

John de Grenier Foubloque to Wm. Adam

23 Dec. 1812

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My dear Sir

When I had the pleasure of seeing you at Lady Berkeley's I stated in the presence of her Ladyship that in my opinion she ought not to take any step that could in its tendency be regarded as inconsistent with the respect & Gratitude that are due to his Royal Highness the Prince Regent & I can most truly repeat that such has uniformly been the principle of my Advice & I owe it ~~to~~ her Ladyship to state that she has invariably acquiesced in its propriety. The Questions therefore are First whether the Statement furnished by N. A. H. the P. R. of Declarations made to him by the late Earl of Berkeley ante Litem motam materially strengthen the Evidence relied upon in support of the Claim of Col. Berkeley to the Reversion of Berkeley's Seat. Secondly If it does why was such Statement not brought forward when Col. B.'s Claim was under the Consideration of the House of Lords & Thirdly whether such Statement can be brought forward now without any personal Inconvenience to N. A. H. the Prince Regent. Upon the first Point it might be enough to remark that you & every other professional Man to whom such Statement has been submitted concur in the Opinion that it is of inestimable value for no one can doubt the Fact that such Declarations were made & supposing them to have been made it is impossible to conceive them to have been falsely made. The first Declaration was in 1792 It was not a spontaneous Communication by Lord B. but in answer to a Question put by N. A. H. It is an Admission made with Reluctance & of a Fact evidently painful to the Feelings ^{of the Party} making it for Lord B. having admitted that Lady B. was not his Mistress but his

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Wife & that she was the worst used woman in the world concludes by requesting H. R. H. to spare him upon the subject
 The said Declaration ^{was} in 1795 & his Lordship concludes it by stating that he had no doubt but that he should be able to satisfy H. R. H. on the Subject & in 1797 his Lordship stated in a Remorse that he had done & mentioned Mr. Hapson as the Person whom he had induced to destroy the Register - At the Time this Conviction was made Mr. H. was alive a Circumstance that does away the Suspicion that is supposed to have affected the Minds of some Persons that the Idea of charging that the Register was destroyed never occurred until after the Death of Hapson which did not take place until 1799 - I should not have drawn your Attention to Remarks so obvious as these were it not with a View to their bearing upon Lady B.'s Testimony which was supposed to ~~be~~ ^{be} with Impunity from the want of that corroborating Evidence which these Declarations so abundantly supply.

But these Declarations made by Lord B. are not only important in themselves but require an additional Value from being a Foundation for receiving ^{the} various & solemn Declarations which he made at subsequent Periods for I cannot but think that the said Declarations may not be legally admissible when standing alone that they do become so when offered in Corroboration of previous Declarations to the same Effect. I will not however detain you upon this Point for I think that the Declarations ante Litem motam are too conclusive to require any aid from those made subsequently.

I will respect to the second Point when H. R. H. states that he furnished me of Coll. B.'s Counsel with the Substance of his Statement I cannot but ascribe it not having been tendered in Evidence to accident but as the Omission to whatever Cause it may be ascribed has been attended

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with much Prejudice to the Berkeley Family it must be actively
be their wish ~~to~~ to avail themselves of every Means by which
the Characters of some may be vindicated & the Bitterness
of others exclusively established which leads to the third
Question whether such Evidence can be brought forward now
consistently with the respect which is due to the Feelings
of H. R. H. the Prince Regent -

I should have been really distressed if in the Discharge of
a professional Duty I had found myself called upon to
advise a Course of Proceeding that could have occasioned the
Pain even a temporary Inconvenience to the exemplary
Conduct of H. R. H. has relieved my Mind from every
Apprehension of that kind & encourages me to believe that
I cannot ~~but~~ ^{best} recommend myself to his royal Indulgence ^{than} ~~than~~
by being assured that he will never regard as a personal &
any Measure that can be rendered conducive to public Justice
The Reading with which ^{forwarded to the Regent} H. R. H. the gracious Condescension
with which he has himself given it a more extended Circulation
than it was at first intended to receive & the unqualified
Permission that he has given to Lady D. to use it in any way
that she might think beneficial to herself & Family are of
themselves the Circumstances that would have impressed my
Mind with the most grateful Conviction that it is the wish
of that truly royal Mind that this suffering Family should
derive from his Evidence all the Benefit to which its Truth can
entitle them But my dear Sir allow me here to take another
View of this Case The Berkeley Family are known to be in
Possession of this most important Evidence Should they neglect
to avail themselves of it what is the Influence that may be
drawn thereon might not such neglect or Inattention be
imputed to the Consciousness of its being untrue I wish not
pursue this Point further as I am confident ^{that} if you feel it as

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I do you with agree with me in opinion that to give effect to
 Evidence of such high Section & Importance is due not
 more to the Interests of the Berkeley Family than to the pure
 & unsullied Honor of him from whom such Evidence is
 to proceed - Under this Impression I should advise
 Ch. B. to prepare a Petition to H. R. H. stating the Objection
 in the former Proceeding & humbly requesting H. R. H. to
 direct such Step as he in his Wisdom & Justice shall
 think proper & should the Step taken by H. R. H. be a
 Reference of the Petition to the H. of Lords it would perhaps
 be accompanied with a Message from H. R. H. in Confirmation
 of the Truth of the Allegation of such Petition as to the Evidence
 which he was prepared to give upon the Subject & as the
 Petition & Message would be entered upon the Journals
 the Evidence would be recorded so as to show of its being
 hereafter referred to should occasion require the full
 Reasons I have already stated I should prepare a prompt
 Decision upon the Effect of it as best suited to the high
 Dignity of the Court & the Interests of the Parties I own

Yours truly
 John Fortescue
 23 Dec. 1712
 Temple

Mr. Northampton
 23^d Dec. 1712