

## **PLEASE NOTE**

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### THE SHORT-TERM IMPACT OF THE 'GLORIOUS REVOLUTION' ON THE ENGLISH JUDICIAL SYSTEM

On February 14, 1689, The day after William and Mary were recognized by the Convention Parliament as King and Queen, the first members of their Privy Council were sworn in. And, during the following two to three weeks, all of the various high offices in the government and the royal household were filled.

Most of the politically powerful posts went either to tories or to moderates. The tory Earl of Danby was made Lord President of the Council and another tory, the Earl of Nottingham was made Secretary of State for the Southern Department. The office of Lord Privy Seal was given to the "trimming" Marquess of Halifax, whom dedicated whigs had still not forgiven for his part in bringing about the disastrous defeat of the exclusion bill in the Lords' house eight years earlier. Charles Talbot, Earl of Shrewsbury, who was named Principal Secretary of State, can really only be described as tilting towards the whigs at this time. But, at the Admiralty and the Treasury, both of which were put into commission, in each case a whig stalwart was named as the first commissioner--Lord Mordaunt and Arthur Herbert respectively--and also in each case a number of other leading whigs were named to the commission as well.<sup>1</sup>

Whig lawyers, on the whole, did rather better than their lay fellow-partisans. Devonshire lawyer and Inner Temple Bencher Henry Pollexfen was immediately appointed Attorney-General, and his cousin, Middle Templar George Treby, Solicitor General. When the new judicial appointments were announced Pollexfen became Chief Justice of the Court of Common Pleas and Treby was elevated to the Attorney Generalship in his place. The new Solicitor General was Middle Templar (and future Lord Chancellor) John Somers, of Worcestershire. Another Worcestershire man, Serjeant-at-Law Sir Robert Atkyns, of Lincoln's Inn, who had been removed from the Common Pleas Bench a decade earlier due to his whiggish leanings, was made Chief Baron of the Exchequer, and Gray's Inn's Sir John Holt, who had defended a number of whigs in political trials in the later years of Charles II's reign, was appointed Lord Chief Justice of the Court of King's Bench. The very highest judicial office, however, that of Lord Chancellor, was also, like the Admiralty and the Treasurership, entrusted to a commission, with Serjeant-at-Law Sir John Maynard, the presbyterian-leaning Devonian who had played a leading role in the prosecutions of Titus Oates and other "popish plotters: during the Exclusion Crisis, as the first commissioner.<sup>ii</sup>

It is not totally clear just when, or why, the decision to put the Chancery into commission was made. According to one account the Great Seal had been offered first to Halifax, which made

sense since he was already functioning as the presiding officer of the House of Lords, but he refused it; and so, later, did the Earl of Nottingham. Bishop Burnet, in his *History of My Own Time*, seems to suggest that the reason for the latter's refusal may have been the fact that he was only offered a first commissionership. That could explain Halifax's turning it down as well. It seems more likely, however, that both peers were offered the actual lord chancellorship and perhaps it was because they were not lawyers that both of them declined the offer. In almost every instance, since Sir Thomas More had replaced Cardinal Wolsey in 1529, the Chancellor or Lord Keeper of the Great Seal had been a practicing common lawyer, which, since the office had evolved into a primarily judicial rather than administrative one, made sense. On the other hand though, the Earl of Shaftesbury, a non-lawyer, had filled the office very creditably for several months in 1672-73.<sup>iii</sup>

Some historians have suggested that the reason why King William and his advisors decided to put the Chancery into commission was that the notorious Lord Jeffreys, during James II's reign, had brought the very title of "Chancellor" into serious disrepute. But if it was, indeed, offered to both Lord Halifax and Lord Nottingham, that explanation will not hold up. And, in fact, the final item listed in the report from a committee, chaired by George Treby, on "such Things as are absolutely necessary to be considered for the better serving of our Religion, Laws and Liberties" that was delivered to the House of Commons on February 2, 1689, and came to be called the "Declaration of Rights", had been better regulation of "the Chancery and other Courts of Justice." Five days later, the same committee had recommended that such reforms should be a matter for future legislation rather than being dealt with in the Declaration" and their fellow M.P's had evidently agreed with them. Meanwhile, putting the Court of Chancery into commission must have seemed to many lawyers and statesmen of that time to be a worthwhile first step towards depoliticising that powerful court.<sup>iv</sup>

Appointing three professional lawyers to sit as its coordinate judges, instead of a single political magnate, of course did make the Chancery a lot more like the other three high courts of justice that sat in Westminster Hall.<sup>v</sup> And there were certainly plenty of precedents. The Great Seal had been entrusted to commissioners for a six-month period on one occasion late in Queen Elizabeth's reign; and again, for three months, late in the reign of James I. Between 1642 and 1660, the parliamentary and protectorate great seals had always been in commission, and the usual number of commissioners then had been three.<sup>vi</sup> Given the mildly revolutionary atmosphere that prevailed at Westminster early in 1689, therefore, it is not too surprising to find in the Privy Council minutes that, on February 18, the king and his councillors had ordered Mr. Aaron Pingrey, "one of the clerks of the petty bag in Chancery," to provide copies of "all commissions that were granted by Oliver, the Protector, for custody of the Great Seal."<sup>vii</sup>

One historian's suggestion, that the Chancery was put into commission at this time—as had probably been the case with the Treasury and the Admiralty—simply in order to create new offices for the Crown to dispose of, can be quickly dismissed. Maynard had only a very slight claim to any reward from William, and his two associates had none. Anthony Keck, the fifth son of an Oxfordshire landowner, after being called to the bar from the Inner Temple in 1659, in the ensuing thirty years had gradually built up a reputation as one of the leading barristers

specializing in Chancery work. His Inn had elected him a Bencher in 1677 and made him their Autumn Reader in 1684. According to Roger North he was “a person that had raised himself up by his wits, and apart from some hardness in his character, which might be ascribed to his [chronic] disease, the gout, he was a man of a polite merry genius.” In 1684, an anonymous tory versifier had included him by name among the “damm’d Whiggish Chancery Rout” of common lawyers who had “just as much Loyalty as they had Law.” Undoubtedly he must have approved of the Revolution for he believed, says North, that the best form of government was “a republic or, which was the same thing, a king always in check.”<sup>viii</sup> Probably what he did actually believe in was a constitutional monarchy. As for Rawlinson, a product of Gray’s Inn he seems to have been a political trimmer, for he had been appointed a Serjeant-at-Law, in 1686, by King James. There can, in fact, be little doubt that he owed his appointment as one of the three commissioners primarily to the fact that he was Maynard’s grandson-in-law.<sup>ix</sup>

Maynard, by then eighty-four years old, “by reason of his indisposition by the gout,” was not able to accompany his two colleagues to Whitehall, on Thursday, February 28, to kiss the King’s hand. So, while Halifax, Shrewsbury, Lord Mordaunt, and other peers and privy councillors looked on, William handed over the Great Seal to Keck,<sup>x</sup> Rawlinson, presumably because he was the youngest of the three new commissioners, was given the task of drafting their formal commission of appointment; and told to have it ready by Tuesday, March 5, when the King was scheduled to be back at Whitehall after a visit to Hampton Court.<sup>xi</sup> On that day, in the morning, the three lords commissioners went to the Council Chamber and, after taking the required oaths, received their commission, which had been dated and sealed the day before. Immediately afterward, Keck and Rawlinson, together with Pollexfen, the new Attorney General, were knighted.<sup>xii</sup> And finally, six weeks later, on April 17, the three Commissioners, wearing gowns that were “very rich with gold loops upon them,” processed to Westminster Hall “in great State and Pomp” and took their seats on the Chancery bench at the commencement of the Easter Term, the first law term of the new reign.<sup>xiii</sup>

That same day, elsewhere in Westminster Palace, deliberation continued over the wording of an “Act for enabling the Lords Commissioners for the Great Seal to execute the office of Lord Chancellor, or Lord Keeper of the Great Seal.” the preamble to the act, which had originated in the Lords in late March, suggests that the commission arrangement, by then at least, was intended to be a permanent one; for it states that the King and Queen had “thought fit that “the office of the lord chancellor or lord keeper of the great seal of England should be executed by commissioners appointed for the same under the great seal of England.”<sup>xiv</sup>

In the Lower House, Maynard was appointed to the committee appointed to consider the bill that would do that.<sup>xv</sup> The Commons had, at first, proposed a version of it that would have given any one or more of the commissioners, with the Great Seal carried before him or them, the same precedence that Lord Chancellors had always enjoyed. And it also empowered any one of the commissioners to exercise, by himself, virtually any function that a Lord Chancellor or Lord Keeper had previously been entitled to perform. The Lords had refused to concur with that, however, and, early in May, the members of the lower house were persuaded to agree that the commissioners should take precedence only after all of the peers of the realm and—as a sop to the

Commons—after the Speaker; unless one of the commissioners happened to be a peer, in which case he would take precedence according to his rank in the peerage. In early June, it was agreed by both Houses, that—as had been the practice in the Interregnum period—while a single commissioner should have the power to give orders and directions concerning the operations of, and proceedings in, the Court of Chancery, the pronouncing of any decree, or any use of the Great Seal should require a quorum of at least two commissioners, And another provision in the final version of the act stated that, whereas the *custodes rotulorum* of the counties had previously been appointed by the Lord Chancellor, they should, in the future, first be nominated by letters patent from the king and, only after that, receive their commissions under the Great Seal from the Chancery. The Act, as amended, received the royal assent on June 23, 1689.<sup>xvi</sup>

The Crown did not save any money by having three lords commissioners run the Chancery. On the contrary, Maynard and each of his two colleagues were paid L1,500 per year, which amounted to a total of five hundred pounds more than the L4,000 customarily paid each year to a Chancellor or Lord Keeper.<sup>xvii</sup> And there were some, apparently, who felt that they were not really up to doing their jobs. An anonymous poem from the period entitled “Jeffrey’s Elegy,” now lodged in the British Library’s manuscript collection, was composed, presumably, soon after the former lord Chancellor, Jeffreys,’ death in the Tower, on April 18, 1689. It represents him as sitting down between his two immediate predecessors in office, Lord Nottingham (1671-82) and Lord Guilford (1682-85) at a table in Hell:

Where each his pot of sulphur tipples  
Just like our three Commission Cripples.

A marginal note explains:- “Sr John Maynard: aged: Sr Anthony Keck: lame: Sr Wm Rawlinson: wadling.”<sup>xviii</sup> The published and manuscript reports covering the period they were in office, however, indicate that, in nearly every instance, all three of them joined together in hearing cases and handing down decisions. And, on the rare occasions when only two of them heard a case, Maynard, as first commissioner, was always one of the two.<sup>xix</sup>

A survey of all of the forty-nine cases heard in the Chancery Court, during the fourteen months that Maynard, Keck and Rawlinson served as commissioners, that were considered significant enough to be included in Vernon’s published collection of reports<sup>xx</sup> reveals this distribution:

wills, inheritances and trusts	23
conveyances and mortgages	8
landlord and tenant	6
marriage contract disputes	2
miscellaneous (mostly commercial)	10

Besides hearing and deciding cases, two at least of the three of them (in order to constitute a quorum) had to attend to the routine chore of affixing the Great Seal to numerous official

documents such as commissions of the peace and shrieval and ecclesiastical appointments.<sup>xxi</sup> Occasionally, two of them would be summoned to the royal court to transact some pressing item of business there. On Sunday, May 12, 1689, for example Secretary of State Shrewsbury despatched a messenger to Maynard's suburban London residence, Gunnersbury, near Ealing, to summon both him and Rawlinson (who was evidently known to be spending the weekend with his grandfather-in-law) to come the nine miles or so out to Hampton Court that afternoon to attend upon the King.<sup>xxii</sup> There was always also the need to supervise the work being done by the sizable Chancery staff. These included the Master of the Rolls and eleven other masters who assisted the Commissioners by compiling evidence and preparing cases for trial; the six clerks, who, in return for substantial fees, kept the official records of all cases; and some sixty "sworn clerks," who handled all of the routine paperwork.<sup>xxiii</sup>

The fact that one of the masters in 1689 was named Samuel Keck suggests that nepotism played some part at least in determining staff appointments.<sup>xxiv</sup> And, indeed, if anyone hoped that Maynard and his two colleagues could be depended to initiate any sweeping reforms they were soon disappointed. The published Orders in Chancery include only two reform measures that were introduced during their time in office, both of which were aimed more at making things easier for them and their staff members than at helping litigants. The first, dated October 23, 1689, said that when any case was to be reheard on appeal the appealing party must, at least two days before the rehearing of it, furnish their lordships with both a "true copy" of the order or decree to be appealed and a true copy of the petition stating the grounds upon which the appeal was to be made. The second, issued on January 17, 1690, imposed an extra charge of twenty shillings for every "frivolous exception" to a master's report; or ten shillings if the exception was not actually put before the court.<sup>xxv</sup>

Meanwhile, Maynard, sitting in the House of Commons as one of the two members for Plymouth, had been having much to say that was very critical of the conduct, by some of the King and Queen's ministers of the ongoing war with France. And, by the end of May, 1690, William had been persuaded by his closest advisors that the great Seal should be placed in friendlier hands. On June 3, it was surrendered back to the King by Maynard in a brief ceremony at Kensington Palace. Just a little later that same day, it was given over to a new trio of more politically cooperative commissioners. And, a little less than two years after that, on March 23, 1693, it would be entrusted once more to a single Lord Chancellor, a faithful whig named Sir John Somers.<sup>xxvi</sup>

Meanwhile, in both houses of Parliament, there had continued to be much discussion of the perceived need for a great deal of court reform called for in the report from Treby's committee fifteen months earlier. The "Declaration of Rights," approved by both Houses in February, 1689, and enacted into law as the "Bill of Rights" nine months later, had included some noble provisions which said that: "excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; that jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders; [and] that all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void...."<sup>xxvii</sup> Also, as early as January 22, 1689, the Commons in the Convention Parliament had

created a "Grand Committee for Courts of Justice" which was meeting "every Saturday, in the afternoon, in the House." By the autumn of 1690, that committee was still in being and meeting weekly, though on Friday afternoons now, which perhaps encouraged better attendance. And the Lords also, by November, 1689, had appointed a select committee that was conducting a detailed inquiry into alleged "irregularities" in the general conduct of the courts of law in Westminster Hall and elsewhere.<sup>xxviii</sup>

The increasing cost of litigation seems to have been the main grievance felt by litigants nationwide. On December 7, 1689, one of the Masters in Chancery, Miles Cook, had delivered to their lordships a report compiled by himself and Samuel Keck on the fees that were then being charged litigants in their court. And, on the 14<sup>th</sup>, Pengry and six other clerks had been authorized by Maynard and his two fellow commissioners to give to the Lords' select committee some further information with regard to the Court of Chancery's procedures and practices, which was delivered up to them three days later.<sup>xxix</sup>

But, over the next few years, although there was much discussion in both Houses of Parliament of further possible legal reforms, strong disagreements, both between the two Houses of Parliament, and inside both Houses, prevented very much from being done. Measures that were proposed and discussed but never received final full approval from both Lords and Commons included three acts for regulating Hearings upon bills of Review in Chancery and other courts of Equity; a bill to set the fees to be paid to the "Officers and Ministers of Justice in any of their Majesties Courts; and providing for the due Administration of Justice;" a "Bill for the better Discovery of Judgments in the Courts at Westminster;" and bills with regard to such problems as claims for "Benefit of Clergy in Perjury cases," "the Reversal of Outlawries" and "Mortgage Frauds." A bill sent down from the Lords, on February 22, 1692, which would have required the Chancery and Exchequer courts to accept the "Solemn Answer Evidence of any of the People called Quakers" was defeated in the Commons by a vote of 103 to 73.<sup>xxx</sup>

One reform measure that was eventually approved by both Houses, however--no doubt largely because of the stormy political history experienced in England over the previous half century-- was the Trial For Treasons Bill of 1696. Its first draft had actually been approved in the House of Lords in 1668. For, already by then, many of the peers, had come to feel rather insecure with regard to the prevailing custom, whereby, if one of them found himself charged with treason or any other felony, and a Parliament was not--as, of course then, was frequently the case-- in session, then he would be--just as, back in the later middle ages, a peasant on a manor charged with a crime would be tried in a manorial court presided over by the lord of the manor's steward--be tried, by a summoned jury of his fellow peers, before the King's Lord High Steward. The 1668 bill had said that, whenever a peer was to be tried for any felony, including treason, the Lord High Steward should summon all of the adult peers then in the kingdom to ultimately decide his guilt or innocence. The Commons, however--because (they said) they were "unwilling to suppose that it is possible "that Twelve Peers should be ever found (for that Number must agree or the Person accused is safe) who can so far forget their Honour and the noble Order they are of, as, for Revenge or Interest, to sacrifice an innocent Person"-- did not approve that proposed change, however, either in 1668, or when it was sent down to them again, in 1674. Nor did they

approve a revised version presented to them in 1675, which would have required the High Steward to summon forty peers, of whom at least thirty would have to be present for the trial and at least twelve would have to approve a guilty verdict.<sup>xxxii</sup>

Fourteen years later, in the spring of 1689, the Commons were invited to consider another version of that bill that had been drafted by former attorney general (1679-81) and sometime justice of the Court of Common Pleas (1681-86), Sir Creswell Levinz. In addition to the measures included in the earlier versions, it contained some new ones, applying to everyone, which, the peers hoped, the Commons would find irresistible. It required that the jurors in treason trials must be substantial property holders in the county in which the treason trial was to be held, and it gave the accused the right to have a copy of the indictment before the trial, to be defended by counsel (as was not the case in other felony cases) and to have all witnesses required to testify under oath. But, the Commons, because they were still adamantly opposed to the change, still included, that required all members of the peerage being summoned to try any peer charged with treason, still said no to it. And, although, by 1691, they were prepared to go so far as to agree to raise the number of peers required to serve as jurors in the trial of a fellow-peer for treason to thirty-six; that still was not seen by the lords as going far enough, so they rejected that offer. In January, 1692, the Commons committee negotiating with the lords over the bill reported (obviously somewhat disgustedly) to their colleagues in the lower house that they had no doubt that, even if they had told the Lords, that if they would agree, in return, that “no commoner should be tried for Treason but before all the Twelve [High Court] Judges, and by a Jury of Twenty-four Persons and to have taken away all Challenges for Consanguinity”—which would be very much like what the Lords—many of whom were related to one another—in effect were asking for, then the Commons would agree to the changes they wanted, they had no doubt that the Lords would never even agree to that. And, indeed, for another three years, disagreement between the two Houses’ with regard to reforming treason trial procedures had remained still adamant.<sup>xxxiii</sup>

Finally, however, in 1695, the Commons did give in and a Trials for Treason Act was passed. Henceforth, it said, prisoners indicted for high treason would be entitled to have a copy of their indictment given to them at least five days before their trial commenced and have the right to be defended by counsel. They would also now be given a list of the names of the jurors who would decide their guilt or innocence at least two days before the commencement of their trial, be able to compel the attendance of any witnesses whom they wanted to have testify on their behalf, and to have those witnesses testify on oath. Except with regard to cases involving a plot to assassinate the sovereign, their indictment must now be pronounced by a grand jury within three years of the commission of the alleged crime. With regard to the trials of peers, or peeresses, for treason, all peers entitled to vote in the Upper House would now be summoned to take part in them.. And a controversy of long standing was now settled by declaring that, henceforth, at least two witnesses must both testify to either a single overt act of treason, or else to two overt acts of the same kind of treason by the accused. Nothing in the act, however, was to be regarded as applicable either to impeachments for treason by Parliament or to indictments for treasonously counterfeiting any of the king’s seals or of his coinage.<sup>xxxiii</sup>

Meanwhile, in the New Year of 1692, the House of Commons had approved and sent up to the Lords a Judges Commissions and Salaries Bill whereby “every Chief justice and Justice [of the Court of King’s Bench and the Court of Common Pleas], and Chief Baron and Baron [of the Court of Exchequer]... respectively that now are or hereafter shall be, shall each and every one of them respectively have and receive from their Majesties, their heirs and successors, the annual pension, salary or sum of 1000*l.*, to be paid them by four equal termly payments out of the Exchequer or Treasury of their Majesties, their heirs and successors, during their respective continuance to be Chief Justice or Justice, Chief Baron or Baron...” The total sum of L.12,000 that was to be paid to them, furthermore, was to be paid, at the rate of L.3,000 per quarter out of the income from “the duties upon beer ale and other liquors” that had been granted by parliament, “ in the 12<sup>th</sup> year of his reign, “to his late Majesty King Charles the Second.”<sup>xxxiv</sup>

That being so, the bill went on to say, all of the justices and barons, and all of the officers and clerks in any of the courts in Westminster Hall, and all local justices and court officials in all of the counties, towns and cities throughout the kingdom, were henceforth absolutely forbidden to charge any fees for any of their services other than “such ancient and legal fees as have always been allowed and taken.” Furthermore, a table of all such customary fees, “signed by the Judges of the respective Courts, was to be printed up and posted “for public view in the said respective Courts or near thereunto, where all persons concerned may have access to the same during all the time of the Session of the Judges or Justices in the said courts.” An amendment, added to the bill by the Lords ordered all of those Judges or Justices to submit signed copies of those fee tables “for consideration of the Parliament at the next Session, to be by them approved or altered, so as to be put into an Act if they shall think fit.” On February 23, 1692, the Commons approved the bill as amended by the Lords. On February 24, however, King William, who was having trouble getting sufficient funding for his ongoing war with Louis XIV and James II refused to give it his Royal Assent.<sup>xxxv</sup>

Nine years later, however, the 1701 Act of Settlement, in addition to paving the way for the Guelph Electoral family of Hanover, in Germany, to become the eventual inheritors of “the crown and regal government of the...kingdoms of England, France and Ireland, and of the dominions thereunto belonging” as they did in the person of George I in 1714, contained some declarations “concerning the Rights and Liberties of the Subject.” And one of these was that, henceforth, all “judges commissions” were to be “made *quam diu se bene gesserint*, and “their salaries ascertained and established...” Only upon the address of both houses of parliament, “ henceforth, would it be “lawful to remove [anyone of] them.”<sup>xxxvi</sup>

Thus, at last, only slightly more than a decade after the so-called “Glorious Revolution,” the principal of judicial independence came to be recognized in England.. No longer could the executive branch of the government apply heavy political or financial pressure on judicial branch personnel or, once they had been appointed, fire them at will. Only “the High Court of Parliament,” the supreme court of the kingdom, by a majority vote of both houses, could do that. Today of course, such a situation is both expected and respected throughout the modern free world. Unfortunately, however, the manner in which the judicial system then operated, its processes and procedures, were still essentially the same as they had come to be in the later



middle ages. And , as Charles Dickens's very moving account of the processing of a fictional Chancery Court case, *Jarndyce and Jarndyce*, in his novel *Bleak House*, published in 1853, so amply illustrated, it was still, even then, amazingly primitive and inefficient. And it would be almost a generation later before those problems would only begin to be addressed,, by the Judicature Acts of 1873 and 1876.<sup>xxxvii</sup>

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### NOTES

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- i. Cobbet's Parliamentary History, 5:111-17.
  - ii. *Ibid.*, pp.116-17.
  - iii. *Ibid.*, 116. Macaulay, History, 3:17. Burnet, History (1833), 4:4. K.H.D. Haley, The First Earl of Shrewsbury (Oxford: Clarendon Press, 1968), pp. 308-11.
  - iv. Campbell, *Lives of the Lord Chancellors*, 4:401. Commons Journal, X: 17, 32.
  - v. Holdsworth, A History of English Law, I:435. Campbell, Lives, 4:401.
  - vi. Handbook of British Chronology (London: Royal Historical Society, 1960), pp. 86-87.
  - vii. Campbell, Lives, 4:401 (n.).
  - viii. *Dictionary of National Biography* (inc. Roger North quotes). Morrice, I:408.
  - ix. *DNB*. Campbell did not include any account of either Keck or Rawlinson in his collection because both of them were "wholly uninteresting characters"-- *Lives*, 4:402.
  - x. *English Reports*, 23:670. Vernon, *Cases Argued in the High Court of Chancery* , 2:96.
  - xi. HMC, *Thirteenth Report*, app. 7 (Lonsdale MSS), 100.
  - xii. Thomas Duffus Hardy, *A Catalogue of Lords Chancellors, Keepers of the Great Seal, Masters of the Rolls and Principal Officers of the Court of Chancery* (London: Henry Buttersworth, 1843), 78. Morrice 2:294.
  - xiii. Roger Morrice, *The Entring Book*, 2:535-36. Hardy, 78. There had been no Hilary Term Sessions.
  - xiv. 1 W. & M. c.21.

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- xv. House of Commons, *Journal*, X:90.
- xvi. *Ibid.*, 86-193 *passim*. For the Lords' handling of the act, see HMC, *Twelfth Report*, app. 6 (House of Lords MSS, 1689-90), 67 ff. For the Interregnum practice, see, e.g., *Mercurius Politicus*, 19-26 January, 1660.
- xvii. *CTB* (1689-92), 102, 167 and *passim*.
- xviii. BL, Harleian MSS, 7317, f. 99a.
- xix. *English Reports*, 23:671-98. (2 Vernon, 96-140). BL, Hargrave MSS, 160, ff. 181-95.
- xx. *English Reports*, *loc. Cit.*
- xxi. E.g.: PRO, SP/44/340 (Warrant Book 1689-90), *passim*
- xxii. CSPD (1689-90), p. 101.
- xxiii. Holdsworth I:416-23.
- xxiv. J. Walthoe, *The Orders of the High Court of Chancery, from the first year of King Charles I to the present Hilary Term, 1697* (London, 1698), p. 238.
- xxv. *Ibid*, pp. 234-45.
- xxvi. *Handbook of British Chronology*, 90.
- xxvii. 1 William and Mary, sess. 2, c. 2.
- xxviii. CJX: 10, 272, 348, 425.
- xxix. HMC, *Twelfth Report*, app.6, pp. 313,316, 327.
- xxx. CJ X: 630, 682, 728-29, 756, 840. *Historical Manuscripts Commission Reports*, 14<sup>th</sup> Report, Appendix, Part VI:79. Holdsworth, *A History of English Law*, I: 435-36.
- xxxi. Holdsworth, VI:232-33. CJX:623.
- xxxii. Holdsworth, *Ibid.*, 233. CJX:622.
- xxxiii. 7, 8 William III. c. 3. Holdsworth, VI:233-34.
- xxxiv. *Historical Manuscripts Commission Reports*, Appendix, part VI:565.

xxxv. *Ibid.*

xxxvi. 12-13 William III, c. 2.

xxxvii. 36-37 Victoria, c.66. 39-40 Victoria, c. 59.