

CHAPTER XXII.

The South Sea scheme.—Public infatuation.—The bubble bursts.—Parliamentary measures.—Session of 1722.—Plot for Invasion and Insurrection—Trial of Atterbury, bishop of Rochester.—His banishment.—Wood's Patent for a Copper Coinage in Ireland.—The Drapier's Letters.—The Ale-duty in Scotland.—Riot at Glasgow.—Impeachment of Lord-Chancellor Macclesfield.—Foreign Affairs.—Treaty of Hanover.—Siege of Gibraltar.—Peace.—Death of George I.

THE great event of the sixth year of the reign of George I. was the exciting affair of the South Sea scheme—an event upon which after the lapse of a hundred and forty years, we may still look with greater interest than upon the Treaties and the Wars of which it is said, with some truth, that they are to us as the “mere bubbleings up of the general putrid fermentation of the then political world.”* Few people of that time clearly understood what this famous South Sea project meant; and it is somewhat difficult to make it intelligible now.

In the infant days of the National Debt the great terror of statesmen was its increase and duration. At the accession of queen Anne, the debt amounted to sixteen millions; at her death it had reached fifty-two millions. In 1711 there was a floating debt of about ten millions. Harley, then Lord Treasurer, proposed to create a fund for that sum; and to secure the payment of interest, by making certain duties of Customs permanent. Capitalists who held debentures were to become shareholders in a Company incorporated for the purpose of carrying on a monopoly of trade to the Spanish Coasts of South America; making the new fund a part of their capital stock. Thus was established the South Sea Company. When the peace of Utrecht was complete, Spain refused to permit any approach to the free trade which would have made such a commercial Company of value. One ship only was allowed to be sent annually. A few factories were established, and the one ship sailed in 1717. Alberoni broke the treaty, and seized the British goods. But the Company had other means for the employment of capital; and many opulent persons were amongst its shareholders and directors.

At the opening of the Session of Parliament in November, 1719,

* Carlyle—“Friedrich,” vol. i. p. 559.

the king said to the Commons, “I must desire you to turn your thoughts to all proper means for lessening the debts of the nation.” In January, 1720, a proposal was read to the House of Commons from the South Sea Company, in which it was set forth that if certain public debts and annuities were made part of the capital stock of the Company, it would greatly contribute to that most desirable end adverted to in his majesty's speech. Before that speech was delivered, sir John Blunt, a South Sea director, had been in communication with the ministers, who gave a favourable ear to his projects. There was an annual charge upon the revenue of eight hundred thousand pounds, for irredeemable annuities granted in the reigns of William and Anne. To buy up these annuities was the advantageous point in the proposal of the Company. The House of Commons agreed in the necessity of reducing the public debts. “Till this was done,” said Mr. Brodrick, who moved that other Companies should be allowed to compete, “we could not, properly speaking, call ourselves a nation.” The Bank of England accordingly sent in a rival proposal; and the two Companies went on outbidding each other, till the South Sea Company's large offer to provide seven millions and a-half to buy up the Annuities was accepted. The annuitants were not compelled to exchange their government security for the Company's Stock; and the chief doubt seemed to be whether the greater number would consent to this transfer. Although the terms offered by the Company to the annuitants were not encouraging, there was a rush to accept them. To hold Stock in a Company whose exclusive trading privileges might realise that “potentiality of wealth” which is never “beyond the dreams of avarice,” was a far grander thing than to receive seven, eight, or even nine per cent. upon annuities. Within six days of the announcement of the Company's terms, two-thirds of the annuitants had exchanged their certain income for the boundless imaginary riches of South America.

Upon this foundation was built the most enormous fabric of national delusion that was ever raised amongst an industrious, thrifty, and prudent people. It had been long manifest that there was a great amount of superfluous capital, especially of the hoardings of the middle classes, which wanted opportunities for employment. To obtain interest for small sums was scarcely practicable for the mass of those who were enabled to keep their expenditure below their incomes. Before the beginning of the century, Companies, more or less safe, had been formed to meet this desire for investments. In spite of the long wars of the reigns of William and Anne, and the Jacobite plots and rebellions which threatened

the Protestant succession, the country was going steadily forward in a course of prosperity. Wherever there is superfluous wealth, beyond the ordinary demands of industry for capital, there will be always projectors ready to suggest modes for its co-operative uses. The machinery of directors and managers,—an organization with which our countrymen are now as familiar as that of a parish vestry,—was as ready, though not quite as efficient, at the beginning of the eighteenth century as in the middle of the nineteenth. There was then to be seen many a type of the subtle attorney, and the impudent secretary, who have spread such consternation in our own times. There was then to be seen the magnificent list of noble names, such as continue to attract the unwary to have confidence in some Board where very few know the secret transactions. Even the prince of Wales was then the Governor of a Welsh Copper Company. But it seems to us that the belief of all the schemes of that scheming time being fraudulent and delusive is a mistake. Many of these schemes might be premature; and having chiefly in view the profit to be made by the rise of shares, might be called "Bubbles." But it is scarcely reasonable to class the following projects amongst the ridiculous schemes of that gambling time: For improving alum works; for paving the streets of London; for supplying various towns with water; for improving the art of making soap; for improving the paper manufacture; for making iron with pit coal; for extracting silver from lead. It had been justly said by a writer who decried, in 1695, "many pernicious projects now on foot," that "some were very useful and successful whilst they continued in a few hands, till they fell into stock-jobbing, now much introduced, when they dwindled to nothing: others of them were mere whims, of little or no service to the world."* Such, no doubt, was the general character of the manifold projects of 1720. In the summer of that year, the South Sea year, "the dog-star rages" over Exchange Alley with a fury that has never been equalled; because no capitalist, even to the possessor of a single shilling, was then too humble not to believe that the road to riches was open before him. Subscribers to projects recommended by "one or more persons of known credit," were only required to advance ten shillings per cent. A shilling, and even sixpence per cent. was enough to secure the receipt for a share in the more doubtful undertakings. Shares of every sort were at a premium, unless in cases where the office that was opened at noon on one day was found closed on the next, and the shillings and sixpences had vanished with the subscription books. But the

* "Angliæ Tutamen," quoted in Anderson's "Commerce."

great impulse to the frantic stock-jobbing of that summer was the sudden and enormous rise in the value of South Sea Stock. In July, Secretary Craggs wrote to earl Stanhope, who was abroad with the king, "It is impossible to tell you what a rage prevails here for South Sea subscriptions at any price. The crowds of those that possess the redeemable annuities is so great that the Bank, who are obliged to take them in, has been forced to set tables with clerks in the streets."* The hundred pound shares of the South Sea Company went up to a thousand pounds in August. The shares of the Bank of England and of the East India Company were transferred at an enormous advance. Smaller companies of every character—water-companies, fishery-companies, companies for various manufactures, companies for settlements and foreign trade—infinite varieties, down to companies for fattening hogs and importing jackasses from Spain—rushed into the market amidst the universal cry for shares and more shares. The Directors of the South Sea Company opened a second, a third, and a fourth subscription. They boldly proclaimed that after Christmas their annual dividend should not fall short of fifty per cent. upon their £100 shares. The rivalry of the legion of projects of that season was odious to these great lords of the money-market. The government itself began to think that some fearful end would come to the popular delusion; and a Royal Proclamation was issued against "mischievous and dangerous undertakings, especially the presuming to act as a corporate body, or raising stocks or shares without legal authority." It was calculated that the value of the stock of all the Companies, with corporate authority or no authority, amounted at the current prices to five hundred millions sterling; being five times as much as the circulating medium of Europe, and twice as much as the fee simple of all the land of the kingdom. The attempt of the South Sea Company to lessen the number of their competitors was the prelude to their own fall. At their instance, writs of *scire facias* were issued, on the 18th of August, against four Companies; and the subscribers to these, and to all other projects not legalised, were ordered to be prosecuted by the officers of the Crown. A panic ensued. In a day or two, the Stocks of all the Companies not incorporated rapidly fell; and with the downward rush went down every description of Stock. Before August, knowing and cautious holders of South Sea Stock began to sell out. Walpole, who had originally opposed the scheme, did not carry his opposition to the extreme of neglecting his opportunity of largely adding to his fortune,

* Coxe's "Walpole," vol. ii. p. 189.

by investing at the proper time, and selling out at the proper time. The earl of Pembroke applied to Walpole for his advice as to the great question of selling when the shares were at their culminating point. The adroit financier coolly answered—"I will only tell you what I have done myself. I have just sold out at £1,000 per cent., and I am fully satisfied."* By the middle of September, holders of South Sea Stock were crowding the Exchange, not as eager buyers, but as more eager sellers. The Stock was at 850 on the 18th of August; in a month it had fallen to 410. Mr. Brodrick, on the 13th of September, writes, that the most considerable men of the Company, "with their fast friends, the Tories, Jacobites, and Papists," had drawn out; "securing themselves by the losses of the deluded thoughtless numbers, whose understandings were overruled by avarice, and hopes of making mountains of mole-hills. Thousands of families will be reduced to beggary. . . . The consternation is inexpressible; the rage beyond expression; and the case is so desperate, that I do not see any plan or scheme for averting the blow." † On the 29th of September, South Sea Stock had fallen to 175. This greatest of bubbles had burst. Many persons of rank and station were not so prudent as Walpole and the earl of Pembroke had been. The duke of Portland, lord Lonsdale, and lord Irwin, were provided with colonial governments to enable them to live;—a species of consideration for ruined nobility which is rather in bad odour in our days. Merchants, lawyers, clergy, physicians, passed from their dream of fabulous wealth and from their wonted comforts into poverty; some "died of broken hearts; others withdrew to remote parts of the world, and never returned." ‡ It has been observed that "the calamitous effects of the madness were rather individual and immediate, than permanent or general. There was little, if any, absolute destruction of capital. The whole mischief consisted in a most quick and violent shifting of property from one hand to another." § But the derangement of the ordinary course of industry was to be added to this shifting of property. Serious as was this temporary evil; furious as it made the sufferers in their reproaches against every one but themselves; eager as it rendered the Legislature for confiscation of the property of the South Sea Directors, the national credit was not permanently impaired by the infatuation which produced so much private misery. In this respect, the issue of the South Sea scheme was essentially different from the Mississippi scheme of John Law in France,

* Coxe, vol. i. p. 730.

† *Ibid.*, vol. ii. p. 190.

‡ Anderson. § G. L. Craik, "History of British Commerce," vol. ii. p. 194.

which also exploded in that fatal year for projectors; producing there what was equivalent to a national bankruptcy. When the South Sea crash came, there was alarm for its public consequences. But Walpole, who had again joined the government, though in a subordinate office, applied his great financial abilities to avert the difficulties which this convulsion might occasion to the State; and instead of joining the first cry for vengeance upon the South Sea Directors, he calmly said in Parliament, that if London were on fire, wise men would endeavour to extinguish the flames before they sought for the incendiaries. When the king opened the Session on the 8th of December, the royal speech recommended measures "to restore the national credit." Walpole was regarded by all parties as the man to effect this.

To endeavour to equalize, to the most inconsiderable extent, the losses and gains of individuals by the extravagant rise and sudden depression of South Sea Stock, would have been a task far beyond the province of any minister of state. The financial abilities of Walpole were necessarily directed to the very difficult labour of disentangling the government from the embarrassments of the South Sea Company. The English ministry had never attempted to sustain the value of the Company's shares by arbitrary edicts; or to interfere with their fall by regulations that were based upon other principles than the great natural laws by which the money market, like every other market, must be governed. The French ministry, when the scheme of Law for relieving its exhausted finances by a paper currency, based on the imaginary riches of Louisiana, was in the course of breaking down, gave its orders that individuals should not retain in their possession any sum beyond a small amount of gold and silver, and should be compelled to carry on their transactions in Law's substitute for money. The shares were not to fall according to the rate at which their owners were willing to sell them, but to sink in nominal value, by a monthly reduction, till they had reached half their original price, at which rate they were to be fixed. All this, of course, was the merest convulsion of despotism. The Regent had shifted a large amount of the debts of the State to the deluded people, and no attempt was made to retrieve the national credit. Walpole had to pursue a policy which was the only possible one under a limited monarchy; and which indeed was not beset with the difficulties that the government of the Regent would have had to encounter in any struggle to be honest. The French finances were hopelessly embarrassed by a long course of extravagance, before Law thought he could perform the part of the magician in the Arabian

story, making a scrap of paper pass as a piece of silver. The English finances were healthy, though the national debt amounted to fifty or sixty millions. The French government adopted the schemes of Law, to furnish the means of new extravagances. The English government went into the scheme of the South Sea Company, with the view of redeeming a portion of the national debt, and thus of lessening the amount of taxation. Voltaire records that he had seen Law come to court with dukes, marshals, and bishops following humbly in his train. The English Court was not free from shame in the South Sea project. Half a million of fictitious Stock had been created by the Directors, previous to the passing of the Bill. The duchess of Kendal, as well as other favourites of the king, had large douceurs out of the profits which the Directors made by the transfer of these shares; and it is lamentable to add that Craggs, the Secretary of State, his father the Postmaster-General, and Aislabie, the Chancellor of the Exchequer, were amongst the recipients of this bribery. It was the business of parliament to trace the extent of the corruption; and to punish in some degree those Directors for vengeance upon whom the nation was frightfully clamouring. Although in the petitions to Parliament "for justice on the authors of the present calamities," we may see how individuals come to consider the losses produced by their own insensate desire for sudden riches as national misfortunes, we may yet observe how general is the calamity when a people think to grow rich by gambling instead of by work. The petition of the county of Kent avers that it was lately one of the most flourishing in the kingdom, "and is now reduced to a most unhappy condition by the execrable fraud of the late wicked South Sea Directors." The petition of the borough of Leicester states that "no sooner had the South Sea Directors, and the vile emissaries they despatched over the kingdom to propagate lies and forgeries, so imposed upon the honest credulous people as to draw all their ready money and treasure into their infamous hands, but we saw trade instantly struck dead, our manufactures disregarded, our combed wool (once the staple and glory of our industrious corporation) lie neglected in our work-houses, our poor increasing for want of employment." Maidstone cannot pay the duty on hops, for there is no money in circulation. Somerset represents that the clothier's trade is gone to decay. Warwick says that the South Sea parricides have reduced a plundered people, in the space of one year only, "to as deplorable a state of calamity and distress as they ever yet suffered by any civil tumult or foreign war." Birmingham complains that its trade is wonderfully reduced, and that there is

no money to pay the poor workmen. Want of money is the universal cry. No branch of industry had been exempted, according to these petitions, from suffering.* There may be exaggeration in these complaints. But it is nevertheless easy to understand how difficult it would be, in a condition of society where commercial credit was not upheld by large banking operations, to escape very serious evils, when the many streams and rills in which capital ordinarily flowed were diverted into one vast flood, and thus for a while the channels were left dry from which industry derived its regular nourishment.

The Commons, through the entire Session, were occupied with investigations and discussions connected with the financial convulsion. Walpole brought forward his plan for sustaining the national credit, and had induced the House to agree that the public contracts with the South Sea Company should be undisturbed. His first proposal, to engraft a portion of the Stock of that Company into the Bank of England, and another portion into the East India Company, was carried after much debate; but this plan was ultimately merged into another measure. The private estates of the Directors were to be regarded as a fund to provide some remedy for the public embarrassment. A Bill was passed, to compel them to deliver on oath an estimate of the value of their property, and to prevent them going out of the kingdom. A secret Committee of Inquiry was appointed. After they had examined Mr. Robert Knight, the cashier of the Company, he fled to Brabant. A reward of £2000 was offered for his apprehension; but it was believed that there were influences at work powerful enough to screen him. Knight was arrested at Antwerp; but the States of Brabant refused to give him up. "Screen" became a bye-word. Caricatures—which it is said were become common at this period for political objects—had for their point the duchess of Kendal and the flight of the Cashier. "The Brabant Screen" exhibited the king's mistress sending Knight upon his travels, giving him his despatches from behind a Screen. † The prudent Cashier took care to obliterate, as far as possible, the evidence that great ladies, and ministers of state, had been corrupted by the South Sea Directors. The Committee of the Commons reported that "in some of the books produced before them, false and fictitious entries were made; in others entries with blanks; in others entries with erasures and alterations; and in others leaves were torn out." They found, further, that some books had been destroyed, and others

* See the Petitions in "Parliamentary History," vol. vii. col. 761 to col. 797.

† Wright—"England under the House of Hanover," vol. i. p. 79.

taken away or secreted. Out of the mouths of the Directors the Committee extracted evidence to show that there had been extensive appropriation of Stock to "certain ladies," at the instance of Mr. Secretary Craggs; and the proof was clear that persons high in office had received and held Stock, during the time that the Company's Bill was depending in Parliament, "without any valuable consideration paid, or sufficient security given for the acceptance of, or payment for, such Stock." Nevertheless, Charles Stanhope, one of the accused, was cleared by a majority of three. The earl of Sunderland was exonerated by a larger majority; but he could not stand up against the popular odium, and resigned his post of first Commissioner of the Treasury. Aislabie, the Chancellor of the Exchequer, was expelled the House, and was sent to the Tower. James Craggs died of small pox during the heat of this inquiry. His father, the Postmaster-General, destroyed himself by poison.

The charges against the directors were founded upon their practice of "selling their own Stock at high prices, at the same time that they gave orders for buying Stock upon account of the Company;" and upon their various contrivances "to give his majesty's subjects false notions of the value" of the South Sea Stock. Their punishment, under the bill that was passed, was severe. Their estates, amounting to two millions sterling, were confiscated for the relief of the sufferers by their schemes. A small allowance was made to each; but they were disabled from ever holding any place, or for sitting in parliament. Such visitations for their offences were thought far too lenient by the greater number of their contemporaries. They may now be considered excessive. Edward Gibbon has recorded his opinion of what he held to be the oppression endured by his grandfather, one of the Directors. "Of the use or abuse of the South Sea scheme, or the guilt or innocence of my grandfather and his brother directors, I am neither a competent nor a disinterested judge. Yet the equity of modern times must condemn the violent and arbitrary proceedings which would have disgraced the cause of justice, and would render injustice still more odious. No sooner had the nation awakened from its golden dream, than a popular and even a parliamentary clamour demanded their victims; but it was acknowledged on all sides, that the South Sea Directors, however guilty, could not be touched by any known laws of the land. The speech of lord Molesworth, the author of 'The State of Denmark,' may show the temper, or rather the intemperance, of the House of Commons. 'Extraordinary crimes (exclaimed that ardent Whig) call aloud for extraordinary

remedies. The Roman lawgivers had not foreseen the possible existence of a parricide; but as soon as the first monster appeared, he was sewn in a sack, and cast headlong into the river; and I shall be content to inflict the same treatment on the authors of our present ruin.' His motion was not literally adopted; but a bill of pains and penalties was introduced, a retro-active statute, to punish the offences which did not exist at the time they were committed. Such a pernicious violation of liberty and law can be excused only by the most imperious necessity; nor could it be defended on this occasion by the plea of impending danger or useful example."*

During a debate in the Lords upon the conduct of the South Sea Directors, the duke of Wharton, as profligate as he was able, made a furious attack upon Stanhope, comparing him to Sejanus. The anger to which the earl was moved produced a rush of blood to his head. A temporary relief by cupping was obtained; but the next day the skilful and honest Secretary of State suddenly expired. No suspicion of improper connection with the South Sea scheme had affected his honour. Lord Townshend again became Secretary of State. With Walpole, Chancellor of the Exchequer, salutary measures were pursued to restore confidence. The South Sea Company were relieved from certain engagements to make advances to the government; and the credit of their bonds was sustained at its just value.

The Session of 1722 was a busy Session. Questions more important than those connected with party interests were discussed. An Act had been passed in the last Session—under the apprehension of the plague, which was raging in France—for the building of pest houses, to which infected persons, and even the healthy of an infected family, were to be removed; and lines were to be drawn round any infected town or city. Earl Cowper, the ex-chancellor, a man of liberal and enlightened views, moved for the repeal of these powers, as unknown to our constitution, and inconsistent with the lenity of our free government. But his motion was rejected. "The people called Quakers" had presented a petition, complaining that, under their present form of affirmation, they were unable to answer in courts of equity, take probates of wills, prove debts on commissions of bankruptcy, take up their freedoms, and be admitted to poll at elections for their freeholds. Upon a debate in the Lords, Atterbury, the bishop of Rochester, spoke against indulgences "to be allowed to a set of people who were hardly Christians." The London clergy petitioned against a Bill for their relief, contending that, however the

* "Memoirs of Edward Gibbon." *History of his own times*

Quakers might be injured in their private affairs, "an oath was instituted by God himself as the surest bond of fidelity amongst men," and that any relaxation of that principle would only tend to multiply a sect "who renounce the divine institution of Christ, particularly that by which the faithful are initiated into his religion." The Bill for the relief of the Quakers was passed, in spite of the hard terms in which they had been assailed. The Session was prorogued to the 15th of March; and it was previously dissolved, under the provisions of the Septennial Act. During the prorogation, the earl of Sunderland died; and his father-in-law, the great duke of Marlborough, terminated his chequered career of political time-serving and of military glory. When he was borne to Westminster Abbey, with funereal pomp proportioned to his great achievements, we may believe that there were few who did not feel that his wonderful services to his country ought in some degree to obliterate the memory of the infirmities of an ambitious and selfish nature—the failings which have prevented him taking his place in history as one of the grandest of England's sons.

In 1720, the wife of James Edward carried forward the aspirations of the House of Stuart into another generation, by giving birth to a son. Atterbury, the most uncompromising of partizans, considered this "the most acceptable news which can reach the ears of a good Englishman." Charles Edward Louis Casimir, whose royal descent was put beyond suspicion by the presence of seven cardinals in the chamber of the princess, was destined even in his cradle to give the signal for conspiracies and possible insurrections. The duke of Ormond was again to lead foreign forces to the invasion of Britain. The Jacobites in England, amongst whom there were five earls, and the undaunted bishop of Rochester, were to get possession of the Tower, seize all the deposits of public treasure, and to proclaim James III. The delusions of these men are to be pitied. They were enthusiasts. They looked upon the fallen House of Stuart through a haze of sentiment; and saw in Charles I. and James II. only the images of legitimate kings, murdered and deposed by their wicked and rebellious subjects; and in the exiled descendants of these kings only princes who had an absolute right to eject the unlawful possessors of their crowns. The nation—the people—were, in their view, but men born to obey, in whose obedience there could be no discretion. They saw, moreover, in a dominant Church, that supreme authority over the consciences of Christian believers which would admit of no scruples as to doctrine or ceremonials. Dissent was simply heresy and schism. A judicious, and in many respects impartial, historian, ascribes what he

calls "the second growth of Jacobitism" to the publication in the reign of Anne of Clarendon's "History of the Rebellion." Atterbury was one of its editors. The "gray discrowned head" of Charles; the exile and the restoration of his son—these were the stirring recollections that made the remnant of the old Cavaliers, now bearing the somewhat less glorious name of Tories, turn to the first Charles's grandson "pining in a distant land, under circumstances not far unlike to those of Charles Stuart in France."* We may reasonably doubt whether so clever a man as Atterbury had not read other histories besides those of Clarendon; whether he could only see the popular gladness of the Restoration, and not direct one thought to the degradation of the monarchy, to the struggles to make his countrymen slaves and Papists, which followed the Restoration. Yet some men do read history in the way which is held to have produced "the second birth of Jacobitism," and Atterbury might have been of the number.

The departure of the king, in the summer of 1722, upon his usual visit to his German dominions, was to be the signal for an invasion of England by the Pretender and his faithful Ormond. Disbanded troops of various countries were being collected together for this enterprise. The managers of the plot had the supreme folly to apply to the Regent of France for the aid of five thousand men; and the Regent, having more respect for treaties than Louis XIV., informed the British minister at Paris of the application. The vigilant Walpole was soon acquainted with the plan of action and the names of the actors. The king was advised not to go to Hanover; a camp was formed in Hyde Park; and some of the conspirators—two non-juring clergymen, two Irish priests, a young barrister, and two lords—were apprehended. After a delay of three months, the bishop of Rochester was arrested, and, after examination before the council, was sent to the Tower. For nearly thirty years had Francis Atterbury been known as the keenest of controversialists, as well as the most impressive of preachers. From the beginning of the century he had been considered as the leader of the High-church party; the great asserter of the independence of Convocation. Gradually he had become identified with the most extreme principles of passive obedience; was the prompter of Sacheverel in his defence in 1710; was recognised as having earned a bishopric when Harley came into power; and had, upon the death of queen Anne, taken a very decided part in his hostility to the Hanoverian succession. His arrest in August 1722 produced the most violent ferment amongst his church party. The episcopal

* Lord Mahon—"History," vol. ii. p. 51.

order, it was proclaimed, was outraged. Atterbury was prayed for in the London churches. Atterbury was represented, in a print intended to move the popular sympathy, as standing behind his prison-bars, gazing upon a portrait of Laud. The plot, it was maintained, was a base fiction. The new Parliament met in October; and the king, in his speech on the 11th, announced the discovery of a dangerous conspiracy, and the arrest of some of the conspirators. The Habeas Corpus Act was suspended for a whole year; and the consent of the House of Peers was desired to sanction the detention in the Tower of the bishop of Rochester, lord North and Grey, and the earl of Orrery. A foolish Declaration, signed "James Rex," had been issued on the 22nd of September, in which James III., king of England, Scotland, and Ireland, proposed that George should quietly deliver to him the throne of those kingdoms; when he, king James, would bestow upon George the title of king in his native dominions, and invite all other States to confirm it. Moreover, the British crown should be confirmed to the penitent usurper, if ever he should attain it in the due course of legitimate succession. This wonderful production was ordered by Parliament to be burnt by the common hangman, as "a false, insolent, and traitorous libel." On the 1st of March, 1723, a Committee of the Commons made a report of their examinations into the evidence of the conspiracy. It is a document of great length. It involved other eminent persons besides those who had been arrested. Christopher Layer, the barrister, had been previously tried and condemned in the King's Bench. He was the only person who suffered capital punishment. Bills of pains and penalties were passed against the two Irish priests. The most important person amongst the accused, the bishop of Rochester, was also proceeded against by Bill, enacting his punishment and deprivation. This Bill passed the Commons without a division. Atterbury declined making a defence before the Lower House; but on the 6th of May he stood at the bar of the House of Lords; and after the evidence against him had been gone through he defended himself with great ingenuity and eloquence.

The debate amongst the Peers on the question that the Bill do pass was remarkable for the constitutional opposition of lord Cowper, the ex-chancellor. He said, "My Lords, this Bill carries in the frame of it an invincible objection to it; for the preamble and the enacting part, the crime and the punishment, bear no proportion to each other. The preamble contains a charge of high treason against the bishop; and pray, my lords, why should he not be punished accordingly . . . What reason can be given why the bishop

should not be punished, at least equal with others, in case of high treason? Why truly, the want of legal evidence is the only reason pretended. . . . To palliate the matter a little, a distinction is endeavoured to be made between legal evidence and real evidence, or between such evidence as our law requires, and such as in natural justice and equity ought to be admitted. But, my Lords, this is a distinction entirely without a difference; for what is evidence of a fact before any judicature whatsoever, but such testimony as the nature of the case requires, to induce a moral certainty of the truth of the thing testified? . . . The wisdom and goodness of our law appear in nothing more remarkably, than in the perspicuity, certainty, and clearness of the evidence it requires to fix a crime upon any man, whereby his life, his liberty, or his property may be concerned: Hereon we glory and pride ourselves, and are justly the envy of all our neighbour nations. Our law, in such cases, requires evidence so clear and convincing, that every bystander, the instant he hears it, must be fully satisfied of the truth of it. It admits of no surmises, innuendos, forced consequences, or harsh constructions, nor anything else to be offered as evidence but what is real and substantial, according to the rules of natural justice and equity." These arguments of a great legal authority have a lasting importance far beyond the immediate question of Atterbury's guilt or innocence. The bill of pains and penalties was a mischievous precedent, "open to the same objection as the attainder of Sir John Fenwick—the danger of setting aside those precious securities against a wicked government which the law of treason has furnished."* The possible guilt of the offender does not justify an irregular and arbitrary mode of dealing with his offence. It might be merciful in the government thus to proceed against the bishop in a mode which did not affect his life; but that mode was more probably the only way in which they could secure a conviction at all. The connection of Atterbury with the exiled family, before his banishment, has been abundantly proved by other evidence than that within the reach of his accusers and judges. The Bill against him was passed by a majority of forty peers; most of the bishops voting against him—possibly with some higher motive than that imputed to them in the sarcasm of lord Bathurst, of believing, as the wild Indians believed, that they would inherit the abilities as well as the spoils of any great enemy whom they slew. The estate of Atterbury was not forfeited by his attainder. He embarked for France in June, 1723; and died at Paris in 1732.

* Hallam—"Constitutional History," chap. xvi.