

By the Lower House of Assembly, October the 29th 1724.

May it please your Honours;

Lower House on the
Circuit Bill.

IN answer to your Message of the 28th Instant by J. B. Esq; on the Supplementary Bill to the Act for Tryal of all matters of Fact in the Counties where they have arisen &c. we hope, your Honours will be of opinion, that Bills of Exception ought as well to be allowed in Criminal Cases that do not effect Life, as in Cases that do, when you shall have considered, that an honest Man's Reputation (always dearer to him than Life it self) may be in Question, and that he may suffer such an injury in it as no Time can Efface, nor any thing in the Power of Man Repair. By the over Ruling a just and lawful Challenge, and admitting his Enemies upon the Jury. by the Allowance of incompetent Witnesses, by the Jury's (tho' impartial) mistaking the Evidence, by the Judges giving a wrong Charge, and the Jury's being influenced by such a Charge, and even the Judge himself being Prejudiced, or under a Surprize, all these Circumstances may possibly concur in one Mans Case and every Man is liable to some one of them, which (as things may be managed) may be his own and Families Ruin. Now we apprehend, that Bills of Exception will be a guard against an Innocent Persons unjustly Suffering by any of the ways already mentioned, and others too tedious to trouble your Honours with; and therefore we are of opinion, that should a Guilty Person accidentally escape some share of the Punishment due to his Offence by the frequent allowance of Bills of Exception, the use and benefit of them would make ample amends for such an Inconveniec. But as that cannot (we conceive) be the Case, but on the contrary, lay the Fact with all it's Circumstance before the Judges which will give them a much better opportunity of giving a Judgment adequate to the Nature of the Offence. that they can possibly be able to give on hearing the Facts in a hurry at the Bar; and therefore we desire your Honours Concurance to the general allowance of Bills of Exception.

Tho' we cannot concur in opinion with your Honours, that it would be any Innovation to allow the Associates Voices in Criminal Cases, it being agreeable to the *British Constitution*, as your Honours (we believe) may observe by the Presidents we have already refer'd to, and proceedings of the Governour and Council formerly, when Assizes were set up (without any Law of the Province to Support them) in imitation of the *English Practice*, we shall wave it at present rather than lengthen the Time of this Sessions, or hinder the passing the rest of the Bill, which we conceive to be of such absolute necessity.

We shall concur with your Honours in restraining the Judges of *Oyer and Terminer*, in the manner you propose. and hope that a Bill agreeable to what your Honours and this House have concur'd in, and with what is herein proposed, will pass your House.

Sign'd per Order, M. J. Cl. Lo. Ho.

Which was sent with the Bill to the Upper House by Mr. G. and Mr. B. They return, and say, they delivered it.

Col. T. from the Upper House, delivers Mr. Speaker the Supplementary Bill to the Act for Trying Matters of Fact in the Counties, &c. with the following Message, viz.

By