

my more within that Court or Island

On which we remark that if that Act had appeared Grounds & the Allegations therein as facts as represented by the State of the Case we should agree to the Opinions of those Learned Councils that the Act ought to have been Disputed too, but as it appeared otherwise to us who know the facts and the Contrary did not appear to them, we take it that these Opinions in that point were in favour of the Law which were only Given against it on the Condition of its falsity. That by Sergeant Conzells Opinion the Matters charged in that Act are not suff. to Incapacitate Mr. Maenemara i.e. Matters are these viz. containing the Authority and affronting the persons of the Judges he pleaded before Diving a special Court of Oyer & Terminer to proceed against Criminals for Drinking the pretenders health and acowly cursing his sacred Majesty King George and for firing the City Guns on the Supposed birth day of the pretender - His publicly affronting the Chancellor in the presence of his Officers, and tho' ordered by the Lord Treasurer the Lord Proprietor to make his reasonable Submission willfully Declaring it. His being so Turdant and Insolent a person that the Judges would not sit if he was suffered to plead before them - His being often Suspended on his Indeads and re-admitted in his fair promise of Amendment - yet still persisting in his like Insolent behavior &c. as appears more at Large by the Act and representation of Magistrates against him. yet we find in Moores Reports page 827 by the Opinion of my Lord Chancellor in his speech to S. Henry Mountague Chief Justice of the Kings Bench in King James the firsts time where it directs him to admonish, to reprove and to correct Lawyers that Obvied not that Discretion and Duty that becomes them and that if he found a threatening way of pleading in any babbling & Tumultuous Lawyers he should not only enjoy them silenced but sequester them from their practice & Exercise before him if the Law Cause, but still with that care and respect that the Plaint Cause should not be prejudiced - and by other books as well as by the third paragraph of S. Edward Norths Opinion, whose Matters appear to us to be a sufficient Cause for Suspending such a practitioner from his practice anything in the said Sergeant Conzells Opinion to the contrary tho' it is in anywise notwithstanding

That we do not find this Act liable to the Imputation of the severity being conformable to the said Chancellors direction as to the substance of it both in Suspending the Lawyer, and regarding his Plaint Causes (as when the said Maenemara's suspension in the Chancery Court exactly conformable to S. Edward Norths Opinion) but if it were Impressed on as to the manner of passing it, so is the manner of the man it affects - As to S. Edward Norths Opinion that the Allegations of the Act are too General we humbly offer that it seems to us as if it took the Legislative body of this Province to be a grand Jury, and that it be able of Judgment by them found to be the Law except for uncertainty But we are struck of Opinion that the Allegations in a Law need not be so particularly and certainly Express as in an Indictment and we hope there is some further Reason to be had on the Justice of a Legislature than on the proceedings of every Inferior Court - As to the procedure being contrary to the Common Rules of Justice (see)