

December 1679.

And god who wilfully trod past in their office del. 16
 Parl. 6. 7. 2 and do not the law Equally, as to be punished
 generally by act 4 Parl. 2. 1. for Transgressing by partiality or
 Refusing to do Justice, they were if possible, not only punished
 from the Exercise of their office at first for a Year act
 76 Parl. 14. 7. 2 after wards for three Years act 27 Parl.
 9. 3. And if their office was temporary, it was left for
 over. And also they were liable to An arbitrary punish-
 ment, and to pay the Expence of the party, *Printed* Act
 27 Parl. 5. 9. 3. whether their office was heritable or tem-
 porary, *McKenzie's Crim. part 1. fol. 25. 52. verb. and by the*
 26 acts. But upon the whole the punishment of the
 offending in their office is now arbitrary, and justified by
 the Nature of the offence. *McKenzie's off. on act 16. Parl.*
 6. 9. 2.

Sect. 2.

Of Negligence and Breach of Trust
 in the Discharge of Office.

In the grant of every office what former, there is this
 Condition implied, that the Grantee ought to Execute
 it Diligently and faithfully: for since every office is pro-
 stituted, not for the sake of the officer, but for the
 good of some other, Nothing can be more just than that
 he who either Neglects or Refuses to Perform the
 for which his office was ordained, should give way
 to others who are both able and Willing to take
 care of it. Therefore it is Certain, that an officer
 is liable to a forfeiture of his office, not only for
 doing a thing Directly Contrary to the Design of it,
 but also for Neglecting to Attend and do his duty
 at all Which proper and convenient times and
 places, whereby any Damage shall Accrue to the
 City or for whom he was made an officer. *Code of*
 233. 234. *H. and C. pl. Br. lib. 1. Chap. 66. 51.*

where a writ or Diligence given in to be Registered and
 Returned to the prosecutor bearing an attestation
 Under the hand of the Keeper of the Register, that
 his Register, is found Destroyed and Inforced in the
 Records; the Negligent Keeper is punishable as a
 forger of the publick Records, and is liable for Damages
 to the person who gives him his commission, who
 has Action against the Representative of the Keeper
 or, the not Committed in his life time. del. 19. 10. 2. Parl.
 9. 7. printed act 18. 10. 6. Parl. R. W.

Some have gone so far as to hold, that an officer
 Concerning the Administration of Justice, or the Com-
 mon Wealth, shall be forfeited for a Breach thereof,
 whether any special Damage be Occasioned thereby, or
 not. But this opinion will not Appear to be War-
 ranted by a Resolution in points, and the Authori-
 ties which are Cited to Maintain it, do not seem to con-
 tain it. However it cannot be Very Reasonable,
 that he who Neglects a publick office, a part of
 which appears to lack no Manner of care of it, should be
 liable to forfeiture, but he who is liable to forfeiture, than the publick
 in danger of suffering that Damage, which cannot but
 be Expected some time or other from his Negligence
Hawkins pl. Br. lib. 1. Chap. 66. 51. It was said by
 to Enimstate all the particular Instances where in
 an officer may be Discharged or fined, and it seem'd
 also Wood left to Endeavour it; because they are
 Generally so obvious to Common sense, as to need no
 Explication; and how far each offence of this kind
 Deserves to be punished, may be easily Gather'd
 from the Various Circumstances of every case. I
 shall only here take Notice that the Conservator of
 the fish privileges in the River lands for life,
 was found Disgraceful of his office for taking
 his usual part. *Hawkins* coming Directly before