

1681

THE PROTESTATION OF THE LORDS

Upon rejecting the *Impeachment* of Mr. *Fitz-Harris*.
March 28. 1681.

BEcause that in all Ages it hath been an *Undoubted* Right of the *Commons*, to impeach before the *Lords*, any Subject, for *Treasons*, or any Crime whatsoever; and the reason is, because great Offences that Influence the *Parliament*, are most effectually determined in *Parliament*.

We cannot reject the *Impeachment* of the *Commons*, because that Suit or Complaint can be determined nowhere else: For, if the Party *Impeached* should be Indited in the *King's Bench*, or in any other Court, for the same Offence, yet it is not the same Suit; for an *Impeachment* is at the Suit of the *People*, and they have an Interest in it, but an *Inditement* is at the Suit of the *King*. For, one and the same Offence may intitle several Persons to several Suits; as, if a Murder be committed, the King may indite at his Suit, and the Heir, or the Wife of the Party murdered may bring an *Appeal*; and the King cannot release that *Appeal*, nor his *Inditement* prevent the Proceedings in the *Appeal*; because the *Appeal* is the Suit of the Party, and he hath an Interest in it.

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** Which is always to be preferred, and upon notice thereof, all Prosecutions at the Suit of the King is to stop, till the Prosecution at the Suit of the Party be determined.*



It is, as we conceive, an *absolute Denial of Justice*, in regard, as it is said before, the same Suit cannot be tryed any where else. The House of Peers, as to *Impeachments*, proceed by virtue of their *Judicial Power*, and not by their *Legislative*; and as to that, act as a *Court of Record*, and can deny Suitors (especially the *Commons of England*, that bring *Legal Complaint* before them) no more than the Justices of *Westminster-Hall*, or other Courts can deny any *Suit* or *Criminal Cause*, that is regularly commenced before them.

Our Law saith, in the Person of the King, *Nulli negabimus Justitiam*, we will deny Justice to no single Person; yet here, as we apprehend, Justice is denied to the whole Body of the People; this may be interpreted, an Exercising of *Arbitrary Power*, and will, as we fear, have Influence upon the Constitution of the *English Government*, and be an Incouragement to all inferiour Courts, to exercise the same *Arbitrary Power*, by denying the Presentments of *Grand Juries*, &c. for which, at this time, the *Chief Justice* stands impeached in the *House of Peers*.

These Proceedings may misrepresent the *House of Peers* to the King and People, especially, at this time; and the more, in the particular Case of *Edward Fitz-Harris*, who is publickly known to be concerned in vile and horrid Treasons against his Majesty, and a great Conspirator in the *Popish Plot*, to murder the *King*, and destroy and subvert the *Protestant Religion*.

Monmouth
Kent
Huntington
Bedford
Salisbury
Clare
Stamford

Sunderland
Essex
Shaftsbury
Macklesfield
Mordant
Wharton

Paget
Grey of Wark
Herbert of Cherbury
Cornwallis
Lovelace
Crew