

Corpus & the Cause was thereon returned because he was in Lib. C. B.  
Execution for his fine, i, Sid<sup>n</sup> 144 and in any more there are  
of the like Nature where the p<sup>rs</sup>ons were refused to be bayled  
on their habeas Corpus as 3<sup>d</sup> (200: 418. 3) 20: 144: 119 Stiles  
Rep<sup>ts</sup> 129. I take it that the habeas Corpus was allowed in  
a Civill Cause on the Statute afd.

2<sup>dly</sup> that the returne Sufficiently Sett forth the cause of  
comittm<sup>t</sup>

3<sup>dly</sup> That by such returne it Appeared Your Ex<sup>ty</sup> & no  
other in this province had Jurisdiction of the Cause I there-  
fore humbly conceive the habeas Corpus ought not to be  
granted on the said Statute nor the party on the returne  
thereof bayled but remanded and that the Supream Com<sup>on</sup> p. 101  
Law Court of this province had no Iurisdiction of the Cause.  
Wornell Hunt

And then the Attorney Generall presenteth as follows Viz

In Reply to M<sup>r</sup> Chief Iustice Smithsons Iustificatory Letter  
relating to the bayling of M<sup>r</sup> Thomas Macnemara (in Custody  
of the Serjeant at Armes for contempt of a certain Decree  
of the high Court of Chancery within this Province made by  
his Ex<sup>ncy</sup> the Governour and Keeper of the great Seale  
whereby said Thomas Macnemara was Decreed to deliver his  
wife certain Necessarys and pay her 15<sup>ls</sup> p annum by half  
yearly payments untill they should agree to Cohabitt)  
Wherein M<sup>r</sup> Smithson says he has been led to it by p<sup>r</sup>sidents  
in point two of which he has shewne M<sup>r</sup> Secrey Loyd, and  
believes what he has done to be upon very good Considera-  
tion, offering to his Ex<sup>ncys</sup> consideration Sundry presidents of  
persons comitted by the Bishop for Heresy and yet bayled  
by hab<sup>s</sup> Corpus because the Heresy was not fundamentall  
matter of ffaith of persons comitt'd by the high Ecclesiasticall  
Comissioners for Contempt of their Decrees and bayled on  
habeas Corpus. And further he says he cann shew of some  
comitted by Lord Chancell<sup>rs</sup> for Contempt (but fairly ownes  
in refusing to obey such of their Decrees as were made  
against Judgm<sup>ts</sup> given in the Courts of Com<sup>on</sup> Law (which  
has no affinity to this Case) And particularly desires his Ex<sup>ncys</sup>  
consideration of the Stat. 16 Car primi cap: i. and 1 Keeble  
83 and before & after against which Quotations he says he  
finds It is objected to him That Iudges of the Courts of p. 102  
Comon Law cannot enlarge prisoners but where comitted for  
such Supposed Criminall Matters as are tryable at Com<sup>on</sup>  
Law.

2<sup>dly</sup> And that they cannot bayle one Comitted in Chan<sup>ty</sup>  
or by the Ordinary in Ecclesiasticall matters. I know not any