clarke on these subjects. I mean his having said "that when Mrs. Clarke, early in their acquaintance, stated something to him relative to promotion in the

army, that that was business he could not listen to." It is no violation of this rule that in his ordinary unreserved conversation with a person in whom he implicitly confided, and of whom he had then no earthly distrust, that he should accidentally mention subjects of this nature. And every candid and honourable mind will allow that it is impossible in the intercourse of life that men should be tied up to such strictness, or that any body, in the least acquainted with the world, can impute such conversation as a matter of crime.

Sir, I shall trouble the House no farther than merely to state, that these views of the different parts of this extensive question satisfy me, that in a case of this nature, the principles of substantial justice render it much more fit to proceed by resolution than by address; that the proceeding by resolution leads to a decision on the justice of the case, without being obstructive of any ulterior measure. But in an address you involve the question of justice and of policy,—by resolution you separate them, and by separating justice from policy in the first instance, you do not exclude the exercise of your discretion as to any ultimate measure, by address or by any other course consistent with the Rules of Parliament, and the principles of justice.

FINIS.