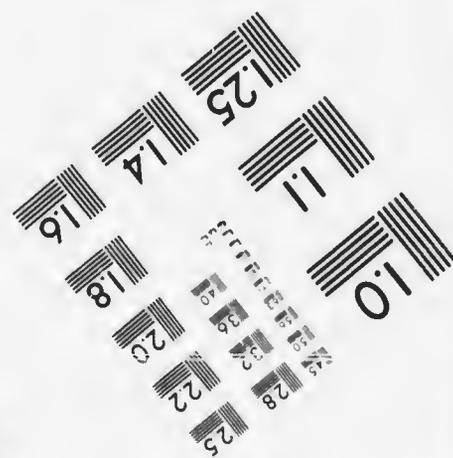
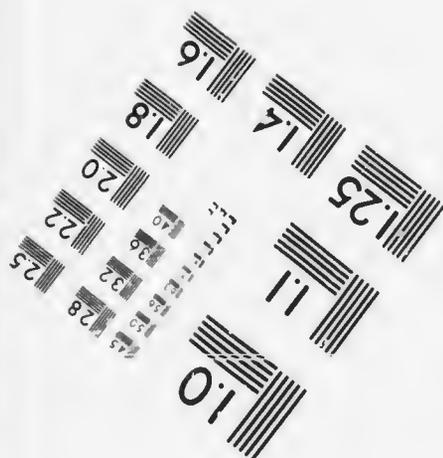
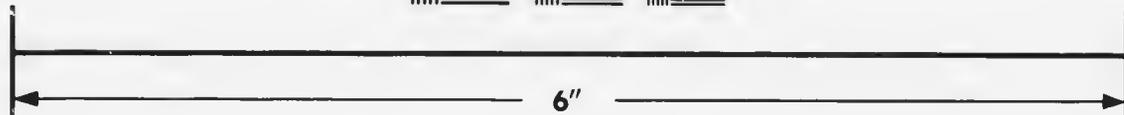
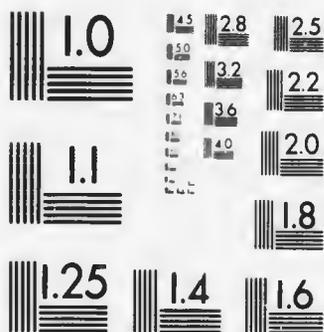


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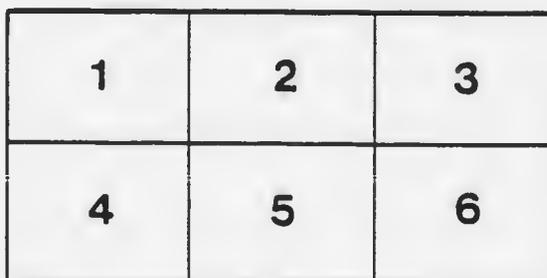
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To the Historical Collection
at Acadia College

CHARLES B. BROWN

March 1847

COLLECTION

OF ALL THE

From St. James

Publications relating to the Impeachment

OF THE

JUDGES

OF HIS MAJESTY'S SUPREME COURT

OF THE

Province of Nova-Scotia.

CHARLES B. BROWN

JUDGES PROUTY

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Wm. B. Ewing
Wm. B. Ewing
Wm. B. Ewing
Wm. B. Ewing

To the P U B L I C

THE principal Advantage of a State of Society above that of Nature, is, that in the former are fixed Rules and Laws to regulate the Conduct of Man towards his Fellow Men, and Tribunals constituted to enforce Obedience, or punish the Infractions of those Laws. When the Rules of Action, established in Society, are in themselves good, wholesome and adapted to the Genius and Circumstances of its Members, and are faithfully and impartially administered, those who compose that Society may be pronounced to have attained the Summit of that Happiness which Civil Government was originally intended to procure. In a Country so favoured, Peace, good Order and a cheerful Submission to the Laws will be seen to pervade every Rank of Citizens and to extend to the most distant Corners of the State: On the other Hand, when the Laws are in their Principles or Tendency, unfavorable to the Happiness of the Subject, or are more servient to the Purposes of a few, by the Ignorance or Partiality with which they are administered, the Design of all Laws becomes subverted, and Murmuring and Discontent will be heard from every Quarter.—From hence it follows, that the Subject of the Controversy, arising from the Representations of the House of Assembly to His Excellency the Governor, relative to the irregular Administration of Justice in the Supreme Court, is of the first and last Importance to the good People of this Province. Under this Idea, and that the Public may have the Opportunity of deliberately investigating this Business, we have collected all the Publications on both Sides the Question, by which every Person will be enabled to decide, whether we have been treated with that Fairness and Candor we are entitled to, and whether the Proceedings of the Council have been such as can be considered a respectful Attention to the Complaints of the Representatives of the People convened in their Legislative Capacity, or in any Degree proportioned to the magnitude of the Objects which were comprized in those Complaints, and our subsequent Representations.

It was our Duty, when summoned by the House to obey their Order and when before that Body to give every Information in our Power in Answer to such Questions as might then be asked us. This Duty we discharged, under the clearest Conviction that we were bound, by the strongest Ties of Honor, to lay before the Inquest of the Province such Facts as in our Opinions were of the highest Consideration and loudly called for the closest Attention. It was a painful Task, because it exposed a Series of Transactions that evinced either a Depravity or Incompetency in those who had been called to Offices of the first Importance in Government, and which if any longer permitted, without Inquiry or Notice would eventually have produced those Evils which naturally succeed the Loss of Public Virtue and Moral Obligation. Respecting the Conduct of the Judges we did not stand alone in Opinion. The Solicitor-General whose extensive Knowledge of the Practice of the Court afforded him the Means of speaking decidedly upon the Subject corroborated most of the Facts and Opinions we adduced and mentioned many others, of equal if not of greater Moment. Major Barclay did the same, from a consciousness of Duty he owed the Public. It was from the Impression of these several Testimonies, not disputed at the Time by the Attorney-General, that the House came forward with the following Address to His Excellency the Lieutenant Governor.

TO THE PUBLIC.

TO HIS EXCELLENCY

JOHN PARR, Esq;

Lieutenant Governor and Commander in Chief in and over His Majesty's Province of Nova-Scotia, and its Dependencies, Vice-Admiral of the same, &c. &c. &c.

The Humble ADDRESS of the HOUSE of REPRESENTATIVES in General Assembly.

May it please your Excellency,

WE, His Majesty's most dutiful and Loyal Subjects the Representatives of the Province of Nova Scotia in General Assembly convened, beg Leave to address your Excellency upon a Subject of the utmost Importance; and on which we cannot be silent, without betraying the sacred Trust reposed in us by the People; a Trust we dare not sacrifice even to the Feelings of Humanity, and which in the present Instance we discharge with a Degree of Reluctance that nothing but a sense of our Duty can overcome.

The regular and impartial Administration of Justice is so essential to the Happiness, and we may say to the Existence of every Government, that no wise Legislature can be inattentive to it, but on the contrary they will ever make it an Object of their first, and most watchful Regard.

On this Ground it is, we now inform your Excellency, that Complaints have been laid before us of the improper and irregular Administration in Office of His Majesty's Justices of the Supreme Court, the Proofs of which, as they have been offered to us, we beg Leave to submit to your Excellency, and to request you will be pleased to institute an Enquiry into their Conduct, in such a Manner, that a fair and impartial Investigation may take place, that, the Public be fully convinced of their Innocence or Criminality, and that they themselves may be satisfied in what they have an undoubted Right to expect, a Trial by their Peers.

His Excellency, after Seven or Eight Days had revolved, was pleased to send a Message to the House conceived in the following Terms:

IHAVE your Address of the third Instant with the Complaints exhibited therewith against His Majesty's Justices of the Supreme Court, which are of so serious a Nature as to require a very deliberate Investigation, which cannot at present be gone into. I cannot however avoid remarking to you, that many of the Charges are Matters of legal Opinion in which the Judges and some of the Practitioners have differed; which are Circumstances that have often happened in England with the Twelve Judges: and as to the Insinuations of a more criminal Nature they appear to be entirely void of Foundation, and I believe that no Charge of Partiality or Corruption in Office can in any Degree be imputed to them; however you may rely on it, that the whole shall be fully considered in such Way as to do ample Justice to all concerned.

J. PARR.

We must confess we were at Loss to reconcile the seeming Contradictions and differing Sentiments which pervade this Message, for although the Governor acknowledges that the Complaints against the Judges are of so serious a Nature as to require a very deliberate Investigation, at the same Time remarks that many of the Charges are Matters of legal Opinion in which the Judges and some of the Practitioners have differed, and which often happens with the Twelve Judges in England; and as to the Insinuations of a more criminal Nature they appeared to be void of Foundation. It seemed strange in so early a Stage of the Business to see His Excellency acquitting the Judges of Partiality or Corruption: And this Opinion of the Governor so decidedly given before any Enquiry was made would have been alarming to the Public, had it not been accompanied with the Assurance that the whole should be considered in such a Way as to do ample Justice to all concerned.

But the Mystery of this Message became soon visible, when we found that the Attorney-General, though perfectly silent in the House, was indeed advocating their Cause with the Governor, and preparing the Minds of His Majesty's Council for the last Act of this solemn Farce. In short, this Message of His Excellency's was plainly a prejudging of the Business, and showed that

TO THE PUBLIC.

that he had been unwarily led into the Adoption of it by some Person who was determined, if he had Influence sufficient, to bring the whole Proceeding into Contempt.

His Majesty's Council have since refused us the Opportunity of substantiating the Testimony we gave before the House—have undertaken to try the Judges without examining a single Witness—and on the sole Credit of their own Assertions have not only acquitted them but have endeavored so far as their Credit would go with the Public, to fasten on us the Imputation of bringing forward false and scandalous Charges against said Judges: And not content with this flagrant Act of Injustice, they have not stopped here, but when constrained by the Principles of Self-defence and a Regard to our Reputations with our Fellow-Citizens, to come forward in our own Vindication, those Judges, who by accepting such a Mode of Trial had destroyed all the little Remains of Confidence a Part of the Community yet had in them, have deprived us of the Professions to which we were bred, in which we were established, and had, as we flatter ourselves, conducted with Integrity and Honor.

It has been suggested by some, that it is true we originally stood in the Light of Witnesses: But that by coming forward with a Memorial to the Governor on the Subject we made ourselves Principals, by taking up a Matter which belonged to the House only. But whoever considers that the Judges and their Friends, had from very improper Motives, impressed the Public with the Opinion that the Address of the House was procured by our Application and grounded solely on our Testimony, that the King's Representative expressly informed us that he was taught to believe that to be the Case and that the Council were about to try them only on our Information, must see the Impropriety of our suffering him to act under that Deception, and whoever considers the Importance of the Subject, must also see the Propriety of our not trusting to a verbal Communication of it which might have been either misapprehended or forgotten: Besides the express Object of the Memorial was to inform the Governor that we were not Principals in the Business, but merely Witnesses. We were also well informed, long before the extraordinary Decree of the Council made its Appearance what the Majority had resolved upon, even one of the Parties concerned in the Decision, had been incautious enough in pretty plain Terms to boast of it. We further knew from good Authority that one of the new made Counsellors was foisted into that Body not for his own Sake, as one of his Honorable Colleagues expressed it, but for the Purpose of trying the Judges, and we had not the smallest Doubt but that their Acquittal was Part of a System which was then secretly concerted, but has since in some Degree been laid open to the Public. Add to this that the same new made Counsellor had directly contrary to the Truth of Facts, and his own Knowledge, declared that the Member who made the Motion in the House of Assembly for an Enquiry into the Conduct of the Judges had expressly stated that he made it at our Instance, that the House in their Address acted in Consequence of our Information only, and that he had given his Opinion on the Merits of the Question in the most decided Terms. Could we under those Circumstances do less than state such of those Facts to the Governor as we thought material? Where we not bound to do it for our own sakes? Would it not have been said, and with Justice, that the Council were misled, and that we had by our Conduct countenanced the Imposition, had we suffered them to proceed without giving the Information contained in our Memorial? And should we not have been treated by the Council in the same Manner we have been, if we had never interfered? For to suppose that our Memorial induced them to decide differently, from what they would have done, is at once admitting them to have acted from the most unbecoming Motives.

Thus far every Man of Sense and Candor, we hope, will justify our Conduct. The next Step we took was, after the Council had fulminated their worse than inquisitorial Sentence of Condemnation against us, which appears to have had for its Object, as much the Destruction of our Characters as salving the Reputation of the Judges: Could we, in Justice to ourselves, suffer that to pass unnoticed, when we had the Means of Defence and Preservation in our Power? To have hesitated for a Moment in combating it, would have been to have acquiesced in the Justice of their Censure. And could we do less on that Occasion than publish our Memorial to the Governor, with our Remarks on the Conduct of the Council? When Mr. Blowers came forward with and published his Letter to the Governor could we avoid convicting him of the Falshoods it contained? When an anonymous Writer under the Signature of Plain Truth appeared the Champion of the Council and Judges, were we not justified in detecting and exposing the Falacy of his Productions? And as to the Manner in which we have carried on the Controversy, we have endeavored not to suffer the Greatness of the Injustice and Injury we have received so far to excite our Resentment as to draw from us any Expressions which could be deemed harsh or illiberal; even the scurrilous and unmannerly Author we have had Occasion

to combat, we flatter ourselves, has been treated with much more Decency than he deserved, or had a Right to expect. And as to the Objection that we have taken on us, what was the Business of the House of Assembly? The Statement here given of our Conduct and Motives, must prove that we have not interiered further than our own Reputations were concerned; and every Man, who thinks for a Moment on the Subject, must be sensible that no Act of ours, even if it was improper, could possibly wrest a Business out of the Hands of the Assembly, which properly belonged to that Body, or could in any Manner affect their Obligations to take it up and act upon it.

The worst of Men, if in Power, will have their Friends; and the worst of Actions, if perpetrated by Persons of that Description, will be justified or palliated by the Dependant and Mercenary: This we find has been the Case in the present Controversy; the most plausible Ground on which the Conduct of the Council has been defended, and which has in some Degree the semblance of Virtue and Benevolence, is this—That it is hard to deprive Men of their Subsistence, in an advanced Time of Life; and the private Virtues of one of the Gentlemen are pathetically held up to View, by Plain Truth, to take hold more effectually on the Passions.— Appeals like these seldom fail to interest the Mind; and when Men, under the Impression of such Feelings, are suddenly led to countenance Actions which are wrong, from Tenderness to the Actors, we involuntarily praise the amiable Weakness by which they are overcome. But where would these Considerations end, if once Courts of Justice should become influenced by such Motives? A Speaker who was the most capable of interesting the Passions, would always be sure to succeed, and Justice would be cried out of Court. But if the Council were actuated by Motives of Humanity in adjudicating on the Judges, it is clear, they were not under the Influence of that amiable Virtue in adjudicating on the Case of the Witnesses; they have, without Remorse, consigned them to Infamy, and, by their Advice to his Excellency, as appears by his Answer to the Address of many respectable Inhabitants, have shewn that they very heartily approved the subsequent violent Conduct of the Judges.—To leave ourselves entirely out of the Business,—do the Council discover any Feeling for Mr. Watson, Sheriff of Cumberland, compelled to pay a large Sum of Money, for no other Reason, than executing an Order of that same Court, which he was obliged to execute? Or do they feel any Thing for the King's Subjects in general, whose Lives and Properties are from Year to Year rendered precarious, by the ignorant or partial Decisions of those Men? It is much to be lamented, that in a Matter of such Magnitude, the private Feelings of Individuals should take the lead, instead of Reason and Reflection.

The Friends of the Council and the Judges, have taken the very unjustifiable Liberty, of representing a large Part of this Community, who have favored us with their Countenance, as factious and turbulent, and have given very broad Hints that their Intention was the Subversion of the King's Government in this Province. The Author of Plain Truth particularly insinuates, that the present Uneasiness arose from a Spirit of Republicanism and Impatience of the Restraint of monarchical Government. Had that Idea been sported by a Man who had uniformly been an Advocate for the divine Right of Kings, and whose Conduct had been agreeable to his Principles, it might have been borne with some Degree of Patience: but when it proceeds from a Man who has never shewn any Attachment to any Government, but what was founded on Interest, and who is well known to have solicited to be admitted as a Citizen of a self-created Republic, while carrying on a War with their natural and liege Sovereign—it cannot fail to excite the honest Indignation of every Lover of his King and the British Government.

The Truth is, the real Author of that malignant Publication by his shameful and unprincipled Conduct has effected a Measure disgraceful in itself, highly injurious to us, and justly alarming to every thinking Man in the Country, and to cover himself from the Odium he merits for his Iniquity he has endeavored to fasten on the most sober and rational Part of the Community, the Imputation of being turbulent and factious. This Charge was never made by our Author for the Purpose of affecting us or our Cause in this Province; for it is well known here that the loyal, the Orderly, the Industrious and the most opulent Part of the Community, whether they be Old or New Settlers, universally reprobate the Measures lately adopted respecting the Judges. He knows that the People are alarmed, and very justly too, to find that Persons in High Office are hardy enough both to decide in Matters of the highest Moment not only against the Rules of substantial Justice, but against every Appearance of it. Reputation is a boon most People are tenacious of, it is the last Thing even a bad Man gives up, it is therefore a melancholy Circumstance to see a Description of Men whose Characters ought to be not only chaste but devoid of Suspicion, and who have Powers of so much Consequence committed to their Charge, voluntarily relinquishing all Pretensions to Character and using their Authority for the Purposes of private Gratification or Revenge.

TO THE PUBLIC.

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In this Controversy we have sometimes been obliged to say Things which must give Pain to the Persons whose Characters they affected: But however that has been the Case, we conceive the Fault ought not to rest on us, if Men will do bad Actions no one is to blame for calling them bad Men, there can be no Breach either of Justice or Charity in calling Things by their proper Names.

When it is considered that we are Men of Business, the Calls of which were fully sufficient to occupy our whole Time, and that most of our following Publications were hastily composed, we hope Allowances will be made by the ingenuous and candid for any Defects which may appear either in the Style or Arrangement of the Subject.

J. STERNS,
W. TAYLOR.

William Anderson

John Beveridge

John McCreath Robert T. Dickison



~~remember thy creator in the days of thy~~
EXTRACTS from the PROCEEDINGS

O F

His MAJESTY'S COUNCIL.

Halifax, the 21st February, 1788.

HIS Excellency the *Lieutenant Governor* laid before the Council an Address presented to him from the House of Assembly of the 21st December, stating, That Complaints had been laid before the House of the improper and irregular Administration of Justice in the Supreme Court, and requesting, that Enquiry might be made into the Conduct of the Justices of said Court; Also the Allegations of two of the Attornies of said Court, which accompanied said Address, and is refer'd to, as the Proofs, on which the same was founded; and also the Answers thereto made by the Justices of said Court to His Excellency; On all which he desired the Consideration and Advice of the Council.

Which several Papers being read, it was agreed, that the Council would go into a particular Consideration of the whole Matter on Thursday the 28th.

Thursday 28th February, 1788.

His Majesty's Council having maturely considered the Address presented to His Excellency the *Lieutenant Governor* from the House of Assembly, of the 21st of December, together with the Allegations which accompanied it, and the Answers of the Justices thereto: Do unanimously agree, that the Allegations made by said Attornies in the House of Assembly against the Conduct in Office, of the Justices of the Supreme Court, are groundless and scandalous; and, that the Justices of said Court have by their Answers thereto, fully acquitted themselves of all Imputation of Mal-Conduct in Office.

The Council having also read and considered a Memorial, presented to His Excellency on the 19th Instant, by Messrs *Sterns* and *Taylor*, on the Subject of the before mentioned Accusations made by them; and which His Excellency was pleased also to lay before them, the Council were thereon of Opinion, that said Memorial is altogether undeserving of His Excellency's Notice.

And to prevent as far as can be now done, the mischievous Tendency of the Accusation and in Vindication of the Character of the Justices of said Court; it is ordered, that an Extract of the Proceedings of the Council on this Subject be published in the next Halifax Gazette.

R. BULKELEY.

FROM THE HALIFAX JOURNAL.

To the PUBLIC.

THE Impeachment of the Justices of His Majesty's Supreme Court by the Honorable the House of Assembly at their last Sessions, and the consequent Acquittal of them by His Majesty's Council are Acts of the highest Magnitude and Importance that ever engaged the Attention of our Government since the first Settlement of this Province.

If the Circumstances which attended that Impeachment, and the Facts on which it was grounded had been fairly stated to the Public, or if it had been represented as it really was, a Transaction which originated with the House themselves, on the Testimony of some of its Mem-

ners, corroborated by ours, when called upon by the House, we should have left it to that Body to have vindicated their own Honor, and to have seen that such an Enquiry was instituted, as would have been satisfactory to them and to the Public. But particular People, for the Purpose of lessening the Weight of the most public and solemn Act of one Part of the Legislature, have unfairly represented, that it was procured at our Instance and grounded solely on our Testimony: This Misrepresentation we early discovered and entirely disregarded supposing that a fair, open and impartial Trial before Men of Honor would have taken place, and that the Impression would then have been brought to Light. But to our utter Astonishment a few Days ago we discovered, from very accidental Information, that His Excellency the Governor, with His Majesty's Council had fixed on a Day, to decide on the Complaint against said Justices, solely on our Information to the House, a great Part of which was never committed to Writing, and on an Answer, given in Writing by said Justices, unsupported by any Evidence. This Intelligence, however incredible it appeared to us, we found to be true from the communications both of the Governor and Secretary of the Province: In consequence of which, we thought in Duty to ourselves and the Public, we were bound to possess the Governor of a true State of Facts, and to endeavor to bring about a full Investigation of the Conduct of said Justices, before fair and disinterested Men, who would act impartially between them and the Public, and for that Purpose presented a Memorial in the Words following:

TO HIS EXCELLENCY
J O H N P A R R, Esquire,
 LIEUTENANT-GOVERNOR of the Province of NOVA-SCOTIA, &c. &c. &c.
The MEMORIAL of JONATHAN STERNS, and WILLIAM TAYLOR,

Humbly Sheweth,

THAT they were summoned by the Honorable House of Assembly at their last Session, to give their Opinions on the Administration of Justice in His Majesty's Supreme Court for said Province: In Consequence of which they attended a Committee of the whole House, and gave their Opinions, as they conceived themselves in Duty bound to do. That your Memorialists are well informed that Richard J. Uniacke, Esq; His Majesty's Solicitor General; Thomas Barclay Esq; a Gentleman of the Law, and several others, Members of the said House, also gave their Opinions to said Committee on the same Subject; and adduced Facts in Support thereof. That all the Facts adduced by your Memorialist, first named, were not committed to Writing, and many more, which he offered to adduce to said Committee in Support of his Opinion, were by them declared to be unnecessary then to be stated, as the Object of said Committee was not to try said Justices, but to ascertain whether there was such Reason to suspect them of Mal-administration in Office, as would render it necessary and proper for them to bring forward an Investigation into their Conduct, and that they were then perfectly satisfied with the information which had been given them.

That said House of Assembly did address your Excellency in Consequence of the Information given the Committee, as well by the said Richard J. Uniacke, Esq; Thomas Barclay, Esq; and the other Members of the said House, as of that given by your Memorialists, stating, "That Complaints had been laid before them of the improper and irregular Administration in Office of His Majesty's Justices of the Supreme Court, and requesting your Excellency "to institute an Enquiry into their Conduct, in such a Manner, that a fair and impartial Investigation might take Place, that the Public be fully satisfied of their Innocence, or Criminality; and that they themselves be satisfied in what they have an undoubted Right to expect, a Trial by their Peers." To which Address your Excellency was pleased to return an Answer, wherein your Excellency is pleased to say, "You may rely upon it, that the whole shall be fully considered in such a Way, as to do ample Justice to all concerned."

That your Memorialists have been induced to state the aforesaid Facts to your Excellency, because they have discovered, that said Justices and their Friends, have unfairly represented, as well to your Excellency as to other Persons, that said Address was procured by Application from, and solely on the Testimony of your Memorialists: And that the same was the Result of Pique and Resentment on their Parts, in Order to lessen the Weight thereof with your Excellency and the Public, when the same did in Truth and in Fact, originate with the Members of said House, and was occasioned by the Evidence aforesaid. That by reason of such Representations your Memorialists are bound, in Duty to themselves, to endeavour to bring about a fair and impartial

partial Investigation of the Conduct of said Justices, which, your Memorialists have ever suspected, they would endeavor to elude by Art and Influence. In which Suspicion, they are fully confirmed, by discovering from the Communications of your Excellency and Mr. Bulkeley, that the said Justices were to be tried before His Majesty's Council solely on the Allegations your Memorialists had exhibited to, and were reduced to Writing by said Committee, which, however, your Memorialists are confident are sufficient to support the Conclusions which they have drawn from them they now assure your Excellency, are not the only Ground on which they founded their Opinion, or on which said House were induced to address your Excellency as aforesaid. Your Memorialists think it necessary further to inform your Excellency, that, as the Trial of the aforesaid Justices is to be before your Excellency and His Majesty's Council, there will be Evidence given thereon, that said Justices have been guilty of Mis-conduct in Office and of Partiality in Favor of the Honorable Henry Newton, Esq; one of said Council, in two several Causes instituted before them, wherein said Henry Newton, Esq; was Defendant; and also, that said Justices have been guilty of manifest and avowed Partiality towards the Honorable Sampson Salter Blowers, Esq; His Majesty's Attorney General, as a Practitioner in said Court; and further, that notwithstanding the said S. S. Blowers, Esq; has heretofore declared, that said Justices were, in his Opinion, totally unfit for and incapable of the Duties of said Office, that they ought to be removed therefrom—that he conceived it the Duty of every Person to endeavor to effect, and did solemnly pledge himself to your Memorialist first named, that he would exert his utmost Endeavors to effect their Removal from Office: Yet the said S. S. Blowers hath, since the Address of said House, declared, that he considered said Justices as cruelly treated in said Address, that the whole Transaction would turn to the Disgrace of those who had given their Testimony, and that he did not conceive them to be guilty of the Charges exhibited against them; that he conceived himself bound to, and that he would advocate their Cause on their Trial; and also, the said Justices have declared, since their being accused as aforesaid, that they have had the Opinion of said Attorney-General, approbating every Part of their Conduct. Your Memorialists therefore most humbly pray, that no Person who may be suspected of Partiality to, or Prejudice against said Justices, may be permitted to sit on their Trial; that the same may be open, public, and upon a full hearing of all the Evidence that can be adduced, both for and against them; as noother Trial than this will answer the Purpose of honorably acquitting said Justices, if innocent, be satisfactory to the Public, or to your Memorialists.

Halifax, February 18, 1788.

Upon our delivering this Memorial to the Governor he declared that it had opened to him a Train of Facts entirely different from what had been before communicated to him, as he had been taught to believe that the Impeachment of said Justices, had been procured and grounded solely, on our Complaint and Testimony. This is the Memorial alluded to in the Extracts from the Proceedings of the Council above published, and which they adjudge altogether undeserving His Excellency's Notice. We therefore thought it necessary for our own Reputation to lay the same before the Public: They are the only Tribunal to which we can at present appeal. Let them judge and determine for themselves, whether it is deserving of the Contempt with which it has been treated? Whether the Prayer of it is not reasonable and such a one as did not argue a consciousness on our Parts, that the Information we had exhibited to the House, was *groundless and scandalous*? Whether we have not been warranted in our Suspicions that said Justices meant to elude a fair and impartial Trial? Whether the bare Assertions of the Parties accused, unsupported by any Species of Evidence, is sufficient to fasten upon us the Imputation of bringing forward scandalous Charges, without Ground or Foundation? In short, Though the Anathema of the Council appears to be pointed at us, and aimed at the Detraction of our Characters, we submit it to the Public whether the Censure does not equally fall on the Representative Body of the People, who unanimously agreed, upon the Evidence before them, that there was Reason to suspect the said Justices of *improper and irregular Administration in Office*? Whether the above Trial of the said Justices, if it can be called one, is such a Trial as the House of Assembly requested in their Address? Whether we have been treated with the Fairness and Candor we were intitled to as *Witnesses*, called upon by a Branch of the Legislature whose Summons we were bound to obey, especially, when we repeatedly declared to the Governor that we were ready to substantiate every Part of our Testimony, and only requested an Opportunity of doing it? And whether it does not appear that the Council have tried the Witnesses against said Justices, rather than the Justices themselves? Conscious of the Uprightness of our Intentions and Conduct in the whole Transaction, we should have been happy to have laid before the Public our Testimony given to the House of Assembly, and the Judges Answers, upon which their

honorable Acquittal was founded, but we have not been able to procure them, though we have made Application to the Secretary of the Province for them, for the Purpose of conveying Information to the Public on this important Subject.

If the Situation we have been brought into, in this Affair, has obliged us to say any Thing that may have a Tendency to wound the Feelings of any Man, or Body of Men, we hope the candid Public will believe us when we assure them, that it is a most painful Circumstance, which nothing could have reconciled us to but its being necessary for the general Good of the Community and the Vindication of our own Honor.

J. STERNS.
W. TAYLOR.

Halifax, March 5, 1788.

FROM THE NOVA-SCOTIA GAZETTE,
To the PRINTER.

THE extraordinary Publication, which appeared in the Halifax Journal of Thursday last, having excited the Curiosity of many, I have taken Pains to inform myself of the Facts and Circumstances which occasioned it, and will lay before a candid Public, to whom the Authors of that Publication have appealed, the Result of my Enquiries; that having heard the whole Cause, those who feel themselves interested in the Controversy may be enabled to form a true Judgment of it, and to place the Saddle on the right Horse.

An Appeal to the Public through the Channel of a News-Paper is a Privilege which every Englishman thinks he has a Right to claim, and which I have never had a Wish to see abridged; for although it is a Privilege that has been often abused, yet it has often answered the most valuable Purposes. Had Messrs. *Sterns* and *Taylor*, when they made their Appeal to the Public, thought proper to insert what they call their Testimony, as given before the House of Assembly, I should have deemed any Remarks on their Publication altogether unnecessary; because I have not a Doubt but that every Person in the Community, who should have read the Case submitted, would then have had the same Opinion of it which his Majesty's Council have entertained. The Abuse made by the Authors of the Appeal for not having inserted the Answers given by the Judges, is a sufficient one; but surely they could have no Occasion to resort to the secretaries since for a Copy of their own Testimony, for if they had not preserved one, or could not remember the Cases on which they had accused the Judges, which I think few will believe, yet they could not be ignorant that the Allegations made by them in the House were reduced to writing and remained with the Clerk of the House, of whom a Copy might at any Time have been obtained. With what a Face then have these modest Attornies dared to charge the Judges of the Supreme Court with endeavoring "to elude a fair and impartial Trial," when they themselves, in their Appeal to the Public, have kept back the most material Part of the Case they pretend to submit? And with what Colour of Reason do they arraign the Conduct of the Council, which has given its Opinion on a full Examination of the Allegations and Answers thereto, while they are calling on the Public to decide the Question on a partial Statement of the Charge and without having seen a Word of the Answers?

As it is not my Intention to state or controvert any Facts which do not immediately relate to the false and dishonorable Accusations made by the Authors of the Appeal against the Judges, and their consequent and, in my Opinion, truly honorable Acquittal by the Council; I shall not consider with what Degree of Truth these false Accusers have introduced the Names and Opinions of the several Gentlemen mentioned in their Memorial: Let them answer for themselves if they think proper, or let their Silence manifest the thorough Contempt in which they hold the Authors of the Appeal and their Allegations. But supposing the Facts that respect these Gentlemen to be truly stated, which however I do not believe, yet it is very certain that the two first named have not come forward in Support of the Accusation; and the two others, whose Opinions are quoted, have, on a full Hearing and mature Consideration of the whole Case, joined with the Rest of his Majesty's Council in the most explicit Declaration, that the Allegations made to the House of Assembly are "groundless and scandalous."—indeed it appears to me, that with as much Propriety might a Felon, convicted of forging a Penn, say to the Magistrate who had tried him, "You have used me very ill; for when I first shewed you the Penn you said the Hand-writing was so exceedingly like the Person's it was written for, that you verily believed it was his, and now, because I have not been able to prove it, and he denies it, I am to be hanged for Forgery."

Drowning

Drowning Men catch at every Thing ; and sometimes accelerate their Destruction by their Eagerness to lay hold of what cannot possibly serve them. The Authors of the Appeal must rest their Cause on the immutable Laws of Truth and Justice. If the Cases they have cited are either false in Point of Fact, or frivolous and irrelevant, the Accusation must fall to the Ground, and its Authors with it, although they should be able to prove that their Tale had deceived not four Gentlemen only but four hundred.

There are two principal Questions on which the Merits of the Appeal will be best considered :
1st. Who are the Authors of the Accusations of the Judges : Or in other Words, on whose Testimony was the Address of the House founded ?

2dly. Are the Cases, cited by Mess^{rs} *Sterns* and *Taylor* before the House, fairly stated, and do they prove the Charges made by them.

It is immaterial to consider whether Mess^{rs} *Sterns* and *Taylor* are to be viewed in the Light of Witnesses, called before the House of Assembly to give Evidence, or whether they were not Volunteers on the Occasion ; because their Crime is not that they have given Testimony, but in having testified falsely or impertinently. I believe, however, if it were necessary, it could be easily proved that the Accusation was concerted at Mr. *Sterns*'s House, and the Manner of bringing it forward in the Assembly, as well as the Mode in which it was to be supported, there settled and agreed on.

In Order to determine the first Question, little more will be necessary than to look into the Journals of the House, and its Address to the Governor.

The Assembly met the 25th of October, and after it had been sitting more than a Month, and after one or two fruitless Attempts had been made to censure the Judges, Major *Milledge*, Member for *Digby*, moved, that the House should resolve itself into a Committee on the Investigation of Facts, which, he said, had occasioned Dissatisfactions in the Province relative to the Administration of Justice in the Supreme Court. This Motion was agreed to, and, at the Instance of the Maker of it, the Clerk was desired to request Mess^{rs} *Sterns* and *Taylor*, Attornies of that Court, to attend the Committee the next Day. Mr. *Wood*, another Attorney, was also desired to attend, but was not examined. Mr. *Sterns*, as the leading Accuser, was first called in, and entertained the Committee for several Hours, as well on that as the Day following, with a History of Cases tried in the Supreme Court to prove the Mal-conduct in Office of the Judges, and their Want of Integrity ; after his Examination was finished, the Account he had given was read to him, and he was desired to put his Name to it, which he did. The Committee, weary of the Business, and impatient from the length of Time bestowed on it, desired Mr. *Taylor* might be requested to put what he had to alledge upon Paper, and to bring it to the Committee, which he did, and on the 30th of November they reported to the House the Examinations of Mess^{rs} *Sterns* and *Taylor*, "as the Narrative of the Facts they had investigated," and which they submitted without any Judgment or resolution whatever thereon. Another Motion was then made by Major *Milledge*, that a Committee should be appointed to prepare an Address to his Excellency the Lieutenant-Governor on the Subject, and to request he would adopt such Measures thereon as he should think just and right. The Address was accordingly prepared, in which the House say, that Complaints had been laid before them of the improper and irregular Administration in Office of his Majesty's Justices of the Supreme Court, &c. "the Proofs of which, as they have been offered to us, we submit to your Excellency, &c." And Copies of the Allegations of Mess^{rs} *Sterns* and *Taylor*, as the Proofs alluded to, were presented with the Address, and no other Paper or Testimony whatever.

I have been the more particular in relating these Circumstances, which are copied almost verbatim from the Journals of the House, because I wish "a candid Public" to see how very apt these Attornies are to mistake Facts, and to seize, *per fas aut nefas*, on any Pretext to hedge themselves against the Consequences of their malicious Accusations when they find them recoiling on their own Heads. Are these *Lawyers* yet to learn that the only authentic Document of the Proceedings of the House of Assembly, is the Journals of the House ? And are they silly enough to imagine that they shall engage the Support of its Members by mistating their Proceedings and contradicting their Journals ? Or do they flatter themselves that any Judges to whom this Question has or may be submitted, will reject plain, regular and positive Arguments, to decide upon unfounded Allegations and idle Surmizes ? Can Mr. *Taylor* say he was not fully heard by the Committee, when he drew up the Statement made by him at his Leisure, and delivered it in as all he had to say on the Subject ? If Mr. *Sterns* was not permitted to state all the Cases he intended when he was before the Committee, he had surely Opportunity to insert in the Memorial which he and Mr. *Taylor* presented to the Governor, any Case or Fact which had before been omitted by him. Be this as it may, their whole Charge against the Judges should now be considered

sidered as made; and to prove it, in the Language of the Council, groundless and scandalous, shall be the Subject of another Letter from
PLAIN TRUTH.

HALIFAX, March 11, 1788.

FOR THE HALIFAX JOURNAL.

Mr. Howe,

As you have published Messrs. Sterns and Taylor's Memorial, you are desired to publish the inclosed Copy of a Letter to his Excellency the Governor.

HALIFAX, February 21, 1788.

S I R,

HAVING read the Memorial of Messrs. Sterns and Taylor, presented to your Excellency on Monday, I beg Leave to make a few Remarks on those Parts of it in which they have thought proper to introduce my Name.

I am but little acquainted with Mr. Taylor, and do not recollect to have conversed with him, at any Time, on the Conduct in Office of the Judges of the Supreme Court; so that he can have no Pretence to quote my Sayings or Opinions.

With Mr. Sterns I have "heretofore" lived in Habits of Intimacy, and have been often pestered by him with Suggestions, that the Judges were corruptly partial in the Decision of Causes brought before them; but I have no Recollection of having used the Expressions against them, stated by the Memorialists, or indeed any of like import. I perfectly recollect, and so should Mr. Sterns, that in our confidential Conversations on the Subject, I always declared, I did not believe the Judges were corrupt, or in any Degree criminally partial; and until I was convinced they were so, I would not become their Accuser, or engage in any Attempt to remove them.

When the Business was brought forward in a secret Committee of the House of Assembly, and when, instead of establishing any Colour of Guilt against them, a String of garbled Law Cases and partial Statements of Proceedings before them, were adduced as Proofs of their Want of Integrity, and of their Maladministration of Justice, I was shocked at the Conduct of their Accusers, and declared to some Members of the House, that I thought the Judges were cruelly treated, that I had not a Doubt of their Innocence, and would, if requested, most willingly advocate their Cause before any Tribunal in which I could be serviceable to them.

These are still my Sentiments; but their Cause requires no Advocate; for the Futility of the Charges is obvious on the Face of them, and the Answers of the Judges form so clear and satisfactory a Refutation of Guilt, that, I think, no well-informed unprejudiced Person can, for a Moment, entertain Doubts of it.

If Accusations of a criminal Nature had been, or could be fairly substantiated against them, there is no Man in the Province who would be more desirous than myself to effect their Removal; but, satisfied as I am of their Innocence, I think it my Duty to afford them all the Aid in my Power, and to counteract a Design, the apparent Object of which is to bear down, by the powerful Aid of Faction and popular Prejudice, respectable Men, conspicuous for Moderation and Humanity in the Discharge of their Duty, and who, placed in difficult Situations, have for many Years filled Offices of the first Importance in the Government with general Reputation and Esteem.

What the Memorialists mean by the "manifest and avowed Partiality of the Judges towards me, as a Barrister," I am at a Loss to conjecture; unless it is that they have paid more Attention to Opinions decently urged by me at the Bar, than the turbulent Harangues of Mr. Sterns. As for Mr. Taylor, he has argued only one Cause, I think, before the Court, and the Loss of that seems to have destroyed the Share of Understanding he was thought to possess.

I should not have troubled your Excellency with this Detail, had I not observed, that Accusers seldom fail to suggest, that the silent Contempt of indignant Innocence is corroborative of the Calumnies they have circulated.

I have the Honor to be, with the greatest Respect,
Your Excellency's most obedient Servant,

S. S. BLOWERS.

To His Excellency the
LIEUTENANT-GOVERNOR.

FROM

FROM THE HALIFAX JOURNAL.

To the PUBLIC.

A PUBLICATION made its Appearance in Mr. Henry's Paper of Tuesday last, on the Subject of the late Trial and Acquittal of the Justices of His Majesty's Supreme Court, under the Signature of Plain Truth, in which the real Author is as clearly to be discovered as if he had signed his Name to every Sentence it contains. That unfairness and equivocal on which mark every Part of the Conduct of a certain Gentleman high in Office in this Province are so conspicuous in this Performance as to leave no Room for us or the Public to doubt who is its Author, or that he might, with much more propriety, have taken the Signature of Plain Falshood, than the one he has assumed.

As he has step'd forth the avowed Champion of the Council and the Justices, we think ourselves warranted in presuming he has their Authority for bringing them before the Tribunal of the Public, and shall therefore take the Liberty of examining the Conduct of both with a Degree of Freedom we before purposely avoided, our Object then being only to set our own Conduct in such a Light as to enable the Public to decide impartially between us and the other Parties concerned in this Transaction, or in the elegant Phrase of our Author, to place the Saddle on the right Horse.

The great Object before the Public is to determine, Whether there hath existed probable Cause for suspecting the Justices of His Majesty's Supreme Court of malversation in Office? And whether the Decision of the Council hath removed, or ought to remove that Imputation?

Our Author has overlooked these Objects entirely, and seems only intent on traducing our Characters, and endeavouring to prove, that the Justices were accused by us, and not by the House of Assembly. His Production being too contemptible to merit a particular Answer, to every Part, we shall content ourselves with giving to the Public a short Account of the Origin of the late Proceedings of the House of Assembly respecting the Administration of Justice, in the Supreme Court, so far as they are within our Knowledge, recapitulating the Measures taken by the Council in Consequence of it, and remarking on some few Things contained in this Publication.

For a long Time past great Discontents have subsisted at the Bar, and in the Country at large, with the Administration of Justice in the Supreme Court: All the Gentlemen of the Law with whom we have conversed, and we have conversed with most of those in any extent of Practice, have agreed some Remedy was necessary for the Evil, but no one thought proper to step forward as the Champion of the Public on the Occasion, foreseeing the Difficulty which would attend it: But to such a Height did the Dissatisfaction arise during the Sitting of said Court in July last, that several of the Members of the House of Assembly communicated with us, of their own mere Motion, long before the last Session of that House, on the Subject, and informed us of their Intention to move for the Enquiry which was afterwards instituted in the House: We are ready to own, that the Proposal met our most hearty Approbation: That we then thought and do still think, it was a Measure highly necessary for the general Welfare of the Province, and that if we had been Members of that House, we should most certainly either have brought forward or supported the Motion which was made by the Honorable and worthy Member from Digby, whose upright and independent Conduct in his Legislative Capacity, does him the highest Credit. But when Mr. Plain Truth asserts, that the Accusation was concerted at the House of Mr. Sterns, and the Mode of conducting it agreed on there, he has most egregiously deviated from the Line of Plain Truth and Fact, and substituted Conjecture and Falshood in their stead.

This Relation we have thought proper to lay before the Public, not because we conceive it very material who first originated the Accusation of the Judges, but because we are perfectly willing to have every Part of our Conduct in this Transaction laid open to the World. However our Author in his Zeal, seems not to have discovered the Situation into which he has brought his Friends by attempting to establish the Accusation of the Judges as an Act of ours: If that is in Fact the Case, we have been most cruelly treated by the Council, in being precluded from an Opportunity of substantiating our own Charges. If we stand in the Light Plain Truth would wish to place us in, the Council must certainly stand in a most unfavorable one; they have solemnly determined that our Memorial to the Governor, praying a fair and open Trial, upon what he avers to be our own Case, is unworthy of his Excellency's Notice.—They have determined, that apparent and avowed Partiality to, and Mis-conduct in Office of, the Parties accused, in Favor of two of the Body, who were to sit in Judgment on their Conduct, where those very Instances of Partiality made Part of the Crimes with which they were charged, were trifling and deserving the most sovereign Contempt from the Governor and themselves, and have adjudged them qualified, and have actually suffered them to sit on the Trial; and all this they have done without ever attempting to deny the Truth of the Facts we have therein alledged.—

If,

To the Historical Collection
Acadia College
from Alex. Gums
March 1847

It, on the contrary, it is an Act of the House of Assembly, it was impossible for the Council to have supposed they had taken our Testimony against the Judges, for the Purpose of having them finally condemned, or acquitted on it, as the same was taken privately, not on Oath, and without the Judges having an Opportunity of cross-examining the Witnesses. Indeed they must have known, whoever were the Accusers, that Evidence taken in this Manner could not be such as any British Subject ought to be tried upon. This is a Dilemma from which our Author, with all his Ingenuity and Tergiversation, will not be able to extricate himself or his Friends.

Our Author declares, he has taken Pains to inform himself of the Facts and Circumstances which gave Rise to our Address to the Public: We have no Doubt but he is perfectly acquainted with them, and we only wish he was as well disposed as able to tell the Plain Truth respecting them; we have no Doubt but he was knowing to the whole Transaction in the first Stages of it, and that he early discovered the back Way through which he intended to conduct his Friends safe from Investigation and Enquiry. *That was* an Inaccuracy in the Address of the House, in referring to our Testimony as the Proofs on which they proceeded. The Truth of the Fact is, and Plain Truth we have no Doubt knew it, that Messrs. Uniacke and Barclay gave their Information and Opinions in their Places, as Members of the House; their Testimony therefore could not have been reduced to Writing. After we were examined, an Address was agreed on, and one of those Gentlemen appointed of the Committee to draw it up; after it was completed, presented to, and accepted by the House, that Gentleman, as we are informed, proposed that their Testimony should be reduced to Writing to accompany it: But it being towards the close of the Sessions, and the House in a hurry, it was deemed by them unnecessary to take that Trouble, those Gentlemen promising to attend and give their Evidence on the Trial of the Judges.—Had our Author the least Title to the Signature he has assumed, he would have told these Facts, and not have endeavored to mislead the Public, by palming on them Fiction in the Place of Truth.

The Art with which the following Sentence is introduced, deserves Notice, the Author says, "I shall not consider with what Degree of Truth these false Accusers have introduced the Names and Opinions of the several Gentlemen mentioned in their Memorial; let them answer for themselves if they think proper, or let their Silence manifest the thorough Contempt in which they hold the Authors of the Appeal and their Allegations." There is nothing new in this doughty Answer to the plain Facts stated in the Memorial. Many a Man has made the same Answer to his Accusers, when cut to the quick by the Accusation; and however great the Contempt may be in which he may hold Messrs. Sterns and Taylor, is it not treating the Public with insufferable Insolence? a Tribunal which no Man who valued his Character would wish to think from? If the facts stated in the Memorial were false, would any Man hesitate one Moment to clear up his Reputation to the World? A Man may shew his Contempt for Individuals, but he must be vain indeed who treats a Community with Contempt. The Public have read the extraordinary Performance which made its Appearance in the Halifax Journal, and had our Author had the Courage to have left his Fire-side and ventured abroad with a View of knowing the Opinion of the Public, he would have returned Home abashed, if he is not entirely lost to a sense of Shame.

After admitting the Blessings which flow from the Freedom of the Press, which no Man of Information in the British Nation has been found hardy enough to deny, our Author proceeds to say, "Had Messrs. Sterns and Taylor, when they made their Appeal to the Public, thought proper to insert what they call their Testimony, as given before the House of Assembly, I should have deemed any Remarks on their Publication altogether unnecessary; because I have not a Doubt but that every Person in the Community who should have read the Case submitted, would then have had the same Opinion of it which His Majesty's Council have entertained." Will any Man believe Assertions like these, when he is told that repeated Applications were made to Mr. Bulkeley for those Charges and the Judges Answers, in Order to lay them before the Public, and that they were constantly refused? If only a perusal of the Charges themselves would have satisfied the Public, would either the Council or the Judges have withheld them? No; the very imperfect Manner in which the Testimony, given by one of us to the House, was taken down, would have convinced the Public that they were only seeking for Information, not Evidence. Our Writer suggests, that our Testimony might have been obtained from the Clerk of the House; it might have been if he had been Town; but the Fact was, and to his Knowledge we have no Doubt, that at the Time of our Application for those Papers, and of framing our Address, the Clerk of the House was nearly fifty Miles from Town. The Public will judge from these Circumstances who has been guilty of Unfairness, or Attempts to mislead them?

The Writer next says, "That the two Gentlemen first named have not come forward in Support

Support of the Accusation." In answer to which we ask, were they called on? Were we called on? Was any person whatever called on? We are authorized to say, those Gentlemen would have come forward if they had been desired. The Fact is, a Cause of the greatest Consequence that ever came before any Tribunal in this Province, was decided without any evidence whatever being given to the Court which adjudicated on it.

When the House of Commons impeached Warren Hastings, Esquire, and Sir Elijah Impey, Chief Justice of India, did they proceed to Trial upon the mere Charges and Allegations? Is not a solemn Trial to take place? Are not Witnesses to be examined on both Sides; where both Parties will have an Opportunity of cross-examining them? By which means the whole Facts will come out, and such a Decision take place as the Honor and Dignity of the Nation require, and as will in Truth *do ample Justice to all concerned*.

We are next told, that the other two Persons mentioned in the Memorial, "on a full hearing, and mature Consideration of the whole Case, joined with the "rest of His Majesty's Council in "the most explicit Declaration, that the Allegations made to the House of Assembly are *groundless and scandalous*:" And because we have attempted to find fault with the Determination of the Council, he has brought in the Case of a Felon convicted of a Forgery in order to elucidate the respective Situations of the Attorney-General, (who is the Person he must mean, though there is an Inaccuracy in the Expression) and us, and the supposed state of our Minds on this Occasion. Mr. Blowers represents the Magistrate: we the Felon; and what is very extraordinary about this worthy Magistrate is, that when the Bond first shewn him, he did not apprehend any Forgery; it really appeared to him to be the Hand Writing of the Person under whose Name it appeared: And here as is too often the Case with Magistrates of his Description, he made the poor Man think himself quite secure, and that he had no further Difficulty to apprehend. The next News the Man hears, is That he is to be hanged for Forgery, and that the Day of Execution is named. He complains to the Magistrate—he charges him with acting with duplicity: the Magistrate replies, the Person whose Name is to the Bond, has been with me, and denies the Signature to be his Hand-writing, and though he by that Denial gets rid of the Obligation he would otherwise be under to pay it, yet as that is the Case you stand convicted of Forgery, I would advise you to make a peaceable Exit. The poor Man pleads the Laws of his Country, which forbid that any one should be condemned unheard; avers he can prove, by Witnesses who saw the Bond executed, that it is the Act and Deed of the Person whose Name is subscribed to it; but it is to no Purpose, he is told Judgment is pronounced, and that Execution must follow. The Conduct of this Magistrate here in some Respects resembles the Duplicity of one of those Gentlemen named in our Memorial though it by no Means comes up to it; for we avow, and are able to prove, that no Man has here stoore been more explicit or pointed in his Censure of the Conduct of those Judges, than that Gentleman, or has more uniformly declared his Wish for, and his Intentions to effect their Removal from Office. Perhaps being made a Counsellor has altered his Mind: The Bond may now appear to be Forgery, and the Judges competent to their Offices. Things do sometimes appear different in different Situations.

Our next Paragraph begins with an old Proverb, which nobody will controvert: To which of the Parties in this Business it applies, a little Time will discover:—The next Sentence we also admit to be Plain Truth, viz. "That the Authors of the Appeal must rest their Cause on "the immutable Laws of Truth and Justice." This is what we have ever wished, and it is not our Fault that a dark and left-handed Road has been pursued; by the Truth or Fallhood of the Facts we have adduced, as Witnesses, we are ready to stand or fall; for their Weight or Relevancy we are not responsible; if they want either, the Reflection falls on the House of Assembly. But however, we cannot help remarking here, that if the Allegations, on which the Council have decided, were in their real Opinion either false, frivolous or irrelevant, they seem sufficiently well disposed towards the Judges to have published them to the World; they would have put the Facts alleged in the Course of being proved; and had not the Parties themselves concerned, feared that they would have been substantiated, they would doubtless have called aloud for Investigation and Enquiry. What was the Conduct of the late King of Prussia, upon the single Complaint of a poor Miller, against the Judges of one of his principal Courts: The Miller alleged they had given Judgment against him, on a Complaint by him exhibited against a rich Neighbour, for diverting the Course of the Water which turned his Mill; he attended to the poor Man's Accusation, and examined his whole Case; punished the Villainy of the Judges, made the rich Man return the Water into its former Channel, and obliged him to compensate the injured Miller for all the Damages he had sustained. The Question here did not turn on this Point, Who was the Accuser? the King did not take the simple Assertions of the Parties concerned as Evidences of their Innocence, but considered the Complaint of the lowest of his
C Subject

Subjects worthy of Investigation: This Action enabled one of the greatest Monarchs in the World, and will be remembered to his Honor, when the Fame of his Military Prowess is forgotten. To the Council of Nova-Scotia will belong the immortal Honor of acquitting the Judges of the Supreme Court on the Credit of their own Declaration.

These Lawyers do not need this Scribbler to inform them where authentic Documents of the Proceedings of the House of Assembly are to be found; nor are they so silly as to mistake their Proceedings; though he has been wicked enough, in direct Violation of Truth, to assert that Mr. Sterns entertained the Committee on two several Days with his Testimony, when he in Fact attended only one Morning, when the House, in obedience to whose Summons he appeared; treated him with Candor and Respect, as they did also Mr. Taylor, the next Day, and they trust to that Honorable Body to avenge the Insult the Public and the Witnesses have received on this Occasion.

We are told, that to prove the Charges groundless and scandalous, will be the Subject of another Letter.—If our Author acquits himself no better on that than the present Occasion, his Friends will have Reason to be ashamed both of their Cause and its Advocate.

J. STERN S.
In behalf of himself and
W. TAYLOR.

Halifax, 12th March 1788.

FROM THE HALIFAX JOURNAL.

Mr. HOWE,
Please to publish the following Letter, addressed to Mr. BLOWERS.

SIR,

A LETTER from you, dated 21st ult. addressed to Governor Parr, on the Subject of a Memorial presented to him by Mr. Taylor, and myself, having made its Appearance in Mr. Howe's Paper of the 13th Instant; in which, from Defect of Memory, or some other Cause, you have made some egregious Mistakes; I shall take the Liberty of pointing them out, and animadverting on such Parts of it as are calculated and intended to mislead, in a Business of the first Importance to this Province, as well as to my own Character.

It is true "we have heretofore lived in the Habits of Intimacy," and I most sincerely lament that a Desertion of your Principles, and a Series of improper Conduct, should have obliged me to withdraw that good Opinion of, and warm Affection I had for you when I considered you as a Man of Integrity and Honor.

Had you barely left the standard under which you had most solemnly enlisted, and become neuter only, I should have suffered you to pass unnoticed, without even exposing your Treachery; but when you have not only deserted your Colours, but entered into the Service of a Set of Men, whose Principles and Conduct you have heretofore uniformly condemned, you cannot think it hard if you are treated as a Common Enemy while in the Field, and as a Deserter when you fall into the Hands of your former Friends.

You say "you have been often pestered by me with Suggestions, that the Judges were criminally partial in the Decision of Causes brought before them, but that you have no Recollection of having used the Expressions against them stated by the Memorialists, or indeed any of like Import."

I will not undertake to determine what was the state of your Mind, when we formerly conversed on the Subject of the Judges of the Supreme Court, but I verily believe, that those Conversations were as often introduced by you as myself, and that you was never pestered with those Suggestions, except on recollection of them, after you had thought fit to change Sides and join a Party in the most shameful Attempts on the Reputation and Honor of the Man you had solemnly pledged yourself to support: Then you was doubtless pestered with the Idea, that your Duplcity would stare you in the Face, and deprive you of the little Credit in the Community, which you still held among a few, who were ignorant of your Principles and Practices.

I will now relate, with as much accuracy as I am able, after the elapse of some considerable Time, not the confidential Conversation, but the solemn Transaction which gave rise to the Charge contained in the Memorial referred to. Some Months before the Impeachment of the Justices of the Supreme Court, you was mentioning their Conduct, in executing a Commission under a Statute of this Province, by which they were enabled to settle some Disputes which had subsisted in the County of Cumberland, ever since the Insurrection there in the Year 1776, which you declared

clared they had done in a partial and shameful Manner, and that they had always taken the Side of the Rebels against the King's Loyal Subjects : But that they had never been able to effect any Thing against them while the late Chief Justice lived, who had procured a Clause to be inserted in the Act, which gave him a Controul over their Proceedings, and who constantly while a I've resisted their Attempts against them. I then observed, that I thought the Country in general in a most deplorable Situation as to the Administration of Justice, and it was the Duty of the Bar particularly to endeavor to reform it. In which, you not only acquiesced, but declared, you thought it the Duty of every one to do it; that the Country would be ruined unless some Change should take Place, and averred your Readiness to assist in procuring a Removal of the Justices of the Supreme Court from Office, but said you would not be the first Mover of the Business on Account of your being an Officer of Government. I then told you, that no one would probably wish to step forward the ostensible Man on the Occasion, as he would be sure to bring on himself the Vengeance of a Set of Men, who would leave Nothing untried to effect his Ruin; that he would, when the Matter came to a Trial, probably be deserted by many who wished him Success; and that I even suspected you would prove a Defaulter on such an Occasion—which you solemnly pledged yourself you would not. You said, you did not think it proper to move in the Business under the present Government, as the Judges would be abetted by a Set of People who had the Ear of the present Governor, and would support them through thick and thin; but that Lord Dorchester, you believed to be a fair Man, and that you would, on his Arrival in the Province, come forward, give your Opinion that the Judges of the Supreme Court were unfit for, incompetent to, and ought to be removed from their Offices: That you would declare it as your Opinion, that they determined Matters which came before them on very improper Motives; in short, that they judged Men, not Causes: But that you would not undertake to say that they took Bribes, for that you in Fact did not believe they would ever put themselves in the Power of any Individual, so far as to accept one. This, Sir, is, upon my Honor, the Substance of the Communications between us, which I refer to in the before-mentioned Memorial, to the best of my Knowledge, Recollection and Belief; there may be some trivling Circumstances in which I may be not correct—as to every Thing material, I will undertake to be positive. This *Transaction*, not *private confidential Conversation*, I communicated to Mr. Aplin, who called on you on the same Subject—held a similar Conversation with you respecting it, as he afterwards informed me, and received from you the same solemn Assurance.—Mr. Aplin is not here at present, to add this Declaration to mine, in Confirmation of this Statement. Indeed if your Letter and this Answer, were to fall into the Hands of those People only, who have known the repeated Instances of Equivocation of which you have been guilty since you have been in this Place, I should have left the Public to have tried us, in the same Manner you have concurred in trying the Judges, on the Credit of our own Assertions; but as the Papers may fall into the Hands of some People, who may be ignorant of our respective Characters, I subjoin a Letter from Mr. Andrew McGill, of this Place Merchant, on this Subject, which verifies every Circumstance averred in our Memorial, not admitted in your Letter to the Governor, and all the material Parts I have here related.

We will now see how far your own Letter contains in itself, Evidence of the Facts asserted in our Memorial: You say “you have no Recollection of having used the Expressions against the “Justices, stated by the Memorialists, or indeed any of like import.” Had you always possessed the Opinion respecting the Judges, you declare yourself in your Letter to hold, you might have surely undertaken to have said positively, that you never could have made Use of any Expression derogatory to their Honor, on the general Ground, that it was impossible for you to have said any Thing directly contrary to your Sentiments: This you did not think it prudent to do, because you knew that many of the People with whom you have conversed on professional Business, even in the Character of Clients could have contradicted you. You have therefore left a pitiful Subterfuge, to avail yourself of, when convicted of the Fact, you will then probably endeavor to get rid of the Imputation of direct Falshood, by saying, indeed I did not recollect it. You say “you perfectly recollect, and so should Mr. Sterns. that in our confidential Conversations on the Subject, you always declared, you did not believe the Judges were “corrupt, or in any Degree criminally partial.” In Answer to which, as you refer me to our confidential Conversations, I am to say, you have invariably declared the Judges to be partial, that I always supposed you meant by it *criminally* partial, as I cannot form an Idea of partiality in a Judge, which is not criminal: If you can point out any Instance, in which Partiality in a Judge would not be so, I will admit that I may have mistaken your Opinion of our Judges, and I will endeavour to efface from my Mind any Impression your Opinions may have made on it; till you can do that, I shall consider your adding the Epithet, *criminally*, as a pitiful Evasion, designed

designed to give you, on a future Occasion, latitude for quibbling, and to impose on those who do not think with precision and correctness.

You say, "when the Business was brought forward in a Secret Committee of the House of Assembly, and when, instead of establishing any Colour of Guilt against them, a String of garbled Law Cases and partial Statements of Proceedings before them, were adduced as Proofs of their Want of Integrity, and of their Mal-administration of Justice, I was shocked at the Conduct of their Accusers, and declared to some Members of the House, that I thought the Judges were cruelly treated—that I had not a Doubt of their Innocence, and would, if requested, most willingly advocate their Cause before any Tribunal in which I could be serviceable to them." Had you known the Meaning of the uncouth Word you here make use of, you certainly would not have put it in the Place it occupies: But as I have something of more Consequence in Hand than mere verbal Criticism, I shall proceed to ask you why you sat in solemn Silence in the Secret Committee, and never opened your Lips in Vindication of the Honor and Reputation of the Judges, when you pretended you was shocked at the Conduct of their Accusers? When I was asked by the Committee, what were the Sentiments of the Gentlemen of the Law, respecting the Conduct of the Supreme Court? I answered, that all those with whom I had conversed, and that I had conversed with all who were in Practice as Barristers, in any Degree of Eminence, were of the same Opinion with myself; that all those who were Members of that House in particular, had communicated to me the same Sentiments respecting them, as I then communicated to the Committee: This I pronounced emphatically, and requested the Gentlemen of the Profession present to correct me, if I mis-represented their Sentiments: You was present—you could not but hear me—you was silent, and if I am not mis-informed, never publicly uttered a Syllable in this Business, except it was to deny any Knowledge of a Fact, when referred to by a Member, the Particulars of which you had before related to me, as an Instance of great partiality in the Judges. In this Paragraph of your Letter, your Language and Ideas are very different from those you held out to me, even after the Address of the House was presented, when I called on you for an Explanation of your pitiful Conduct, in endeavouring, privately to injure the Reputation of the *Witnesses* against, not the *Accusers* of the Judges. You then first pretended I had betrayed private Conversation: But that Ground you found untenable, for not having had Time to make up your Story, you admitted you had *pledged* yourself to me, nearly, though not precisely, as I have before stated; you then attempted to excuse yourself by saying, you had not been consulted before the Business was brought forward in the House: To which I answered, it was a Matter that originated with the Members of the House, in which they consulted such Persons as they thought proper. And then, to complete your shuffling, you said the Accusation had gone further than you ever intended; that your Design was to accuse them of Incompetency not Partiality. At that Time you had a different Opinion of the String of garbled Law Cases, which were adduced before the Committee, from what you communicated to the Governor. I then asked you, whether any Person of common Understanding could draw any other Conclusions from the Instances I had cited before the House than I had done? Whether their Errors in those Causes could be imputed to ignorance? To which you answered, their ignorance was so gross, that you could account for any Thing on that Score. You then sported no such Idea, respecting those Causes, as you have since in this your shameful Epistle. You then did, and now do know, that there was not more than one of the Cases cited by me before the Committee, the Particulars of which were taken down, which were not proved before you and the Rest of the Committee, either by authentic Papers, under the Seal of the Supreme Court, the Hand of the Clerk, or the concurrent Testimony of one or more Witnesses, who were Members of the House. Notwithstanding this, you have joined with the Rest of His Majesty's Council, in the most explicit Declarations, that the Allegations made to the House of Assembly were groundless and scandalous. Had you merely joined with them in that Decree, and not exerted the specious and plausible Talents you possess, to deceive Others, who were better disposed than yourself, and to bring them into a Measure which never can turn to the Credit of the Authors of it, I should have looked on you as much less criminal than I do at present.—That you have done this, I am warranted to suppose, by your own Confession, for you say "Satisfied as you are of the Innocence of the Judges, you think it your *Duty* to afford them all the Aid in your Power, to counteract a Design, the apparent Object of which is, to bear down, by the powerful Aid of Faction, respectable Men, conspicuous for their Moderation and Humanity, &c." How far you are directed in your general Conduct, or in this particular Instance, by a Sense of *Duty* and the Dictates of Conscience, I leave the World to judge: But to me, I confess it appears a little singular, to find you in your Letter bearing Date a Week before the solemn and impartial Trial of the Justices came on, peremptorily deciding, that they were

were innocent of the Charges made against them, when you could have no Knowledge of their Defence, but through the private Communications of the Parties accused; and that you, who was to sit as a Judge on their Conduct, should explicitly promise them every Aid in your Power on their Trial. This Conduct brings to my recollection, a Cause of great Consequence, in which I was concerned, soon after my Arrival in this Province: Upon the Papers being submitted to my Perusal, I told the old Gentleman who consulted me, that the Cause had been mis-conducted and must inevitably be lost: To which he replied, "never mind it Man, I am sure of the Cause, I have got a Promise of it from a Majority of those who are to decide on it." I could not conceal my Astonishment at this Intelligence, when the old Gentleman very coolly observed, "that he did not like that Mode of soliciting Causes better than I did myself, but that nothing ever could be done in this Place without it." However, you may not have promised the *Justice*, you apparently have engaged your Voice before the Trial come on, and have thereby given a Pretence to turbulent Men to insinuate, that you are not Proof against the private Application of the Parties, in Cases which are to come before you as a Judge.

You say, "what the Memorialists mean by the manifest and avowed partiality of the Judges towards you as a Practitioner, you are at a Loss to conjecture. You must be sensible that it would be highly improper for me to exhibit to the World through the Channel of a News-Paper, the Facts on which that Assertion is founded, but I offer to produce them before any Tribunal who has a Right to decide on the Subject, and was ready to have adduced them in Support of the Memorial, before the Governor and Council, if I had been required. You, however, seem to admit that there has been something like particular Attention to you, on the Part of the Court, but modestly impute it to your own decent Conduct, contrasted with my turbulent Harangues. Had you contented yourself with founding your own Praise, without reflecting on me, I would have left you in the peaceable possession of your vain Opinion of yourself; but as you have not, I think it necessary to say, that I have oftener been warm in managing my Causes than you have been, and from this Reason among others. You have generally to my Knowledge withheld your professional Aid from those Persons who were embarked in Controversy with the Friends of the Court: I have given mine to every Man, who appeared to me to have a good Cause of Action or Ground of Defence; and when engaged, I have been both disposed and obliged to labour their Causes with Vigor. If such Conduct as I have adopted is criminal I confess myself guilty: If it is not, your Reflection is unhandsome to say the least of it.

I am, Sir, your Humble Servant,

Halifax, March 19, 1788.
The Hon. S. S. BLOWERS, Esq;

J. STERNS.

The following is Mr. M'Gill's Letter, alluded to above:

S I R,
I HAVE received you, Note of this Date respecting the Particulars of a Conversation that happened between Mr. Blowers and myself nigh the latter End of the last Session of the General Assembly, which, as it concerned you I then communicated; and as you now request, shall to the best of my Knowledge and Recollection state it.—I was passing nearly opposite the Assembly-House, when Mr. Blowers called to me and said, he had heard that Mr. Sterns had held a Conversation respecting his Conduct in a Complaint against the Justices of the Supreme Court, where I was present, and that he wished to take off any Prejudice such a Relation might have against him. Mr. Blowers then said, he might have pledged himself, but not in the Manner he understood Mr. Sterns had represented—That he had told Mr. Sterns he could not bring any Charge of taking Bribes against them—but that on the Arrival of Lord Dorchester, he would join in a Representation to endeavour to effect their Removal.

Mr. Blowers then mentioned that he would never attempt to cloak the Incompetency of one of them in particular, but that he had not been consulted in bringing forward the Charges before the House, and would not move in the Business at present.

I am, Sir, your most obedient, humble Servant,

J. STERNS, Esq;

A. M'GILL.

FOR THE HALIFAX JOURNAL.

Mr. Howe,

Please to insert in your next Paper the following Letter addressed to Mr. Blowers, and you will oblige
Yours,
W. TAYLOR.

S I R,
H A V I N G read your Letter published in this Paper of the 13th Instant, on the Subject of a Memorial presented by Mr. Sterns and myself to His Excellency Lieutenant Governor
Parr,

Parr, wherein I am mentioned, it has become necessary for me to observe, that the Conversation contained in that Memorial respecting you, is expressly said to have been held by Mr. Sterns. I must therefore conceive that your introducing my Name in that Letter, was merely for the Purpose of *insulting me*: For you could not have been ignorant from my whole Conduct, that I have been so far from boasting of any Acquaintance with you, that I have studied to avoid it; you not being a Character, that I wished for the least Intimacy with; nor have I heretofore quoted your *sayings or Opinions*, which have I held in little Estimation. Indeed, had I conceived a better Opinion of them, I should not have quoted them on the present Occasion; because there was not a very good Understanding between us, and some People, who were not well acquainted with me, might through Misrepresentation have been induced to suppose, that I had been actuated by Pique and Repentment against you; it was also unnecessary for me to say any Thing on that subject, you having more fully communicated your Opinion of the Conduct in Office of the Justices of the Supreme Court, to Mr. Aplin and Mr. Sterns, as they have informed me, than you ever did to me, and because I supposed you would have been called on as a Witness on the Trial of said Justices. I however, now declare, that by an accidental Conversation with you on the Subject, during the sittings of the Supreme Court, in Michaelmas Term 1736, after the Trial of an Exchange Cause, against a Gentleman of *Winnipeg*, you reprobated the general Conduct of the Judges of the Supreme Court as shameful, ignorant and partial. I mention these Circumstances by Way of recalling it to your recollection. How you will reconcile your former Opinion, with your Letter to the Governor and your Conduct in Council, I cannot conceive, though I know you to be an Adept in reconciling Contrarieties to yourself: You will be much deceived if you suppose they are so easily reconcilable to the Public.

You *it* cannot say but Mr. Sterns and myself have acted candidly towards you. Previous to delivering our Memorial, we informed you of our Intentions by Letter, a Copy of which is inserted at foot hereof: You did not deign to notice it: But relied upon your Interest to have it discussed in Council. It is however a sort of Anathema that will not injure us, nor answer your Purpose.

I am perfectly satisfied with the professional Business I have done since my admission at the Bar; and am happy in the Confidence of my Friends, from whom I have received flattering Encouragement and support. The Number of Causes I have argued could be of little Consequence to the Governor: You have, however, mistaken them in your Letter to him, whether from Design or otherwise is immaterial. And it is also immaterial, whether a consciousness of the Impropriety of your Conduct in the Cause you allude to, or my Sentiments, thereon communicated to you, has made such an unpleasant Impression on your Mind as to occasion the illiberal and ungentlemanly Conclusion of your Letter,

I am, Sir, your most humble Servant,

W. TAYLOR:

Halifax, March 17, 1738.

The Hon. S. S. BLOWERS, Esq;

The following is the Letter which was sent to Mr. Blowers, alluded to above.

S I R,
W e are about to present a Memorial to His Excellency Governor Parr, which materially reflects you, and will probably affect your Reputation and Honor. We therefore inform you that we are disposed to apprize you of its Contents, if you choose either to desire our attendance at your Office, with it immediately, or if you will call at the Office of Mr. Sterns. We should have given you longer Notice of this Business, but the Subject of it has been a Secret to us till very lately.

We are, Sir, your humble Servants,

FROM THE NOVA-SCOTIA GAZETTE.

To the PRINTER.

HAVING proved, I trust, to the Satisfaction of every candid Mind, that Messrs. Sterns and Taylor, notwithstanding what they say to the contrary, were in Fact the Accusers of the Judges before the Assembly—That it was on the Allegations made by them, and those only the Motion was made for an Address to the Governor, and that with it were transmitted the Testimony of those Attornies as the Proofs on which it was founded, and no other Paper

John Anderson July the 3rd 1738

Paper or Document whatever; and that therefore His Majesty's Council, if they had been as desirous of censuring the Judges as the Malice and Resentment of Messrs. *Stern* and *Taylor* have induced them to be, could not with any Propriety have considered the Case on any other Ground than they have done; I shall now proceed to examine the Cases cited by Messrs. *Sterns* and *Taylor*, before the Committee of the House.

Hitherto these Attornies have appeared like Partners in Iniquity associated for Mischiefs, ready to back, or to answer for each other as should best suit their Purpose:—but it is now time to uncouple them, and to consider the Allegations made by each distinctly and seperately.

I shall begin with Mr. *Sterns*. The first Question asked him in the Committee, was, "Whether he had been a Practitioner in the Supreme Court for any Time?" the Answer is five Years and upwards—He is next asked a curious Question, "Whether during that Time he had been perfectly satisfied with the Proceedings of the Court." He answers no: and he might have added, nor the Court with his. The next Question is, "In what particular Instance was he dissatisfied?" Instead of answering this Question directly and fairly, he answers, "In many Instances, but could not relate all; in general the Judges did not appear to have Justice always in view, and in his Opinion were not competent to the Administration of Justice." This Answer being evasive, and only a Repetition of this Attorney's Opinion, which was as well known before; he is again asked, "In what Instances was he particularly dissatisfied?" and he then answers, "That the Rules of Practice have been strictly adhered to against some, who were not Favourites, and relaxed on other Occasions; Instance, he was concerned some Time ago for a Plaintiff (whose Name he does not recollect) when he was kept in a Cause on the Objection that the Defendant had not been served with a Copy of the Account. He insisted that there was no Rule of Court requiring the Defendant to be served with a Copy of the Account, and that his Declaration was sufficient. They (meaning I suppose the Judges) admitted the Objection, and put the Cause over upon it. He afterwards, on the same Day, made the same Objection, when for a Defendant, which was overruled, and he was ordered to proceed in the Cause on the Part of the Defendant."—In this Case this impartial Witness has forgot the Names of the Parties, and has omitted to state the Time when it was decided, and the Place where: or to say, if it was a Cause tried summarily or not: yet he cannot be ignorant that the Judges are authorized by a Law of the Province to try Causes where the Debt or Damage does not exceed £20. in a summary Way, and to give Judgment according to Law or Equity, that is, according to their Consciences; nor is he ignorant, that there is a general Rule of the Court, that where a Man is sued on an open Account, the Plaintiff shall serve the Defendant with a Copy of his Account a reasonable Time before Trial, but that where the Account consists of only one, or a very few Items, and the Declaration sufficiently explains the Nature of the Demand, that the Court in such Cases thinks it reasonable to dispense with the general Rule, in Favor of Justice, and for the Expedition of Causes; and the Question simply is, who shall judge of the reasonableness of enforcing or dispensing with this Rule of Practice, the Judge on the Bench or a forward Attorney brawling for his Fee.

Mr. *Sterns* is next asked, "From what particular Instances had he Cause to suppose they (meaning the Judges) wanted Integrity?" To which he answers, "That in a Cause between *Abner Moss* and *Samuel Moss*, the Court instructed the Jury, that a Partition of the Township of *Annapolis*, made with-
Deed or Writ, was good and sufficient, and could not be disturbed; and in a subsequent Cause, in which *Abner Moss* was Plaintiff and *Aaron Kent* was Defendant, the Court instructed the Jury, that the Proprietors of *Annapolis* were Tenants in Common, and that the Partition made as aforesaid in Consequence of the particular Writing, was of no Consequence or Avail." Here again we find this impartial Witness omitting to explain the Nature of the two Causes. If the first was Ejectment, in which the Title to a Tract of Land or Messuage, depending on Metes and Bounds between Proprietors of the Township, was to be tried, the Court were warranted in admitting any Writing almost as Evidence of an old Partition among the Proprietors; and in the other Cause, if it was Trespass by one Proprietor against a mere Stranger for a tortious Entry on his Land, it was nugatory to go into the Plaintiff's Title, because his Possession was sufficient to maintain the Action. As to the Severity of the Chief-Justice, which he complains of, I doubt not he deserved it; and it is only to be regretted that it has not been more frequently exerted against him; the Province would not then have been troubled with these frivolous Complaints.

The next Instance cited by him, is a Case between *Cousins* and *Watson*, in which he tells a long Tale of his having excepted to the Opinion of the Court, and of his shewing the Exceptions to Justice *Brenton*, and of his derying them to be correct, and of his then applying to the Solicitor General and Major *Borchgrevink*, and of the latter's certifying it to be, in his Opinion, correct, and of Mr. *Brenton*'s then inserting a few Words, which Mr. *Sterns* thinks were immaterial, and giving it back to him. He then quotes a Cause between *Potter* and *Smith*, another between *Opland* and *Helmes*, and another, the *King vs. Satt*; in all which he excepted to the Opinion
of

William Anderson July 2th 1799

of the Court, and the Court denied the Opinion stated by him, with the Assistance of Counsel concerned with him. All these are mentioned as Proofs of Want of Integrity in the Judges; and although Mr. *Sterns* cannot be ignorant, that the best Evidence the Nature of the Thing will admit, should be produced, yet he omits to produce the written Opinions stated by him, but chuses to relate the whole in his own Memory, and *ipse dixit*.

It is well known, that no Judge is bound to certify any Opinion given by him, unless it agrees with his own Notes of the Trial, or his Recollection. In some of these Cases, the Opinion, as drawn up by Mr. *Sterns* and the Counsel concerned with him, was objected to by the Counsel on the other Side, and, on being compared with the Judges Notes, was found to be erroneously stated, and was therefore refused to be signed. It is probable that was the Case with all of them, and Mr. *Sterns's* Manner of relating Facts, must have long since given the Judges sufficient Reason to doubt his Correctness.

The next is the Cause of *Bent vs. Watson*, which was tried last Summer at Cumberland, and of which he can know Nothing, but what was told him by the Defendant, who has filed a Bill in Chancery for Relief. None of the Attornies from Halifax attended the Term at Cumberland: But Mr. *Sterns*, imagining the Court had mistaken the Law in this Case, could not omit to mention it as a Proof of their want of Integrity. It is too long to transcribe, but the principal Objections, mentioned by him to the Determination of the Court, are their having assessed the Damages, without the Intervention of a Jury, and their having allowed Interest on the Sum supposed to be due. It was an Action against a Sheriff for not having levied Money on Execution, and the Court, considering it in the Light of an Action on a Judgment recovered, gave Judgment for the Amount of the Debt and Costs recovered, with lawful Interest thereon, from the Time of the Recovery. To make the Determination of this Case appear to the Committee as a strong Proof of the Violation of the Law, Mr. *Sterns* has connected with it the Refusal of the Court to allow Interest on simple Contracts, where no Interest is proved to be agreed for, or in the Contemplation of the Parties. He has repeatedly urged the Court to allow Interest on Promisory Notes, and other simple Contracts, which did not carry it on the Face of them, on the Authority of some late Report, in which my Lord Mansfield has recommended the Allowance of Interest to Juries at Guildhall. But the Situation of this Country, and Course of Trade, as well as the general Sense of the Community on this Head, being different from what they are in London, the Court here have refused to follow the Innovation in this Respect made at Home, and have constantly declined allowing Interest on simple Contracts, unless it was agreed for; but in Actions on Judgments and Specialties, the Judges have followed the old Rule and allowed Interest of Course. On this Principle it was allowed in the Case of *Bent vs. Watson*.

The next Case cited by Mr. *Sterns* is *Kerin vs. Bonnel*, "as a further Circumstance to prove," as he expresses it, "the want of Justice in the Supreme Court." But here too he omits to mention the Nature of the Case, or any one Fact, or Circumstance, by which an indifferent Person can form a Judgment of the Proceeding. We are to take his Opinion as sufficient to establish the Culpability of the Court, both as to Law and Fact, and their Denial is not of any Weight, because they are accused, while he is to be viewed as an indifferent Witness, competent to decide all Points, but unwilling to testify against the Guilty. *Risum teneatis Amici!*

Mr. *Sterns* is next asked, "Whether in the Cause, *Chamber vs. Shaw*, the Court did not overrule the Plaintiff's Counsel, in attempting to examine Witnesses relative to a Road in the Township of Newport." This he answers affirmatively.—He is then asked, what Reason was assigned for it? The Answer is, "That it was not material to the Cause." He is then asked "If the Court did not, after overruling the Plaintiff's Counsel as abovementioned, make the Road a Part of their Charge to the Jury?" Answer, "He argued the Cause on the Ground of its being a Way, in which the Defendant had a Right to travel, and to the best of his Recollection, the same was given in Charge to the Jury." For what Purpose this Cause was cited, it is difficult to conjecture. The Court here is stated to have agreed with Mr. *Sterns* in Opinion. If the Fault is, that having refused the Plaintiff Leave to dispute the Legality of the Way, they yet instructed the Jury to consider it as a lawful Road; that may be easily accounted for by supposing the Plaintiff's Counsel, notwithstanding he was denied Liberty to produce Witnesses against the Legality of the Road, yet took Care to talk a great Deal on the Subject to the Jury, as the Practice is here, and therefore the Chief Justice found it necessary to controvert his Opinions, to prevent, if possible, the Jury from being misled.

Mr. *Sterns* is next asked, "Whether he recollected the Conduct of the Court, when one Messenger was brought before it on Process for Contempt?" Answer, "He did, as he was Counsel for Messenger, and a Motion was made, that this Man might be brought up on a Rule, as he believes, to show Cause why the Attachment should not be discharged. The Court deferred hearing the Motion argued to the last Day of the Term, as he believes;" again, "and then refused to hear the Motion argued at all." Now the simple

Truth

Truth in this Case was, that the Court refused to hear a Motion for discharging a Man committed for Contempt, in not obeying an Order of Court, until he should purge himself of the Contempt by Obedience. And in this they certainly did right, and followed a Rule of Practice, which has been established these Hundred Years.

The next Enquiry is relative to the Supreme Court giving private Judgments, without declaring them in open Court, and a long Story is told of such a Judgment being given in the Case of *Pines* and *Katberns*, and of a Motion being made to set it aside, for Irregularity; of Justice *Brenton's* mistaking the Plaintiff for the Defendant; of the Court's refusing to hear the Motion, and declaring, that if they had not given a public Judgment before, they would give one then; and of Mr. *Sterns* telling the Court, as a Friend, (he not being concerned in the Cause) that if they gave Judgment for the Defendant, it would destroy all Confidence in Business between Man and Man: And all this he told to prove the Mal-conduct of the Judges. With Regard to the Complaint against them, for not delivering their Judgments in open Court in the hearing of the Parties attending, it originated I believe, at *Annapolis*. This was a summary Cause, I suppose although Care is taken to say nothing of that. In such Causes the Practice of the Court, for many Years, has been to docket each Judgment in a Book kept for the Purpose, from a Note of the Opinion of the Court, made by the Chief Justice, and delivered to the Clerk of the Pleas. And when the Judgments are to be entered, they are each signed by the Chief Justice, or, if that Place is vacant, by the Senior Assistant Justice, and the Parties or their Attornies go to the Clerk's Office, where they can see the Judgment as entered and signed. This Practice, which the Court found established, as I am informed, when they came into Office, and which, I think is recognized by the Province Laws, was never, to my Knowledge, complained of before. It is attended with no Inconvenience to the Saitors, and it expedites the Business of the Court. It may deprive an Attorney, fond of opposing the Judgments of the Court, of some Opportunities of insolently doing it in the Faces of the Judges; but that is a Circumstance, which most Men will think ought to recommend a strict Adherence to the Practice. In this very Case we find Mr. *Sterns* officiously starting up to tell the Court their Judgment was so very wrong, that it would destroy all Confidence in Business between Man and Man. His Motive, he tells the Committee, was to befriead the Court, yet I believe, few will doubt, but his real Drift was to foment or disseminate the Discontents, which he talks of in the next Answer.

The last Question put to him, is, "Whether there are not great Discontents prevailing among the Inhabitants of the Province, with Respect to the Administration of Justice in the Supreme Court?" To which he answers, "That so far as he has a Knowledge of that Circumstance, they are very general, and that the Supreme Court are so little respected, that he conceives their Opinion is scarcely of any Weight with Juries in general, and most of the Gentlemen of the Country, and particularly the Gentlemen of the Bar, have expressed their Dissatisfaction of the Court."

That Discontents have for some Time past subsisted, not only against the Justices of the Supreme Court, but against almost every Officer of Government in the Province, is very true; and it is also as true, that extraordinary Pains have been taken to create and encourage such Discontents by factious, idle or ambitious Men, who wish to become of consequence in it, and covet the Places which are occupied by others: but it is hoped that the Virtuous and the Good, the Orderly and the Loyal among us, have not been, nor will be induced to concern themselves with them.—I am confident, that if such frivolous Charges and Misrepresentations, as we have now examined, are sufficient to affect the Reputation of the Justices of the Supreme Court, no Man can be safe. The Constitution of our Government is unexceptionably good, and the Administration of it as mild and lenient, to all Ranks of People, as the veriest Republican can wish. Let us then avoid, as the Pests of Society, those who are endeavouring to disturb it, and let us consider Misrepresentation and Scurrility as sure Indications of a bad Cause.

I have taken up so much of your Paper that I must defer the Consideration of Mr. *Taylor's* Testimony to another Opportunity.

PLAIN TRUTH.

FROM THE HALIFAX JOURNAL.
To the PUBLIC.

IT must be obvious to every Person who has taken the Trouble of looking into the Conduct of the Justices of the Supreme Court, and their Friends, on the Occasion of the late Impachment, that they have appeared much more anxious to fix the Accufation of them on Mr. *Taylor* and myself,

myself, than to bring their official Conduct to the Test of a fair and open Investigation. This is eminently the Case with the Writer under the Signature of Plain Truth, who assumes a Position and plumes himself on proving it, which I will venture to say he knew to be false, viz: That the Motion was made in the House of Assembly for an Address to the Governor, solely on the Allegations of Mr. Taylor and myself: However, we will for a Moment admit that he has firmly established that Fact, will it not then most clearly follow, that His Majesty's Council have violated every Principle of natural Justice in proceeding to the Trial, not only of the accused, but of the Accusers too; a Circumstance unparalleled in the History of Judicial Proceedings, without permitting the Accusers to verify their Charges against them? The Truth is, the Advocates of the Judges have alternately considered their Impeachment as the Act of the House of Assembly, or the Witnesses, as it best suited particular Purposes: When they wish the Judges to be tried only on the written Information sent up to the Governor (for Evidence it is not, in any Legal Sense of the Word,) it is then an Impeachment of the House of Assembly—the whole Grounds of which accompanied their Address, and out of which the Council could not go for further Instances or Proofs: When the Accusation is to be discredited, as groundless and scandalous, and the Characters of the Witnesses to be stigmatized, then it becomes the sole Complaint of Messrs. Taylor and Sterns. This is a Species of unfairness which never will do either Credit or Service to our Author, or his Friends, and is too obvious to escape even the most careful Observer.

As to the contemptuous and ungentleman-like Language our Author makes use of when speaking of the Witnesses before the House of Assembly, I shall only say, that I am sorry to find him, in a Matter of the highest Consequence to this Community, deserting the Field of manly Argument, and meanly descending to Scurrility, Abuse and Quibble. The former Publications on this Subject, appeared under the Signatures of Mr. Taylor and myself, and though we are now uncoupled and appear singly, I have no Doubt but I shall be able alone to dislodge our Fox from his Cover to follow him through all his Doublings, and his arch Tricks notwithstanding, finally to run him down, or at least so far to frighten the Animal as to prevent his often coming abroad, in future, upon his mischievous Pursuits.

After premising, that a small Proportion of the Information which I gave the Committee of the House was reduced to Writing, and that even what was taken down was not accurately done, I shall proceed to lay before the Public, in plain Language, as unembarrassed with technical Phrase as possible, that Part of it which has been discussed by our Author, and shall expose the unfairness of his Representations of, and Remarks upon it:—The first Question, in Answer to which I adduced any Facts, was this,—In what particular Instances had I been dissatisfied with the Conduct of the Supreme Court? My Answer, as taken down, is, in many, but could not relate all. This Question, to every Man who thinks accurately, carries most clearly, a Demand of all the Instances in which I had been dissatisfied. I answered, I could not under a long Time relate the whole, but proceeded to mention one, which I fully related; however it might not have been fully committed to Writing; I declared the Rules of Practice had, in my Opinion, been arbitrarily applied by the Court; sometimes they had been strictly adhered to, the Injury of those who were not Favorites, and relaxed on other Occasions. I then mentioned an Instance which happened in the Supreme Court in Halifax, to the best of my Recollection, between two and three Years ago, I was of Counsel for a Plaintiff, in a Cause wherein the Object in Controversy was less than 20l. on an open Account, which a Law of this Province authorizes the Judges to determine without a Jury. A Question arose in the Course of the Trial, whether a Copy of the Account had been served on the Defendant? To which it was answered in the negative; the Court then told me the Cause must be put over till the next Term. I contended, that there was no Rule of Court which required the Service of a Copy of an Account on the Defendant under those Circumstances, and that the Declaration of the Plaintiff contained the Cause of Action, as specifically set forth as the Law required, and no such Rule of Court, as had been mentioned, could be produced, or in Fact existed: Notwithstanding which they put the Cause over till the next Term. On the same Day I was concerned for a Defendant, the Circumstances of whose Case were, as I then thought and still think, exactly similar to these of the first Defendant: the same Objection existed, and was made by me to the Court; to which they gave no other Answer, than "proceed Sir." I confess I do not recollect the Names of the Parties to these Suits, and it cannot appear singular to any Man of Candor, that I should not, when he is that the Causes of many Hundred People have passed through my Hands, and have occupied my Mind since that Period. But this I can assure the Public, the Circumstances of those Causes were so singular, that I most clearly and perfectly recollect them, as does likewise another Officer of the Court, with whom I communicated on the subject long before I mentioned it

to the Committee. As to the Rule of Court, which our Author says I cannot be ignorant of, I now declare that no such Rule doth exist, or hath existed since I was a Practitioner in the Supreme Court. As to the rest of this Paragraph, [the gentlemanly Expressions he makes use of respecting Persons of his own Rank and Profession, must prove that he is a Man of refined Manners, who cannot fail of urging his Opinions to the Court on all Occasions with Decency.

The next Instances I mention are, two Causes, one between Abner Morfe and Samuel Morfe; and the other between Abner Morfe and Arad Kent; the first was an Action of Trespass and Ejectment, brought in the Supreme Court at Annapolis, in the Spring of 1737. for Lands lying in Annapolis, which Township was originally granted in common. I was of Counsel for the Plaintiff, whose Interest it was in that Action, to prove that a Division made of said Township, by the Proprietors of it, by an Instrument in Writing, not sealed, was not good and sufficient in Law to create a Tenancy in severalty; the Court in their Charge, instructed the Jury, that the Partition made by that Writing was *good and sufficient in Law to create a Tenancy in severalty*, which never could be disturbed, and the Plaintiff lost his Cause. In the Autumn following, the same Abner Morfe brought his Action of Trespass against Arad Kent, for entering on his Land and carrying away the Hay from it. The only Difference in these two Causes was, that in the first Instance, Samuel Morfe had built a Fence on the contested Ground; in the latter, Kent had only entered the Land of Abner Morfe, claimed it as his own, and carried away the Produce of it: This Entry by Kent, was on Purpose to induce Abner Morfe to bring an Action to try the Title; both this and the former Cause were Contests respecting Meets and Bounds and nothing else: In this Case, it was the Interest of Abner Morfe to establish the Division made by the aforementioned Instrument in Writing, and for that Purpose, I cited the Opinion of the Court on the former Trial, when the Chief Justice treated me with great severity, and declared that he would not suffer me to cite former Opinions of the said Court, without their Leave: And in this Instance, the Court instructed the Jury, that the same Partition made by the Proprietors of the Township of Annapolis, by the aforesaid Instrument, *was not good, or sufficient in Law, to create a Tenancy in severalty, but that the Proprietors were Tenants in Common; directly in Terms contrary to their former Charge.* The respective Situations of Abner Morfe and Samuel Morfe, and Abner Morfe and Arad Kent, were exactly alike, they were all Proprietors in the Township of Annapolis, and the Lands of Samuel Morfe and Arad Kent lay contiguous to those of Abner Morfe: It is true Abner Morfe prevailed in his Cause, notwithstanding the strong Opinion and Recommendation of the Court, some of the Jury having heard and recollected the former Charge of the Court. If there is any Thing in the weak and contemptible quibbling of our Author, on this Part of my Information, it makes directly against the Judges; for in the first Cause they decided, that the aforesaid Division was sufficient to make a Title in severalty; in the latter, they determined that it was not sufficient to entitle the Plaintiff to the possessory Action of Trespass. The Facts, as above stated, were proved before the Committee by the Testimony of several Witnesses, Members of the House, who were present at the Trials of both those Causes.

The next Instance adduced by me, is a Cause tried at Annapolis, between Cousins and Watson, which I shall barely relate as it happened, and leave the Public to decide on the Conduct of the Judges, on the Occasion: The Court gave their Charge to the Jury, which I, being of Counsel for Watson, conceived not to be Law, and therefore took it down in Writing, in order to avail myself of their Mistake, on Motion or otherwise. When the Jury were gone out, I exhibited the Opinion thus stated, to Mr. Justice Brenton, who denied that the Court gave any such Opinion. I shewed it to the Solicitor General and Major Barclay, who both said it was correctly stated. I then requested them to certify that it was so, which the Solicitor General declined, as it would appear like conspiring against his own Client; but Major Barclay did, he not being concerned on either Side. Mr. Brenton then stated something orally, as the Opinion of the Court, which was entirely different from what I had taken down: He afterwards called for the Paper, to which I had committed their Opinion, and wrote something on the back of it, as their Opinion, entirely different from the oral Opinion given as before, and from the one I had reduced to Writing, which I also exhibited to Major Barclay, and to which he subscribed another Certificate. After all which, Mr. Brenton called for my first Statement, added a few Words, which I now think immaterial, having the Paper at present in my Possession, and which Major Barclay certified was not in the original Charge of the Court, and gave it back to me as the Opinion of the Court.

I mentioned a Number of other Causes afterwards, but did not relate the Particulars of some of them, the Committee expressly requesting me to name the Causes only, that I might be called on to relate them at large on a future Occasion. The next Cause, in order is, that of Pert against Watson,

Watson, the Particulars of which I shall relate at large:—A few Years before the late Disturbances in America, a Number of Englishmen, of Property, emigrated from Britain and settled in the County of Cumberland; who, being warmly attached to their King and native Country, opposed the Spirit of Faction which made its Appearance there about the same Time as it did in other Parts of the Continent, and in the Year 1776, broke out into open Rebellion; the Insurgents first wreaked their Vengeance on those unfortunate Englishmen, by destroying or carrying away all their Property which they could lay Hands on or injure.—A certain Mr. Harper, who was a Magistrate there, suffered the Loss, I believe, of all his Houses, Cattle, Goods, and every Thing except his Land. After the Rebels were taken or dispersed and the King's Government restored there, Mr. Harper brought his Action in the Supreme Court, against Parker Clarke, Simeon Chester, and others, who were concerned in the Insurrection, and had escaped to New-England, for the Recovery of the Damages he had sustained by them and their Associates. Bent, the Person above-named, who was an Accomplice of Clarke and Chester, and was under Indictment for High Treason in the Supreme Court, stayed for some Time in Cumberland, and lived with Clarke's Family, after Clarke and Chester had absconded, and as soon as he heard of Harper's Suit against those People, instituted a Suit in the Inferior Court, for the County of Cumberland, against said Clarke and Chester, on, what was generally supposed, fictitious Demands, and recovered Judgment against them for large Sums of Money—took out Executions from said Inferior Court, in order to levy the Money on the Property of Clarke and Chester, and gave them into the Hands of said Watson, then Deputy Provost-Marshal. Mr. Fenton, the Provost Marshal, being well acquainted with those Facts, laid the same before the Supreme Court, in July 1780, and the Counsel for Mr. Harper also exhibiting Proofs to the Court, that those Demands against said Clarke, Chester and others, were fraudulent, they made an Order reciting, "That it had been shewn to them, that said Processes against said Clarke, Chester and others, were set on foot and commenced collusively, to cover the Property of the said Clarke, Chester and others, and passed in the Court below, in Deceit of the Parties, and to elude said Harper's Demand and the Justice of said Supreme Court: Upon which the Court ordered, the Judgment in Favour of Harper, against Parker Clarke, Simeon Chester and others, should be carried into Effect, and that Writs of Certiorari and other Processes should go to said Inferior Court, unless Cause shewn to the contrary, to remove all Records, Causes and Plaints instituted against said Clarke, Chester and others, if need should be, that Consideration might be thereon had." This Order of the Supreme Court, with an Execution in Favor of Harper, was delivered to Watson, who had in his Hands those Executions of the Inferior Court, in Favor of Bent as above stated, but had not levied them. Watson, as he was bound to do by the aforesaid Order, levied the Execution of the Supreme Court in Favor of Harper, and ceased to proceed in the other Processes. Bent, soon afterwards, ran away to New-England, and continued there till the Act of Amnesty passed, as I am informed by Watson, and then returned. In the Summer of the Year 1787, about Seven Years after this Transaction was over, Bent brought his Action on the Case, in the Supreme Court, against Watson, for not levying those Executions of his, against Clarke and Chester, which that Court had adjudged to be fraudulent, and had ordered to be brought up before them on that Account, as is aforesaid. Watson gave in his written Answer, or Plea, in the usual Form, in which he saith, that Bent ought not to maintain his said Action against him, because, in not levying those Executions, he acted under and agreeable to the Order of the said Supreme Court, which he produced: He further says, that six Years and more had elapsed since that Transaction, and that, of Course, he could not be responsible, even if he had not received any Order of Court on the Subject, as the Statute on that Point had expressly destroyed the Cause of Action. There was also another Plea, less material than those which were the Ground of his Defence, to this there was an informal Demurrer, but no Joinder in Demurrer. The Court without suffering the Cause to go to a Jury at all, gave Judgment against Watson for £.195: 18s. being the whole Amount of the Judgment which they had before solemnly adjudged to be fraudulent, and calculated Interest on the whole, from the Time of the Recovery of those Judgments, being £81: 18s. and gave Judgment for that also, when they have refused to give Interest on any Securities which did not bear Interest on the Face of them, even where they were for Money lent, and the Time prefixed for Payment was set, and have declared to me, that if I got it assessed by a Jury, they would set aside their Verdict on that Account. In short, to reduce this long Relation into a narrow Compass, the Supreme Court has punished an Officer for obeying their Orders, who was entirely under their Controul and could have been fined and imprisoned at their Discretion for not obeying them; they have not only made him pay the Amount of the Judgments they had solemnly determined to be fraudulent, but have added Interest on those Judgments, from the Time they were recovered by Bent,

Bent, notwithstanding they deny Interest on all other Occasions. even for Debts which arose from the lending of Money, unless the Lender had taken Security expressly for the Interest. And all this they have done without suffering the Defendant to have a Trial by Jury, the known and darling Privilege of Englishmen, which not only the Judges, but every Yeoman in the Country, or Child in our Streets, knows to be his Birth-right. Our Writer says, that I could know nothing of this Cause but what I learned from the Defendant. If Plain Truth is really the Person I suppose him to be, he knows that I have in my Possession the whole Record of the Proceedings of the Court in that Cause, together with the Order which was served on Watson, all which I submitted to him, before the Bill was filed in Chancery for the Relief of the poor Man, and at which he appeared as much shocked, as he pretends he was, at the String of garbled Law Cases recited before the Committee: This Record and Order I exhibited to that Body, when I was under Examination before them, have them now in my Possession and am ready to shew them to any Person who has a Curiosity to see them. The prevarication of Plain Truth, in his Remarks on this Case, is shameful indeed—he has entirely omitted, in his Statement of it, the Order of Court, which I have above recited; has passed over slightly, the Circumstance of the Court's giving Judgment in Chief, and assessing Damages, without ever trying the Cause by a Jury; and has artfully endeavored to draw the Attention of the Public, to Circumstances which he knew to be entirely immaterial. He says, the Court considered the Cause to be *in the Nature* of an Action on a Judgment: I say, they might as well have considered it as an Indictment for Murder, for it was an Action of Trespass on the Case, expressly so named by the Plaintiff in the Proceedings: So that had our Judges both been as ignorant, as the supposed Author of Plain Truth sometime since declared one of them to be, that he did not know one Law Proceeding from another, unless by the Indorsement on it; they must have known that the Action in Question, was not an Action upon a Judgment.

The Case of Kerrin and Bonnel I related at large, though it is not taken down, the Committee expressly directing, that only the Title should be mentioned, that I might be called on for the Particulars on a future Occasion. Our Autho's Ideas, as a Writer, differ materially from his Opinions as a Judge: Here he says, no Fact or Circumstance is mentioned, by which an indifferent Person could form a Judgment of the Proceedings; yet it seems the Council, *being indifferent Men*, were so sagacious as to find out Facts and Circumstances enough in it, to declare this, with the rest of the Cases, groundless and scandalous, without calling on the Witnesses to explain, what our Author has now found to be absolutely inexplicable.

The Remarks on the Cause of Chambers and Shaw are too futile to deserve an Answer, as are those on the Cause of Messenger to professional Men, with whom our Writer must fall into the most abject Contempt, either for his want of Knowledge or Candor. He says, the Court did right in refusing to hear Messenger on Motion, 'till he had purged himself of the Contempt by Obedience, when the very Object of the Rule we had obtained, was to shew that he had never been in contempt; or to reduce the Assertion of Plain Truth to plain common Sense, he says, the Court did right in refusing to hear Counsel on the Question, whether Messenger should pay a large Sum of Money, 'till he should actually pay it: Then they would gravely sit and hear the Subject debated. The Complaint here was, that the Judges refused one of the King's Subjects a hearing where he had an unquestionable Right to be heard, and where they had agreed he should be heard. The long Story of Plain Truth about private Judgments, is tedious and too ridiculous to require a serious Answer; the simple Question being, whether our Law requires our Judges to give their Judgments openly, which every Man, of the least professional Knowledge, knows it does; and the Mistake made in the Business of Pineo and Kacherns, by Mr. Justice Brenton, proves the Prudence and Propriety of the Rule;—there he actually gave the Reasons I had mentioned to the Court, on which I conceived they were bound to give Judgment for the Plaintiff, and declared that they had given Judgment for him, but was contradicted by the Chief Justice, who as probably might have been as mistaken as the former—Whereas if the Judgment had been given, as the Law requires, in open Court, they might and would have been set right: But the principal Grievance complained of here was, that the Court first granted a Rule to shew Cause why the Judgment should not be set aside, and then denied that they had granted it. The infamous Suggestion contained in the Conclusion of this Paragraph, respecting my Motives for giving my Opinion to the Court, in this Cause, is just what I could suspect from a dark and secret Assassin, who, from under Cover, fires on the unwary Traveller, who is never able to discover from whom he receives the fatal Wound.

The villainous Insinuations, that those People who have given their Opinions respecting the Judges, were actuated by a wish to obtain their Places, never could have proceeded from any Man whose Heart is not as black as Erebus, and who would not himself commit the vilest Actions

ors to insure his own Advancement : I do not apprehend that any Person, who knows me and the State of my Business, will even for a Moment give Credit to it ; for, it is well known, that my present Situation is far preferable, in Point of Emolument, to the Salary of a Justice of the Supreme Court. And I now declare, that even the high Office, the Author of Plain Truth is supposed to be in quest of, and the Pursuit of which has brought him into the present inextricable Labyrinth, could not tempt me to leave the private Walks of my Profession, where I have experienced, from a generous Public, a Support, which has equalled my Wishes, and far exceeded my Expectations or Merit. Equally without Ground or Reason as his foregoing suggestion, is the Cause which Plain Truth assigns for the Discontents which prevail in the Country, respecting the Conduct of the Judges :—Those Discontents are not of recent Origin, they have long existed in this Country—I found them here on my first Arrival in the Province, in the Year 1782 : It is true they subsided, in some Degree, after the Arrival of the late Chief Justice from England ; but were again revived at his Death, which happened about two Years after : And this Plain Truth knows to have been the Case, as he does, that those Gentlemen, who when called on, gave their Opinion on the Administration of Justice in the Supreme Court, are not Men who depend on a Faction for their Consequence in Society, and have never sought it by any indirect or improper Means.

I now again declare to the Public, that all the Facts I related before the Committee, except the first mentioned, were confirmed at the Time of my Examination, by the Testimony of two or more Witnesses, Members of the House, or by authentic Papers by me produced to them ; and that I am ready, notwithstanding the Decree of the Council, to risk my Reputation on the Truth of, and my Ability to prove them ; and I now challenge any Person whose Reputation or Interest is concerned in this important Transaction, to submit the whole Case to the examination of any Man or Number of Men of Reputation and Abilities, who are Lawyers, or let the Judges be brought to a Trial before the Chief Justice of Canada, the Chief Justice of New-Brunswick, or any one of the Justices of the Supreme Court of that Province, or the Chief Justice of Cape Breton, who clearly are the only Persons in the King's Dominions in America, competent to try them, and if they do not upon a fair and full Hearing pronounce, that the Cases I adduced before the Committee are well supported, and that I am justified in the Opinion I gave of them, by the Facts on which I founded it, I will do, what the Author of Plain Truth ought long since to have done, I will abdicate Society—hide my Face from the Reach of the Human Eye, and in Solitude spend the rest of my Life in Contention and Repentance. If they elude such an Enquiry, the Scribbling of our Author, the Clamour of a Party, or even the Decision of the Council, will not and ought not to injure my Reputation with the Candid, convince the Public that Justice has been done, or that such an Investigation has taken Place, as ought to satisfy all concerned.

J. STERNS.

Halifax, 26th March, 1788.

FROM THE NOVA-SCOTIA GAZETTE.
To the PRINTER.

I SHALL now proceed to consider the Testimony of Mr. Taylor, as laid before the Committee of the House of Assembly. I have already observed, that he was not personally examined, as Mr. Sterns was, but delivered what he had to alledge, in Writing. He begins with saying, that, "it was about eight teen Months only, since he had been admitted to the Practice of the Law in this Province, during which Period, his Business had not been great, nor was he able to give so much Information as the Gentlemen of the Bar of longer standing ; but that in Obedience to the Directions of the Committee made known to him, he did, with regret, declare, that from the Observations he had been capable of making, he considered the Judges both Incompetent and Partial, and altogether unequal to the Administration of Justice. This Exordium, which wears the Appearance of Candour and Moderation, would have entitled Mr. Taylor to some Excuse, if the Violence of his subsequent Conduct had not contradicted it. As a Proof of the Incompetency and Partiality of the Judges, he proceeds to say, That "he had known them on a Trial in Ejectment, when the Lessor of the Plaintiff in deducing his Title has proved himself to be a Native of Germany, and residing there ; to refuse granting a Non-suit on Motion, but suffered a Verdict to be given in favour of said Foreigner, in direct Violation of the Laws of the Land."—It is unlucky for Mr. Taylor, that the Cause, here cited, proves the Reverse of the Proposition, he meant to establish by it, for the

The Court was right and Mr. *Sterns*, who argued the Cause for the Defendant, and made the Motion for a Nonfuit, was mistaken in his Law. The Action of Ejectment is a fictitious suit to recover a Chattel Interest only, and every Lawyer should know that the Extension of Commerce having mollified the too rigorous Rules of the old Law, an Alien Friend may now purchase a Lease for Years and consequently make one. The Lessor of the Plaintiff, one *Nigel*, was a German, whose Agent, Mr. *Jacobs*, of this Town, had leased in his Behalf a Hoofe in Dutch Town to the Defendant, *Goslip Mulig*, a German also, and he holding over his Term and refusing to quit Possession, Ejectment was brought against him, and Mr. *Sterns*, with his accustomed Positiveness, insisted on the Court's ordering a Nonfuit, because it appeared, in the Course of the Trial, that the Lessor was an Inhabitant of some Place in Germany. But the Court being of Opinion, that the Question of Alienage was not pertinent to the Issue between the Parties, so directed the Jury, and they found a Verdict for the Plaintiff.

The next Allegation made by Mr. *Taylor*, is, That " *he had known Counsel to be under the Necessity of discontinuing a good legal Cause, in his Opinion, rather than proceed to the Argument thereof, because he supposed the Judges of the Supreme Court incapable of determining Impartially between the Parties, they having improperly urged the Cause to be brought on; and afterwards to renew the same in Hopes of having a Hearing hereafter in a full Court.*" In support of this Allegation, he cites the Cause of *Wiltbank and Field vs. Henry Newton, Esq.* This was an Action brought by Mr. *Sterns* also, on a supposed Promise made by the Collector of the Customs to the Plaintiffs, to permit them to load Goods for a foreign Port, in a foreign Bottom, and afterwards seizing the Vessel for their having put the Goods on Board. The Vessel and Goods on Board were condemned in the Court of Admiralty, and this Action was brought to recover Damages of the Collector, for a supposed Deceit. The Plaintiffs belonged to Pennsylvania, had been King's Pilots during the late War, and came here in a small Vessel, on the Pretence, as was said, of getting Certificate for Pay due them, but being informed against as Smugglers, they lost their Vessel. The Collector denied, that any such Promise, as they pretended was given them, and was desirous of trying the Cause on the Fact, but the Declaration being substantially as well as formally bad and insufficient, it was demurred to, and Mr. *Sterns* refusing to join in Demurrer, had Leave to discontinue. A new Action has been brought on the same Ground, absurd as it is, but no Declaration has been yet served. One would think, that Prejudice itself would blush at citing this Cause against the Conduct of the Judges, who never gave any Opinion respecting it. If Messrs. *Sterns* and *Taylor* were desirous of making a fair Trial of the Impartiality or Competency of the Judges, this of all the Causes cited, afforded the best Opportunity of doing it; for the Facts were admitted, and an Issue of Law tendered. The Ground of the Judgment would therefore have appeared in the Record, and every one conversant in judicial Proceedings, would have been able from it, to judge for himself of the Ability or Inability of the Court. But this Method would defeat their Purpose, which is not to prove Insufficiency or Guilt, but to assert both. Groundless Assumptions and scandalous Allegations are the Weapons they use in; deprive them of these, and their whole Tale is easily confuted. Will it be believed, that this, and the Cause of *Stairs vs. Newton*, and four other Defendants, which was tried by a special Jury and Verdict and Judgment given against the Defendants, are the two Causes in which Messrs. *Sterns* and *Taylor* in their Memorial, charge the Court with manifest partiality to the Hon *Henry Newton, Esq.* and yet it is very certain he has been Defendant only in these, and that he has always complained since the Trial of the Cause, brought by *Stairs*, that the Judges, to avoid the Imputation of Partiality towards him, treated him with undue Severity.

The next Allegation made by Mr. *Taylor* is, That " *he had known them, to the manifest Injurg and Injustice of a Sutor, and be conceived with a View to favor a Party, continue a Cause in direct Violation of the Rules, and Practice of the Court, and after being made ashamed of their Conduct, to direct the Counsel in the Cause to make Affidavit in Justification of their Conduct of the preceding Day, which Affidavit did not contain a single Particle of Matter to justify such Proceedings.*" In support of this nonsensical Rant, is cited the Case of *Tromaine and Stout* against Lieut. Col. *York* of the 33d Regiment. This is the string, on which hangs all Mr. *Taylor's* Sorrows. But for this Cause, I believe, from the Character he bears among his Acquaintance, he would never be cajoled to interpose with Mr. *Sterns* in a nefarious Attempt, to vilify the Judges of the Supreme Court, or to insult and abuse his Majesty's Council, and almost every Officer of the Government in which he lives.—This Action was brought against Col. *York* on an Order made and given, by the Quarter Master of the 33d, to one of the Plaintiffs, to purchase a Quantity of Potatoes for the Officers and Men of that Regiment, which Order was alledged to have been given by the Colonel's Direction. Mr. *Taylor* was apprized before the Action was brought, that the Colonel denied, that any such Authority was given by him, and was advised to bring the Suit against the

Quartermaster

Quarter-Master for whom good Bail would have been given, and an insurmountable Difficulty in his Case cured. He persisted however in bringing it against the Colonel, and at Trinity Term last requested a special Jury, and served the Issue with Notice of Trial that Term. The Defendant's Counsel was in daily Expectation of Custom House Documents and other Proofs from Antigua. He therefore made no Objection to the Notice at the Time it was delivered, but afterwards on Mr. Taylor's pressing to have the special Jury struck, and the Day fixed, he was told a Motion would be made for a Continuance of the Cause to the next Term, the Proofs expected, not having arrived. It was made, and the Court thinking the Reasons offered, to be sufficient, ordered the Cause to stand over. The next Day Mr. Taylor came in with an angry Petition from his Client, stating the Hardships they laboured under, in having brought Witnesses from Cape Breton, at great Expence, which they were maintaining here, and further, that the Cause had been continued, without any Affidavit of the Facts alledged for it. To obviate the first Complaint, an Offer was made by the Defendant's Counsel, to consent, that the Depositions of the Witnesses attending, should be taken *de bene esse*, before a Magistrate, and be filed as Proofs in the Cause, and used at the Trial, as if the Witnesses were themselves present, and their Attendance be no longer required; and to obviate the other Ground of Complaint, an Affidavit was made by the Defendant's Counsel (his Client being in England) stating, that he was in daily Expectation of receiving the Custom House Documents, with the Manifest and Entry of the Ship, in which the Goods, (for which Payment and Freight were demanded) were said to be shipped, and which he had advised his Client to send for, as material in the Defence,—that these Papers had not arrived, but would probably be here before the next Term; and thereupon, the Continuance entered the preceeding Day was ordered to stand. It was on this Occasion, that Justice Brenton said to Messrs. Sterns and Taylor, that it was not usual, to insist on Affidavits from each other, in Cases of this Sort—that he thought the Attorney General, who was the Defendant's Counsel, entitled to the Continuance he had prayed for, and that the Court should always be inclined to indulge him, as far as they could, in his private Causes, on Account of the Fatigue he was obliged to go through in conducting the Criminal Business. It is this Declaration of Mr. Brenton's, which, I suppose, gave rise to the Charge against the Court of manifest and avowed Partiality towards the Attorney General as a Practitioner, which is stated in the Memorial to the Lieut. Governor.

The next Article of Charge is, That " *he had known them, after Exceptions taken to their Opinion in the Course of a Trial and fairly stated by the Council taking them, to altogether deny, or materially alter the said Opinion.*" In support of this is cited, the Case of Copland vs. Holmes. It is remarkable, that of the five Causes cited by Mr. Taylor, three of them were argued by Mr. Sterns, and Mr. Taylor has only repeated the Objections made at their Trials by his Friend; and yet, that the Cause of Copland vs. Holmes, is the only one in which they have concurred in complaining of the Judges conduct. That Cause was tried by a special Jury of Merchants, and a Verdict given for the Plaintiff, to the very general Satisfaction of the mercantile Interest. The Bill of Exceptions was not signed, because, as I have before observed, it was objected to by the Counsel on the other Side, and did not agree with the Notes or Recollection of the Court.

The next Allegation is, " That " *he had known them often retract, or enlarge the Rules of Practice, as he conceived for the Purpose of favoring Parties, and to justify such Conduct sometimes by applying the Rules and Practice of their own Courts, and at other Times, that of Westminster-Hall, as it best suited their Purpose.*" If Mr. Taylor had been better acquainted with the Practice of the Supreme Courts of Judicature in the Colonies, than he appears to be, he would have known that the general Rule is, to make the Practice in the colonial Courts correspond, as nearly to that of the Court of King's Bench, as the local Circumstances of the Provinces would admit, and that where such Circumstances require it, Rules of Practice, applicable to the Country, are adopted, instead of the King's Bench Rules. This he will find to be the Case at Halifax. if he will give himself the Trouble to search the Book of Rules of the Supreme Court: But that this Rule, or any other, has been abused for the Purpose of favoring Parties, is a Reflection as void, I believe, of Foundation, as it is scandalous and indecent.

The next Charge is, That " *he had conceived them often to misdirect the Jury, both as to Matters of Fact and Law.*" How far Mr. Taylor is a competent Judge of these Matters let professional Men decide; but it would be hard indeed that a contrariety of Sentiment in their Accusers, should operate to the Injury of the Judges. Mr. Sterns says, that Juries pay no Regard to their Opinions, and therefore they are unfit for the Offices they hold; but Mr. Taylor would have them removed, because they often misdirect Juries. It is fortunate, that a Conspiracy so long in Train, as these Men have confessed theirs to be, should be so ill-concerted.

The next Allegation is, That " *he had known them endeavour to send away a Grand Inquisitor, prejudicial against a Prisoner, whose Life was at stake, by enlarging on the Business of his Character* " The Case of Cunningham, At Windsor, is cited in Support of this Accusation. This Man was charged with outrageously beating, and thereby causing the Death of a black Slave, which he had brought here from one of the Southern Colonies, at the Expiration of the late War. His Cruelty to his Black had been generally complained of, in that Part of the Country where he resided; and it is possible that the Chief-Justice, in his Charge to the Grand Jury, might have mentioned it. Mr. Taylor must be ignorant indeed of the Temper and Disposition of the good old Man he is striving to injure, if he could suppose him capable of endeavoring to inflame the Passions of a Jury against any Culprit. A Gentleman of a more tender and benevolent Heart than Justice Deschamps, does not this Day exist in Nova-Scotia. But what are we to think of Mr. Taylor's applying this Attack to Justice Brenton also, who had nothing to do with the Charge to the Jury, but merely sat by, and heard it, as Mr. Taylor did.

" *In short* " concludes Mr. Taylor, " *I conceive the Conduct of the Judges, in the few Cases that have fallen within my Observation, to be so glaringly absurd, that I cannot attribute it altogether to their Inability, though I have no Doubt of their Want of Information.* " If the Character of the Judges of the Supreme Court, or the Reputation of any of the Officers of His Majesty's Government in Nova-Scotia, should ever be made to depend on the general Allegations or Opinions of Messrs. Sterns and Taylor, wretched indeed would be their Situation; but their Insignificance is as obvious as their Malice; and their Rage and Resentment, by exposing them to the World in their proper Colours, will prove much more injurious to themselves, than to the Characters they have so basely a persued.

I have now gone through the Examination of the Testimony, on which the Address of the House of Assembly was founded, and having laid before the Public a fair Statement of the Accusations, with such Observations, as the Subject appeared to me to require, I submit the whole to the good Sense of the Country, and to the slow, though certain Effect of Reason and sober Reflection.

PLAIN TRUTH.

FROM THE HALIFAX JOURNAL.
To the PUBLIC.

I Think it must be obvious to the meanest Capacity, that the Publications, under the Signature of Plain Truth, which have for some Time past appeared in the Halifax Gazette, were not written for the Information of the Public, but with evident Intentions to deceive and mislead them in a Business of the first Importance to the Province. This Writer endeavors to prove, what I will undertake to say he knows to be false, *to wit*, that the Impeachment of the Justices of the Supreme Court, by the House of Assembly, was procured at the Instance and on the sole Allegations of Mr. Sterns and myself, and that those Allegations were groundless and scandalous. These positions he has endeavored to establish, not by a plain Relation of facts or by fair Deductions from them, but by Scurility, Abuse and shameful Prevarication, which are Weapons he appears to be a perfect Master of, and are indeed the only Instruments of Defence, or Attack, that he could possibly have in the Cause which he appears to have insisted himself, at all Events, to support. That the Impeachment did not originate with Mr. Sterns and myself, is evident from the whole Proceedings of the House of Assembly, is known by one of the Members of his Majesty's Council, by every Member of the House, and by many respectable Inhabitants of the Town and Country. Had the Charges been groundless and scandalous, as his Majesty's Council have undertaken to divine, for they could not possibly have had the least Shadow of Proof, whereon to have adjudged—why did the Judges elude a fair and public Investigation into their Conduct which would have afforded them not only the Opportunity of shewing their own Innocence, but of exposing the Falseness of the Witnesses, if they had charged them wrongfully? Why has his Majesty's Council, in this Instance, been induced to forsake the long established and approved Mode of investigating Truth, and to adopt in its stead one as uncertain as novel? Why were not the Witnesses and Accused brought before them Face to Face? Does our Author, will the Public, or will any Man of common Sense believe that a serious investigation into the Conduct of the Judges was intended, when the Council proceeded to acquit them on the Credit of their own Assertions, while they had Evidence in their Power? Can the History of judicial Proceedings furnish another Instance, where the bare denial of the Party accused of Crimes

of the greatest Magnitude, has been deemed a sufficient Proof of their Innocence? How manifestly cruel and unjust then must the Conduct of his Majesty's Council appear, who have not only acquitted the Justices of the Supreme Court on their own Declaration, of their Innocence, but have on the same flimsy Ground proceeded to stigmatize the Characters of the Witnesses, which I will venture to assert, are at least as good as those of the accused: Can or ought such a Decision to affect their Reputations, when they assured the Governor of their readiness to come forward and to substantiate their Charges, and prayed for the Opportunity of doing it? This tear of Light—this Evasion of open Enquiry and Trial, must alone convince every Man of Sense and Candor, that the Accused were conscious that their Conduct would not bear the Test of open Investigation, as the Mode of Trial adopted must prove, that the Council have co-operated with them in their Attempts to elude it.

When I was called upon by the House of Assembly to give my Opinion of the Administration of Justice in the Supreme Court, common Sense taught me to believe that a fair and public Enquiry into the Conduct of the Justices would have taken place, and that I should have had the Opportunity, before Men of Honor and Legal Abilities, of supporting the Facts adduced to the Committee, by the Truth of which I am ready to stand or fall. I did not then believe that I lived in a Community where I should be tried and condemned unheard, and where the Privileges of the meanest of his Majesty's Subjects would have been denied me: This has, however, been the Case, with what Credit to its Authors I submit to the Public, before whose Tribunal I am now called by an anonymous Writer, who seems to be formed by Nature for the vilest and meanest Offices, and who is strongly suspected of having already figured on this Occasion in the various Characters of Spy, Advocate, Judge and Scribbler. I shall now proceed to the Information which I laid before the House of Assembly.

The first Cause I mentioned to the Committee is, a Suit brought in the Supreme Court for the Recovery of Lands lying in the County of Halifax, wherein John Valentine Nagel was the real Plaintiff against Gotlieb Muhleig, the Defendant, in which the Facts were as follows:—A certain George Nagel, a Native of Germany, at an early Period settled in this Province, acquired a House and Land in this Town, and married, but died without any Children, or even any Relation or Connection in the Country except his Widow, who kept Possession of the whole Property, married a second Husband, whom she also outlived, and then married a third, by the Name of Gotlieb Muhleig, who, with the Person of the Widow, also got Possession of the Property of George Nagel, and kept Possession of it after the Decease of his Wife, during whose Life he had a Right to a Part of it, but after her Death his Right ceased, except the Right of Possession, which is always good against any Person but one who can shew a Title. An Action of Ejectment was brought, in the Name of John Valentine Nagel, as Heir at Law of George Nagel, against Muhleig, for the Recovery of the landed Property of George. On the Trial, a Certificate of a Parish Priest made in Germany, was offered in Evidence of the Heirship of John to George Nagel; to which Mr. Sterns excepted, as not admissible Evidence; which it is well known not to be, by every Man who has any Pretensions to legal Knowledge; the Court, however, admitted it—and, upon its being read, it proved that John Valentine Nagel was born in a Town in Germany in the Year 1707; that he had always, since his Birth, lived there, that he was then living there, and that he had a Brother named John George Nagel, who emigrated to America. Mr. Sterns then moved for a nonsuit, on two Grounds; the first, that the Plaintiff making his Title to the Lands in Question, in Fee-simple, as Heir at Law, and at the same Time, and by the same Instrument, proving that he was a Foreigner, who was born out of and had never resided in the King's Dominions, he could not hold and therefore could not recover landed Property in Fee-simple; the second Ground was, that the Certificate above mentioned proved John Valentine Nagel to be Heir at Law to John George Nagel, a Name entirely different from that of the Person under whom he set up his Title: Notwithstanding these Objections, the Court ordered the Plaintiff's Counsel to proceed in the Cause, and a Verdict, by Direction of the Court, passed in Favor of the Plaintiff, directly against the clearest Rules of Law; for, as Judge Blackstone saith in his Commentaries, vol. 2, Page 249, "Aliens are incapable of taking by Descent or of inheriting, for they are not allowed to have any inheritable Blood in them." Which Passage, with a Number of others, Mr. Sterns cited to the Court on the Occasion. If Mr. Plain Truth had any Reputation, either for Candor or Truth left, after the unfairness he has been guilty and convicted of on former Occasions, he must lose it with every Man who can understand his quibbling in the present Case. He knew that it was not a Term for Years that Nagel was suing for, but for an Estate in Fee simple; that Muhleig, though a German, had acquired the Right of a British Subject, by Residence in the King's Dominions for the Time prescribed by Act of Parliament; that Muhleig was not an over-holder

of a Term, and that no Lease was made by Mr. Jacobs. He must also know, if he knows any Thing, that the Law respecting Foreigners stands now as it always has done, that an alien Friend, being a Merchant, could formerly, as well as at present, hold a House, Shop or Warehouse on Lease for a Term of Years, and that if he was put out of Possession of such Property he could recover it by an Action of Ejectment: But if he was to claim any real Property in Fee Simple, he could not recover it.

The next Cause I mentioned to the Committee, was *Willbank and Field* against *Henry Newton, Esq.*—I shall relate the Circumstances of this Cause at large, and leave it to the Public to judge, whether it does not support the Conclusion drawn by me and stated to the Committee:—This was an Action brought by Mr. Sterns, not on a supposed Promise, made by the Collector of his Majesty's Customs, as our Author asserts, but on his actual Permission given them to lade Fish on board an American Bottom, to be in her transported to the States of America; a Tide-waiter was put on board, and under his Inspection they received 93 Barrels of pickled Fish and 5 Hogheads of dryed Cod-fish on board. Mr. Newton afterwards seized the Vessel, libelled her in the Court of Vice-Admiralty, and prosecuted her and the Fish to Condemnation, for the sole Cause of lading said Fish on board, though the Permission given, as I have stated, was fully proved on the Trial in the Admiralty by two Witnesses, who were corroborated in their Testimony by the Oath of Mr. Stephen Binney, though produced on the Part of the Collector, to invalidate their Evidence, but who, however, swore the Truth and confirmed what they had declared. The Plaintiffs were Loyalists, who had served as Pilots on board the Royal Navy from an early Period in the late Rebellion, and were at the Time of this Transaction, allowed Half-pay from Government, as a Reward for the Services they had rendered, which they came for the purpose of receiving and procuring a Grant of Lands to settle themselves and Families on. But this Seizure reduced them to Poverty, and effectually put it out of their Power of becoming settlers in the Province. The Vessel brought no Cargo to our Port, except 500 Bushels of Oysters, taken on board by Way of Ballast, which they had Permission given them to sell: Notwithstanding these Facts are known to our Author to be true, and that the Fish was shipped along-side of the Wharf, in the Face of Day, under the Inspection of a Tide-waiter, and with the Permission of the Collector of his Majesty's Customs, fully proved, as appears by the Records of the Court of Vice-Admiralty; yet he has had the Assurance to affirm that they had lost their vessel by smuggling. Mr. Aplin, Mr. Sterns and myself were consulted by the Plaintiffs, and all agreed that they had been cruelly treated; that the Collector's Conduct towards them was manifestly unfair, and that no Jury would suffer Money to remain in his Pocket, procured by such an apparent Act of injustice. An Action of Deceit was therefore instituted against him, and a Declaration, neither *substantially* nor *formally* bad, as our Author asserts was filed in the Cause. The Defendant himself, as I am informed, directed his Counsel to demur to the Declaration, in Order to take the Cause away from the Jury, the usual Way of determining Controversy, and to bring it before the Court on a Point of Law. I was then and still am of Opinion that the Issue in Law was clearly in Favor of the plaintiffs; Messrs. Aplin and Sterns were of the same Opinion, and they declared to me at the Time, that their sole Reason for not arguing the Cause, was the clearest Conviction of the Partiality of the Court towards the Defendant, which they informed me arose from their Knowledge of the Circumstance of the defendant himself having directed the Demurrer; from the Court's having improperly called for the Argument to be brought on, without any Motion from the Bar; from the improper Steps they knew to have been taken by Direction of the Court, in respect to the Paper Books being made up; and from a Number of other Causes, which would have been mentioned if there had been a Trial.

As for the Cause mentioned by our Author of *Stairs* against *Newton*, and four other Defendants, it was tried before I came into the Province, I have, however, frequently heard it mentioned by some of the Bar, and many of the Inhabitants of this Town, who attended the Trial, and they uniformly declared, that the Conduct of the Court, on the Trial, had been such as to leave no Doubt in their Minds of their Partiality towards Mr. Newton.

The next Cause I mentioned to the Committee was *Tremaine and Stear* against *York*. This is noticed by Mr. *Plain Truth*, as the String on which all my Sorrows hang. He says, "Had it not been for this Cause, he believes from the Character I bear among my acquaintance, I would never have been cajoled to insist with Mr. Sterns in a nefarious Attempt to vilify the justices of the Supreme Court, or to insult and abuse His Majesty's Council, and almost every Officer of the Government in which I live." In Answer to which, I have to say, That I believe a consciousness of his unfair Practices in this Cause, and of the improper Indulgence granted him by the Court, has induced him to be more illiberal and abusive than usual, and seems to have de-

prived him of the little Share of Decency he was thought to possess. I am ready to confess, that I felt in this Cause all that a Man of Honor ought to feel when conscious of manifest Injustice being done his Client, nothing more did I feel on the Occasion. And as to his other Insinuations, they are as vile and devoid of Truth as the Author himself; it is well known that I always think and act for myself, and am altogether incapable of being influenced for the Purpose he suggests, and, I flatter myself, that my Character is too well established to be affected by any Thing an anonymous Scribler can say to my Disadvantage. Equally undeserving of Attention is his Declamation respecting Mr. Sterns and myself, our Characters have been shamefully stigmatized, without our having had an opportunity of supporting them in any other way than the Public Prints, in which we have confined ourselves to a bare Relation of Facts; and if we have, in Justice to ourselves, been reduced to the unpleasant Necessity of wounding the Feelings of any man or body of men, we trust the sensible Public will attribute it to the Situation designing Men have placed us in, and not to Inclination in us: As for my own Part, I have always manifested a friendly Disposition towards such of his Majesty's Servants who discharge the Duties of their Appointments with Ability, Fidelity and Honor: As for those of an opposite Character, I hold them in equal Contempt with the Calumnies of our Author. The original Process in this Cause was returnable to July Term, 1786. It was at Issue in April Term, 1787, when my Client, Stout, who had transacted the Business with the Defendant, attended the Supreme Court with his Witnesses from the Island of Cape-Breton, expecting the Cause would have then been brought to Trial. Mr. Blowers, who was of Counsel for the Defendant, applied to me in the Course of the Term, to know if I intended to bring the Cause on; I told him, that I fully intended it, to which he replied, it was unnecessary for me to urge for a Trial, for the Court had promised him they would not force him to a Trial that Term. This Declaration evidently shewed that he had held improper Communications with the Judges, or else that he had been guilty of traducing their Characters. I afterwards moved for the Court to fix a Day to hear the Cause, in which Motion I was supported by Mr. Sterns, who was concerned with me for the Plaintiff, and opposed by Mr. Blowers, on the Part of the Defendant, who the Court indulged with the Cause standing over, without the usual Affidavit for a Continuance, or any legal Reason whatever being given. In the July Term following, Stout attended a second Time with his Witnesses from Cape-Breton, not doubting but the Cause would then have been brought to Trial. I, on the first Day of the Term, informed Mr. Blowers of my Intentions of trying the Cause: He said, he had not received the Papers that he had expected, but that, notwithstanding, he would not keep me any longer out of a Trial: A Kind of Language he constantly makes use of, and which is indicative of a consciousness of his Influence with the Court. On calling over the Causes it was noted for Trial by a special Jury; the Day was afterwards fixed on for the Trial thereof, and the Panel of the Jury, between the Parties, was the first made out and returned by the Sheriff into the Clerk's Office of any that Term. The cause, however, went off to make room for other business, Mr. Blowers representing that it was a Cause of consequence, which would take up a whole Day, and agreeing positively to try it on Tuesday, the last Day of the Term. On Monday, having struck the Panel on the Part of my Clients, I handed it to Mr. Blowers to strike off the Part of the Defendant, which he absolutely refused doing: I then moved the Court to order the Cause to be peremptorily brought on the next Day. Mr. Blowers opposed the Motion, and prayed for a Continuance upon the sole Reason of its being inconvenient for him to try the Cause at that Time; upon which the Court ordered a further Continuance of the Cause, without his assigning any other Reason, without directing the usual Affidavit, and directly contrary to the well known and established Rules of the Court.—The next Day I came in with, what Mr. Plain Truth is pleased to term, an angry Petition from my Clients; I confess it favoured as much of Anger as was necessary to shew, in moderate Terms the shuffling of the Defendant's Counsel in the Cause, and the Indulgencies which had been granted his Client, in direct opposition to the Rules and Practice of the Court. It, however, concluded with praying that the Court would be pleased to set a Day after the Term, as they were authorized to do by a Law of the Province, for the Purpose of trying their said Cause.

It was on taking the Matter up on this Petition, that his Honor Judge Brenton declared that the Court would indulge Mr. Blowers, because he treated them with more Civility than some other Gentlemen of the Bar did; upon which Mr. Sterns said, that he was very sorry to hear his Honor avow the Partiality of the Court towards any of the Practitioners, and shewed the Impropriety thereof in such pointed Terms, as to induce Judge Brenton to add, by way of explanation, that the Court felt themselves inclined to indulge the Attorney-General because he was a public Officer, and had the Crown Business to attend to: On which Mr. Sterns observed, such Conduct in the Court would subject the Suitors to great Inconvenience, as well as be attended with Injury to the other Gentlemen of the Bar. The Court refused complying with the Prayer of my Client's Petition, but, however, directed Mr. Blowers to make an Affi-

Davit to justify the Continuance ordered on the preceding Day, which Affidavit is in the Words following, viz. "S. S. Blowers," Attorney for the Defendant in this Cause, maketh Oath, that "from the Facts stated to him by his Client, he advised him to send for and procure from the Island of Antigua the Custom House Documents, with the Manifest and Entry of the Ship, commanded by Capt. Probert, in which the Goods sued for were shipped, and has ever since expected to be furnished with those Papers, but has not yet received them, and knows not why; that he hopes, however, to receive them before the next Term, if they can at all be procured." It must be obvious to every professional Man, that this Affidavit does not contain a single Particle of Matter to justify a Continuance, as I stated to the Committee. It was upon exposing the Affidavit as insufficient, the Evidence stated to be wanted therein, not appearing to be material to the Issue, nor averred to be so, that the Chief-Justice was induced to desire that Mr. Blowers would add, that it was material, which he refused doing. As for the proposed Offers of Accommodation, to suffer the Deposition of the Witnesses to be taken *de bene esse*, I was not in the least indebted to him for it, a Law of the Province authorising such Depositions, when the Witnesses are going out of the Province. Had Mr. Plain Truth have known as much of Law as he does of Equivocation, and had any Character to lose, he never would have advanced an Opinion, which every Person who has the least Pretensions to legal Information must know to be bad—the Quarter-master of the Regiment having stated himself, in his Orders, to be the agent of the Defendant; no Action could therefore be maintained against him in the first Instance. This is a fair and candid Statement of the Cause, and I leave it to the Public to judge, if I was not warranted in the Allegation made to the Committee thereon.

The next Cause that I mentioned to the Committee was *Copland* against *Holmes*; this is noticed by Mr. Plain Truth, as the only Cause which Mr. Sterns and myself had concurred in deciding, and which Observation by no Means tends to establish the Concert between us he asserts. I have Reason to believe that the Verdict in this Cause was generally satisfactory—it was perfectly so to me. I, however, well recollect that the Exceptions taken by the Defendant's Counsel to the Opinion of the Court were fairly stated, and that the Court, notwithstanding, denied that they had given any such Opinion, and refused signing the Exceptions.

The next Charge I mentioned to the Committee, relative to the Rules of Court being retracted and enlarged for the Purpose of favouring Parties, &c. I should have shewn many Instances in support thereof, which would have established the Fact beyond a Doubt, had there been a Trial. At present suffice it to refer the Public, to the Cause *Tremaine* and *Stout* against *York*, above stated, as one Instance wherein the Rules were perverted; and the Cause *Copland* against *Abbess* as another Instance thereof.

The next Charge that I stated to the Committee was, that I had conceived the Court often to mis-direct the Jury, both as to Matter of Fact and Law: This Fact, I aver, must be well known to every professional Man in the Province, and by every Man of common Sense, whose Business has frequently required his Attendance on our Supreme Court. Mr. Plain Truth seems to value himself here upon discovering a Difference of Opinion between Mr. Sterns and myself; was this warranted it would further prove that we have not acted in Concert on this Occasion: But the Fact is, that there is no difference in our Opinion in this Instance. Mr. Sterns says, that Juries pay no Regard to the Opinion of the Judges: I say, that I have often conceived them to misdirect Juries. The Effect Mr. Sterns pointed out, is the natural Consequence of what I have asserted.

I next stated to the Committee, that I had known them endeavor to send away a Grand Inquest, prejudiced against a Person whose Life was at a Stake—in support of which I cited the Case of *Cunningham*, of *Windfor*. The Fact is admitted by Mr. Plain Truth. I was not called upon to give my Opinion of the private Virtues of the Chief-Justice, and whatever my Sentiments of them may be, I don't feel the least inclined to contradict what is said about his tender and benevolent Heart, but I am sure that even Mr. Justice Deschamps cannot feel himself much pleased with the sulsome Flattery of so contemptible and time-serving a Sycophant as the real Author of Plain Truth is known to be. Had there been a Trial, I should have distinguished between the Conduct of the Judges on this Occasion, and have done what our Author has done, have fastened the Charge on Mr. Deschamps in particular.

When it is considered that ill Language is in the Power of every Person who is base enough to make use of it, I am confident that the Conclusion of our Scribler's virulent Production, will have no other Effect, but to prove the blackness and depravity of his own Heart.

I shall now conclude with observing, that the Prediction mentioned in a former Publication is verified, that the Author of Plain Truth would acquit himself to disgracefully, that his Friends would be ashamed both of their Cause and its Advocates.

W. TAYLOR

Received of the Committee
 the sum of 4/-
 the 11th of 1771

Remember thy creator ^{thy} ^{you} ⁱⁿ thy days

the Addition of simple

FROM THE HALIFAX JOURNAL.
To the PUBLIC.

THE grand Requisites which ought to be found in every well constituted Government, as essential to the Happiness of the People, are Wisdom, Goodness and Power: Wisdom, to discern the real Interest of the Community; Goodness, to endeavor always to preserve that real Interest; and Strength or Power, to carry this Knowledge and Intention into execution. If Government is unfortunately reposed in such Persons as do not possess these Qualities, the Blessings of Civil Society are in a great measure frustrated, and a universal Dissatisfaction must ensue the Loss of Confidence in those who are appointed to the execution of the Laws and the distribution of Justice. The British Constitution is, in all it's Parts, better calculated to promote the Happiness of its various Members, than any other System which human Wisdom hath yet devised, or probably ever will; for though sometimes Faction and Venality may creep in and influence the Measures of its ministerial and executive Officers, the Virtue of the People, who generally possess a sufficient Degree of Patriotism to enable them to form a just Estimate of their Rights, and the importance of committing the Execution of the Laws to Men of Abilities and Integrity, will not long suffer such Officers to escape unnoticed, or pass with impunity. A frequent and free Enquiry into the Measures of Government, and a watchful though not too jealous an Eye over those who are called to Places of Trust and Consequence, is always attended with the most salutary Consequences, by keeping them attentive to those Duties which, as Servants to the Public, they are appointed to execute, not merely for their own Advantage, but the general Good of Society. The Tribute of Gratitude and Esteem is rarely withheld from those whose Conduct is directed by Motives of Candor and Humanity; and though Instances may happen of their sustaining a partial temporary Evil, they generally rise superior to the Influence of artful designing Men, and ultimately receive the Plaudits of their Fellow Subjects, for their perseverance and Firmness in bringing to public View such Measures as are either dangerous in their Effects, or have a Tendency to lessen the Reputation of Government.

To excite unnecessary Fears and Jealousies in the Minds of the People is highly criminal; but Occurrences may and sometimes do happen, when it is equally criminal to be silent, more especially when the first Rights of the Subject are invaded by unwarrantable Disfranchisements, and a fair impartial Enquiry eluded by every Artifice which Influence can suggest.—Conscious Innocence needs no Subterfuge, in the Moment of the severest Trial, inspired with Confidence, defies the closest Investigation, and never shrinks from the most rigid Inquiry.

We have long heard of Complaints respecting the Administration of Justice in the Supreme Court of the Province, and however difficult it may be for People in general to ascertain with any Degree of Precision the Truth of them; it is a melancholy Consideration that there should be even the Possibility of a Pretext for such Complaints, because it has a Tendency to loosen the Reins of Government, by destroying that Confidence which not only gives Energy to the Laws, but is the most effectual Barrier against Anarchy and Licentiousness. Our Public Situation is much to be lamented, but we have this Consolation, that an adequate Remedy is within our Reach, we are only wanting in Goodness to apply that Remedy, which, it is devoutly to be wished, may be effected through that Wisdom which discerns the real Interest of the Community.

It is true that the General Assembly, at their last Session, in a Committee of the whole House, went into the Investigation of Facts that have occasioned those Dissatisfactions, and under a serious Impression, from the Information they had received, addressed his Excellency the Lieutenant Governor upon the Subject, requesting that he would take the same into Consideration, and adopt such Measures thereon as he might think just and right. The Language of that Address was suited to the Solemnity of the Occasion, and manifested the high Sense they had of the Trust reposed in them by the People; for they expressly declare to his Excellency, that the magnitude of the Object was such, that they were compelled to sacrifice even the Feelings of Humanity, rather than betray an inattention to those Concerns, which should ever claim the first and most watchful Regard of every wise Legislature. This Representation was perfectly temperate and constitutional, and must be considered as the clearest Evidence of the Wisdom and Deliberation of the Representatives of the People. The House, without any Construction or Comment upon the Information they had received, further than what was expressive of their solicitude for a full Investigation of this serious Business, submitted Proofs, as the Grounds of an Enquiry, which they requested might be instituted in such a Manner that a fair and impartial Trial should take Place, and the Public convinced of the Innocence or Criminality of the Judges. To this Address his Excellency was pleased to reply, "That the Complaints exhibited against the Judges were of so serious a Nature as to require a very deliberate Investigation, which could

not

not then be gone into, but the whole Business should be considered in such a Way as to do ample Justice to all concerned." From this Declaration and Assurance what had the House a Right to expect, and what have the Public now a Right to hope? Although I am not authorized to ascribe to the Governor of a Province all the political Attributes of Sovereignty, I am still inclined to hope he is never intentionally in the wrong, and in the present Instance, I can never be made to believe, at least the Proof must be unequivocal and irrefragable, that the Investigation, Trial, and Acquittal which has taken Place, can be consonant with his Excellency's Ideas of impartial distributive Justice or the Principles of the Constitution. I shall therefore consider the Proceedings to be in conformity to the Advice and Opinion of the Law Servants of the Crown, or some one of them, who has advised and directed this Business, and treat it accordingly, though with that Decency and Respect which I would ever wish to manifest either in the discussion of a Question or in stating of Facts.

That the Complaint originated with the House of Assembly is a Fact I believe no Person will be hardy enough to deny. Messrs. Steins and Taylor, two of the Attornies of the Supreme Court, were summoned and examined at the Bar. It does not appear that the House were desirous that those Gentlemen should go into a minute Detail of Facts before them, conceiving it to be more regular that their Depositions, in Form, should be given upon the Inquiry, which they then supposed would be established for the Satisfaction of the Province at large. In this Opinion the House were perfectly regular and Parliamentary, as they were only in pursuit of such authentic Information as would warrant a Representation of their Fears and Apprehensions to the Governor, and of the Necessity and Expediency of that Kind of Trial or Investigation which would give the Parties accused a regular and legal Opportunity of acquitting themselves, if innocent. It is probable there may have been a Want of Form and Method in the Arrangement of this Business, as Articles of Impeachment were not specifically exhibited, but of this Imperfection it was unbecoming the Characters of Persons sustaining the highest Offices in Government to avail themselves, that they might avoid a fair and impartial Investigation.

The Opinions of Messrs. Steins and Taylor, supported by the Facts they adduced at the Bar of the House, and corroborated in many Instances, by the Solicitor General, Major Barclay and several other Members of the House, and I believe not then contradicted by the Attorney General, are such striking Proofs of their rectitude and firmness, that it is now necessary to attend to their subsequent Conduct and the Zeal and Solicitud they manifested to place this interesting Transaction in such a Train, that a fair and legal Disquisition might be established before a Tribunal unconnected with the Parties, composed of Persons independent in Principles, but not in the Habits of the closest Intimacy and Union with the Judges: Discovering by the Communications of the Secretary of the Province that the Trial, or Inquiry, was to take Place before his Majesty's Council, and solely upon the Opinions and Facts stated by them to the House, a Regard for their moral as well as political Characters constrained them, in this unexpected Dilemma, to prefer a Memorial to the Governor, stating to his Excellency, that their Allegations were not the only Grounds on which the Assembly had addressed his Excellency, and that Evidence would also be given, upon the Inquiry, of the Mis-conduct and Partiality of the Judges to the Hon. Henry Newton, Esq; one of the Council, and of their avowed Partiality towards the Hon. S. S. Blowers, Esq; another of the same Council, and a Practitioner in the Supreme Court, and therefore prayed, and with great earnestness intreated the Governor, that no Person who may be suspected of Partiality to, or Prejudice against the said Judges may be permitted to sit on their Trial; but that the same may be open, public, and upon a full hearing of all the Evidence that can be brought both for and against them.—Here I must pause—I hat the ingenuous Mind, may, for a Moment contemplate a Display of Fairness, impartiality and Uprightness, scarcely to be met with either in private or public Life, and which must forever fix a Lustre upon the Characters of those Gentlemen that cannot be tarnished nor shaded by the dark Frowns of Oppression or Party.

Notwithstanding this printed Memorial, stating the Impropriety of submitting this interesting Business to a Board, where two of its Members are declared to be exceptionable, and another, though not then suggested, so closely connected with one of the Judges as to render it impossible, consistent with his own Feelings as a Man of Honor, to give an Opinion, we find by a Publication from the Secretary of the Province dated the 28th of February, that his Majesty's Council, instead of advising the Governor to bring this Inquiry forward, that a full hearing might be had, enter into the Consideration of the Address from the Assembly, with the Allegations which accompanied it; and upon no other Proofs than the Answers of the Judges to those Allegations, solemnly pronounce their Innocence, and the Baseness and Turpitude of the Witnesses, by declaring their Testimony before the Assembly groundless and scandalous, and the Memorial they preferred to the Governor, praying a fair Trial, altogether unworthy his Excellency's

excellency's Notice. I believe, from the clearest Inquiry into judicial Proceedings, a similar Instance cannot be produced, in which a Cause of such importance and magnitude has been determined without even those Forms and Solemnities which are necessary to preserve, at least the Appearance and shew of Justice. God forbid that I should wish the Judges of the Supreme Court to stand convicted of either Partiality, or Incompetency; but as Matters are now brought to a serious Crisis by the Dissatisfactions which prevail in the Province, and as the Assembly have fallen under the Imputation of bringing before the Public a *String of garbled Law Cases* as the *Grounds of an Impeachment*, the People at large expect, have a Right to expect, that regular and constitutional Measures will be taken to prevent the mischievous Tendency that must forever result from a *premature and hasty* Decision of a Question, which involves in it the first and chiefest Concerns of all well regulated Governments. This can now only be effected by convening the Grand Inquest of the Province, to whom it belongs to establish their Proceedings upon those Principles, which, as Guardians of the Laws and the Rights of the People, they are bound, to support.

Let us take another View of this Business, and the Predicament in which the Witnesses are placed, by the Proceedings of the Council, in Consequence of their Testimony before the House: We now find them deserted by one of their Friends—sustaining the Obloquy of giving groundless and scandalous Testimony—disfranchised by the Court—deprived of the Rights of a Subject, in being denied that hearing to which, I do aver, they had an unquestionable Claim, and their decent Memorial *praying* for that hearing, treated with the most insuperable Contempt, contrary to every Principle of the Constitution, and in direct Contradiction to the great Charter of our Liberties,

These Gentlemen, we must suppose, have not been guided by an ill founded Prejudice towards the Judges, for it appears from every Testimony we have seen, that all the Bar, at least all who are in any Extent of Practice, had the same Opinion of the Impropriety of many of their Decisions which have been laid before the Public; and that the A—G—, who was then S— of the House, did not, upon the Examination of the Witnesses before the Committee, where he attended as a Member, controvert any of the Facts, but reserved to himself that Honor, before the Council, whether he was to be translated from the lower House of Assembly, into which he had been introduced by the Suffrages of a generous People, who once flattered themselves that nothing could have prevailed upon him to forsake those dearest Rights they had committed to his Trust.

I shall not controvert the Right of the Court to correct and punish its own Officers, but at the same Time I would humbly suggest that great Wisdom and Prudence should be used in the exercise of that Right, and if their Trial and Acquittal had been fair and honorable no Person upon Earth would have been more disposed, to applaud the firmness of the Judges than the Writer of this Address. It has not been fair, because it was not open and upon a full hearing of all the Witnesses and Parties, in a regular and judicial Manner, agreeable to the Forms and Practices in such Cases established: And it has not been honorable, because the Witnesses were precluded from giving full Testimony, upon Oath, of all the Facts and Circumstances which, they say, went to prove the Partiality and Incompetency of the Judges, and because it has been before Persons, two of whom were charged, with having improperly participated in the Smiles and Attention of the Court; and also, because one of them, although he knew the Business would judicially come before him, and upon which he was to decide upon his Honor, attempted to prejudice the Governor against the credibility of the Opinions and Facts stated by the Witnesses, and, to his Excellency, prejudged the Business, by offering to advocate their Cause before any Tribunal, notwithstanding he had declared to Mr. M'Gill, he would join in a Representation to effect their Removal on the Arrival of Lord Dorchester.

“Every Obstruction of the Course of Justice, is a Door opened to betray Society and deprive us of those Blessings which it has in View. To stand up for the Privileges of such Places, is to invite Men to sin with a Bribe of impunity.”

These are the Sentiments of a very respectable Part of the Community, it is the Language of

COMMON SENSE.

FROM THE HALIFAX JOURNAL.

To the Freeholders and other Inhabitants of the Province of Nova-Scotia.

GENTLEMEN,
THE very serious Representation made by the General Assembly, at their last Session, to his Excellency the Lieutenant-Governor, relative to the Administration of Justice in the Supreme Court of the Province; the Proceedings of His Majesty's Council, in Consequence of those Representations, and the very oppressive, injurious and unmerited Treatment we have experienced, for having endeavored to bring forward a fair, open and impartial Inquiry into the Conduct of the Judges of that Court, agreeable to those Rules and Principles which form the Basis of our inestimable Constitution, are Matters of such public Notoriety, as to supersede the Necessity of a particular Recital.

In Justification of our Characters, as Witnesses, before the House of Assembly, we have already laid before you such a Train of Facts, as must convince every unprejudiced Mind, that we had no Object in View, by endeavoring to procure that Mode of Inquiry and Trial, which could only have afforded the Parties accused a legal Opportunity of reputably acquitting themselves, if innocent, but the Honor and Reputation of the Province.—This, for Reasons too obvious to mention, and which, he that runs may read, has been denied, and we in Consequence of that Denial, are sustaining every injury and Violence, that the Hand of Power can inflict, in a Country whose Inhabitants are too enlightened, not to express their Abhorrence and Detestation of those Measures, which, in their Effects, have a direct Tendency to destroy the Course of Justice.

In your Representations to the Governor you have manifested not only the high Sense you have of your dearest Rights, but that you are well apprized of the Value and Importance of having the Laws duly and regularly administered: And it gives us infinite Concern that Measures have not been taken to remove those Dissatisfactions which have too long prevailed in the Province from a well founded Apprehension of the irregular Administration of Justice in the Supreme

As we are denied that Hearing in this Province, to which we have an unquestionable Claim, we are compelled to seek it in that Country where it will not be refused, and whose Justice controuls and pervades every Part of the British Empire.—Our Dependence upon and Subordination to Great-Britain, is the greatest Blessing that we or any People on Earth can enjoy; and, persuaded as we are, that it is the ardent Wish of every good Man that this Dependence and Subordination may never be lessened or impaired, it affords us a peculiar Satisfaction to have it in our Power to testify that no Part of the King's Dominions can boast of Subjects better disposed to render a ready and willing Obedience to the Laws and the Authority of Government, than the Inhabitants of Nova-Scotia. And although we may personally suffer a partial temporary Evil, from the Influence of a dangerous Combination, which has too long and too fatally governed almost every public Measure, we shall consider our Sufferings and Injuries amply compensated if we can in any Degree contribute to destroy that Influence and thereby restore Tranquility to the Province by introducing to the Seat of Justice Men of Abilities, Honor and public Virtue.

In the Packet we embark for Great-Britain, permit us therefore for a few Months to take our Leave of this Country, and publicly to acknowledge the grateful Sense we entertain of the very honorable Declarations and Assurances we have received from all Ranks and Descriptions of People of their entire Approbation of our Conduct: Such Testimonials from a generous Public demand our warmest Thanks, and we pledge ourselves never to desert a Cause which we know to be honorable, and in the Support of which we declare in the most serious Manner that we have not in any one Instance been actuated by partial Views nor private Repentment. The present and future Happiness of the Province is our only Wish and Aim, in the Pursuit of which, no Difficulty, whether from the mistaken Pride of Office, the Ambition of Power, or the Defection of Friends, shall ever discourage us.

With Sentiments of the truest Affection we sincerely pray, That the best of Blessings may ever attend the Inhabitants of the Province, and that every Attempt to mislead the People, or to obstruct the Course of Justice, may meet with a Punishment proportioned to its Baseness and enormity.

We are with real and unfeigned Regard,

Gentlemen,

Your most faithful and obedient Servants,

J. STERNS.
 W. TAYLOR.

Halifax, April 20th, 1788.

