

this very Preferment was conferred upon him upon a Contract, that he should raise sixty thousand Men in *Ireland*, for the Pope's Service, to settle Popery there, and to subvert the Government. The Evidence that we shall give you, will prove how it leads to destroy the King; and I take it according to the Resolutions that have been, to raise War in the Kingdom, and to introduce a foreign Power, will be certainly Evidence of an Attempt and Machination to destroy the King. As soon as he was in Possession of his Primacy, he goes about his Work. There are two great Necessaries to be provided, Men and Money: For Men, having this great spiritual Jurisdiction, whereby, indeed, all that are under it are become Slaves, he issues out his Warrants to all the Clergy of *Ireland*, to give an account, and make return from the several Parishes, and all the Men in them above fourteen, and under sixty. And Returns were accordingly made by them, that he might accordingly take a Measure what Men to pick out for the Service. The next Thing was Money, my Lord: and your Lordship takes notice, that when the Mind is enslaved, the Purse, nay all the Body bows to it. He issues out his Warrants to his Clergy to make a Collection of Money; in all Parts great Sums were levied, and when they were levied, we shall give you an Account by our Proofs, that several Sums were issued out, and sent into *France* to further the Business. There was also Provision made of great Ammunition and Arms; and we shall prove in particular, several delivered out by this Gentleman's Order, to carry on this Thing; and to go through Stitch with this Business, he takes a View of all the several Ports and Places in *Ireland*, where it would be convenient to land; for they were to have from *France* an auxiliary Force, and upon his View he pitched upon *Carlingford* as the Place. We shall prove the several Correspondencies between *Rome* and him, and *France* and him, and several Messengers employed, and Monies issued out from Time to Time for their Maintenance. This will be the Course of our Evidence; and we shall begin first with some that do not speak so particularly to this Doctor, but prove there was a general Design in all Parts of the Kingdom of *Ireland*, to bring in the King of *France*, and extirpate the Protestant Religion. And then we shall call the particular Persons to the particular Facts against him. First, we call *Florence Wyer*,

[*Who was sworn.*]

Mr. Soll. Gen. Are you sworn, Sir?

Wyer. Yes, Sir.

Mr. Soll. Gen. Pray give the Court and the Jury an Account of what you know of any Plot in *Ireland*, to introduce the *Romish* Religion, or to bring in the *French* King.

Wyer. Yes, I know there was a Plot, both before *Plunket's* Time, and in his Time; for it was working in the Years 65 and 66, but it was brought to full Maturity in the Year 1667. For then Col. *Miles Rely* and Col. *Bourne* were sent to *Ireland* from the King of *France*, with a Commission to muster as many Men as he could, promising to send an Army of 40,000 Men with a Commission, upon St. *Lewis's* Day in *August* next following to land at *Carlingford*, to destroy all the true Subjects, to destroy the Religion as it was established there, and to set up the *French* King's Authority and the *Roman* Catholick Religion. And one *Edmund Angle* that was a Justice of Peace, and Clerk of the Crown, sent for all the Rebels abroad in the *North* to come up into the County of *Longford*, and they marched into the Head-Town

of the County, and fired the Town; the Inhabitants fled into the Castle: Then they came up to the Goal, thinking to break it open, and by setting the Prisoners free, to join them with them; but then *Angle* was shot, received a deadly Wound, and dropt off of his Horse, and they fled. So then when they were without the Town, one *Charles Mac-Canal* alighted, and took away all the Papers out of his Pocket; which if they had been found, would have discovered all. This occasioned Col. *Bourne* to be suspected; and being so suspected, he was taken Prisoner, and turned to *Newgate* in *Dublin*. Then Col. *Rely* fled away again to *France*, and the Plot lay under a Cloud during the Life of Primate *Raley* the Prisoner's Predecessor. This Primate *Raley* died beyond Sea. Then many of the Popish Religion would have had the Primacy conferred upon one *Duffy*; but the Prisoner at the Bar put in for it; which might have been opposed, if the Prisoner had not engaged and promised that he would so manage Affairs, that before the present Government were aware, he would surprize the Kingdom; provided the Pope and King of *France* would send a competent Army to join with theirs for the effecting of it. So the first Year of his coming over I was in the Friery at *Armagh*; I was an Acquaintance of the Friers, and they invited me; and one *Quine* told the Prisoner, that they thought *Duffy* would have been Primate. Said he, 'tis better as it is; for *Duffy* hath not the Wit to do those Things that I have undertaken to do; meaning that he did undertake to supplant the Protestant Religion, to bring in Popery, and put the Kingdom under Subjection to the King of *France*.

Mr. Sol. Gen. How do you know that?

Wyer. Those were the Words, and the Meaning I knew before, because I had heard it talked of.

L. C. J. Who was the first of these Primates you speak of?

Wyer. *Edmund Raley*; he set this Business on foot first.

L. C. J. About what?

Wyer. About calling the Rebels together out of the *North* when they came to *Longford*.

L. C. J. What Year was that?

Wyer. It was in the Year 67.

L. C. J. When died he?

Wyer. He died a little while afterwards.

L. C. J. Then *Duffy* would have it conferred upon him?

Wyer. Yes, after *Raley's* Decease he would have had it conferred upon him; and there was a Contention between him and the Prisoner, who did engage he would bring things to that full Maturity, that before the present Government were aware he would do the Work.

L. C. J. How do you know this?

Wyer. I know this, because I had an Account of it from certain School-Fellows that were with me in *Ireland*, then studying in *Rome*; they wrote this to me, desiring me I would take a good Heart with the rest of my Countrymen, and assuredly in a short Time the Kingdom would be relieved, and the *Irish* restored to their former Patrimonies.

L. C. J. This you speak of their Information. What do you know of your own Knowledge?

Wyer. All that I know is, he coming into the Friery of *Armagh*—

L. C. J. About what Time?

Wyer. It is either 10 or 11 Years ago, and there was a Fast there, and I was invited by the Friers, being their Acquaintance; one *Quine*, one of the Friers told him—

L. C. J.

L. C. J. Told whom?

Wyer. The Prisoner, that he did expect *Duffy* should have been Primate; but the Prisoner made answer, 'tis better as it is; for *Duffy* had not the Wit to manage the Things that I have undertaken for the general Good of our Religion.

L. C. J. Now tell me this: What Things were those he had undertaken? Did he explain himself?

Wyer. No farther than those Words: But I did conceive this was his Meaning; because I knew partly of it myself, knowing of the former Plot.

L. C. J. I ask you only what Words came from him; and you say they were, that *Duffy* had not the Wit to manage what he had undertaken for the general Good of their Religion.

Wyer. Yes, and then again in his Assembly, kept by him, he charged his Inferiors to collect such several Sums of Money as he thought fit, according to the several Parishes and Dignities, to assist and supply the *French* Forces when they came over.

L. C. J. How know you that?

Wyer. I have seen the Money collected; and I have seen his Warrant, *sub pœna suspensionis*, to bring it in, to redeem their Religion from the Power of the *English* Government. Again, there were those Rebels that went to *Longford*—

L. C. J. What Time were those Collections?

Wyer. From Time to Time since he came into *Ireland*.

L. C. J. About what Time?

Wyer. Nine Years, eight Years, seven Years ago, and the last Year of all.

L. C. J. Then it was several Times, you say?

Wyer. Yes, and he procured the *Mackdonels* a Piece of Money out of the *Exchequer*, pretending to do good Service to his Majesty; but he sent them for *France*, meaning they should improve themselves, and bring themselves into favour with the King of *France*, and come over with the *French* King to surprize *Ireland*. This one of the Rebels told me. So I have seen the Prisoner's Letter directed to the grand Tory *Flemming*, desiring that they should go to *France*, and he would see them, in spite of all their Enemies in *Ireland*, safe ashore: And *Flemming* should return again a Colonel to his own Glory, and the Good of his Country.

Mr. Att. Gen. Do you know his Hand?

Wyer. Yes, I do, as well as my own. I have seen Capt. *O-Neal*, Son of General *O-Neal*, coming every Year into *Ireland*, and carrying three Regiments to the *French* King into *France*; and he used to come over to *Ireland* every Year to get a Recruit; and he did get my Brother to go with him, and so much importuned me, that I could hardly withstand him; but I did not yield to his Desire. He told me, it was to improve me for my good, to improve myself in military Discipline; and then I should return for *Ireland* a Captain under the *French* King, to surprize the Kingdom and settle the popish Religion; and then I should be restored to my Estate.

L. C. J. Who told you this?

Wyer. Captain *O-Neal*. And in the mean while, says he, I hear Dr. *Plunket* is the only Man intrusted in *Ireland* to make these Preparations, and get Things ready against the *French* King's coming, who is to land at *Carlingford*.

Mr. Att. Gen. How often were you in the Doctor's Company?

Wyer. Not very often.

VOL. III.

Plunket. I never saw him with my Eyes before in all my Life.

Wyer. I have seen him in the Priory the first Year that he came over to *Ireland*; and you know the Meetings held at *George Blyke's* House in the *Fives*, and I have seen him in his own House.

Mr. Justice *Dolben*. How come you to know the Prisoner's Hand?

Wyer. Because I was well acquainted with his Hand, seeing his Hand among the Priests.

Mr. Just. *Dolben*. Did you ever see him write?

Wyer. Yes, in the Priory, and in his own House.

Mr. Justice *Dolben*. How often?

Wyer. Not often.

Mr. Justice *Dolben*. How often?

Wyer. Ten or a dozen Times. I should know his Hand from all the Writing in *London*, if it were among never so many. Let me but see it, I will know it.

L. C. J. Have you ever heard him own himself Primate?

Wyer. Yes, my Lord, he writes himself *Olivarius Armacanus, Primas & Metropolitanus totius Hiberniæ*, that is his Stile.

L. C. J. Who did he say made him Primate?

Wyer. The Pope, my Lord.

L. C. J. Have you heard him say so?

Wyer. Yes, I heard him discourse of it in the Priory.

Mr. Att. Gen. He was a publick Officer, and they might well know his Hand.

L. C. J. I believe any Body that hath seen us write but a little, would soon know our Hands.

Wyer. His Hand is as well known over *Ireland*, as mine is among my Acquaintance.

L. C. J. Well go on.

Wyer. During the Time of his Imprisonment, I have seen his Commands to some of his inferior Dignitaries, commanding them, *sub pœna suspensionis*, to bring in the Monies assessed for bringing in the *French* Army; and that there was no better Time than the Time of his Imprisonment to bring it in.

L. C. J. Who were they, you say, that were commanded *sub pœna suspensionis*?

Wyer. Since his taking, I have seen in the Time of his Imprisonment his Commands to his inferior Dignitaries, not to be forgetful of the Monies that were assessed towards the supplying the *French* Army; and that there was no better Time to bring in the *French*, than when he was in Prison.

L. C. J. How long ago was that?

Wyer. The first of *February* (79). The second and last of it was in *July* and *November* last.

L. C. J. And this was to bring in the Money?

Wyer. Yes, to supply the *French* Army. And that there was no better Time than during his Imprisonment, and they should not be so much suspected.

L. C. J. And these Mandates you have seen under his Hand?

Wyer. Yes, I have, my Lord?

Mr. Att. Gen. What do you know of his summoning or issuing out these Warrants for Lists of Men?

Wyer. I have not seen any of the Warrants; but the Priests have told me they were commanded by his Warrants to let him know how many there were in all their Parishes from sixteen to sixty.

Mr. Att. Gen. You say you never saw the Mandates?

Wyer. No, I did not.

Mr. Serj. Jefferies. What do you know about the Prisoner's viewing the Ports?

Wyer. I have seen him going about from Port to Port, to *Derry*, to *Carricfergus*, *Casily-Down*, and *Carlingford*, and all about.

Mr. Serj. Jefferies. When he went to take a View of those Ports, can you tell to what Purpose he did it?

Wyer. Yes, I heard it among the Church, that he went on Purpose to view the Sea-Ports, to know the Strength of all the Garrisons, and to see which was the most convenient Way to bring in the *French Army*.

Mr. Serj. Jefferies. Did you ever speak with the Prisoner at the Bar about his going?

Wyer. No.

Mr. Serj. Jefferies. What Place did he pitch on as most convenient?

Wyer. *Carlingford*.

Mr. Att. Gen. Were you in the Prisoner's Company when he viewed the Ports?

Wyer. I have seen him go to and fro; I did not go all the Circuit round with him.

Plunket. Did you ever see me at *Carlingford*?

Wyer. No.

Plunket. Did you ever see me at any other of the Ports?

Wyer. I have seen you at *Hamilton's* coming back from *Derry*. Do you not remember that you lodged at _____ at *Sir Geo.*

Plunket. I never lodged there in my Life.

Sir Fra. Withens. Have you any Thing more to say concerning the Plot in general?

Wyer. No, in general I have not.

Mr. Serj. Jefferies. He hath not only given an Account of the general, but fixed it upon the Prisoner.

Mr. Att. Gen. *Dr. Plunket*, will you ask him any Questions?

Plunket. You say you remember you saw me at my first coming at *Primate* ten Years ago, and that you were at the *Priory* when I was there?

Wyer. Yes.

Plunket. You were invisible to me.

L. C. J. If you will ask any Question, do; but do not make these Kind of Observations.

Plunket. Tell me this, Why did you not acquaint some Justice of the Peace then with what you knew, that which you had heard seven Years ago?

Wyer. When I first knew it, I was as willing to have it concealed as they.

L. C. J. What is your Question, *Dr. Plunket*? Pray tell it us.

Plunket. He says, my Lord, that ten Years ago I had such a Design in hand, and he knew the Money was collected for these very Ends, and he knew of the Design from that same *Captain O-Neal* whom I employed and sent abroad; and that I had a Design to bring in the *French* at *Carlingford*, and went about to all the Ports in *Ireland*, and pitched upon that as the most convenient; and yet it is so inconvenient for the bringing in a foreign Force, that any one that knows any thing of the Maps of the World, will easily conclude it otherwise. But, I say, my Lord, why did not he tell some Justice of Peace that I was upon such a Design, but let me live in *Ireland* ten Years

after, and never speak of it till now?

L. C. J. What say you to the Question?

Plunket. When he saw me all the Time, and to the Time of my taking Prisoner, and never said one Word; for I was a Prisoner six Months, only for my Religion, not one Word of Treason spoken of against me for so many Years; why did not he acquaint some Justice of the Peace with it before?

L. C. J. What Religion were you of then?

Wyer. I was a *Roman Catholick*.

Plunket. And are you not so now?

Wyer. Yes, I am so.

Mr. Justice Dolben. Therefore it will be no wonder that you did not discover it.

Mr. Serj. Jefferies. But I ask you, Why did not you discover it all this Time?

Wyer. Because I was a Papist myself: The first that did discover it, he and I did consult about it, I had charged him so to do, and I set him on work; but he was ill paid for having discovered: You got him to be trepaned, that he hath gone in danger of his Life for it.

Plunket. Who is the Man?

Wyer. *Moyer*.

Sir Fra. Withens. Call *Henry O-Neal*, (who was sworn.) What know you of any Design in *Ireland* to introduce the popish Religion?

O-Neal. In *August* (78.) *Bishop Tyrrel* came with 40 odd Horsemen to *Vicar-General Brady's* House, and alighted at the Door; and he gave them there an Oath, which they took willingly and freely from Hand to Hand, to forward the popish Plot against the Protestant Religion, to make an end of them all in one Hour from end to end in *Ireland*; and, said he, I will come within two Days with an Order from the Lord *Oliver Plunket*; and you need not be afraid, for the Lord *Oliver Plunket* and I have sent some Gold and Money into *France* to get Men and bring them from *France* over Sea: And do not fear, this will go on in one Hour through all *Ireland* from end to end. In *September* (78) a little while after, the same Meeting was in a Place which they call *Virginia*, in the County of *Connaught*, where they took a Priest, he is here, and he was with me, and desired me to come up to *Dublin* and discover this; and there I did discover it to *Sir John Davis*; which is all that I can say. For this *Plunket*, I never saw him in my Life,

Mr. Jones. You were a Papist then?

O-Neal. Yes, I was.

Mr. Jones. Are you a *Roman Catholick* still?

O-Neal. Yes, I am.

Mr. Jones. And were you acquainted with all these Orders?

O-Neal. Yes.

L. C. J. How came you to know of this Oath?

O-Neal. I was in the House with them; I was one concerned to take my Oath with them, and I durst not but take the Oath.

L. C. J. Had you the Oath of Secrecy given you?

O-Neal. Yes, and so this Priest commanded me to go along to *Dublin* and discover it.

Mr. Serj. Jefferies. What is his Name?

O-Neal. *John Mack Legh*.

Sir Fra. Withens. Do you know any other Transactions about the Plot?

O-Neal. No, I will not swear for all the World more than I know.

Sir Fra. *Withens*.—Then call *Neile O-Neal*, (*who was sworn*.) What do you know of any Design carrying on in *Ireland* against the Government and the Protestant Religion?

N. O-Neal. I will tell you all I know: I was at *Vicar Brady's* House the 21st of *August*.

L. C. J. What Year?

N. O-Neal. (78.) And *Bishop Tyrrel* came with 40 Horse-Men to the House, and went into the House, and discoursed a little while; and they took their Oaths every one round to keep secret the Plot to destroy the Protestant Religion and the Protestants, that they might have their Estates again. And he said they did not need to fear: For, said he, you have a very good Man to assist you, and that is the Lord *Oliver Plunket*, and you need not fear but it will go through all *Ireland*.

Mr. Att. Gen. Will you ask him any Questions?

Plunket. Why did he not discover it before?

Mr. Serj. Jefferies. Were you a *Roman Catholic* at that Time?

N. O-Neal. Yes, and am so still.

Mr. Paget, Jury-Man. I desire he may be asked how he came to be there.

L. C. J. You say, I think, this was at *Vicar-General Brady's*; how came you to be there?

N. O-Neal. I was there several Times before that; for my Nurse, or my Foster-Mother (I don't know which you may understand best) was House-keeper to him.

L. C. J. Were you required to take the Oath?

N. O-Neal. No, my Lord; I was acquainted in the House, I had been there two or three Weeks before.

Plunket. Why did not you tell it to some Justice of the Peace?

L. C. J. He was a Papist, and so he is now.

N. O-Neal. There were many there that were wiser than I, that did not discover it.

L. C. J. How old are you?

N. O-Neal. I believe about two and twenty Years old.

L. C. J. And this was but in (78.)

Mr. Att. Gen. Swear *Owen Murfey*, (*which was done*.) Come, what say you?

O. Murfey. *Mr. Edmund Murfey* discovered the Plot; he went to one *Lieutenant Baker* and did discover the Plot to him, that there was a Design to bring in the *French*.

L. C. J. Speak out aloud, I can't hear you.

O. Murfey. All I know is from *Mr. Edmund Murfey*—

L. C. J. What do you know of any, of your own Knowledge?

O. Murfey. *Mr. Lieutenant Baker* told me, that he did hear of the *French*—

L. C. J. Speak what you know yourself.

O. Murfey. If it please your Lordship, this is more: I saw that Evidence that *Edmund Murfey* did produce in *Ireland*, when he was sent to the Goal there; but without Trial or any Thing.

Mr. Att. Gen. Then swear *Hugh Duffy*; (*which was done*.) Speak aloud, and tell my Lord what you know of this Plot and the Prisoner: You know the Prisoner, don't you?

Duffy. I know him! yes, I know him well enough.

L. C. J. What say you more of him?

Duffy. My Lord, I say I have seen this *Dr. Oliver Plunket*, raising several Sums of Money to carry on this Plot; sometimes 10*s. per Ann.* sometimes 20.

Mr. Sol. Gen. Of whom?

Duffy. Of all the Priests in *Ireland*; of every Priest according to his Pension and Parish.

L. C. J. In all *Ireland*.

Duffy. Yes.

L. C. J. And towards the Proceedings of the Plot?

Duffy. It was to give to his Agent which was at *Rome*, and for the carrying on the Business.

Mr. Att. Gen. How came you to know this?

Duffy. I was servant to *Dr. Duffy*, who was infinitely belov'd by this Man. He was Father Confessor to the Queen of *Spain*. There was nothing that happened between them, but I was by all the Time.

L. C. J. Were you Chaplain to him?

Duffy. Yes.

L. C. J. You are a Papist then?

Duffy. Yes.

Mr. Att. Gen. This Man is a Frier, my Lord.

L. C. J. Were you in the Company with them?

Duffy. Yes, I was.

L. C. J. What did pass there?

Duffy. About the Plot; how they could confirm the Plot: And this Man *Plunket* said, he could prevail with the King of *France*, and the other with the King of *Spain*.

Mr. Att. Gen. Pray acquaint my Lord particularly when this was, and in what Place, and what they said.

Duffy. It was in 73, 74, and 75, at his own House; and at he kept three or four Jesuits there, and a matter of a hundred Priests.

Mr. Att. Gen. What passed in the Company?

L. C. J. Who else was there?

Duffy. The Discourse, my Lord, was always about the Plot, how they could contrive the Matter between them; and so they did conclude afterwards to raise so much Money upon several Priests, all the Priests in *Ireland*, sometimes 20*s.* sometimes 40.

L. C. J. A-piece, do you mean?

Duffy. Yes.

Mr. Att. Gen. What Discourse had they about the *French* at any Time?

Duffy. Yes, a hundred Times; he talked several Times, that he did not question but he should prevail with the King of *France* not to invade *Spain*: And I have seen his Letter to *Cardinal Bouillon*, to expostulate with him about the King of *France*, why he should wage War with the King of *Spain*, who was a Catholic, but rather should come and redeem *Ireland* out of its heretical Jurisdiction.

Mr. Att. Gen. Did you see the Letter?

Duffy. Yes.

Mr. Att. Gen. Why, do you know his Hand?

Duffy. Yes, I know it as well as I know my own; I know it if there were a thousand Papers together.

Mr. Att. Gen. And what was the Import of it, pray?

Duffy. That *Cardinal Bouillon* should prevail with the King of *France* not to invade *Spain*; and the Contents of the rest of the Letter were, That he did admire he should not rather wage War with the King of *England*, who hath been an Apostate, and help their poor Country that was daily tormented with heretical Jurisdiction.

Mr. Att. Gen. How came you to be in *France*? Were you employed?

Duffy. I went to *France* to live there in a Convent.

Plunket. Did Cardinal *Bouillon* shew you my Letter?

Duffy. Yes.

Plunket. What Year?

Duffy. 77.

Mr. Att. Gen. Pray, Sir, you were speaking of raising of Money—

Duffy. Yes.

Mr. Att. Gen. Did you see any Precept about it?

Duffy. Yes, I have seen several Precepts: I was Curate to one Father *Murfey*; and while that Man was with Dr. *Oliver Plunket*, and other Jesuits, I did officiate in his Place, and he sent his Letters to me to raise 40*s.* and 20*s.* a time, several times.

L. C. J. You yourself?

Duffy. Yes.

Mr. Att. Gen. What for?

Duffy. It was to send to Dr. who was at Rome.

Mr. Att. Gen. Did you send any Money that you know of?

Duffy. Yes.

Mr. Att. Gen. Tell what Time you gave the Money yourself.

Duffy. In 73, 74, 75.

Mr. Att. Gen. Where?

Duffy. At his own Dwelling-Place at Mr. Justice *Jones*. Of what Quality was the Prisoner amongst you?

Duffy. He was Primate of all Ireland.

Mr. Justice Jones. Under whom?

Duffy. Under whom? under the Pope.

Mr. Just. Jones. How do you know he was so?

Duffy. We had it in his Writings.

L. C. J. Did he stile himself so in his Letters?

Duffy. Yes, if he writ but to the least Man in the Country, he would write, *Oliverus Armacanus Primas totius Hiberniæ*.

L. C. J. And so you always understood him?

Duffy. Yes.

Mr. Att. Gen. Were you present at any of the general Consultations or Meetings?

Duffy. Yes, I was.

Mr. Att. Gen. What Number might meet at that Time?

Duffy. Five hundred Men and Women.

Mr. Att. Gen. Where was this?

Duffy. At *Clouds*.

Mr. Att. Gen. What was the Occasion and Design of that Meeting?

Duffy. Confirmation from the Bishop.

Mr. Att. Gen. And what was done there besides?

Duffy. The second Thing was, that the Gentlemen of the three Counties should conclude together about this Matter.

L. C. J. About what?

Duffy. About joining the *French* and *Spanish* together.

Mr. Just. Dolben. Where was that Meeting?

Duffy. In the County of *Monaghan*.

Mr. Just. Dolben. Was the Prisoner there?

Duffy. Yes, he was the chief Man.

L. C. J. When was this?

Duff. In 71, to the best of my Knowledge.

Mr. Just. Dolben. Were you there yourself?

Duffy. Yes.

Mr. Att. Gen. What was the Transaction of that Day, besides the Sacrament of Confirmation?

Duffy. It was agreed that the Gentry of *Armagh*, *Monaghan*, and *Connaught*, should join to-

gether; and then they went into a private Council to get a List of all the Officers that were in the last Rebellion, and those that lost their Estates.

Mr. Att. Gen. How do you know that? Did you go into the Consult?

Duffy. Yes, I was in the same Consult myself, and was as willing to proceed in the Matter as any one in the World.

L. C. J. Where was this?

Duffy. Within two Miles of *Clouds*, at one Father House.

L. C. J. Was that at the Time when there were so many Persons met? Pray speak again what was done there besides Confirmation.

Duffy. Why, they were withdrawn aside into a Garden, some stood up, and some sat down: And *Oliver Plunket* stood in the middle of them all as a Prelate, and every one kneeled down before him and kissed his Hand.

Mr. Att. Gen. What was then said?

Duffy. Then they did consult and gave special Order to some of them to get a List of all the Officers in the late Rebellion, and that lost their Estates, and that they should be more forward than others to proceed in that wicked Design.

L. C. J. What was that Design?

Duffy. To destroy all the Protestants together.

Mr. Attor. Gen. Was it to mingle the *Irish*, and *Spanish*, and *French* Army together?

Duffy. Yes, it was.

Mr. Att. Gen. Did you hear the Prisoner speak about it?

Duffy. Yes, and he made a Speech before them concerning our own Faith and Religion.

Mr. Att. Gen. Was there any mention of Money at that Time?

Duffy. It was, that every Man of them that could dispose of Money should provide some for those Gentlemen that would soon come into Ireland.

Mr. Serj. Mayn. Who were those Gentlemen?

Duffy. The *French* Army and the *Spanish* Army together.

Mr. Att. Gen. Were you at any other Meeting?

Duffy. No.

Mr. Att. Gen. After he was taken, do you know of any Order he sent out to gather Money?

Duffy. Yes, at the Assizes of *Dalkeith*, I think it is June two Years ago, he was apprehended—

Mr. Att. Gen. Indeed he was first apprehended as a very busy Papist.

Duffy. I have seen two or three several Orders to raise Money, for the same Purpose; and that it was the only Time to bring the Matter to an end when he lay in Goal himself.

Mr. Att. Gen. Was that the effect of the Letter?

Duffy. Yes; and that the *French* and *Spanish* Kings should take the Advantage that now was offered whilst he was in Prison.

Mr. Justice Jones. You say some Money was sent to Dr. *Cray*?

Duffy. Yes.

Mr. Justice Jones. To what End?

Duffy. To comply with this Design.

Mr. Justice Jones. Where was that Dr. *Cray*?

Duffy. He was at *Rome*, he was made a Bishop there.

Mr. Att. Gen. Who employed him there?

Duffy. This Man employed him always.

L. C. J. What was his Name?

Duffy.

Duffy. Cray.
Mr. Justice Jones. You say some of the Priests paid 20, some 40?

Duffy. Yes.

Mr. Just. Jones. Did the Lay-Gentry agree to pay nothing?

Duffy. I don't know for the Gentry.

L. C. J. But I think you paid something your self?

Duffy. Yes, I paid for two or three Years my self.

L. C. J. And that was for the Design?

Duffy. Yes, for the *French* and *Spanish* Army, and all the Purposes together.

Mr. Att. Gen. What do you know of any Precept to be given in of all sorts of Persons of such an Age?

Duffy. I gave a List of the Age of every Person from 16 to 60.

Mr. Att. Gen. By whose Order?

Duffy. By his Order.

Mr. Serj. Jefferies. To whom did you give it?

Duffy. To *Dr. Plunket.*

Mr. Serj. Jefferies. That is, to the Prisoner?

Duffy. Yes, out of my own Precinct.

Mr. Att. Gen. Had you any Order from him?

Duffy. Yes, it was directed to the Parish-Priest; and I, being Curate in his Place, received the Order.

Sir Fran. Witbins. To what Purpose was it?

Duffy. To know what Men in *Ireland* were able to bear Arms.

Mr. Just. Jones. What was the Number contained in your List?

Duffy. 250.

Mr. Just. Jones. What, in one Parish?

Duffy. Yes.

Mr. Serj. Jeff. What was the Parish's Name?

Duffy. *Coghan.*

Mr. Att. Gen. Do you know any thing of his going to view the Ports?

Duffy. I accompanied him to *Carlingford.*

Mr. Att. Gen. Did you?

Duffy. Yes, in Person I did.

Mr. Serj. Jefferies. What did he say?

Duffy. He went round about the Place where some of the Custom-Ships come in; there was a great Castle there near the Sea, and he went to view the Place, and could not get a Boat: And there was a great Talk of *Carlingford* to be one of the best Havens in *Ireland*; there was no great Garrison at the Place, and any Ship might come to the Gates of the Town, and surprize it, being a little Town.

Mr. Att. Gen. What did he conclude upon that?

Duffy. That he might get the *French* Army to land safely there.

Mr. Attor. Gen. What do you know of delivering any Ammunition and Arms?

Duffy. He did send some of this Money to get Ammunition into *Ireland.*

Plunket. You say, your were *Murfey's* Curate: Can you shew me such Institution as you say came to you to raise Money?

Duffy. I could have brought them, but thought it needless.

Plunket. Can you name any other Person I received Money from?

Duffy. I have seen your Paper of the County of *Monaghan.*

Plunket. Have you seen any of them pay any Money?

Duffy. Yes, I have seen twenty of them pay Money.

Mr. Just. Dolben. Why, you are acquainted with this Man, are you not, *Mr. Plunket*?

Plunket. My Lord, I believe I have seen him.

Mr. Just. Dolben. Don't you know he was Chaplain to *Bishop Duffy*?

Plunket. No, I never was in his Company.

Mr. Serj. Jeff. Pray tell him what time of the Year it was that you were at *Carlingford.*

Duffy. It was at the end of the Year 77, and the beginning of the Year 78.

Mr. Att. Gen. Pray, if you can recollect, was you once, or twice, or twenty times in his Company?

Duffy. As I am a Christian, I have been an hundred times in his Company. And when you were creating Priests, you would always send for me to be present; and I wonder how the Man should forget himself.

Plunket. I do not say I have not seen him, or that I am a Stranger to the Man; but in the Company of *Bishop Duffy* I never saw him, nor I never sent him Orders to pay any Money; and if he did pay any Money, he might shew the Order.

Mr. Serj. Jefferies. If he did pay any Money, you did ill to take it.

Mr. Att. Gen. Pray let him have fair Play to ask any Questions.

Mr. Sol. Gen. Tell how you came to remember that you saw him at *Sir Nich. Plunket's.*

Duffy. *Dr. Duffy* did send me to *Sir Nicholas Plunket's*, and I met *Dr. Plunket* as I was coming out of the City. I had been half a Year at the *Spanish* Ambassador's, and he sent me for *Ireland* again, and then I lived at the Convent in *Dublin*; and then, when I knew that he would come to Town, I went to *Ring's-end*, where the Ships came in, to meet him.

Plunket. You say, you were with him at my House.

Duffy. Yes:

Plunket. If you were, you were invisible: But I ask you, Why did not you tell this to some Justice of the Peace?

Mr. Just. Dolben. Good *Mr. Plunket*, he tells you, he was as willing to forward it then as you.

L. C. J. How come you now to change your mind?

Duffy. I went into *France* in 77, and I was not there a Year all together; but when I have seen how the poor People there are brought into such Slavery by the *French* King, I thought of it, and had rather the Devil should reign over us, than the *Frenchman.*

Mr. Just. Dolben. He gives you a very good rational Account why.

Duffy. I have been at *Sir Nicholas Plunket's*, and *Dr. Patrick Plunket's*, where there fell some Variance about something this Man had done to *Father Duffy.* Says *Bishop Duffy*, I might have had you drawn and quartered, if I were as ill a Man as you; and I might have been Primate of *Ireland*, if I would have undertaken those Things that you undertook. Upon that, says *Sir Nicholas Plunket*, What is that? Why, it was said, it was to raise 60000 Men in *Ireland* at any time whenever the *French* or the *Spanish* King should wage War with *England*, *Scotland*, or *Ireland.* And this Man did confess before my Face to *Father Duffy*, that it was not only to exalt himself, but all the

the *Romish* Clergy, and all the Gentry that had lost their Estates.

Plunket. Mr. *Duffy*, one Word with you: Is not this out of Malice to me, for correcting some of the Clergy?

Duffy. You had nothing to do with me, for I was a Frier.

Mr. Att. Gen. Swear *Edmund Murfey* (which was done.) Tell your whole Knowledge of *Dr. Plunket* and the *Irish* Plot.

Murfey. May it please you, my Lord, I was one of the first Discoverers of this Plot; but of nine Witnesses, I have but one in Town.

L. C. J. Well, tell your own Knowledge.

Murfey. Now I beg your Lordship, as to *Dr. Plunket*, that you will respite it till next Term; I could bring ten Witnesses.

Mr. Att. Gen. Do you speak your own Evidence?

Murfey. I refer it to the King and Council, what Evidence I have given.

L. C. J. Do not trouble yourself, be directed a little: You are here now to speak what you know concerning any Treasons, or any other Matters against the King, done by *Dr. Plunket*; speak your own Knowledge, for as to other Witnesses we do not call you.

Murfey. If I be called in question for this Evidence—

Mr. Att. Gen. Come, Sir, you have been at the *Spanish* Ambassador's lately, answer my Question; Have you ever been with *Plunket* in *Ireland*?

Murfey. Yes, Sir.

Mr. Att. Gen. Have you ever heard him own himself Primate of *Ireland*?

Murfey. Yes, Titular Primate.

Mr. Att. Gen. Under whom did he claim that Authority? Under the King, or under the Pope?

Murfey. I think he could not be under the King all.

Mr. Att. Gen. Under whom then?

Murfey. It must be either the King or the Pope.

L. C. J. Answer me directly, did he claim to be Titular Primate under the Pope?

Murfey. I suppose he did.

L. C. J. Was he reputed generally so to be?

Murfey. Yes, my Lord.

Mr. Att. Gen. Mr. *Murfey*, remember what you swore before the Grand Jury; pray recollect yourself whether that be true, and tell all.

L. C. J. You are upon your Oath, you must speak the Truth, and the whole Truth; you must not mince or conceal any thing.

Mr. Serj. Jefferies. Were you sworn before the Grand Jury?

Murfey. I was sworn before the King and Parliament.

Mr. Serj. Jeff. Did you give in any Evidence to the Grand Jury?

Murfey. Yes, I did.

Mr. Serj. Jeff. Was that you swore before the Grand Jury true, upon your Oath?

Murfey. I can't say but it was.

Mr. Serj. Jeff. Repeat it; tell my Lord and the Jury what it was, and tell the Truth.

Murfey. I have forgot it.

Mr. Att. Gen. Why then, I would ask you a little; you remember, I was by, and 'tis no laughing Matter, Mr. *Murfey*, you will find it so. What do you know of any Orders issued out by *Mr. Plunket* to raise Money from the Priests?

Murfey. I know there were Orders, and I took the Orders myself in my Hand.

Mr. Att. Gen. From whom had you those Orders?

Murfey. From another, and not from him.

Mr. Att. Gen. Under whose Hand were those Orders?

Murfey. They were from the Primate.

Mr. Att. Gen. Did you see any Order under *Plunket's* Hand for raising of Money?

Murfey. No, but under the Vicar-General's, by his Authority, as I suppose.

Mr. Att. Gen. Upon your Oath, did you not swear before the Grand Jury, that you saw the Orders under his Hand?

Murfey. No, I did not; or I was mistaken, for it was only by his Direction.

Mr. Att. Gen. Pray had you any Converse with *Oliver Plunket* about the raising of Money?

Murfey. *Oliver Plunket* about the raising of Money?

Mr. Att. Gen. Yes, that is a plain Question.

Murfey. It was about other Matters I conversed with him.

Mr. Att. Gen. But did you converse with him about Money?

Murfey. No, not about the Money.

Mr. Att. Gen. Upon your Oath, did you converse with him about bringing in the *French*?

Mr. Serj. Jeff. Declare the Truth, come.

L. C. J. Come, don't trifle; what Discourse have you had with the Prisoner about raising of Money, or bringing in the *French*? Either of them, Sir?

Murfey. I know this, if the Duke of *York* and Duke of *Ormonde* had proceeded according to their Intentions, it was a general Expectation at the same time, that all the *French* and *Irish* would come and fall upon the *English* Nation, as I understood.

L. C. J. Pray answer the Question directly: You must not come and think to trifle with the Court, you must speak the Truth, you are sworn to it; you must not come to quibble and run about to this, and that, and t'other, but answer directly, have you had any Discourse with the Prisoner about Orders for raising of Money in *Ireland*?

Murfey. Yes, I have seen Orders from his Vicar-General for the raising of Money.

L. C. J. Hath he owned them to be by his Direction?

Murfey. Not before me, but others he has.

Mr. Att. Gen. Have you seen any Money paid to him?

Murphey. To whom?

Mr. Att. Gen. To *Plunket*.

Murfey. To the Vicar-General I have.

L. C. J. But to *Plunket*?

Murfey. None to *Plunket*.

L. C. J. Have you had any Discourse with him at any time about the raising of Money, which the Vicar-General gave Order for?

Murfey. I have had Discourse with the Vicar-General.

L. C. J. Sir, don't trifle, have you had any with him?

Murfey. With him?

L. C. J. Yes, with him.

Murfey. Yes, I have had some Discourse with him.

L. C. J. Tell me what Discourse this was.

Murfey. I think it was about this: If the D. of *York* and the D. of *Monmouth* fell out together, that he had some Men to raise about the matter, and

and if the D. of *Monmouth* would raise the Protestant Religion—

Mr. Att. Gen. You see he hath been in *Spanish* Hands.

L. C. J. Were you a Protestant, Sir?

Murfey. No, I am a Priest.

Mr. Serj. Jeff. He is to seek yet.

Murfey. I am indifferent whether I be a Protestant or Priest.

Mr. Att. Gen. My Lord, he is a Priest in Orders, and so hath acknowledged himself.

Murfey. Yes, I am a Priest, but it makes me forget myself to see so many Evidences to come in, that never knew *Plunket*.

L. C. J. Sir, you refuse to answer those Questions that we put to you here.

Murfey. What I said before the Parliament, I answer punctually.

L. C. J. You are asked Questions here, and produced as a Witness, will you answer directly, or not?

Murfey. Yes, I will.

L. C. J. Then let me hear what Discourse you had with the Primate *Plunket* concerning any Money raised by him or his Vicar-General.

Murfey. May it please your Lordship, first of all, I did not impeach Primate *Plunket*, but the Officers and Justices of the Peace.

Mr. Just. Jones. Had you any Discourse with him, yea or no?

Murfey. That he should find so many Catholics in *Ireland*, if the D. of *York* and the D. of *Monmouth* fell out.

Mr. Just. Jones. Why, it plainly appears what you drove at at first, to put off this Trial if you could.

L. C. J. The Papists in *England* have been at work with you.

Mr. Serj. Jeff. I perceived this Gentleman was very busy, looking upon his Hat, I desire he may be searched, if he have no Paper about him.

Mr. Att. Gen. Mr. Solicitor and my self heard the Evidence he gave to the Grand Jury.

Then he went out of the Court, and would scarce be persuaded to come back again.

Mr. Att. Gen. We both heard him, and he gave the fullest Evidence, much fuller to all Instances and Particulars of this *High Treason*, much fuller than *Duffy*, to the Grand Jury. Afterwards, about three Weeks ago, the Trial coming on, he ran away and lay hid; I took a great deal of Pains to find him out, and sent Messengers about; at last I heard he was got to the *Spanish* Ambassador's, I sent, and they spied him in the Chapel; but the *Spanish* Ambassador's Servants fell upon the Messengers and beat them, the Ambassador was first sent to about it, and his Excellency promised that he should be brought, and when he was found, he told me but the last Night, that all he had sworn before the Grand Jury was true, and he was ready to make it out again.

L. C. J. And now he says, he knows not what he said then; pray take Notice of that.

Murfey. I told the Grand Jury this, that my Lord *Plunket* had a Design to get 60 or 70,000 Men in *Ireland*, if the D. of *York* and the D. of *Monmouth* should fall out.

Mr. Att. Gen. Did you tell a Word of that to the Grand Jury?

Murfey. Yes, Sir, or I was mistaken.

Mr. Att. Gen. Not one Word of that did he then say.

L. C. J. Do you own this Man, Dr. *Plunket*, to be of your Religion?

Mr. Serj. Jeff. Do you know this Seeker?

Plunket. He says himself he is indifferent to be a Protestant or a Papist.

Mr. Serj. Jeff. I will only try you by one Question more, for you are sought out, and it may be you may be found: Do you know how many Men he was to raise in *Ireland*? remember what you said to the Grand Jury.

Murfey. 70000 Men.

L. C. J. What were they to do?

Murfey. For establishing if Occasion should be—

Mr. Serj. Jeff. Establishing, establishing what?

Murfey. Of the Romish Religion.

Mr. Serj. Jeff. Well, so far we have got 70000 Men to establish the Romish Religion: What, was *Plunket* to do this?

Murfey. As far as I understood.

Mr. Just. Jones. And you understood it by himself?

Murfey. I received Letters from the Vicar-General to get so much Money collected, and as soon as I got the Letters to my Hands, I sent them to a Privy Councillor.

L. C. J. Do you not know that he was engaged to assist the *French* Army?

Murfey. I do not know that by him, but by others.

Mr. Just. Dolben. Did you ever discourse with him about it?

Murfey. I did discourse with him about several Matters.

Mr. Just. Dolben. About the *French* Army?

Murfey. Yes.

L. C. J. Do you know that he did endeavour to bring them into *Ireland*?

Murfey. I had a Correspondence in *France* at the same time—

L. C. J. With whom?

Murfey. With one *Mac Carly*.

L. C. J. And do you know that he had Correspondence in *France*?

Murfey. Yes, I know that.

Mr. Just. Dolben. With whom had *Plunket* Correspondence in *France*?

Murfey. He had Correspondence with Dr. *Cray*, and others in *France*, as I understood by others.

Mr. Just. Dolben. Was the end of that Correspondence to bring Men from *France* into *Ireland*?

Murfey. Yes, so far as I understand.

Mr. Just. Dolben. You understood the Letters when you read them, did you not?

Murfey. I know not how these People come to swear this Business, whether they had not Malice against him—

Mr. Att. Gen. Well, Sir, pray give you your Evidence, we will take care of the rest.

Mr. Just. Dolben. I reckon this Man hath given the best Evidence that can be.

L. C. J. Yes, it is Evidence that the Catholics have been tampering with him.

Mr. Serj. Jeff. I desire he may be committed, my Lord, because he hath fenced from the beginning (*Which was done accordingly.*)

Mr. Att. Gen. Swear *John Mac Legh.* (*Which was done.*)

Sir Fran. Withens. Tell my Lord and the Jury what you know of any Plot in *Ireland* to bring in the *French*.

Mac Legh. I was a Parish Priest in *Ireland*, in the County of *Monaghan*, and Dr. *Oliver Plunket* received

received several Sums of Money in *Ireland*, and especially in the Diocess where I am. I raised some of it, and paid him 40 s. at one time, and 30 s. another Time, in the Year (74) I paid him 40 s. in the Year (75) I paid him 50 s. and it was about *July*, and it was for the better Advancement of the *French* coming in.

Mr. Jones. Did he tell you that the Money was to be employed that way?

Mac Legh. Yes, that the Money was to be kept for Arms and Ammunition for the Roman Catholics in *Ireland*.

L. C. J. Before you paid it, did you receive any Order from him?

Mac Legh. Yes, I received an Order *sub pœna suspensionis*, and there was a publick Order throughout *Ireland*, or we would not pay it; nay, several would not pay it, and they were to be suspended.

Plunket. Can you shew any of the Orders under my Hand?

Mac Legh. Yes, I can shew them, but only they are afar off, I did not expect to have them asked for.

Plunket. Have you no Superiors of your own?

Mac Legh. Yes, but you being Lord Primate, you could suspend Bishops and inferior Clergy together.

Plunket. When was this?

Mac Legh. In the Years (74) and (75.)

Plunket. What is the Reason you kept it so secret all this while?

Mac Legh. In the Year (77) I did discover it to one Mr. O-Neal, whom I sent to *Dublin* to discover this Plot. I was in *France* my self, my Lord.

Plunket. How many Years is it since you returned from *France*?

Mac Legh. In *May* in the Year (78.)

Plunket. Why did you not speak all this while till now?

Mac Legh. I did send one Mr. Henry O-Neal to *Dublin*, for I durst not go, lest I should have been suspended and excommunicated.

Mr. Att. Gen. This is the Priest that Henry O-Neal speaks of.

L. C. J. Is not this a very good reason? If he had come to *Dublin* to discover, you would have suspended him.

Plunket. But, my Lord, then he might have shewn my Suspension, and brought me into a *Præmunire*.

Mr. Serj. Jeff. If you please Dr. let us who are for the King have done with him first. I would ask you another Question, Sir, were you at one Vicar Brady's House?

Mac Legh. Yes, I was.

Mr. Att. Gen. Tell what was done there.

Mac Legh. There was Bishop Tyrrel came there with 40 Horsemen well mounted and armed, he came into the House about 10 in the Morning, and staid till about 11 at Night, I was very much among them, and was as willing to be of the Plot as themselves.

Mr. Att. Gen. Tell what was done there.

Mac Legh. There Bishop Tyrrel said, that he had Order from Dr. Oliver Plunket, and others, to partake of the Plot to bring in the *French*, and subvert the Government in *Ireland*, and destroy the Protestant Religion and the Protestants.

Mr. Att. Gen. Was there an Oath given?

Mac Legh. Yes, they were all put to their

Oaths, which they did take willingly to keep it private during their Lives Time, and the Reason was they were to have their Estates during their Lives Time.

Mr. Serj. Jeff. Now tell us when this was.

Mr. Att. Gen. My Lord, Henry O-Neal, and Phelim O-Neal speak to the same Purpose.

Mr. Serj. Jefferies. Do you remember whether Henry O-Neal was there? Did he take the Oath of Secrecy?

Mac Legh. Yes.

Mr. Att. Gen. What do you know of any Letters from Plunket?

Mac Legh. In *France* I landed at *Brest*, and going through *Brittany*, I met with Bishop Tyrrel and Dr. Cray, who was my Lord Oliver Plunket's Agent, and Duke John of Great *Brittany* came into them; for he heard of these two Bishops being newly come out of *Rome*, sent for them, and I being a Priest of Tyrrel's Diocess, I went along with them, and they were well accepted, and he shewed Dr. Oliver Plunket's Conditions with the King of *France*, which was this; to get *Dublin* and *London-derry*, and ail the Sea Ports into their own Hands, to levy War and destroy the Protestant Religion, and that they should have him to protect them during his Life time.

L. C. J. Did you see those Conditions?

Mac Legh. A Copy of them I did, the Governor of *Brittany* did shew them to the Bishop.

Mr. Serj. Jeff. What Language were those Conditions in?

Mac Legh. They were in Latin, Sir.

Mr. Serj. Jeff. Was Edmund Murshey put out of the Diocess?

Mac Legh. Not as I know of.

L. C. J. What do you know of his being Primate? Upon what Conditions was he made Primate?

Mac Legh. He was made Primate by the Election of the King of *France*: And upon his Election, he made those Conditions with the King of *France*, to raise Men to join with the *French*, to destroy the Protestant Religion.

Mr. Just. Jones. You know that Man, Dr. Plunket?

Plunket. Yes, my Lord.

Mr. Att. Gen. Will you ask him any Questions?

Plunket. None, but what I asked the others.

Mr. Just. Dolben. Then if that is all, he hath given you a good Answer to that already, he was as forward then as the rest.

Mr. Att. Gen. Then swear John Moyer; (which was done.)

Mr. Just. Jones. What do you know concerning any Plot in *Ireland*, and Dr. Plunket's being in it?

Moyer. I knew him first, my Lord, to be made Primate of *Ireland*, ingaging that he should propagate the *Romish* Faith in *Ireland*, and to restore it to the Catholick Government; and I know the Time by Relation, that I came to *Rome* within two Months after his being made Primate of *Ireland*, upon the same Conditions that have been related to you; and I was brought into the Convent of St. Francis in *Rome*, by one Father and this Father was very intimate with Cardinal Spinola, and when he used to go abroad he used to carry me along with him, as a Companion, and there I found several of the *Romish* Cardinals say, That the Kingdom of *Ireland* should come under the Catholick Government by the way and means of the Lord Primate Plunket.

Mr. Att. Gen. What do you know of your self?

Moyer. As I was coming then from *Rome*, I happened to come into a Convent of the Order of *St. Francis*, and there came out of *Ireland* a young Gentleman of the Family of the *O-Neals*, who hath been my Lord Primate's Page.

Plunket. I never had a Page.

Moyer. You termed him so, my Lord, in *Ireland*, and as I came, this young Man had a Packet of Letters with him, as though they were Commendations to enter him into the College *de propaganda fide*, directed to the Secretary of that College. And thinking them to be Letters of Recommendation, an old Father, called one *Thomas Crawley*, and I, thought it not prejudicial to open the Seal; and the Contents were these, I translated them five Years ago, and here are the Contents following, if you please, they may be read, I will do my best to read them in *English*, the Original were in *Latin*, and some Phrases in *Italian*. And when I was surprized by *Mr. Murfey* the last Year, and taken suddenly, all my Papers were taken away before I could return back again, by the Soldiers and the Tories. I only kept a Copy of this Letter I had in *English* as near as I could, and if I did not diminish any thing by the Translation, upon the Oath I have taken, I have not put any thing in it, but what the Contents of the Letter were.

L. C. J. Was that Letter under his own Hand?

Moyer. My Lord cannot deny that.

Plunket. Do you know my own Hand-writing?

Moyer. Does your Lordship deny that I know your Hand?

Plunket. Pray Sir, will you answer it?

Moyer. Yes, I do very well,

Plunket. When did you leave *Ireland*?

Moyer. I will tell you that, my Lord, 'tis some 14 or 15 Years ago.

Mr. Serj. Jeff. You were giving an Account of the Letter, read it.

Moyer. Here is the Contents, *Illustrissime Domine*; It was directed to *Seignior* who is now Secretary of the College *de propaganda fide*. (So then be read his Paper.)

Mr. Sol. Gen. You say, you translated that out of a Letter under the Prisoner's own Hand?

Moyer. Yes, I translated it immediately, and to prove it, I have Statutes which his Lordship made in the general National Council, which are under your own Hand, my Lord.

Mr. Sol. Gen. When did you make this Translation?

Moyer. Five Years ago.

Mr. Sol. Gen. Where did you make it?

Moyer. I made it out of the Original in *Ireland*.

Mr. Sol. Gen. Where is the Original?

Moyer. When I was taken by *Mr. Murfey* and *Mr. Helberington* the last Year, the Soldiers and Tories came and took them away, with other Papers I had of the same Business.

L. C. J. Was the Paper you translated from, of his Hand-writing?

Moyer. No, my Lord, the Paper I took this out of, was a Copy of the Original.

L. C. J. Was the Original of his Hand-writing?

Moyer. Yes, it was.

L. C. J. When did you take it?

Moyer. In *Caprennica*, where I met with my Lord's Page.

L. C. J. What made you take a Copy of it?

Moyer. It was in *Latin* and *Italian*, and I translated it afterwards.

VOL. III.

L. C. J. And the *English* Father, you say, made bold to open it.

Moyer. Yes, because he thought 'twas a Letter of Recommendations; but the Original of the Statutes made at *Clouds*, I did take the Original, and gave a Copy to the Page.

L. C. J. Have you the Original here?

Moyer. Yes, my Lord, under his own Hand.

Plunket. That's another thing.

L. C. J. But we would know that other thing.

Mr. Serj. Jefferies. My Lord, I desire that he would produce it, 'tis his own Hand-writing; see whether his Grace can deny it.

Moyer. The signing of it is his own Hand-writing, I got the Writing along with the Letter, and thinking to have a Copy of the one, as well as of the other; it was the Statutes I got, and I never knew I had them till I was in *Madrid* in *Spain*.

Then the Paper was shewn to the Prisoner.

Plunket. My Lord, 'tis my Hand.

Moyer. Indeed, my Lord, it is your own Hand.

Mr. Serj. Jefferies. He owns it.

Moyer. And there is an Order in those Statutes, wherein *Ireland* was bound to send so much Money to *Rome*, upon such a Design.

Then the Witnesses read the Title in Latin.

Mr. Justice Dolben. Look out that Clause for the raising of the Money.

Moyer. My Lord, 'tis that I look for. *Cum tot Clero in Hibernia necessarium sit.*

Mr. Just. Dolben. That is but *negotia* generally.

Mr. Serj. Maynard. That was to solicit their Affairs.

Mr. Att. Gen. 'Tis 500 *l.* in the whole.

Plunket. Is it 500 *l.*?

Moyer. 'Tis in Figures a 5 and two (00.)

Plunket. My Lord, this is counterfeit, 'tis put in by other Ink.

Mr. Just. Dolben. Like enough so.

L. C. J. Nothing more ordinary, you leave a Blank for the Sum, and then, may be, you put it in with other Ink.

Mr. Just. Dolben. How much do you say was the Money, *Dr. Plunket*?

Plunket. My Lord, every Agent that is kept at *Rome* hath a Maintenance, as all Countries have their Agents at *Rome*.

Mr. Just. Dolben. How much was it?

Plunket. It was 50 *l.* a Year.

L. C. J. Look you, *Mr. Plunket*, consider with yourself, 50 or 500 in this Case is not 5 Farthings Difference, but the Money was to be raised by your Order.

Plunket. Ay, but whether it was not raised to this Effect. There is never a Nation where the *Roman* Catholick Religion is professed, but hath an Agent for their Spiritual Affairs at *Rome*, and this was for the Spiritual Affairs of the Clergy of *Ireland*.

Mr. Serj. Jefferies. And the Letter was for Spiritual Affairs too, was it not?

Plunket. I desire nothing, that is a Truth, every Nation hath an Agent, and that Agent must be maintained; and the Reason is this, because we have many Colleges beyond Sea, and so there is no Country of *Roman* Catholicks, but hath an Agent in *Rome*.

L. C. J. You had better reserve yourself till by and by, to answer that and the Letter together; for this is but a small Part of the Evidence.

Mr. Att. Gen. About this Letter you were speaking of, pray, will you tell what fell out about it?

Moyer. I will tell you how it fell out afterwards. Then I came along into *Marfeilles* in *France*, and there were two Captains that had as much Notice as I had in that Letter, for they were discoursing, that they would advance themselves in the *French* King's Service, and hoped, that by the King of *France's* Help to have the *Roman* Catholick Faith set up in their own Country; why, that Discourse passed off, for I was mightily afraid of any such thing, because I was of another Opinion; for perhaps I might think the *Roman* Catholick Faith would flourish as well as ever it did, and hoped so as well as any body else, but not by the Sword. As I came to *Madrid*, there came one *Hugh O Donnell*, Son to *O Donnell*, with Letters of Recommendation, and those Letters were to intitle the young Man Earl of *Tyrone*; and likewise that his Majesty, the King of *Spain*, should help him for *Ireland*, according to the Form of the Letters he had. And then as I came for *Ireland*, speedily after there came Letters of Recommendation to me, that I should present myself to my Lord Primate, to hear Confessions, and be heard Preach. I came to his Lordship at his own House the 9th of *December* (74,) and there he kept me several Hours, and approved me; and the Copy of the Approbation I have to shew. And after a long Dispute we went aside, and went to look Father *Patrick*, and there he shewed me such and such things. And after a long Discourse I told my Lord Primate, I saw your Lordship's Letter, which you sent by young *O-Neal*, in such a Place, and he shewed me the Contents of it, and said, Ay, my Lord, 'tis a good Intention and Design, if it can be done without Bloodshed: Then my Lord mused a little, and he said, Well, Father *Francis* (which is my Name in Religion, my Christian Name was *John*) pray will you keep it Secret? Well, my Lord, said I, you need not fear; for said he, whatever I have done herein was not for my own good, but for the publick good of the Catholicks. Well, said I, 'tis well. Then he does commend me into the Parish of _____ where this *Mr. Murfey* here was to put in a Bull, that I had from my Lord Primate, which Bull was brought here last Year; and there he proffered me high Promotions, if I would further such Things, and solicit such Gentlemen as I knew would be private in such a Business, such as were old Commanders among my Friends and Relations. Shortly after this I saw *Plunket* and Bishop *Tyrrel*, and Captain *Con O-Neal*, practising to bring Soldiers ready for *Ireland*, as soon as they could get Opportunity. This Captain *Con O-Neal* coming to the Place where we kept our Priory, and he and his Brothers were Sons to General *O-Neal*. And there Captain *Con* comes in the Night-time and lodges with us, and discoursed with his Brother and I, because I was his Companion beyond Sea, about these matters. That he expected my Lord Primate and Bishop *Tyrrel's* coming thither that Night, to make some Proposals about the Church and other Affairs. After 10 o'Clock, or thereabouts, my Lord Primate and Bishop *Tyrrel* came, with others in their Company, and there they and Father *O-Neal* did consult amongst themselves, that they should send Captain *Con* to *France* and to *Barcelona*, with such and such Instruments; and sending those Instruments away, Captain *Con*

departs the Country, and goes for *France* soon after; and speedily my Lord Primate undertook, that he and Bishop *Tyrrel* should view *Munster* and *Ulster*, and other Parts of *Ireland*, to see how Affairs stood. Soon after my Lord Primate calls a General Provincial Council, and sends out his Orders to levy such and such Taxes and Subsidies, and Warrants, to all the Parish Priests, that they should give them new Lists, to know whether the Numbers they had sent to *Rome* before, would comply with that List. And then *O-Neal* went to view the Forts of *Charlemont* and *Dun-Gannon*, whilst those Lords did collect the Money: The Orders I have seen with my own proper Eyes, and his own Man confessed before the Council in *Ireland*, that my Lord gave them under his Hand.

Mr. Serj. Jeff. What Year was this?

Moyer. It was in (76) to the best of my Remembrance.

L. C. J. Look you, Sir, was this at a Provincial Meeting?

Moyer. Yes, my Lord, a general national Council, to send over Instruments, to tell them, that they were ready to assist any foreign Army, that should help on the Design.

L. C. J. And to raise Money?

Moyer. Yes, my Lord.

Mr. Just. Dolben. Have you paid him any Money?

Moyer. I was exempted myself, but I have seen others.

Mr. Just. Dolben. How many?

Moyer. I believe 30.

Mr. Just. Dolben. It was not a secret Thing then, but openly done by them.

Moyer. Yes, I saw them when they came with Orders, there were four Priests, and they had a great Cloak bag going with Orders up and down.

Mr. Serj. Jeff. Why were you exempted?

Moyer. Because I am a regular Priest.

Sir Fra. Withens. You say, you saw the Orders for raising Money, how do you know for what it was to be employed?

Moyer. It was there specified down.

Plunket. Can you shew any of the Orders?

Moyer. I could not take them, they did not concern me.

Sir Fra. Withens. How was it specified?

Moyer. To levy so much Money per Priest. I cannot remember the particular Sum; but that every Priest should give so much towards an Agent in *Rome* to solicit their Business, and forward it.

L. C. J. What Year was it?

Moyer. (76).

L. C. J. Was any of the Money specified for raising an Army, or bringing in the *French*?

Moyer. It was both for the Agent and to summon a national Council, to get Things ready prepared to entertain and accept the *French* Army when it should come. I am not so good in expressing myself in *English*.

L. C. J. Your Sense is good, 'tis no matter for your Expression.

Mr. Jones. What more do you know?

Moyer. I know that he had the same Council, and that they did agree upon the Business, and this I know by one *Patrick Bourne*, and I being willing that this wicked Action should be hindered, sent to the next Justice to discharge myself of it, which Justice was as favourable to the Business as my Lord himself was.

L. C. J. Will you ask him any Questions, Mr. Plunket?

Plunket. I desire to know when he left Ireland.

Moyer. I cannot tell how to number the Years, but I think it was in 62 or 63, to the best of my Remembrance it was 16 or 17 Years ago.

Plunket. When did you return?

Moyer. I came back in 74, you know it, my Lord.

Plunket. Very well, when did you see the Letter with the young Man in Caprennica?

Moyer. In (72.)

Plunket. How then did you know my Hand, which you had never seen?

Moyer. I have seen it several times to several Instruments to Seignior and I have seen several other Letters of your Hand.

Plunket. How did you know my Hand?

Moyer. I cannot positively say, I then knew your Hand, but according to Relation, I heard it from those Cardinals I conversed with at Rome.

L. C. J. But now you are acquainted with his Hand, is it the same Hand which you have seen up and down in Writings with his Name to?

Moyer. Yes, my Lord, it is the very same Hand.

Mr. Serj. Jeff. I ask you, Sir, when you came back again and told him you had seen such a Letter under his Hand with O-Neal, did he own it to you?

Moyer. Yes, he did own it, and that he did not do it for his own benefit, but for the publick.

Mr. Serj. Jeff. Did he desire you to be secret?

Moyer. Yes, he did, and to be discreet, and he would see me highly promoted. And my Lord, you sent Proposals to me, to give me 100l. that I should not prosecute you, according as they told me, and they gave me one Guinea in Hand for it.

L. C. J. Some of it came to the Hands of Murfey, I believe.

Plunket. My Lord, I cannot say any thing to this, my Hands are tied, because my Witnesses are not here. My Lord, if I had my Witnesses and Records, I did not care for all these Witnesses.

L. C. J. But you know, you had Time to bring them.

Plunket. My Lord, I desire to know whether this be his Hand (shewing the Paper to Mr. Moyer.)

Moyer. Yes, I believe it is.

Plunket. I desire it may be read.

Moyer. Yes, I am very well satisfied it should.

Cl. of Cr. reads. For my Reverend Father Anthony Guardian of Armagh, Your Letter and Citation—'Tis dated in July (78.)

Plunket. He can best read it himself.

Cl. of Cr. Read it right (the Paper being delivered him.)

Moyer. My Lord, I pity him with all my Heart, that a Man of my own Function should be brought into Question for such things as these are, (he reads) Very Reverend Father Guardian, 'tis dated 1 July (78) Your Paternity's paternal Letter and Citation homeward, I did instantly peruse. As for my Lord Oliver Plunket, I wrote a Letter to him the Day before I saw your Reverence last, that he might cause my Fame, which is as dear to me as my Life, to be recalled, or I should cause his Name to be fixed at every publick Place, which by the Almighty I will do, Nature and all Reason compelling me to do it.

Plunket. My Lord, I say this, he says he came to my House when he came over, and I imparted this Secret to him, yet you see I had denounced him throughout my whole Diocess, and he here calls me by all those Names of Elymas, Simon Magus, and Barjesus, and 'tis impossible, if I had communicated such a Secret to him, that I would deal so with him.

Mr. Just. Dolben. He does not say, you imparted this Secret to him; but he says, when he told you of the Letter, you answered him, but you seemed surpris'd and amused first.

L. C. J. You seemed to flatter him then, and told him you hoped to see him the best of his Order, highly promoted.

Mr. Just. Dolben. How came you to fall out, Moyer?

Moyer. When first they had this Meeting at Brantry, seeing a Cloud a-coming, and dreading a War, and the Consequences of it, I went and applied my self to Sir Hamilton, one of his Majesty's Privy Councillors in Ireland, and I gave in all my Informations the 7th December (76.)

Mr. Just. Dolben. And thereupon he denounced you excommunicate?

Moyer. Yes, and afterwards, when he saw I was in Communication and familiar with these Privy Councillors, then he was certain I had discovered the Matter, and then he got a great many Devices to get the Letters out of my Hand.

Plunket. You shall see under his own Hand all the Stratagem of this, if I had my Witnesses here, you should then see under his own Hand, upon what Account he fell out with me. Pray, my Lord, ask him if this other Letter be his Hand.

Moyer. I believe it is my own Hand.

L. C. J. Read it.

Moyer. (Reads) Very Reverend Father Guardian (then speaking) My Lord, you know that I was loth to discover my self, being among People knowing of the Plot.

L. C. J. Well, read it over.

Moyer. (Reads) The 23d of April (78) I was somewhat comforted by your Letter. But now I hope your Reverence hath considered what Wrong I have sustained, by my envious Adversaries Calumnies, only for standing, as I have a Soul to save, for your Rights and Privileges, as also for endeavouring to hinder my native Country's Ruin and Destruction.

Mr. Just. Dolben. Read that again (which he did.)

Plunket. Observe, that I was his Adversary, for standing for the Rights and Privileges of the Friers.

Mr. Just. Dolben. As also for endeavouring to hinder his Country's Ruin and Destruction.

L. C. J. The one and the other were the Reason of your falling out.

Moyer. (Reads on)

Moyer. My Lord, I was, I confess, a begging Frier, and stood up for the Privileges of the Friers.

Plunket. Did you write any Procces to Rome against me?

Moyer. No, I never did.

Plunket. My Lord, does not he say I was in Disgrace at Rome?

Moyer. No, nothing of that.

L. C. J. I don't hear it, but what if he did? what is that to the Purpose?

Plunket. To shew his Contradictions; now

he says, I was great in *Rome*, and but then in his Letter he says, I was in Disgrace at *Rome*. Now he says, all that he had against me, was for his Friars, and to hinder the Destruction of his Country, because I hindered the Friars to beg there, is the Destruction of the Country, as he was doing there. Upon that he fell out with me, and upon that his own Superiors sent this Order.

L. C. J. We can't meddle with your Superiors Orders, they are nothing before us.

Mr. Serj. Jeff. My Lord, I think, for the present we have done our Evidence.

Plunket. My Lord, to shew what was part of the falling out, I would ask him if he was Indicted for any Crime, and found Guilty by a Jury?

Moyer. That was for discovering, for I discovered it before.

Plunket. My Lord, he confesses he was Convict for giving Powder and Shot to the Rebels.

Mr. Just. Dolben. No, he does not say so; produce the Record, if you have any such thing.

Moyer. To satisfy the Court.

Mr. Serj. Jeff. Look you, *Dr. Plunket*, if you will ask him any Questions, that by Law he is bound to answer, do it on God's Name, we will not interpose; but if you ask him any Questions that may tend to accuse himself, we must tell you, he is not bound to answer them.

Plunket. He hath been convicted and found guilty, he will confess it himself.

L. C. J. He is not bound to answer such a Question.

Moyer. It was a Tory swore against me, that you did absolve.

Mr. Just. Dolben. Don't tell us a Story of your Tories.

L. C. J. Look you, *Mr. Plunket*, don't mispend your own Time; for the more you trifle in these things, the less Time you will have for your Defence. I desire you now to consider, and well husband your Time for your Defence; what have you to say for your self?

Plunket. My Lord, I tell you, I have no Way to defend myself, in that I was denied Time to bring over my Records and my Witnesses which are 10 or 12. And if I had them here, I would stand in defiance of all the World to accuse me; but I have not sufficient Time to bring over my Records and my Witnesses, and I am brought here out of my Native Country; were I in *Ireland*, there both I and they should be known: But when I was to be tried, they would not appear; and it is all false, and only Malice. These Men used to call me *Oliverus Cromwellus* out of Spite.

Mr. Serj. Maynard. You are very like him, a destroyer of the Government.

Mr. Serj. Jeff. Were not you acquainted with him?

Plunket. This is all I can say, If I had my Witnesses here, I should make my Defence.

L. C. J. Here are some Things, that if you can give an Answer to, you will do well to do it; for they stick close to you. They do testify against you here, that you did undertake to raise a body of Men in *Ireland*, 70000 Men they speak of, out of your own Nation, and all these were to join with the *French*, for the introducing the Religion of the *Romish* Church into *Ireland*, and settling that again there. And that you, in order to this, did take a Survey of all those *Roman-Catholicks* that were able to bear Arms; from 16 to 60;

and there is plentiful Evidence, that you did go a Circuit there to peruse all Towns, and see which might be most convenient for the taking in and entertaining the *French*, and landing their Forces; and *Charlemont*, you did design that for one strong Place to be taken, and *Dun Gannon* for another, and that you did design the *French* Army to land at *Carlingford*, and all that was with you, tells the Reason you gave, why that should be the Place, that they might come up with a burdened Ship to the very Gates of the Town; that you did, in order to the entertaining these foreign Forces, raise Money; that you did send out your Orders *sub pœna suspensionis* to all that were of the *Roman Clergy*, and that this Money was received, several of them testified that they paid it to you, and this Man hath seen great Numbers of Persons pay Money to you upon these Accounts. All these are Treason: What say you to them? It does import you to consider what Answer you can give.

Plunket. My Lord, first as to the first Point, I answer, that I never received a Farthing of Money out of my own District, and but for my own Livelihood, and that I can prove by those that have received it for me, that I never received over threescore Pound a Year in my Life, unless, some Gentleman would now and then give me 10*s.* for my Relief. For, my Lord, this is the way in *Ireland*, every Priest hath so many Families allotted to him, and every *Roman Catholick* Family gives 2*s.* a Year (*as they that profess that way, know*) and the Priests give me who am Superior over them, in my own District, some 20*s.* some 30*s.* and I never got so much in my Life as to maintain a Servant, and this was attested before the Council in *Ireland*.

Mr. Just. Dolben. Ay, but the Witnesses say, out of your own District you sent into another Bishop's Diocess to collect Money.

Plunket. My Lord, I say, I could never get so much as to keep a Servant, and till now I never got a Farthing out of my own Diocess, unless I have been called to an Arbitration or some such thing, it may be for my Journey and Expences 40 or 50 Miles they would give me something for my Maintenance. If you should find any thing else, I will be content to suffer; and if my Evidence were brought from *Ireland*, there is nothing but what would be made clear, both under their own Hands and by Records, and that is all well known, and was attested in his Presence before the Council in *Ireland*; which threescore Pounds was a very small thing to maintain me, and I never had above one Servant, and the House I lived in was a little thatch'd House, wherein was only a little Room for a Library, which was not seven Foot high, where once this Fellow came to affront me, because I hindered him from begging, and that's for the Money. For the Men, I defy any one that ever see me make a List of Men in my Life, or can produce any List made by my Order. I was never in my Life at *Kingsale*, at *Corke*, at *Dun Gannon*, at *Limerick*, &c. or those Parts of *Munster* which were the chief Ports where the *French* should come in, and not in *Carlingford*, which is the narrow Seas in *Ulster*, which any one that knows the World will judge to be a very improper Place for the *French* to land in. 'Tis all one as to say that the *French* should come in at a poor Place, where they could

get nothing, it being at the narrow Seas, and they never saw me there in their Lives.

L. C. J. Yes, one does say, he was with you.

Plunket. Well, one does say he saw me there, but if I had my Witnesses here, I could prove he was a Frier, and declared an Apostate by his own Provincial, as this Gentleman is; and because I hindered them to beg in my Districts, therefore they have this Malice against me, that is all. Well, my Lord, that is for that, I was never in my Life in *Connaught*; and they cannot say, I took any List in *Ulster*, nor was 12 Miles in *Munster* in my Life. But thus, my Lord, sometimes there would be, as our way is, so many Families assigned to every Priest, (*and this is the plain Truth,*) this Priest perhaps complains to me of the Inequality, my Companion near me hath 150, and I have but threescore, which I must rectify; though I never knew but one of these Complaints. And if I had my Witnesses from *Ireland* and the Records, I would defy all these Witnesses together. For my sending to *Rome*, I never had an Agent in *Rome* for these seven Years past, because I was not able to maintain him, and indeed it was a great Shame to us; because there is never a Community of Friars, that hath a College beyond Sea, but hath some Agent at *Rome*.

L. C. J. 'Tis a Shame to have one there, not to want one.

Mr. Justice Dolben. Well, if you have Witnesses, I cannot tell what to say.

Plunket. If I had gotten but to the latter end of the Term, I had defied them all together. And your Lordship should have seen under their own Hands what they were.

L. C. J. You forget this all this while, your own Letter; wherein this Matter is, that you had searched the Towns and considered it.

Mr. Att. Gen. He does deny there was such a Letter, he does not own there was such a Letter.

Plunket. I, my Lord, I never did write such a Letter. And that young Man that he speaks of, I could prove, if I had my Witnesses, that he never was in my Service or Company in *Ireland*, nor writ any Letters, by him.

L. C. J. Did you never send any Letter by one *O-Neal*?

Plunket. No, my Lord, but he went over a begging.

Moyer. This young Man's Brother-in-Law will testify, that he was your Lordship's Page.

Plunket. I have 3 Witnesses that he came there begging, naked, and was sick three Months, and went over a begging, and was at *Rome* as a Stragler.

Moyer. Call *Hanlet*, (who came in.)

Sir Fra. Withens. Did you know *Neil O-Neal*?

Hanlet. Yes.

Sir Fra. Withens. Whose Servant was he?

Hanlet. My Lord *Plunket* sent him to *Rome*; he was sent there with his Letters, and I saw the young Man and his Letters.

Mr. Jones. Did he come a begging there?

Hanlet. No.

Plunket. Where did you see him?

Hanlet. At *Mants*.

Plunket. Where is that?

Hanlet. In *France*.

Plunket. And you saw him with my Letters?

Hanlet. Yes.

Plunket. And this Man says, the Letters were opened at *Capremica*, because he thought they were Letters of Recommendation.

Hanlet. Why, he went that way afterward, and they were not opened, when I saw them.

Mr. Serj. Jefferies. Did you know he was the Doctor's Servant?

Hanlet. Yes, he was.

Plunket. Did you see him in my Service?

Hanlet. I saw him in *Mants*.

Mr. J. Dolben. How do you know he was the Bishop's Servant?

Hanlet. Because he shewed me his Letter.

L. C. J. Was he owned for his Servant, and was he taken for his Servant?

Hanlet. Yes.

Plunket. Did he go on Foot, or on Horseback.

Hanlet. He went on Foot.

Plunket. He was in a poor Condition in a Place not above four Miles from *Rome*, that I can prove.

L. C. J. Did he beg as he went?

Hanlet. No.

L. C. J. *Mr. Plunket*, if there is any Question you will ask of the Witnesses; or if there be any Evidence you would give yourself, this is your Time for the doing of it; if not, we must leave your Case to the Jury, who have heard the Evidence all along.

Plunket. Only this, my Lord, your Lordship sees how I am dealt with. First and foremost, I have not Time to bring my Witnesses, or my Records, which if I had, I would not weigh one Farthing to leave my Cause with any Jury in the World. Besides all this, I am brought out of my own native Country, where these Men lived, and I lived, and where my Witnesses and Records are, which would shew what these People are. I sent by the Post, and did all that I could, and what can I say when I have not my Witnesses against these People, that may swear any Thing in the World. You cannot but observe the Improbability of the Thing in itself, and unto what a Condition I am brought. My Lord, my Life is in imminent Danger, because I am brought out of my own Country, where these People would not be believed against me.

Mr. Soll. Gen. My Lord, I think this Matter lies in a narrow Compass, the Evidence hath been long; I would only repeat the short Heads of that which hath been given at large. He is indicted for a Conspiracy to kill the King, the Overt Act is an Endeavour to introduce a foreign Power into *Ireland*, to raise an Army, and levy War there; and the Proof of it hath been very full. The Proof in general, that there was a Plot to introduce the *French*, is plain by all the Witnesses, and the Proof in particular upon this Person at the Bar, hath been as plain as any Thing can be. They prove to your Lordship in general, that there was an Expectation that the *French* should come in, that there was an Invitation of *Florence Wyer* the first Witness, to go over into *France*, and speedily he should have a Command, upon his return, in *Ireland*; that there were Preparations; for this appears by the Oath of Secrecy given to several Men. Forty Men that came along with *Bishop Tyrrel* to keep it private during their Lives. And there was a farther Proof of that general Conspiracy by *Duffy*, that when there was a general meeting of so many thousand People for Confirmation, there was by the Gentlemen of that Meeting a secret Consultation how to carry on the Design, and how to look out the old Officers in the late Rebellion,

and to see what Posture they were in as to the Management of this Design; and this comes now particularly to the Prisoner, who was by at this Consultation, so the Witnesses do tell you. But that that comes nearer to him, is, that he did issue out Orders for the raising of Money, and that he did raise Money pursuant to those Orders, and did receive Money for that very Purpose: This is proved by three Witnesses, *Duffy*, and *Mac Legh*, who paid the Money, and by *Moyer* the last Witness, who saw him receive it from several Persons. This is positive upon him; nay, they say farther, that there was a List made of the several Men, in the several Parishes, that were able to bear Arms upon occasion, from sixteen to sixty, and there was a List of a matter of threescore thousand Men that were ready upon any Occasion to rise for the Purpose, and this List was delivered over into the Hands of the Prisoner at the Bar. There is one Witness, *Duffy*, that says farther, that he saw a Letter under his Hand in *France* to the Cardinal *Bouillon*, to invite the *French King* into *Ireland*; and he did wonder that he should spend his Time and Blood in Wars against *Spain*, which was a *Roman Catholick*, and not come into *Ireland* to extirpate the Hereticks. And this Letter is confirmed by another Letter, which was seen by *Moyer*, a Copy of which is produced, which he translated from the Original in *Latin*, and the Letter was sent to *Rome* by *Neil O-Neal*, whom the Prisoner says he had no Concern for, but to give him some Recommendations.

Plunket. I gave him no Recommendations.

L. C. J. No, he says he did not give him any, nor sent any Letter by him.

Mr. Sol. Gen. Then he urged, that he went along begging by the Way; but 'tis proved he was sent by him, and sent with Letters, and that by his Brother-in-Law, who met him at *Mants*. And 'tis proved by *Moyer*, who saw the Letter opened, taking it to be but a common Letter of Recommendation, he read the Letter and took a Copy of it, and translated that Copy which Translation is enough to verify all the Matter which the Witnesses have sworn; for 'tis agreeing to what he said of Cardinal *Bouillon* in his other Letter, that it was more proper for the Catholick Princes to agree together and extirpate Heresy, than to vary amongst themselves; that now was the Time; for there were threescore thousand Men ready to rise upon such an Invasion. This is the Substance of the Letter, and this proves fully the Conspiracy this Man was engaged in, his receiving of Money, his lifting Men, and his Invitation of foreign Princes. And this is fully proved.

Mr. Serj. Maynard. And so his viewing the Ports too.

Mr. Sol. Gen. It was likewise agreed that *Carlingford* should be the Port, and 'tis like enough to be the Port, for 'tis a very large Port, that Ships of the greatest Burden may come up to the Town, and the Town itself but a weak Town. This is the Substance of the Evidence, and this is Proof enough, we think, to convict any Man of this Fact.

Mr. Serj. Jeff. My Lord, I shall trouble you but with one Word that hath been omitted. I think 'tis a Cause of great Example, and that Thing which the Prisoner seems to make his Excuse, hath been answered by a Favour and Indulgence from the Court in a very extraor-

dinary Manner. For, in as much as this Gentleman would make it a very hard Case, that he is brought out of his own Country, and hath not his Witnesses; it is very well known that by a particular Favour of the Court, which is not usual in these Cases, he had between five and six Weeks Time for Preparation for his Trial: So that truly as to what does appear, I think all the Witnesses that have been examined, are Witnesses to be credited, except you Gentlemen, of yourselves, can convict upon your own Knowledge these Persons of any Misdemeanor, which I think you cannot, much less of Perjury. But besides, the Witnesses we have produced, all which speak to the Plot in general, and four of them fix it upon the Person at the Bar; they speak particularly, and every one agrees in Circumstances, and that other that spoke mincingly, I put it upon; it is the greatest Evidence that can be. For that Person that could come before a Grand-Jury, and there be the main Witness, but when he comes here, must be scrued and pumped to discover the seventy thousand Men. And I suppose you did observe how difficult it was to know of him, whether this Person was Primate of *Ireland*, or whether it were from the Authority of the King or the Pope; a very probable Thing, that he should be such a one as the King designed to be Primate and Superintendent of *Ireland*. Further my Lord, I desire to take notice of too, that *Wyer*, the first Witness, fixes four particular Things upon the Prisoner at the Bar, which have not yet been taken notice of. First, he fixes a Discourse with another Person that was Competitor with him for this very Office, Bishop *Duffy*, and he gives the Reason why he was admitted into the Office rather than the other, because he was a Man of greater Ability to carry on the Design; and though he does not give you an account of the Design, yet the rest of the Evidence do, and make it to be the Design then carrying on. Another Thing is, he tells you of the sending one into *France*, that was to come back again in order to this Design, I think his Name was *Mac Donnel*, and then the great Tory *Flemming* and he were to come back again Colonels in the Army that was to be raised. The next Person that fixes it upon him, is *Mr. Han O-Neal*, and he gives the plainest Circumstances, That at a Time in *August* when Bishop *Tyrrel* came to the House of one *Brady* with so many Men well equipped with such and such Arms, and took the Oath of Secrecy; he himself, but not only he, but the other Priest *Mac Legh*, was present at the same Time, and took the said Oath, and he does tell you that that very Priest was sent to *Dublin* to discover it that very Time, and so he hath fixed the Person, and Time, and the Business they came about. Then *Mac Legh* comes and tells you the same Thing in every Circumstance; ay, but says the Prisoner at the Bar, and would make it to be a great Objection, How chance that they have concealed this all the while, and not discovered it to some Justice of the Peace? Why, says one, I was under your Jurisdiction in that Place, that is the very Reason he gives wherefore he durst not; and, says another, I was concerned and as earnest as the Prisoner or any Body else, but going into *France*, I observed the Slavery that all the Subjects were under, under the Tyranny of that King, and apprehending that the same King was to come into *Ireland* by the Means

of these Gentlemen, I was concerned at it, and had rather the Devil should reign over us than such an one, and therefore I will discover it. And he said very well, I think, that he had rather have the Devil to reign; for it seems to be him, or one in his Shape that reigns after that Manner. And there are two Persons that swear to the very Year that they were obliged to raise the Money, and swear positively, they saw his Orders, *Sub pœna suspensionis*, I do not know whether they meant hanged or suspended from their Office. But it seems it was so terrible, that it made them pay twenty Shillings a-piece for three Years successively. And there is another Gentleman that tells you, that out of a small Living, wherein he was concerned only as Curate to a third Person, it had been paid two or three Times, and another, though he was exempt himself from the Payment, yet so great a Confident was he of the Prisoner's at the Bar, that he was present when he saw thirty or forty pay this Tax, and whereas the Prisoner at the Bar would make it thought a strange Thing, that he should raise so much Money, who had but an House seven Foot high, it seems there is above that thatched House a Chappel,

Plunket. There is no Chappel.

Sir Geo. Jeff. But now, my Lord, that which substantially proves what these Witnesses say, is the Letter that is sent to *Rome* to the Secretary of the College *de propaganda Fide*, which is the last Letter that the last Gentleman speaks of, wherein he does particularly take notice, that he had taken care to raise such Monies, and view all the Ports and Places of Strength. And, my Lord, that which is a very great Circumstance to back the Evidence of the first Letter to the *French* Cardinal *Bouillon*, which was taken notice of by the first Witness, and there is such a Passage in this too, that the Catholick Princes should not spill one another's Blood, when they might better employ it here in *Ireland* for the Propagation of the Faith; this last Letter takes particular Notice of this very Instance too, that instead of drawing their Swords against one another, they had better come to promote the Catholick Faith in *Ireland*. These four Witnesses are punctual and precise in every particular Circumstance of the Case, and against them there is nothing but the common Objection; If I had such Records, and Witnesses here, I could make my Defence, that is, if he had those Things that he has not, he might appear to be another Man than he is; but I am sure, as it appears upon the Evidence that hath been given by all the Witnesses, there is a plain Proof, and a full Proof of every Treason laid to his Charge.

Plunket. My Lord, I desire these Witnesses may be called [*giving in a Paper.*]

Cryer. *David Fitz-Gerard, Eustace Commines, and Paul Gormar.*

L. C. J. Who gave him this Paper? He had it not before.

Stranger. I was told that these were good Evidences for *Dr. Plunket*, and I gave him the Names.

L. C. J. Where are they?

Stranger. They are hard by.

Mr. Att. Gen. Where is *Eustace Commines*? For he was one that gave in Evidence against the Prisoner.

Then *Paul Gormar* appeared.

L. C. J. What would you ask him?

Plunket. I desire to know of him, whether Mr.

Moyer did allure and intice him to swear against me?

Gormar. Indeed my Lord he never did.

L. C. J. Will you ask him any more?

Gormar. But this, my Lord, Mr. *Moyer* and I were in Discourse, and he said if there was Law to be had in *Ireland*, he would shew Mr. *Plunket* his Share in it.

L. C. J. Well, what of that?

Gormar. My Lord, I did come out of *Ireland* to reveal what Plots the *Irish* had against the King, and as for this Mr. *Plunket*, as I have a Soul to save, I never heard of any Misdemeanor of him.

Mr. J. Dolben. How came you here to Day?

Gormar. I was summoned.

Mr. Just. Dolben. By whom? Was it the Attorney General or *Plunket* that summoned you?

Gormar. Here is the Summons.

Mr. Serj. Jefferies. It is a common *Subpœna*.

Plunket. I never sent for him.

Gormar. It was not against you, they knew I had nothing against you, I thought you did more good in *Ireland* than hurt; so I declare it.

L. C. J. Have you any more Witnesses? If *Fitz-Gerard* or *Commynes* will come, we will hear them.

Plunket. My Lord, I have not any more Witnesses.

L. C. J. Look you, Gentlemen of the Jury, This Gentleman here, Mr. *Plunket*, is indicted of High-Treason, and 'tis for conspiring the King's Death, and endeavouring to bring the *French* Army into *Ireland* for to invade that Kingdom, and to plant the *Romish* Religion in that Kingdom. You have had evidence against him that hath been fully examined. And these Things do seem to be very plain by the Witnesses, That he himself hath taken a Commission, or a Grant, or what you will please to call it, from the Pope to be Primate of *Ireland*, that he hath taken upon him to make Laws as the Provincial, and that he hath undertaken and endeavoured to settle the popish Religion in that Kingdom, and in order to that, he hath invited the Aid of the *French* Army, and that he hath for the better landing of them, looked out what Places were most convenient for them; That he hath set a Tax upon the Clergy within his Province for the facilitating of all this, and for the making Preparations for the Entertainment of this Army. This the Witnesses testify against him, and that there were some Towns, as *Dungannon* and another Town, that were to be betrayed to the *French*. Now you must consider concerning these Witnesses: If you believe the Evidence that hath been given, and which hath been repeated by the King's Council, and if you believe that he did design to bring in a *French* Army, to establish the *Romish* Religion there again, and that he took him upon to raise Money for that Purpose, surveyed the Ports, and made such Provisions, as the Witnesses speak of, and was in that Conspiracy; you must find him Guilty. I leave it to you, it is a pretty strong Evidence, he does not say any thing to it, but that his Witnesses are not come over.

Plunket. I can say nothing to it, but give my own Protestation, that there is not one Word of this said against me is true, but all plain Romance, I never had any Communication with any *French* Minister, Cardinal, nor other.

Then the Jury withdrew for a Quarter of an Hour, and being returned, gave this Verdict.

Cl. of Cr. Oliver Plunket, hold up thy Hand. How say you, is he guilty of the High-Treason whereof he stands indicted, or not Guilty?

Foreman. Guilty.

Plunket. Deo gratia, God be thanked.

Then the Verdict was recorded, and the Court rose. And the Keeper went away with his Prisoner.

On Wednesday, 15 Junii, 1681, Oliver Plunket was brought to the Bar to receive his Judgment.

Mr. Att. Gen. My Lord, I pray your Judgment against the Prisoner Oliver Plunket.

Cl. of Cr. Oliver Plunket, hold up thy Hand; Thou hast been indicted of High-Treason, thou hast been thereupon arraigned, thou hast thereunto pleaded not Guilty, and for thy Trial hast put thyself upon God and the Country, which Country hath found thee Guilty; what hast thou to say for thyself, why Judgment of Death should not pass upon thee, and Execution be thereupon awarded according to the Law.

*Plunket. My Lord, may it please your Lordship, I have something to say, which if your Lordship will consider seriously, may occasion the Court's Commiseration and Mercy. I have, my Lord, for this Fact been arraigned in *Ireland*, and brought to my Trial there. At the Day of my Trial all the Witnesses voluntarily absented themselves, seeing I had Records and Witnesses to convince them evidently, and shew what Men they were, and the preperfed Malice that they did bear to me, and so finding that I could clear myself evidently, they absented themselves, on the Day of my Trial no Christian appeared, but hither over they came, and procured that I should be brought hither, where I could not have a Jury that knew the Qualities of my Adversaries, or who knew me, or the Circumstances of the Places, Times, and Persons; the Juries here, as I say, were altogether Strangers to these Affairs, and so, my Lord, they could not know many Things that conduce to a fair Trial, and it was morally impossible they should know it. I have been accused principally and chiefly for surveying the Ports, for fixing upon *Carlingford* for the landing of the *French*, for the having of seventy thousand Men ready to join with the *French*, for collecting Money for the Agents in this Matter, for assisting of the *French* and this great *Utopian* Army. A Jury in *Ireland* consisting of Men that lived in that Country, or any Man in the World that hath but seen *Ireland* in a Map, would easily see there was no Probability that that should be a Place fit for the *French* to land in, though he never was in *Ireland*, yet by the Map, he would see they must come between the narrow Seas, all along to *Ulster*, and the Rocks, and such Places would make it very dangerous; and by their own Confession it was a poor Town, and of no Strength, a very small Garrison, which had not been so, if it had been a Place of any Consideration. And where I had Influence only upon one Province, as is well known, though I had the Title of Primate of all *Ireland*, as the Archbishop of *Canterbury* hath of all *England*; yet the Archbishop of *York* did not permit him to meddle with his Province; and 'tis well known by the Gentry there, and those that are accustomed to the Place, That in all the Province of *Ulster*, take Men, Women, and Children of the *Roman* Catholicks, they could not*

make up seventy Thousand. This, a Jury there, my Lord, had known very well, and therefore the Laws of *England*, which are very favourable to the Prisoner, have provided that there should be a Jury of the Place where the Fact was Committed, as Sir *Thomas Gascoigne*, as I have heard, had a *Forkshire* Jury, though he was tried at *London*. And then after my coming here, I was kept close Prisoner for six Months, not any Christian was permitted to come to me, nor did I know any Thing, how Things stood in the World. I was brought here the third of *May*, to be arraigned, and I did petition your Lordship to have some Time for my Trial, and I would have it put off till *Michaelmas*, but your Lordships did not think fit to grant so long, but only till the eighth of this Month, when my Witnesses who were ready at the Sea-side, would not come over without Passes, and I could not get over the Records without an Order from hence; which Records would have shewn that some of the Witnesses were Indicted and found Guilty of high Crimes, some were imprisoned for Robberies, and some of the Witnesses were infamous People; so I petitioned the eighth of this Month, that I might have Time but for twelve Days more; but your Lordship thought, when the Motion was made, that it was only to put off my Trial, and now my Witnesses are come to *Coventry* Yesterday Morning, and they will be here in a few Days, and so for want of Time to defend myself in, I was exposed to my Adversaries, who were some of my own Clergy, whom for their debauched Lives I have corrected, as is well known there. I will not deny myself, but that as long as there was any Toleration and Connivance, I did execute the Function of a Bishop, and that by the second of *Elizabeth* is only a *Premunire*, and no Treason. So that, my Lord, I was exposed Defenceless to my Enemies, whereas now my Witnesses are come on, that could make all appear. I did beg for twelve Days Time, whereby you might have seen as plain as the Sun, what those Witnesses are, that began the Story, and say these Things against me. And, my Lord, for those Depositions of the seventy thousand Men, and the Monies that are collected of the Clergy in *Ireland*, they cannot be true; for they are a poor Clergy that have no Revenue nor Land; They live as the *Presbyterians* do here, there is not a Priest in all *Ireland*, that hath certainly or uncertainly above three score Pounds a Year, and that I should collect of them forty Shillings a piece, for the raising of an Army, or for the landing of the *French* at *Carlingford*; if it had been brought before a Jury in *Ireland*, it would have been thought a meer Romance. If they had accused me of a *Premunire* for the exercise of my Episcopal Function, perhaps they had said something that might have been believed; but, my Lord, as I am a dying Man, and hope for Salvation by my Lord and Saviour, I am not guilty of one Point of Treason they have sworn against me, no more than the Child that was born but Yesterday. I have an Attestation under my Lord of *Essex's* Hand concerning my good Behaviour in *Ireland*, and not only from him, but from my Lord *Berkley*, who was also Governor there, which the King's Attorney saw; but here I was brought, here I was tried, and not having Time to bring my Witnesses, I could not prove my Innocency, as otherwise

I might.

I might. So that if there be any Case in the World that deserves Compassion, surely my Case does: And 'tis such a rare Case, as I believe you will not find two of them in Print, that one arraigned in *Ireland*, should be tried here afterwards for the same Fact. My Lord, if there be any Thing in the World that deserves Pity, this does; for I can say, as I hope for Mercy, I was never Guilty of any one Point they have sworn against me, and if my Petition for Time had been granted, I could have shewn how all was premeditated Malice against me, and have produced all Circumstances that could make out the Innocency of a Person. But not having had Time enough, and being tried, I am at your Mercy.

L. C. J. Well, you have nothing further to say in Bar of Judgment, you have said all you can?

Plunket. I have nothing further to say, but what I have said.

Then Proclamation was made for Silence, while Judgment was passing upon the Prisoner.

L. C. J. Look, you, Mr. Plunket, you have been here indicted of a very great and heinous Crime, the greatest and most heinous of all Crimes, and that is, High-Treason; and truly yours is Treason of the highest Nature, 'tis a Treason in truth against God and your King, and the Country where you lived. You have done as much as you could to dishonour God in this Case; for the Bottom of your Treason was, your setting up your false Religion, than which there is not any Thing more displeasing to God, or more pernicious to Mankind in the World. A Religion that is ten Times worse than all the Heathenish Superstitions; the most dishonourable and derogatory to God and his Glory, of all Religions or pretended Religions whatsoever, for it undertakes to dispense with God's Laws, and to pardon the Breach of them. So that certainly a greater Crime there cannot be committed against God, than for a Man to endeavour the Propagation of that Religion; but you to effect this, have designed the Death of our lawful Prince and King: And then your design of Blood in the Kingdom where you lived, to set all together by the Ears, to destroy poor innocent People, to prostitute their Lives and Liberties, and all that is dear to them, to the Tyranny of *Rome* and *France*; and that by introducing a *French* Army. What greater Evil can be designed by any Man? I mention these Things because they have all been fully proved against you; and that you may take Notice, and repent of them, and make your Peace with God, by a particular Application for Mercy for all these Faults; for it seems to me, that against God, your Prince, and Fellow Subjects, you have behaved yourself very ill, designing very great Evil to all these; and now it hath pleased God to bring you to Judgment.

I must tell you, peradventure, what you urge for yourself might introduce Pity, if it were to be believed; that is, that you are innocent, and had Witnesses to prove it; but we cannot suppose any Man innocent, that hath had a legal and fair Trial, and a Trial with as much Candor to you, as your Case could bear, or as perhaps any Man in such a Case ever had. You had Time upon your Request to send for your Witnesses, to help you in your Defence, and to

have proved your Innocence, if you could have done it; Time long enough to your own Content, you yourself thought it so, at the Time it was given. To give a Prisoner under your Circumstances, five or six Weeks Time to send for Witnesses, is not usual; we could have put you upon a present Defence, and hurried you out of the World by a sudden Trial, if we had had any Design against you; but we go on in a fair Way, and with legal Proceedings, and with as much Respect to you, as in such a Case could be used, for we gave you all the fair Hearing and Liberty that you desired to have.

Look you, as to what you urge, that your Trial was in this Kingdom, whereas your Offence was in another, that is a Thing that does not become you by any Means to object; for you have had a Trial here by honest Persons, and that according to the Laws which obtain in this Kingdom, and that too of *Ireland*, which is by a Statute not made on Purpose to bring you into a Snare, but an ancient Statute, and not without Precedents of its having been put in Execution before your Time: For your own Country will afford you several Precedents in this Case, as *O'Rourke*, and several others that have been arraigned and condemned for Treason done there. So that you have no Reason to except against the Legality of your Trial. You say, now you have Witnesses that could prove all this Matter; why that lies in the Mouth of any Man that is condemned to say; but pray consider with yourself, what regard ought to be given to this. We cannot help it, if your Witnesses don't come; you may remember they wanted not Time nor Opportunity to come over; but you told us they would not come unless they had a Passport.

Plunket. My Lord, they got a Pass to come over afterwards, and so in eight Days they came hither.

L. C. J. You might have provided yourself, if they wanted such a Thing. In the first Place, no Body is bound to give it them, much less could you expect it for them without asking.

Plunket. I could not get the Copies of the Records neither by any Means, unless I had an Order from the Council, and they would not give that Order, unless your Lordship appointed it.

L. C. J. We cannot tell that, you should have petitioned in Time.

Plunket. How could any one foresee, unless he was God Almighty, that they would deny it, or that he could not get out a Copy of a Record, paying for it, without a Petition. All the Friends I had, told me, upon Motion there it might be had; but here I have it under the Lieutenant's and Council's Hands, that they would give no Copy of Records without Order from hence, which before I could know it, it was impossible for me to have them ready against my Trial.

L. C. J. Look you, Sir, I do speak this to you, to shew you that those Objections, which you seem to make against your Trial, have no weight at all; but in this Case it is not the Jury that are so material as the Witnesses themselves. I appeal to all that heard your Trial, if they could so much as doubt but that you were guilty of what you were charged with. For consider, here were Persons that were of your own Religion, the most of them Priests, I think almost all of them in Orders.

S f

Plunket.

Plunket. There were two Friars, and a Priest whom I have endeavoured to correct this seven Years, and they were Renegadoes from our Religion, and declared Apostates.

L. C. J. Look you, Sir, they gave an Evidence very home to your Matter; you had Liberty to examine them, and they gave you a rational Account of any Thing you asked. Let me but put you in Mind of one Thing. You made Exceptions to one's Evidence, (and indeed that was very much of your Exception to all) why he did not reveal this in all that Time: Truly he told you he was of your Mind, till he went into *France*, and saw what Slavery and Mischief you endeavoured to introduce upon his and your own Countrymen, and this his Spirit rose against, to see what a Condition *Ireland* was like to be brought into. And pray, did he not give you a full Answer to that Question?

Plunket. I had sufficient Witnesses to prove he was an Apostate, and was chastised by me, and therefore had preped Malice against me.

L. C. J. Therefore I have spoken this to the Satisfaction, I hope, of yourself, and all that hear it. I do now wish you to consider, you are near your end. It seems you have lived in a false Religion hitherto; it is not too late at any Time to repent, I wish you may have the Grace to do so: In the mean Time there is no room for us here to grant you any Kind of Mercy, though I'll tell you, we are inclined to pity all Malefactors: Whoever have done evil, we are inclined to pity them, and wish heartily that they may repent, as we do that you may, of what you have done. But all we can do now, is to say what the Law says, and that is to pass Judgment upon you.

Plunket. May it please your Lordship to give me leave to speak one Word. If I were a Man that had no care of my Conscience in this Matter, and did not think of God Almighty, or Conscience, or Heaven, or Hell, I might have saved my Life; for I was offered it by divers People here, so I would but confess my own Guilt, and accuse others. But, my Lord, I had rather die ten thousand Deaths, than wrongfully accuse any Body. And the Time will come when your Lordship will see what these Witnesses are, that have come in against me. I do assure your Lordship, if I were a Man that had not good Principles, I might easily have saved my Life; but I had rather die ten thousand Deaths, than wrongfully to take away one Farthing of any Man's Goods, one Day of his Liberty, or one Minute of his Life.

L. C. J. I am sorry to see you persist in the Principles of that Religion.

Plunket. They are those Principles, that even God Almighty cannot dispense withal.

L. C. J. Well, however, the Judgment which we give you is that which the Law says, and speaks. *And therefore you must go from hence to the Place from whence you came, that is, to Newgate, and from thence you shall be drawn through the City of London to Tyburn; there you shall be hanged by the Neck, but cut down before you are Dead, your Bowels shall be taken out and burnt before your Face, your Head shall be cut off, and your Body be divided into four Quarters, to be disposed of as his Majesty pleases. And I pray God to have Mercy upon your Soul.*

Plunket. My Lord, I hope I may have this Favour, of leave, for a Servant, and some few

Friends that I have, to come at me.

L. C. J. I think you may have Liberty for any Servant to come to you, I know nothing to the contrary.

Plunket. And some few Friends that I have in Town.

L. C. J. But I would advise you to have some Minister to come to you, some Protestant Minister.

Plunket. My Lord, if you please, there are some in Prison, that never were indicted or accused of any Crime, and they will do my Business very well; for they will do it according to the Rites of our own Church, which is the ancient Usage, they cannot do better, and I would not alter it now.

L. C. J. Mr. *Richardson*, you may let his Servant come to him, and any Friend in your Presence, to see there be no Evil done, nor any Contrivances that may hereafter have an Influence upon Affairs.

Mr. *Just. Jones.* Be you present, or somebody.

Plunket. My Servant, I hope may come, without his being present.

L. C. J. Yes, yes, his Servant may be with him alone. Well, Sir, we wish better to you than you do to yourself.

Plunket. God Almighty bless your Lordship. And now, my Lord, as I am a dead Man to this World, and as I hope for Mercy in the other World, I was never guilty of any of the Treasons laid to my Charge, as you will hear in Time; and my Character you may receive from my Lord Chancellor of *Ireland*, my Lord *Berkley*, my Lord *Essex*, and the Duke of *Ormonde*.

Then the Keeper took away his Prisoner, and upon Friday the first of July, he was executed according to the Sentence.

At the Place of Execution he spake as follows.

I HAVE some few Days past abided my Trial at the *King's-Bench*, and now very soon I must hold up my Hand at the King of *King's-Bench*, and appear before a Judge that cannot be deceived by false Witnesses, or corrupted Allegations; for he knoweth the Secrets of Hearts; neither can he deceive any, or give an unjust Sentence, or misled by respect of Persons; He being all Goodness, and a most just Judge, will infallibly decree an eternal Reward for all good Works, and condign Punishment for the smallest Transgression against his Commandments. Which being a most certain and undoubted Truth, it would be a wicked Act, and contrary to my perpetual Welfare, that I should now, by declaring any Thing contrary to Truth, commit a detestable Sin, for which, within a very short Time, I must receive Sentence of everlasting Damnation; after which there is no Reprieve or Hope of Pardon. I will therefore confess the Truth, without any Equivocation, and make use of the Words according to their accustomed Signification; assuring you moreover, that I am of that certain Persuasion, that no Power, not only upon Earth, but also in Heaven, can dispense with me, or give me Leave to make a false Protestation: And I protest upon the Word of a dying Man, and as I hope for Salvation at the Hands of the supreme Judge, that I will declare the naked Truth with all Candour and Sincerity: And that my Affairs may be the better known to all the World.

'Tis to be observed, that I have been accused in *Ireland* of Treason and *Præmunire*, and that there

there I was arraigned and brought to my Trial; but the Prosecutors (Men of flagitious and infamous Lives) perceiving that I had Records and Witnesses who would evidently convince them, and clearly shew my Innocency and their Wickedness, they voluntarily absented themselves, and came to this City, to procure that I should be brought hither to my Trial (where the Crimes objected were not committed) where the Jury did not know me, or the Qualities of my Accusers, and were not informed of several other Circumstances conducing to a fair Trial. Here, after six Months close Imprisonment (or thereabouts) I was brought to the Bar the third of May, and arraigned for a Crime, for which I was before arraigned in *Ireland*: A strange Resolution, a rare Fact, of which you will hardly find a Precedent these five hundred Years past: But whereas my Witnesses and Records were in *Ireland*, the Lord Chief Justice gave me five Weeks Time to get them brought hither: But by reason of the Uncertainty of the Seas, of Wind and Weather, and of the Difficulty of getting Copies of Records, and bringing many Witnesses from several Counties in *Ireland*, and for many other Impediments (of which *Affidavit* was made) I could not at the end of the five Weeks get the Records and Witnesses brought hither; I therefore begg'd for twelve Days more, that I might be in a Readiness for my Trial, which my Lord Chief Justice denied; and so I was brought to my Trial, and expos'd, as it were with my Hands tied, to those merciless Perjurors, who did aim at my Life, by accusing me of these following Points.

First, That I have sent Letters by one *Nial O-Neal* (who was my Page) to Monsieur *Baldeschi*, the Pope's Secretary; to the Bishop of *Aix*, and to *Principe Colonna*, that they might solicit foreign Powers to invade *Ireland*; and also to have sent Letters to Cardinal *Bouillon* to the same Effect.

Secondly, To have employed Captain *Con O-Neal* to the *French* King for Succour.

Thirdly, To have levied and exacted Monies from the Clergy of *Ireland*, to bring in the *French*, and to maintain seventy thousand Men.

Fourthly, To have had in a Readiness seventy thousand Men, and Lists made of them, and to have given Directions to one Frier *Duffy* to make a List of 250 Men in the Parish of *Fogbart*, in the County of *Lowth*.

Fifthly, To have surveyed all the Forts and Harbours in *Ireland*, and to have fixed upon *Carlingford* as a fit Harbour for the *French's* landing.

Sixthly, To have had several Councils and Meetings, where there was Money allotted for introducing the *French*.

Finally, That a Meeting in the County of *Monaghan*, some 10 or 12 Years past, where there were 300 Gentlemen of three several Counties, to wit, *Monaghan*, *Cavan*, and *Armagh*; whom I did exhort to take Arms to recover their Estates.

To the *First* I answer, That *Niel O-Neal* was never my Servant or Page, and that I never sent Letter or Letters by him to Monsieur *Baldeschi*, or the Bishop of *Aix*, or to *Principe Colonna*. And I say, that the *English* Translation of that pretended Letter produced by the Frier *Macmoyer*, is a mere Invention of his; and never penned by me, or its Original, either in *English*, *Latin*, *Italian*, or any other Language. I affirm, moreover, that I never wrote Letter or Letters to Cardinal *Bouillon*, or any of the *French* King's Ministers; nei-

ther did any who was in that Court either speak to me, or write to me, directly or indirectly, of any Plot or Conspiracy against my King or Country. Farther, I vow that I never sent Agent or Agents to *Rome*, or to any other Court, about any civil or temporal Affairs: And 'tis well known, (for it is a Precept publickly printed) that Clergymen (living in Countries where the Government is not of *Roman* Catholicks) are commanded by *Rome*, not to write to *Rome*, concerning any civil or temporal Affairs. And I do aver, that I never received Letter or Letters from the Pope; or from any other of his Ministers, making the least mention of any such Matters: So that the Friers *Macmoyer* and *Duffy* swore most falsely, as to such Letter or Letters, Agent or Agents.

To the *Second* I say, That I never employed Capt. *Con O-Neal* to the *French* King, or to any of his Ministers; and that I never wrote to him, or received Letters from him; and that I never saw him but once, nor ever spoke to him, to the best of my Remembrance, ten Words: And as for his being in *Charlemount*, or *Dungannon*, I never saw him in those Towns, or knew of his being in those Places; so that as to *Con O-Neal*, Frier *Macmoyer's* Depositions are most false.

To the *Third* I say, that I never levied any Money for a Plot or Conspiracy, for bringing in *Spaniards* or *French*, neither did I ever receive any upon that Account, from Priests or Friers, as Priest *Mac-Clave*, and Frier *Duffy* most untruly asserted. I assure you, that I never received from any Clergyman in *Ireland*, but what was due to me by ancient Custom for my Maintenance; and what my Predecessors these hundred Years past were wont to receive; nay, I received less than many of them. And if all what the Catholick Clergy of *Ireland* get in the Year, were put in one Purse, it would signify little or nothing to introduce the *French*, or to raise an Army of seventy thousand Men, which I had enlisted, and ready, as Frier *Macmoyer* most falsely deposed; neither is it less untrue what Frier *Duffy* attested, *viz.* That I directed him to make a List of 250 Men in the Parish of *Fogbart*, in the County of *Lowth*.

To the *Fifth* I answer, That I never surveyed all the Forts or Harbours of *Ireland*, and that I was never at *Cork*, *Kingsale*, *Bantry*, *Youghal*, *Dungarvan*, or *Knockfergus*; and these 36 Years past I was not at *Limerick*, *Dungannon*, or *Wexford*. As for *Carlingford*, I never was in it but once, and staid not in it above half an Hour; neither did I consider the Fort or Haven; neither had I it in my Thoughts or Imagination, to fix upon it, or upon any other Fort or Haven, for landing of *French* or *Spaniards*; and whilst I was at *Carlingford*, (by mere Chance, passing that Way) Frier *Duffy* was not in my Company, as he most falsely swore.

To the *Sixth* I say, That I was never at any Meeting or Council, where there was mention made of allotting or collecting of Monies for a Plot or Conspiracy; and 'tis well known, that the Catholick Clergy of *Ireland*, who have neither Lands nor Revenues, and hardly are able to keep decent Clothes upon their Backs, and Life and Soul together, can raise no considerable Sum; nay, cannot spare as much as would maintain half a Regiment.

To the *Seventh*, I answer, that I was never at any Meeting of three hundred Gentlemen in the County of *Monaghan*, or any Gentlemen of the three Counties of *Monaghan*, *Armagh*, and *Cavan*,

nor of one County, nor of one Barony; and that I never exhorted a Gentleman, or Gentlemen, either there, or in any other Part of *Ireland*, to take Arms for the recovering their Estates; and 'tis well known that there are not even in all the Province of *Ulster* three hundred *Irish Roman Catholics*, who had estates, or lost Estates by the late Rebellion; and, as it is well known, all my Thoughts and Endeavours were for the Quiet of my Country, and especially of that Province.

Now to be brief, As I hope for Salvation, I never sent Letter or Letters, Agent or Agents, to Pope, King, Prince, or *Prelate*, concerning any Plot or Conspiracy against my King or Country: I never raised Sum or Sums of Money, great or small, to maintain Soldier or Soldiers, all the Days of my Life; I never knew or heard, (neither did it come to my Thoughts or Imagination) that the *French* were to land at *Carlingford*; and I believe there is none who saw *Ireland* even in a Map, but will think it a mere Romance; I never knew of any Plotters or Conspirators in *Ireland*, but such as were notorious and proclaimed (commonly called *Tories*) whom I did endeavour to suppress. And as I hope for Salvation, I always have been, and am entirely innocent of the Treasons laid to my Charge, and of any other whatsoever.

And though I be not guilty of the Crimes of which I am accused, yet I believe none came ever to this Place who is in such a Condition as I am; for if I should even acknowledge, (which in Conscience I cannot do, because I should bely myself) the chief Crimes laid to my Charge, no wise Man that knows *Ireland* would believe me. If I should confess that I was able to raise seventy thousand Men in the Districts of which I had Care, to wit, in *Ulster*; nay, even in all *Ireland*, and to have levied and exacted Monies from the *Roman Clergy* for their Maintenance, and to have prepared *Carlingford* for the *French's* landing, all would but laugh at me; it being well known, that all the Revenues of *Ireland*, both Spiritual and Temporal, possessed by his Majesty's Subjects, are scarce able to raise and maintain an Army of seventy thousand Men. If I will deny all those Crimes, (as I did, and do) yet it may be that some, who are not acquainted with the Affairs of *Ireland*, will not believe that my Denial is grounded upon Truth, though I assert it with my last Breath. I dare venture further, and affirm, That if these Points of seventy thousand Men, &c. had been sworn before any Protestant Jury in *Ireland*, and had been even acknowledged by me at the Bar, they would not believe me, no more than if it had been deposed and confessed by me, That I had flown in the Air from *Dublin* to *Holy-Head*.

You see therefore what a Condition I am in, and you have heard what Protestation I have made of Innocency, and I hope you will believe the Words of a dying Man; and that you may be the more induced to give me Credit, I assure you, That a great Peer sent me Notice that he would save my Life, if I would accuse others: But I answered, That I never knew of any Conspirators in *Ireland*, but such, (as I said before) as were publickly known Outlaws; and that, to save my Life, I would not falsely accuse any, nor prejudice my own Soul. *Quid prodest homini, &c.* To take away any Man's Life or Goods wrongfully, ill becometh any Christian, especially a Man of my

Calling, being a Clergyman of the *Catholick Church*, and also an unworthy *Prelate*, which I do openly confess. Neither will I deny to have exercised in *Ireland* the Functions of a *Catholick Prelate*, as long as there was any Connivance or Toleration; and by preaching and teaching, and Statutes, to have endeavoured to bring the Clergy (of which I had a Care) to a due Comportment, according to their Calling; and though thereby I did but my Duty, yet some, who would not amend, had a Prejudice for me, and especially my Accusers, to whom I did endeavour to do good; I mean the Clergymen; (as for the four Lay-men, who appeared against me, *viz. Florence, Macmoyer, the two Neals, and Hanlon*, I was never acquainted with them) but you see how I am requited, and how by false Oaths they brought me to this untimely Death; which wicked Act being a Defect of Persons, ought not to reflect upon the Order of *St. Francis*, or upon the *Roman Catholick Clergy*. It being well known, that there was a *Judas* among the twelve Apostles, and a wicked Man, called *Nicholas*, among the seven Deacons; and even, as one of the said Deacons, to wit, holy *Stephen*, did pray for those who stoned him to Death; so do I, for those who with Perjuries spill my innocent Blood, saying, as *St. Stephen* did, *O Lord lay not this Sin to them*. I do heartily forgive them, and also the Judges, who (by denying me sufficient Time to bring my Records and Witnesses from *Ireland*) did expose my Life to evident Danger. I do also forgive all those who had a Hand in bringing me from *Ireland* to be tried here, where it was morally impossible for me to have a fair Trial. I do finally forgive all who did concur, directly or indirectly, to take away my Life, and I ask forgiveness of all those whom I ever offended by Thought, Word, or Deed.

I beseech the All-powerful, that his Divine Majesty grant our King, Queen, and the Duke of *York*, and all the Royal Family, Health, long Life, and all Prosperity in this World, and in the next, everlasting Felicity.

Now that I have shewed sufficiently, (as I think) how innocent I am of any Plot or Conspiracy; I would I were able, with the like Truth, to clear myself of high Crimes committed against the Divine Majesty's Commandments (often transgressed by me) for which I am sorry with all my Heart; and if I should, or could live a thousand Years, I have a firm Resolution, and a strong Purpose, by your Grace (O my God) never to offend you; and I beseech your Divine Majesty, by the Merits of Christ, and by the Intercession of his blessed Mother, and all the holy Angels and Saints, to forgive me my Sins, and to grant my Soul eternal Rest. *Miserere mei Deus, &c. Parce animæ, &c. In manus tuas, &c.*

P O S T S C R I P T.

To the final Satisfaction of all Persons, that have the Charity to believe the Words of a dying Man; I again declare before God, as I hope for Salvation, what is contained in this Paper is the plain and naked Truth, without any Equivocation, Mental Reservation, or secret Evasion whatsoever; taking the Words in their usual Sense and Meaning, as Protestants do, when they discourse with all Candour and Sincerity. To all which I have here subscribed my Hand.

Oliver Plunket.

CIV. *The Trial of Sir MILES STAPLETON, Bart. at York Assizes for High-Treason, June 18, 1681, 33 Car. II.*

SIR *Miles Stapleton*, Baronet, was indicted at the Sessions of Oyer and Terminer at the West Riding of the County of *York*, and the Indictment was removed by a Writ of *Certiorari* to the King's Bench, where Sir *Miles Stapleton* having been arraigned, and pleaded to the same Not Guilty, was sent down to be tried in the County of *York*. The Indictment was as followeth.

‘ Sir *Miles Stapleton*, late of *Carleton* in the County of *York*, Baronet, stands indicted, for that he, as a false Traitor against our illustrious and excellent Prince, King *Charles* the second, his natural Lord, not having God before his Eyes, nor weighing the Duty of his Allegiance, but by the Instigation of the Devil being moved and seduced, the cordial Love, and true, due, and natural Obedience, which true and faithful Subjects of our Lord the King should bear to him, and of right are bound to bear, wholly withdrawing, devising, and with all his Power intending to disturb the Peace and common Tranquillity of this Realm, and to bring and put our said Lord the King to Death and final Destruction, and the true Worship of God in this Kingdom by Law established and used, to alter to the Superstition of the Church of *Rome*, and to move and stir up War against our said Lord the King in this Realm, and to subvert the Government of this Kingdom, the 30th Day of *May*, in the thirty first Year of our said Lord the King's Reign, at the Parish of *Barwick* in *Elmet* in the said County of *York*, in the West-Riding of the same County, with divers other false Traitors unknown, did traiterously compass, imagine and intend, the Death and final Destruction of our said Lord the King, and to change and alter, and wholly to subvert the ancient Government of this Realm, and to depose and wholly to deprive the King of the Crown and Government of the said Kingdom, and to root out the true Protestant Religion: And to fulfil and accomplish the same most wicked Treasons, and traiterous Imaginations and Purposes, the said Sir *Miles Stapleton*, and other false Traitors unknown, on the said 30th of *May*, in the thirty first Year aforesaid, with Force and Arms, at the Parish of *Barwick* aforesaid, advisedly, devilishly, maliciously and traiterously, did assemble, unite and gather themselves together, and then did devilishly, advisedly, maliciously, craftily and traiterously, consult and agree, to bring our said Lord the King to Death and final Destruction, and to depose and deprive him of the Crown and Government, and introduce and establish the Religion of the *Romish* Church in this Realm; and the sooner to fulfil and accomplish the said most wicked Treasons and traiterous Imaginations and Purposes, the said Sir *Miles Stapleton*, and other unknown Traitors, then and there advisedly, maliciously and traiterously, did further consult and agree to contribute, pay and expend divers large Sums of Money, to divers of the King's Subjects, and other Persons unknown, to procure those Persons traiterously to kill our said Lord the King, and to introduce

‘ the *Romish* Religion into this Realm, against the Duty of his Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.’

Clerk of Assize. Hold up thy Hand, Sir *Miles*, thou hast heard the Treasons and other Misdemeanors whereof thou standest indicted: Art thou Guilty thereof, or not Guilty?

Sir *Miles*. Not Guilty.

Clerk of Assize. How wilt thou be tried?

Sir *Miles*. By God and my Country.

Cl. of Assize. Culprit, God send thee a good Deliverance.

Clerk of Assize. Sir *Miles*, this understand you, that these Gentlemen that are now to be sworn, are returned by the Sheriff of this County, to pass between our Sovereign Lord the King and you for your Life; therefore if you will challenge any of them, you are to challenge them as they come to be sworn, and before they be sworn.

The Jury being called, Mr. Justice *Dolben* took Notice to Sir *Miles*, that there were but few appeared, and therefore told him, he would do well not to challenge too many of them. Sir *Miles* thereupon said, he should not challenge many; and enquired whether those that served on the Lady *Tempest's*, Mr. *Thwing's* and Mr. *Ingleby's* Juries did now appear; and the Judge answered him, that if they did, Care should be taken that they should not be sworn.

Then the Jury being called to the Book, Sir *Miles* challenged these, viz.

Sir <i>David Fowles</i> , Bar.		<i>Robert Bell</i> , Gent.
<i>John Estoft</i> , Esq;		<i>John Dixon</i> , Gent.
<i>William Bethel</i> , Esq;		<i>Thomas Wood</i> , Gent.
<i>William Caley</i> , Esq;		<i>Robert Turner</i> , Gent.
<i>Towers Drissefeld</i> , Esq;		<i>John Beckwith</i> , Gent.
<i>Marm. Trueman</i> , Esq;		<i>Simon Warrenner</i> , Gent.
<i>John Wright</i> , Esq;		<i>Gervaise Hatfeild</i> , Gent.
<i>John Green</i> , Esq;		<i>John Coats</i> , Gent.

And only two of the { *Tho. Fletcher*, } were sworn.
Jury returned, viz. { *Rob. Gudgeon*, }

Mr. Just. *Dolben*. Sir *Miles*, I see you must stay till the next Assizes, for you challenge so many, here will not be a Jury gotten.

Sir *Miles*. If your Lordship please, I shall be content, and do desire the Jury may be called that served the first Day; nay, all the three Juries, if you please.

Mr. Just. *Dolben*. That is, you would chuse all of one Way, and leave the others; where is the Indifferency of the Trial then; but come call them, I cannot deny it.

The three Juries called, and five challenged, viz.

<i>Tho. Worfeley</i> , Esq;		<i>Roger Stretwel</i> , Gent.
<i>Samuel Tennant</i> , Gent.		<i>Roger Lee</i> , Esq;
<i>Robert Busbel</i> , Gent.		

And these sworn, viz.

Sir <i>Tho. Pennyman</i> , Bar.		<i>Christopher Tankard</i> ,
<i>Thomas Rokely</i> , Esq;		Esq; who was excepted
<i>William Stone</i> ,		against by Sir <i>Thomas</i>
<i>Thomas Conyers</i> ,		<i>Stringer</i> , as one that

disparaged the Evidence of the Plot, and called his Dogs by the Names of *Oates* and *Bedloe*; which

the Judges allowed to be a good Exception; but there being no Witness in the Court to prove it, he was sworn.

Mr. Just. *Dolben*. Sir Miles, you must stay till the next Assizes, we have not a full Jury.

Sir Miles. Here are Gentlemen in the Court, your Lordship may take whom you please.

Mr. Just. *Dolben*. I cannot do it without the King's Council move for a *Tales*, which as this Case stands they will not do.

And so he was remanded to Prison, and *Remanet pro defectu Juratorum* until the 18th Day of July 1681.

And at the Assizes then holden for the County of *York*, before Mr. Just. *Dolben*, and Mr. Baron *Gregory*, was proceeded against as followeth.

Clerk of Assize. Sir Miles Stapleton, hold up thy Hand; thou standest indicted by the Name of Miles Stapleton, late of *Carleton* in the County of *York*, Bar. &c. *prout* in the Indictment.

After not Guilty pleaded to the Indictment, and other Formalities of the Court, as before, these Gentlemen following were called.

Sir Thomas Maleverer, Kt. Challenged by the King's Council.

Sir Roger Beckwith, Kt. Challenged by the King's Council.

Sir Miles. Are any challenged?

Mr. Just. *Dolben*. Yes, there are two challenged for the King.

Sir Miles. I hope they must shew cause why they challenge them.

Mr. Just. *Dolben*. Yes, they shall, but they are not bound to shew Cause before the Pannel be gone through, and then, if you desire it, they will shew Cause; but I suppose Sir Thomas Maleverer married a Kinswoman of yours, and if so, 'tis a good Exception.

Sir Miles. I desire it may be proved.

Richard Audbrough, Esq; Challenged by the King.

John Dodsworth, Esq;	} } Challenged by Sir Miles.
Isaac Fairfax, Esq;	
Christopher Bradshaw, Esq;	

These following were called and sworn, *viz.*

Sir Barrington Boucher, Kt.	Anthony Frankland, Esq;
Sir John Jennings, Kt.	John Addams, Esq;
Richard Hutton, Esq;	Francis Battery, Esq;
Wellbrough Norton, Esq;	Francis Fuldgam, Esq;
Tobias Hodson, Esq;	Humphrey Brook, Esq;
John Beverly, Esq;	Thomas Lee, Esq;

Cryer. Twelve good Men and true, stand together and hear your Evidence.

Clerk of Assize. Sir Miles Stapleton, hold up your Hand (which he did.) Gentlemen, you of the Jury that are Sworn, look upon the Prisoner, and hearken to his Charge; you shall understand that he stands indicted by the Name of Sir Miles, &c. *prout* in the Indictment; upon this Indictment he hath been arraigned, and thereupon pleaded Not Guilty, and for his Trial hath put himself upon his Countty, which Country you are, &c.

Then Proclamation was made for Evidence, and Sir Thomas Stringer, one of the King's Council aggravated the Indictment as followeth.

Sir Miles Stapleton. I desire, my Lord, the King's Evidence may be put apart, not to hear what each other swears.

Mr. Just. *Dolb*. No, no, Sir Miles, that must not

be, would you have the same for your Witnesses?

Sir Thomas Stringer. May it please your Lordship, and you Gentlemen of the Jury; Sir Miles, the Prisoner at the Bar, stands here indicted of the greatest and blackest Treasons that can be invented by the worst of Men; he stands here indicted for endeavouring to depose the King from his Crown and Dignity; and imagining and compassing the Death of the King, to alter the established Government, and root out the true Protestant Religion, and to establish the *Romish* Religion among us. Gentlemen, to compass these wicked Designs we shall prove there hath been several Consults where the Prisoner at the Bar hath been, and where he hath contributed Money to carry on these wicked Designs: And Gentlemen, I must acquaint you, there hath been a horrid Plot against the King and Government, and I need not do it, for it hath been made notoriously known; not only Parliaments have declared it so, but there have been Noblemen, Gentlemen, and Priests, nay, some Men have been found guilty for carrying on the horrid Design, and have received their Deserts. This Plot, Gentlemen, is no new Plot, not a Plot of a Day, nor of an Age; but a Plot that hath been carried on for an hundred Years. My Lord, since we were delivered by God's Mercy from the Popish Religion by the Reformation; ever since that Time, the Pope, the Jesuits, the Priests and those of the Popish Persuasion, have, my Lord, been from Time to Time, and ever since, endeavouring to carry on this wicked Design, and had destroyed us long since, if we had not been by God Almighty, from Time to Time, delivered from their Power. And you, Gentlemen, of the Jury, I must tell you, this Plot was carried on in Queen Elizabeth's Time; and as they did in this Plot carry on their Designs, with the King of Spain, at *Valadlid* in Spain. The King of Spain, he join'd with the Popish Party here; but it pleased the Lord to take the Queen to his Mercy, before the Plot was effected. And I must tell you, the same Men of the same Quality that carried it on then, have now endeavoured to carry it on in these Days. My Lords, the King of Spain, though he was a Papist, yet it was so horrid a Thing, that he left them to carry on their wicked Design, and God Almighty did preserve the Queen. My Lords, they rested not here; but in King James his Time they designed to have destroyed both King and Parliament at one Blow, and thereby the whole Nation in it's Representatives, and this they managed by *Guy Vaux* and others. And all King Charles his Time the same Plot was on Foot, and pray how far did they bring it? they brought it to the Death of that Gracious King, and the sad Effects of a Civil War; and they have brought it in these Days, to raise Officers, Generals, Major Generals, and other Officers, and proceeded so far that actual Commission was delivered for destroying our King, and if this had not been by God's Mercy prevented, what would have been the evil Effects thereof, e're this Day? And, Gentlemen, I must tell you, that which is now before you is the greatest, and most wicked Design that ever was before Men; and though you be of the Relations and Kindred, yet I know if you have but Conscience and Right in you, you will give a Verdict according to the Justness of the thing, and the Evidence you shall have.

Sir John Otteith. We call Mr. Smith first, who will give you an Account of the Plot in general.

Mr.

Mr. John Smith called, and sworn.

Mr. Just. *Dolben.* Mr. *Smith*, pray tell the Court what you know of the Plot.

Mr. *Smith.* I must speak of it then what I have done beyond Sea, my Lord.

My Lords, I remember when I had been first beyond Sea, I became acquainted with one *Abbot Montagu* and Mr. *Thomas Car*, at *Paris*, and they told me then, if I came to the *Romish* Religion what Preferment I should have here in *England*; they told me what Friends they made in *England*, they named several Persons about the Court, and several Gentry in *England* which I did not then know to be Papists. I staid some Time among them in *Paris*, and all this while I did not pervert to the *Romish* Religion; though they told me how many Jesuits they had sent over into *England*. After I left *France*, I was for going for *Rome*, where I met with Father *Anderton*, Rector of the *English* College, and Father *Southwel*, and Father *Campion*, who introduced me into the Acquaintance of Cardinal *Grimaldi*, which is an *Italian* Name, but he is Archbishop of that Place; I happening there, they carried me to speak to the Cardinal, and he told me what Likelihood there was for introducing the *Romish* Religion into *England*, and he told me, he would prefer me very well there, if I would turn to their Religion; and gave me Letters to several Friends in *Italy*: At last I was perverted to the *Romish* Religion, by virtue of this Cardinal; and this Gentleman at last asked me if I had a mind to staid, I told him, yes, so I came into an *Italian* College, and became acquainted with all the secular Priests, both *English*, *Scotch* and *French*; who told me what Interest they had made in *England*, during the coming in of Cardinal *Norfolk*, and said, there was but one Man in the Way, meaning the King, and said they should soon remove him.

Mr. Just. *Dolben.* Did they mean the King?

Mr. *Smith.* Yes, my Lord, they said there was but one Man in the Way, and that they would soon make an end of him, and that they had Men ready in *England* for it. After this, my Lord, I left this *Italian* College, and came to the *English* College (for I had a Mind to come there) and I made Friends with the Jesuits: After I came to the *English* College, my Lord, I was informed of one Father *Anderton* Rector of that College, and Father *Mondford*, who told me, that by Means of this Cardinal *Norfolk* they did not doubt but to take the King out of the way; and that they would give me all Privileges that could be for a young Man in that Time. When I was coming away, my Lord, from *Rome*, and had my Letters Emisfaries, by Cardinal *Perorin* (He sent for me when I was coming away, and as is usually done to all Scholars, and they kiss the Pope's Toe, and he gives them his Blessing and particular Indulgence; which I had when I came into *England*) said he to me, there is one Man in the way who hath made us fair Promises, but will perform nothing, therefore we must take him out of the way, and that I might be instrumental in the Design; with this, my Lord, I took leave of the College, and we came five into *England* as Priests, and I made my Application to the Arch-Priest, which was in *London*, one *Purrat*, and I was employ'd a long Time by him in *England*; but Proclamations coming forth for the apprehending Popish Priests, I was constantly after at the *Portugal* Embassador's Chappel, where this *Purrat* had a Chamber, where-

in I discoursed with several of the Clergy in *England*, who said they doubted not but Popery would soon be settled in *England*. I came after that to live at one Mr. *Jennison's* House, where the Clergy had several Meetings, and we were all of Opinion that Course would be taken with the King, unless he brought in Popery. And this, my Lords, is all I can say in general.

Mr. Just. *Dolben.* Do you know of any Conspiracy in *Yorkshire*?

Mr. *Smith.* My Lord, I am coming to that. When I came to Mr. *Jennison's* House, there was one Mr. *Thwing*, a Priest, who has suffered as a Conspirator, he was well acquainted in the House before I came there, and did very much to persuade me that I would intreat Mr. *Jennison* to send his Daughters to a Place called *Dolebank*, where a Nunnery was to be erected, and I knew several that were there. This Mr. *Thwing* came to me oftentimes, and several Priests in this City, and they all pressed me to it, but I was against it, knowing what their Design was.

Mr. Just. *Dolben.* But do you know any thing against the Prisoner?

Mr. *Smith.* All that I can say to the Gentleman at the Bar, is this. I never saw him before to my Knowledge; but Mr. *Thwing*, when we were at Mr. *Jennison's*, and discoursing of the Plot, asked me, how they gave Money in the *Bishoprick*, I told him some gave more, some less.

Mr. Just. *Dolben.* What were those Collections for?

Mr. *Smith.* My Lord, it went among ourselves under the Notion of killing the King, and rooting out the Protestant Religion; but we gave it out that it was repairing a College at *Dorway*, which, if granted, had been penal by Law. Then I asked him, how doth the Collections go among you in *Yorkshire*? Some, saith he, give freely; but, saith he, my Uncle and his Friends are engaged another way; for, saith he, they are going to make a Founder for *Dolebank*; several persons he named, among which he named this Gentleman.

Mr. Just. *Dolben.* What said he of Sir *Miles*?

Mr. *Smith.* He said Sir *Miles* was very zealous for promoting the *Roman* Catholick Religion, and had contributed largely for the introducing of it into *England*.

Mr. Bar. *Gregory.* You say that amongst yourselves you gave it out, that the Money that was raised was for the killing of the King, and rooting out the Protestant Religion; pray, by what Way and Means was it to be done, was that ever discoursed among any of you; was it for raising of an Army? or what was it for?

Mr. *Smith.* Wherever I was, my Lord, it was resolved, that that was the most effectual Means for the introducing of Popery.

Mr. Robert Bolron called and sworn.

Sir *Thomas Stringer.* Mr. *Bolron*, acquaint my Lords and the Jury, what you know of Sir *Miles Stapleton*.

Mr. *Bolron.* May it please your Lordship, I came to live with Sir *Thomas Gascoigne* in 1674, as Steward of his Coal-works; and was then a Protestant, but was persuaded by Mr. *Rushton*, Sir *Thomas*, and others, to turn *Roman* Catholick; when I had turned *Roman* Catholick, about 1676, they came and asked me, what I would do for the *Romish* Religion, if it should come to it; I told them, I would venture my Life in that Cause, and then I went to *Barnbow-Hall*, where I took the

Oath

Oath of Secrecy; after that I went to *Barmbow-Hall*, where *Sir Miles Stapleton* was at a Consult in 1677.

Mr. Just. *Dolben*. At what Time in 77?

Mr. *Bolron*. It was about *Whitfontide*, my Lord.

Mr. Just. *Dolben*. That was the *Whitfontide* after you had taken the Oath of Secrecy?

Mr. *Bolr*. Yes, my Lord.

Mr. Justice *Dolben*. Who was there?

Mr. *Bolr*. *Sir Miles Stapleton*, *Sir Tho. Gascoigne*, *Mr. Gascoigne* his Son, my Lady *Tempest*, Lawyer *Ingleby*, *Mr. Thwing*, *Father Rushton*, and several others.

Mr. Bar. *Gregory*. What was there done at that Consult?

Mr. *Bolron*. My Lord, the Consult was about killing the King, and establishing a Nunnery at *Dolebank*, near *Ripley*; *Sir Tho. Gascoigne* gave 90*l. per Annum*, and 300*l.* for killing the King; and I remember very well, *Pickering* was mentioned about killing the King; and they asked *Sir Miles Stapleton* what he would give? and he said, 200*l.* for killing the King.

Mr. Just. *Dolben*. Are you sure that in the Presence of *Sir Miles Stapleton* it was resolved the King should be killed?

Mr. *Bolr*. Yes, my Lord, it was resolved both by him and all others, that the King should be killed; and, my Lord, I heard them further say, if the Duke of *York* did not please, that they would serve him, as they would serve his Brother.

Mr. Bar. *Greg*. Who said these latter Words?

Mr. *Bolr*. *Sherby* of *Stone-house* said these latter Words, and *Mr. Shereburn* said——

Mr. J. *Dolben*. No matter what *Mr. Shereburn* said. What said *Sir Miles*?

Mr. *Bolr*. The Gentlemen said, that *Sir Miles* should be a Privy Councillor, and that they would procure the Duke's Consent to it.

Mr. Just. *Dolben*. Is that all?

Mr. *Bolr*. My Lord, I was further at a Consult in 78, about the thirteenth or fourteenth of *June*.

Mr. Bar. *Greg*. What Time was that?

Mr. *Bolr*. The thirteenth Day of *June* 78, and there it was agreed upon the taking of *Hull*, the letting in of the *French* there, as the fittest Place for the *French* to land at.

Mr. Just. *Dolben*. Where was this?

Mr. *Bolr*. At *Barmbow*; and likewise they did discourse, that my Lord *Bellasis* had caused the Block-houses to be almost ruined, that the *French* might more easily come in; and we had all Pardons for our Sins.

Mr. *Lawrence Mowbray* called and sworn.

Sir Tho. Stringer. Mr. *Mowbray*, tell my Lords and the Jury what you know against *Sir Miles Stapleton*, the Prisoner at the Bar.

Mr. *Mowbray*. My Lords, you have heard what *Mr. Smith* and *Mr. Bolron* say to the Plot in general; what I say shall be very brief, in relation to *Sir Miles Stapleton*, and no further. *Sir Miles Stapleton* being present with *Sir Tho. Gascoigne*, my Lady *Tempest*, Esquire *Gascoigne*, and several others, they held several Discourses concerning a Design of killing the King, subverting the Government, and bringing in Popery, and accordingly they would fire *London*.

Mr. Bar. *Greg*. When was this?

Mr. *Mowbray*. This was in 76, where *Father Rushton* gave him an Oath of Secrecy, and he promised to be true to the Design, and would venture his Life and Estate for the promoting so good a Cause.

Mr. Just. *Dolben*. Did you hear *Sir Miles Stapleton* say he would adventure his Life and Estate for killing of the King?

Mr. *Mowbray*. Yes, my Lord.

Mr. Just. *Dolben*. And was it resolved at that Consult?

Mr. *Mowbray*. Yes, my Lord.

Mr. Just. *Dolben*. And he consented to it?

Mr. *Mowbray*. Yes, my Lord, and took the Oath of Secrecy from *Father Rushton*.

Mr. Justice *Dolben*. This is not the Time that *Mr. Bolron* speaks of.

Mr. *Mowbray*. No, my Lord, he speaks of 76 and 78, this was in 78.

Mr. *Bolr*. I have seen in 75 a collusive Conveyance of *Sir Miles Stapleton's* Estate to *Sir John Daney*.

Mr. Just. *Dolben*. Where did you see it?

Mr. *Bolr*. I did see it at *Sir Thomas Yarbrough's*, and he asking me when *Sir Miles Stapleton* was at *Sir Tho. Gascoigne's*; may it please you, said I, I can tell you something where you are concerned with *Sir Miles Stapleton*; as soon as he heard that he blushed, and away he went, and would hear no further.

Sir Tho. Stringer. What say you, *Mr. Mowbray*, of an Indulgence you had?

Mr. *Mowb*. Yes, my Lord, I had an Indulgence.

Mr. Just. *Dolben*. Was it for the Time to come, or the Time past?

Mr. *Mowbray*. It was for the Time past; for I was to enter into the Rosary.

Sir Tho. Stringer. Did you ever attend *Rushton* at the Altar?

Mr. *Mowb*. Yes, I did.

Mr. Just. *Dolb*. *Mr. Bolron*, you say, you saw a collusive Conveyance made by *Sir Miles Stapleton* to *Sir John Daney*; pray, what was the Forfeiture of it?

Mr. *Bol*. It was——

Mr. Just. *Dolb*. Was it *Sir Tho. Yarbrough*, or *Sir John Daney*, you told of it?

Mr. *Bol*. I told it to *Sir John Daney*.

Mr. *Mowb*. I drew a Copy of that very Conveyance.

Sir Tho. Stringer. Truly, my Lord, we want *Mrs. Bolron*, one of the most material Evidences against *Sir Miles*, being sick at *London*.

Mr. *Bayns* called and sworn.

Sir Tho. Stringer. Come, *Mr. Bayns*, declare to the Court what you know against *Sir Miles*.

Mr. *Bayns*. I know nothing against *Sir Miles*, only I have seen him at *Barmbow-Hall* in 77.

Sir Tho. String. Pray tell us this, whether you observed, in the Year 76, *Sir Miles Stapleton* come to several Meetings with *Sir Tho. Gascoigne*, and my Lady *Tempest*, and others?

Mr. *Bayns*. Yes, my Lord, I have.

Mr. Just. *Dolb*. But do you know what discourse they had?

Mr. *Bayns*. No, my Lord; but I remember we were once discoursing about some Nuns beyond Sea, and they were called galloping Nuns.

Mr. Just. *Dolb*. They were Gallopers, indeed.

Mr. Just. *Dolb*. *Sir Miles*, you have heard what hath been proved against you——

Sir Miles. My Lord, there is nothing of Truth in it at all; I hope to make it appear to your Lordship. I call God to witness, I am as innocent of what they say, as any Child unborn.

Mr. Just. *Dolb*. That is an easy Thing to say.

Sir *Miles*. I hope to make it appear to your Lordship. Will your Lordship please to give me leave to ask the Witnesses some Questions?

Mr. Just. *Dolben*. That you may have Allowance in.

Sir *Miles*. Then I desire to ask *Bolron* this Question; Did you accuse me in your Information to Justice *Lowder*?

Mr. *Bol*. No, my Lord, I did not.

Sir *Miles*. Did I, or any other, desire you to keep any Secret for me?

Mr. *Bol*. Yes, my Lord, I have been desired.

Mr. Justice *Dolben*. But did Sir *Miles* ever desire you?

Mr. *Bolron*. No, my Lord, he did not, but *Rushton* did, when I was introduced by the Priests to the Consult.

Sir *Miles*. Did you and *Mowbray* know that each other was concerned in the Plot?

Mr. *Bol*. Yes, we did.

Sir *Miles*. Name the Persons that were present at the Consult.

Mr. *Bol*. There was Sir *Tho. Gascoigne*, my Lady *Tempest*, Esquire *Gascoigne*, Mr. *Ingleby*, Mr. *Thwing*, Mr. *Rushton*, Mr. *Addison*, Mr. *Metcalf*, and several others.

Sir *Miles*. How long did the Consult last?

Mr. *Bol*. Some six or seven Hours.

Sir *Miles*. What Servants were there?

Mr. *Bol*. I took no notice of the Servants.

Sir *Miles*. What Room was it in?

Mr. *Bol*. In the old Dining-Room.

Sir *Miles*. How long did it last?

Mr. Just. *Dolb*. Six or seven Hours he tells you.

Sir *Miles*. Was there any other at Sir *Thomas Gascoigne's*?

Mr. *Bol*. None else that I can remember.

Sir *Miles*. Upon what Occasion did he mention *Mowbray* in his Information to the Council?

Mr. Just. *Dolb*. There hath no Information to the Council been mentioned here.

Sir *Miles*. Pray what was the Occasion you were turned out of Sir *Thomas Gascoigne's* Service?

Mr. *Bol*. My Lord, I know not; they say it was about a Trunk: Sir *Thomas Gascoigne* sent him to *York*, and he was to come again. I know there was a Design to take away *Mowbray's* Life; but I never told him so much; and my Lady accused him for a Ring; I never durst tell him this, but this was the Thing contrived against him to take away his Life; I can make it appear where he bought the Ring.

Mr. Just. *Dol*. What tell'st thou us of a Ring? Can't thou not as well tell us it was for that he left Sir *Thomas Gascoigne's* Service?

Sir *Miles*. When did you first become a Protestant?

Mr. *Mowb*. When I made my first Information.

Bar. *Greg*. When was that?

Mr. *Mowb*. That was in 79, and a little before that I kept Correspondence with Father *Addison*.

Sir *Miles*. I desire to know whether he saw a List of Names?

Mr. *Mowb*. Yes, I did.

Sir *Miles*. Whose Names were there?

Mr. *Mowb*. There was your Name for one, and Sir *Thomas Gascoigne's*.

Sir *Miles*. What was it for?

Mr. *Mowb*. It was a List of those that were Actors and Contributors for killing the King.

Mr. Justice *Dolben*. You are sure Sir *Miles Stapleton's* Name was in the List?

Mr. *Mowb*. Yes, my Lord, I am.

Mr. Just. *Dolb*. Was it Parchment or Paper?

Mr. *Mowb*. No, my Lord, it was Paper.

Mr. Justice *Dolb*. Were you to assist in killing the King?

Mr. *Mowb*. My Lord, I was to be an Actor in killing the King.

Sir *Miles*. Whether did I, or any other desire you to keep any Secret for me?

Mr. *Mowb*. Yes, Father *Rushton* did.

Sir *Miles*. Did I ever do it?

Mr. *Mowb*. No, Sir *Miles*, you never did.

Sir *Miles*. Did any Body else desire you?

Mr. J. *Dolb*. Father *Rushton*, he tells you, did.

Sir *Miles*. Was the discourse so loud that Sir *Thomas Gascoigne* could hear it?

Mr. *Mowb*. Sir *Thomas* could hear well enough when he would.

Sir *Miles*. Was it in 79 that you discovered the Plot?

Mr. *Bol*. Yes; I went to *London*, and there discovered the Plot in—79, I think it was.

Sir *Miles*. You said, I was not concerned, you only accused Sir *Thomas Gascoigne* and some others in your Information; but did not name me.

Mr. Just. *Dolb*. Did he so? You may prove that upon him.

Sir *Miles*. It was so in his Information, my Lord.

Mr. Justice *Dolb*. Well, then let it be so. Call your Witnesses.

Mr. Lowder called and examined.

Sir *Miles*. I desire Mr. *Lowder* to acquaint your Lordships and the Jury, what was in the Information Mr. *Bolron* gave in, whether he accused me or no.

Mr. *Lowder*. All I know of it is, that in *January* 79, on *Sunday* Evening, as I think, about the 24th Day of the Month, *Robert Bolron* came to me, and told me he had something of Secrecy to impart to me, and I asked him if he would go into the House with me; he told me it was Matter of High-Treason; I asked who was concerned, he answered, Sir *Thomas Gascoigne*, and several others: Then I ordered my Clerk to bring a Bible, and Pen and Ink to take his Information. I desired him to be very cautious, telling him, that several Lives were at Stake: At that he began to be fearful and changed Colour: I asked him for what Cause that Fear was; he said, if that were upon my Conscience, that was upon his, for concealing it so long, I should be as fearful as he. I bid him seriously consider what he had to say; he then said, he had delivered his Information to Mr. *Tindal*. Well then, said I, why is it you come to me? Said I, Mr. *Tindal* is to be at my House the 25th Day, and I shall discourse it with him, and we shall take it together. Mr. *Tindal* did come, and *Bolron* came and delivered in his Information.

Mr. Just. *Dolben*. You did not give him his Oath at that Time?

Mr. *Lowder*. No, my Lord; for it seems he had not then delivered in his Information, but only a Writing of his to Mr. *Tindal*.

Bar. *Greg*. You took no Examination then?

Mr. *Lowder*. No, my Lord, not at that Time; but afterwards he came and he gave in his Information to us, and I think we were about two

Hours about it ; and then he did not charge any Person but *Rushton* and *Sir Thomas Gascoigne* ; but said, he had more to recollect : Well, said I, if you recollect any more, you may come again.

Bar. *Gregory*. Pray, who did he name ?

Mr. *Lowder*. He named *Father Rushton* and *Sir Thomas Gascoigne* ; he named my *Lady Tempest*, but spoke that as from another. And when he came again, he said he would trouble us with no more, but would go to the King and Council to deliver in the rest.

Mr. Just. *Dolb*. He said then he should recollect more ?

Mr. *Lowder*. Yes, my Lord, he did, and when he came again, he said he would not trouble us with it, but would inform the Council of it : When we saw him so positive, he had a Letter of Recommendation from *Mr. Tindal* to the Council ; and he lost that Letter at *Ware* ; but he went on, and delivered his Information to the Council.

Mr. Just. *Dolben*. Do you know it ?

Mr. *Lowder*. Yes, my Lord.

Mr. Just. *Dolb*. You cannot know it, were you there then ?

Mr. *Lowder*. No, my Lord, but I do know it.

Mr. Just. *Dolb*. How do you know it ?

Mr. *Lowder*. I have a Copy of the Order under several of the Council's Hands.

Mr. Just. *Dolb*. That is not Evidence, you are not to speak what another Man knows. But that is not the Matter ; it seems he went to give in his Information to the Council, for indeed he could not otherwise have been safe.

Mr. *Lowder*. After this, he goes up to *London* again, and comes down and brings me another Order of Council to examine *Mr. Mowbray* and one *Hickeringil* ; and I asked him if he knew any thing about *Sir Miles Stapleton's* being concerned in the Plot, and he said no, he believed he was very clear.

Mr. Just. *Dolben*. You say that *Bolron* brought you another Order of Council to examine *Mowbray*.

Mr. *Lowder*. Yes, my Lord.

Mr. J. *Dolben*. Did *Bolron* bring you in Writing what *Mowbray* could say ?

Mr. *Lowder*. My Lord, I know not whether it was by Writing, or by Word of Mouth.

Mr. Just. *Dolben*. What was it he told you *Mowbray* could say ?

Mr. *Lowder*. He told me, he could say he saw *Sir Miles Stapleton* at *Barmbow* when the Consult was ; but, said he, there will others come against *Sir Miles*.

Mr. Just. *Dolben*. Pray let us ask *Bolron* that : Did you say to *Mr. Lowder*, you knew nothing against *Sir Miles Stapleton*, but there were others would do it ?

Mr. *Bolr*. No, my Lord, not that I remember.

Mr. *Lowder*. *Bolron* himself had never said any thing against *Sir Miles*.

Bar. *Greg*. Did you ask *Bolron* if he knew whether *Sir Miles* was concerned in the Plot, or no ?

Mr. *Lowder*. Yes, my Lord, I did, and he answered, he knew nothing against him.

Mr. Justice *Dolben*. He was not then upon his Oath ?

Mr. *Lowder*. No, not then ; but after this he delivered his Information, and did swear, to the Effect that *Mowbray* did swear, that *Sir Miles* was at *Barmbow*, and that they all did conspire the killing of the King, and introducing the *Romish*

Religion ; and he said, my *Lady Tempest* came to him, when he was in the Passage, and said to him, *Mr. Mowbray*, it is fitter for you to be treating of *Sir Miles Stapleton's* Servants in the Larder : And he asked me whether he had best go and apprehend *Sir Miles* or *Mr. Ingleby* first ?

Mr. Justice *Dolben*. This was your Discourse with *Bolron*.

Mr. *Lowder*. Yes, my Lord.

Mr. *Bolr*. May it please your Lordship, I did not know then that *Mr. Mowbray* was at all concerned in the Plot.

Mr. Just. *Dolben*. He tells you, how you told him what *Mowbray* would say before he came to him, and what he would say against *Sir Miles Stapleton*.

Mr. *Bolr*. No, my Lord, I never said any such thing.

Mr. Just. *Dolben*. You say, you did not know what *Mowbray* would say, *Mr. Lowder* saith otherwise.

Mr. *Bolr*. My Lord, I did not know what it was before he brought it himself, and he brought it in Writing.

Bar. *Greg*. *Mr. Lowder*, did he tell you the Particulars, or only said he was to depose things against *Sir Miles Stapleton* ?

Mr. *Lowder*. My Lord, he told me he could swear *Sir Miles* was at the Consult at *Barmbow*, and did there conspire the Death of the King, and introducing the *Romish* Religion.

Mr. Just. *Dolb*. How long was this, *Mr. Lowder*, you had that Discourse with *Bolron* before *Mowbray* came to give in his Information ?

Mr. *Lowder*. It was, my Lord, two or three Days before, and I ordered him to come again, when *Mr. Tindal* was to be at my House.

Mr. Just. *Dolb*. Were you ever with *Mr. Lowder*, and knew when he and *Mr. Tindal* ordered him to come to him ?

Mr. *Bolron*. I went to *Mr. Mowbray*, and we came to *Esquire Lowder's*, and there *Mr. Tindal* was ; but I knew nothing of what he had to say ; my Lord, *Mr. Mowbray* was there at that Time he doth affirm.

Mr. Just. *Dolb*. *Mowbray*, before you came to *Mr. Lowder's*, had you acquainted *Bolron* with what you had to say ?

Mr. *Mowb*. I might acquaint him I had something to say, but did not tell him the Particulars.

Mr. Just. *Dolb*. Did you tell him you had any thing against *Sir Miles Stapleton* ?

Mr. *Mowb*. 'Tis possible, my Lord, I might ; but I am not positive in that.

Bar. *Greg*. Did he tell you, *Mr. Lowder*, what *Mr. Mowbray* could swear against *Sir Miles*, and was it not the Day which he tells here of ?

Mr. *Lowder*. No, my Lord, it was not.

Bar. *Gregory*. It was not the same Day ?

Mr. *Lowder*. No, my Lord, I shall be positive in it, if I be brought to my Oath.

Mr. Just. *Dolben*. Come, another Witness, *Sir Miles*.

Sir Thomas Yarbrough called and examined.

Sir Miles. I desire *Sir Thomas* to speak what he heard *Bolron* declare what he knew of the Plot after *Sir Tho. Gascoigne* was taken.

Sir Tho. Yarbrough. The 10th of *August* 79, *Mr. Bolron* came to my House about 10 or 11 o'Clock at Night, and knocked at my Door ; I thought him very unseasonable ; but my Servants looking out

out at the Window, asked who was there; he said a Friend that would speak with Sir *Thomas*: My Servant came and told me, and I ordered my Servant to go down and bring him into my Chamber; in the Interim I put on a Morning-Gown: As soon as he came in, he told me he had an Order of Council to search all suspicious Places for popish Priests, and I have great Cause to believe that there is one *Rushton* a Priest now at Sir *Miles Stapleton's*. What would you have me to do, said I, would you have me go with you myself? He said no, but a Servant. Said I, Mr. *Bolron* will you shew me the Order; and finding his Name in the Warrant, I ask him, Was that the Person that inform'd against Sir *Thomas Gascoigne*? His Answer was this, that if I pleased he would shew me the Article against Sir *Thomas Gascoigne*; when I observed the Article, I asked him, if he knew any Thing of Sir *Miles Stapleton's* being concerned in the Plot: No, I protest, saith he, I know nothing of Sir *Miles Stapleton's* being concerned in it, for he is a very honest Gentleman: Only this I must say, that I know he hath made a collusive Conveyance of his Estate, and I believe most of the *Roman* Catholicks in *England* have done it for the securing of their Estates.

Mr. J. *Dolb.* What do you say to this, *Bolron*?

Mr. *Bol.* My Lord, when I delivered in my Information to the Council I did accuse Sir *Miles Stapleton*.

Mr. J. *Dolb.* Did you say this to Sir *Thomas*?

Mr. *Bol.* No, I did not, if it was not in the Information I gave to the Council, believe not one Word that I have said.

Mr. Justice *Dolben.* 'Tis possible it might be in the second Information to the Council that you accused Sir *Miles*: Was Sir *Miles Stapleton's* Name in the Paper you gave to him?

Mr. *Bol.* Yes, my Lord.

Mr. J. *Dolb.* This was the 10th Day of *August* 79. Had you then informed the Council of any Thing before that Time against Sir *Miles Stapleton's* being at *Barnbow-Hall* at the Consult?

Mr. *Bol.* May it please your Lordship, I was called out when I was before the King and Council, and there was something I did not deliver in.

Mr. Just. *Dolben.* Then you did not do it at that Time?

Mr. *Bol.* No, my Lord, I did not.

Mr. Just. *Dolb.* I ask you again, before the 10th of *August* 79, had you informed the Council of any Thing against Sir *Miles*?

Mr. *Bol.* No, my Lord, I had not.

Mr. Just. *Dolb.* Then it could not be in the Information that you shewed him.

Mr. *Bol.* No, my Lord, it was at the second Time.

Bar. *Greg.* Was it before you had this discourse with Sir *Thomas Yarbrough*?

Mr. *Bol.* No, my Lord, it was not before that: I shall not speak one Word of a Lie.

Sir *Miles.* Every Word you speak is a Lie.

Mr. *Bol.* It is no Lie, before this honourable Court.

Mr. J. *Dolb.* Were these Informations inclosed in the Letter from the Council?

Mr. *Lowd.* Yes, my Lord, your Lordship may see the Letter mentions it, (holding the Letter forth in his Hand with the Informations) which Mr. Justice *Dolben* took and silently read them

over, after which he made his Report thereof to the Court.

Mr. Justice *Dolb.* Mr. *Lowder*, I have read all these Things over, and there is nothing of any Consult in them: How should then the Accusation of Sir *Miles* be mentioned in them?

Bar. *Greg.* I do believe, Sir *Thomas*, you mistake Times.

Sir *Tho. Yarb.* No, my Lord, I do not.

Mr. Just. *Dolb.* In the bringing of this Order of Council to you, did you ask Mr. *Bolron* if he knew any Thing against Sir *Miles Stapleton*?

Sir *Tho. Yarb.* Yes, my Lord, I did, and he said he believed he was innocent.

Sir *Tho. String.* Pray, Sir *Thomas*, why did you ask him that about Sir *Miles*?

Sir *Tho. Yarb.* Because I knew Sir *Miles* was related to Sir *Thomas Gascoigne*, and was often there.

Sir *Tho. String.* It seemed, Sir *Thomas*, you feared it.

The Lady *Yarbrough* called and examined.

Sir *Miles.* Madam, pray acquaint the Court what you heard *Bolron* say when he discoursed your Husband.

Lady *Yarb.* All I can say is, that I was in Bed then, and heard him say all these Things, and I heard the Order read, and there was mention of several at the Consult, among whom there was no mention of Sir *Miles Stapleton*.

Mr. Just. *Dolb.* Does your Ladyship very well remember that Sir *Thomas Yarbrough* asked him if Sir *Miles* was concerned, and he said, not that he knew of?

Lady *Yarb.* Yes, my Lord, and he said more than that; for when he returned from taking Priests in the Afternoon, there was a great deal of Company in the House, and when he came, he brought one of the Sons along with him, and they came into the Hall, there Mr. *Bolron* was with him, and among the rest there was one Mr. *Anby*, who being a little merry, he takes him by the Arm, and comes and brings him to us as we were sitting in the Porch, and said, Hark you, Mr. *Bolron*, I hear you are a Discoverer of the Plot? Yes, I am, said he: Then I pray you, who are they that are concerned? But he would not tell him. So said he, is Sir *Miles Stapleton* in it? He answered, he had nothing to say against Sir *Miles*, but he was an honest Gentleman, for ought he knew, excepting that he had made a collusive Conveyance of his Estate.

Mr. *Normanton* called and examined.

Mr. *Norm.* In *June* 79, came *Rob. Bolron* to me, and said, that Sir *Tho. Gascoigne* would give 1000*l.* for killing the King, and the Lady *Tempest* would have hanged him for breaking a Trunk, but now he would be even with her; and that Sir *Miles Stapleton* kept Priests in his House, but he would apprehend them presently, for he might have twenty Pound a-piece for taking of them.

Bar. *Greg.* You say *Bolron* told you this?

Mr. *Norm.* Yes, my Lord, he told me this in my own House; and I told him he might go to Esquire *Tindal*, and I lent him eighteen Pence, and borrowed him a Horse in the Town.

Rich. Pears, Sir Miles's Man, call'd and examin'd.

Rich. Pears. My Lord, *Bolron* came to *Carleton*.

Mr. Just. Dolben. *Carleton*, what is that?

Rich. Pears. To my Master's House.

Mr. Just. Dolben. Who is thy Master?;

Pears. Sir Miles Stapleton.

Mr. Justice Dolben. What then?

Pears. I going to an Ale-house where *Bolron* was, he asked me how I did, I thanked him?

Mr. Justice Dolben. Did you know him?

Pears. Yes, my Lord, and he called for a Pot of Ale, and wished me to drink with him, and he asked me if they did not blame him for accusing my Master Sir Miles? And I said I did not hear him named; he said it was not him, but he might not tell who it was.

Mr. Justice Dolben. When was this?

Pears. Three or four Days after my Master was taken into Custody; and he said he would have gone to have seen Sir Miles; but I think (says he) he does not know me: And he asked me, if Mr. *Legget* would be at our House, and he desired me to give him a Letter; and I said I should not see him; then he said I might burn it, and I did burn it, my Lord.

Sir Tho. String. How came you acquainted with *Bolron*?

Pears. At the Coal-Pits, my Lord.

Sir Tho. String. Did you never see him at Sir *Thomas Gascoigne's*?

Pears. No, my Lord.

Stephen Thomson called and examined.

Mr. J. Dolb. Have a care you speak nothing but Truth, though you are not sworn, yet we can punish you, and God Almighty will punish you if you speak false.

Steph. Thomson. An't like your Honour, *Robert Bolron* was Servant to Sir *Tho. Gascoigne*, as Steward of his Coal-Pits; Sir *Thomas* put him out of his Coal-Pits, and there was a great deal of Money due, and he knew not how to get it, and therefore he would take threescore Pounds for it, because he knew not how to get it, and he would take thirty two Pounds at one Time, and twenty eight at another, and he came to me to be bound with him, which I was unwilling to; saith he, here is thirty eight Pounds good Debt, and I shall take care to get the other, and if Sir *Thomas* be not kind, I shall do him an ill Turn.

Mr. J. Dolb. What is this to Sir Miles Stapleton?

Thomp. He did swear, this Plot being discovered, they thought he knew something of Sir *Tho. Gascoigne*, and he said before the Plot broke out, there was never a Catholick in *Yorkshire* was concerned in it; if there were any, it was above.

Bar. Greg. This was before his Information, I'll lay a Wager.

Mr. Just. Dolben. How could he do him an ill Turn?

Thomp. My Lord, this is the ill Turn, Mr. *Legget* said he did it not for Need: O *Rob. Bolron*; said I, do you thus requite Sir *Tho. Gascoigne's* Kindnesses?

Bar. Greg. Did he speak any Thing to you concerning Sir Miles?

Sir Miles. I conceive when they reflect upon Sir *Thomas*, they reflect upon me.

Mr. J. Dolb. No, not so, you might be guilty, and Sir *Thomas* innocent, or you might be innocent and Sir *Thomas* guilty.

Sir Miles. My Lord, I think that as there was a Consult at Sir *Tho. Gascoigne's*, certainly if any one was guilty, we were all guilty.

Bar. Greg. There are some that conceive, and I think not without Grounds, that there are no considerable Catholicks in *England*, but they are concerned in the Plot.

Mr. J. Dolb. There was one *Dixon* came at Sir *Tho. Gascoigne's* Trial, and said he heard *Bolron* and *Mowbray* down a pair of Stairs, speaking of Revenge against Sir *Tho. Gascoigne* and my Lady *Tempest*, and thinking these Witnesses might now be produced, we called at *Leeds* to view the Stairs, and I am sure neither my Brother nor I could see any Probability in it.

Bar. Greg. For Satisfaction we made two go up into the Chamber and stand where the Witnesses were, and they spoke as loud as People do usually when they discourse, and I am sure I could neither perceive what they said, nor see them, unless I went three or four Steps up.

Mr. J. Dolben. This is but occasioned by your jesting upon the Matter.

Nathaniel Wilson called.

Mr. Just. Dolben. Sir Miles, I would put you in mind of one Thing; produce those two Witnesses that were produced at Sir *Tho. Gascoigne's* Trial.

Sir Miles. I have none of these Witnesses.

Mr. J. Dolb. Certainly these Witnesses would be as material as any you can have to do it.

Sir Miles. I have them not here, my Lord.

Mr. J. Dolben. Nay, that is because you dare not; the King's Council will prove that what they spoke they were hired to, and had Money from Sir *Tho. Gascoigne*, which they confessed.

Sir Miles. My Lord, they made Affidavit of it.

Mr. Just. Dolb. Though they did, yet they confessed they were hired to it.

The Lady *Vavasour* called and examined.

Sir Miles. My Lord, I call my Lady *Vavasour* to tell, whether Sir *Walter* was there at the Consult they tell us of at *Barmboow*.

Mr. J. Dolb. That will be hard for her to do; but call her in. (Who was called :) But speaking so low she could not be heard by the Court, and standing beside Mr. Justice *Dolben*, he repeated her Words to the Court. My Lady, saith this Gentleman, she believes her Husband was not there in any Part of the Year, because he was infirm at *York*. Now, Gentlemen, I would only know, whether that be conclusive Evidence when it is only possible.

Mr. Legget called and examined.

Sir Miles. Mr. *Legget*, pray, what Money would Mr. *Bolron* have given you when I was taken?

Legget. Mr. *Bolron* desired me to lend his Wife some Money to go to Market with, and I did: The same Day between *Tadcaster* and *York*, Mr. *Bolron* asked me what Allowance Dr. *Oates* had; I told him, I heard he had five hundred Pounds a Year; and he answered, I deserve as much; for I have done

done as much good as he: As I was going for *York*, I met with *Mr. Mowbray*, and it raining, I put in at *Tadcaster*; when the Rain was over, we set forward for *York*; said *Mr. Mowbray*, *Mr. Bolron* hath sent for me; so I went to *Mr. Bolron* to the *George*, and he sent for *Mr. Mowbray*, and he pulls out his Information, and after he had read it, he asked him if he knew any thing of that, and he said, he did not know of it.

Mr. Just. Dolb. Well, what is this to the Purpose? Did you hear him say any thing against *Sir Miles*?

Legget. I have heard *Mr. Bolron* say, that he had nothing to say against *Sir Miles Stapleton*, but only he had made over his Estate to *Sir John Daney*.

Mr. Just. Dolben. How came he to name *Sir Miles* to you?

Mr. Leg. He voluntarily told me of it, when we went to *Allerton* to apprehend some Priests; and when I returned, I told him, I took but one of these Persons, old *Mr. Metcalf*; and he said, he cared not if I had but taken one *Addy*.

Mr. J. Dolb. You must not talk of this Fashion.

Sir Miles. It shews but what a kind of a Man he is.

Mr. Just. Dolb. So may we examine to the end of the Chapter. Do you say *Bolron* read over his Information to *Mowbray*, and he said he knew nothing of it as to *Sir Miles Stapleton*.

Leg. No, my Lord, but of *Sir Tho. Gascoigne*; he asked him nothing, my Lord, but against *Sir Tho. Gascoigne*; after they went out and had been together, *Mr. Bolron* told me, *Sir Miles Stapleton* was it to be taken into Custody; and he said, you may as well have it as another, but I'll go half Snips with you: At last he told me, if I have an hundred Pounds of *Sir Miles*, you shall have twenty of it.

Mr. Just. Dolb. Had you any Warrant at that Time to take *Sir Miles*?

Leg. No, my Lord.

Bol. I know nothing of any such thing.

Mrs. Eliz. Holmes called and examined.

Mrs. Holmes. An't please you, my Lord, at *Sir Tho. Gascoigne's* Trial, *Mr. Bolron* and his Wife they were at our House at Dinner; after Dinner, they asked me, if I would go to *Sir Thomas's* Trial. I answered, yes; so *Mrs. Mowbray* came and called her Husband out of Door, and I asked her about *Sir Thomas Gascoigne*, and she said—

Mr. Just. Dolb. Tell us what she said.

Holmes. She said, they were hard People; but she thought they were innocent to the Plot, and she had nothing to say against them, as God shall judge her Soul. Then another Time, my Lord, after *Bolron* came from *York*, he met me. How now, Sister, I understand you are to be a Witness against me at *York*, but if you'll be kind to me, I'll be kind to you, and speak as favourably as I can; and he said, if he had known he should have been no better rewarded, he would never have been a Witness; the Devil should have been a Witness as soon as he.

Mr. Just. Dolb. Against whom?

Holmes. Against *Sir Thomas Gascoigne* and *Sir Miles*, my Lord, and he bid me be careful what I swore; for if we did swear false, he would have us at the Pillory, and unless I would unsay what

I had said in my Lady's Trial, he would punish me sufficiently.

Mr. Just. Dolb. Who said this, know you?

Holmes. *Mr. Bolron*, my Lord.

Bar. Greg. Where do you live?

Holmes. I live, my Lord, in *Baldwin's* Garden.

Sir Tho. Stringer. Did you ever tell any that if they would come and swear against the Evidence against *Sir Miles Stapleton*, they should be sufficiently rewarded.

Holmes. No, never in my Life.

Sir Miles. When did you see me last, *Bolron*?

Bolr. I have seen you in 78 several times.

Mr. Just. Dolb. He hath seen you in Prison.

Bolr. My Lord, I have seen him at *Barmbow-Hall* in 78.

Sir Thomas Stringer. You know *Sir Miles Stapleton*?

Mr. Bolr. Yes, very well; and I have several times talked with him.

Sir Miles. I desire to know whether he hath seen *Sir Tho. Gascoigne* and me discourse about any Thing?

Mr. Bolr. No, not since the Plot broke out.

Sir Miles. He swore in *Sir Tho. Gascoigne's* Trial, he heard me and *Sir Thomas* discourse about *Oates* and *Bedloe*.

Mr. Just. Dolb. Well, how material will that be?

Sir Miles. I shall prove that he swore false; for *Sir Thomas* and I were never together since the Plot broke forth.

Mr. Just. Dolb. That is hard to do.

Mr. Bar. Greg. You have an excellent Witness that can swear that.

Sir Miles. In all Probability I can do it.

Mr. Just. Dolb. But that must not go before a positive. Well, have you done?

Sir Miles. There is another Witness or two, if it be not too tedious.

Mr. Just. Dolb. No, we will stay here all Day, if you please.

Edward Cooper called and examined.

Cooper. My Lord, all that I can say is, we having been at *Auberton-Fair*, we met with *Mr. Mowbray*; knowing him, and being acquainted with him, pray, said I, whether is there any thing of a Truth in this that *Bolron* swears against *Sir Thomas Gascoigne*, or no? No, saith he; he might as well have sworn it against you, or another Person; for I have been in the House as long as he, and I never knew any such thing.

Mr. Just. Dolb. This was before *Mowbray* had discovered any thing; for *Mowbray* was then a Papist, and had taken the Oath of Secrecy: Besides, 'tis not much what *Mowbray* said, he was going on a high-way: If it had been before a Justice of Peace, or if he had been upon his Oath, then it had been more material.

Madam Shereburn called and examined.

Sir Miles. *Madam Shereburn*, pray declare what *Bolron* said at your House.

Madam Shereburn. *Mr. Bolron* and *Mowbray* came to our House under the Pretence of searching for Priests, and *Bolron* took several Parcels of Silver away with him.

Judge

Judge *Dolb.* Away, away, if you have any thing against him on the behalf of this Gentleman, Madam, speak it; but you would prove him a Thief, and say, he went to seek for Priests, and he stole Money from them.

Mowbray. We went to seek for Priests, and we took some Chalice and other Popish Trinkets away.

Mr. Just. *Dolb.* Do not spend yours and our Time in saying that *Bolron* and *Mowbray* were knavish Boys; we, it may be, are guilty of Extravagances in that particular.

Mr. Bar. *Greg.* They themselves confess they have been very bad; they took the Oath of Secrecy, and it is as ill as ever was spoke or writ in so few Words.

Mr. Just. *Dolben.* I know they have been very bad Men. Well, have you any more Witnesses?

Sir *Miles.* I can produce my Neighbours and those of the Church of *England*, that can say no otherwise than that I have been of good Behaviour.

Sir *Tho. Stringer.* It is generally concluded by all, that Sir *Miles* hath been a very good Man until he fell into this great Action.

Mr. Just. *Dolb.* Brother, have you any thing more to say? if not, I'll proceed.

Sir *Tho. Stringer.* Only I desire that *Dixon* and *Wilson* may be called in to swear that they were hired at Sir *Thomas Gascoigne's* trial.

Mr. Just. *Dolb.* Call them, then.

Dixon called and sworn.

Sir *Tho. Stringer.* Pray tell my Lord and the Jury what Witnesses were hired, and whether you were hired to testify for Sir *Thomas Gascoigne*, or no.

Dixon. My Lord, in *November 79*, *John Baily* sent *John Wilkinson* for me, and when I came there, *Batley* was there; and they desired me to go and there called me into the Garden, and asked me, if I would be a Witness for Sir *Thomas Gascoigne*, and would give me forty Shillings.

Wilson called and sworn.

Sir *Tho. Stringer.* Were you offered any thing by Mr. *Babbington*, to be a Witness for Sir *Miles*?

Wilson. I was, my Lord.

Sir *Tho. Stringer.* Pray, tell my Lord what you were offered, and what he would have you to say.

Dixon. *Batley* would have him to be a Witness.

Mr. Just. *Dolb.* Well, but what was he to say?

Dixon. He was to say, he never see *Bolron* nor *Mowbray* at his House. Saith *Batley*, I saw them at the Door. Thou never didst see them in my House. Yes, saith he, I see them once, and my Lord, the third Time before they departed he might say, that in 79 he came in and found them there. This he pressed on me, telling me, it was but telling a lie, for no Oath was required in this case.

Mr. Bar. *Greg.* Did Mr. *Babbington* offer you Money? What would he have you to testify for it?

Mr. Just. *Dolb.* What Money would he have given you?

Wilson. He would have given me 10*l.* and *Hickering* proffered me 10*l.*

Mr. Just. *Dolb.* Is *Babbington* a Solicitor for Sir *Miles*?

Bolr. Yes, my Lord, here he is.

Dixon. *Batley* did press me to say again, that he never did see Mr. *Bolron* and *Mowbray* in his House, and he made a Contrivance of that.

Christopher Langley and *Richard Cocker* called and sworn.

Sir *Tho. Stringer.* Pray tell my Lords and the Jury what you have been proffered, and by whom, to give Evidence for Sir *Miles*.

Chr. Langley. My Lord, an't please you, I kept a publick House; so *William Batley* and *John Rofs* came and called for a quart of Ale, and this *Richard Cocker* was with us, and he said, if you'll go and be a Witness for Sir *Miles* in those Things we shall direct you, you shall have a couple of Oxen and half a score of Sheep.

Sir *Tho. Stringer.* Who profer'd you this?

Langley. *Will. Batley* and *John Gross*.

Cocker. Well, it is the same, my Lord, I went with him into his House, and he profer'd him a couple of Oxen, and half a score of Sheep, if he would be a Witness for Sir *Miles*.

Mr. *Bayns* called and sworn.

Sir *Tho. Stringer.* Speak whether Mrs. *Holmes* would have had you to have recanted any thing against Sir *Miles*.

Mr. *Bayns.* She proffer'd me since I came into the Kingdom of *England* threescore Pound a Year to have holden my Tongue, if I had any thing to say against Sir *Miles*: I told her not whether I had any thing or no, and she profer'd me 60*l. per Annum*. Mrs. *Hewit* said, she would give me more if I would say nothing against Sir *Miles*.

Mr. Just. *Dolb.* Did they make an Assurance?

Bayns. I asked them, do you know another Gentleman's Purse? They said, they knew it very well, that he would give it.

Sir *Miles.* Pray let Mrs. *Holmes* be called again.

Mr. Just. *Dolb.* Well, she denies it. What is that *Hewit*?

Bayns. He married another of my Daughters, my Lord.

Mr. Just. *Dolb.* She only appeared zealous for Sir *Tho. Gascoigne*, and she would be the same for Sir *Miles Stapleton*. Have you any thing more, Sir *Miles*?

Sir *Miles.* No, my Lord; only Mrs. *Holmes* denies.

Mr. Just. *Dolb.* She does so.

Sir *Miles.* I have not so much to say against Mr. *Bayns*.

Mr. Just. *Dolb.* I do not hear he saith much against you.

Mr. Bar. *Greg.* He had got his Money pretty easily if he said nothing more against you; he had scarce earned his Money.

Sir *Miles.* I desire the Jury may consider what Credit was given to their Evidence formerly in the former Trials; for I speak seriously, I never spoke any such thing, nor was ever at any Consult about any such thing; I believe there is none that knows me will believe it.

Mr. Just. *Dolb.* Is that all?

Sir *Miles.* The Evidence is very improper; I never thought ill against the King in my life; what Reason was there for it?

Mr.

Mr. Just. *Dolben*. No Reason at all that either you or any Papist should do it, but only through the mad fiery Zeal of the Jesuits; for ever since the Reformation you have enjoyed your Estates and Religion without any Molestation; but you could not endure we should quietly enjoy ours. But if you have any Matter on Record against them, we will hear it. It may be you will say he is an idle Fellow and the like; there will be no end of such Reflections.

Bar. *Greg*. You see what is produced on your Behalf, Sir *Miles*, though not by your Direction, yet on your Behalf, and they said it was but telling a Lie.

Sir *Miles*. No, my Lord, not I; I never gave any such Directions.

Mr. J. *Dolben*. Gentlemen of the Jury, Sir *Miles Stapleton* stands indicted for a very foul Treason, for endeavouring to subvert the Government, change the Religion, and to bring in Superstition and Idolatry; which he could never do, without compassing the Death of the King, he being the only Obstacle in the way. This is his Charge. The Proof of this depends upon *Bolton* and *Mowbray*: Mr. *Smith*, the first Witness, he only relates he hath been in *Rome* and *France*, and among all the Priests he conversed with there was such a Design on Foot; but against Sir *Miles* he knows nothing, but Things told him by Mr. *Thwing*, which I must tell you is no Evidence against Sir *Miles Stapleton*. *Bolton* and *Mowbray* do positively swear the Thing as plain as any Thing can be; they both swear they were present at several Consults, where it was resolved the King should be killed, and that Sir *Miles* did agree to it, and did agree to contribute 200*l.* to carry on this Design. Captain *Bayns*, being examined, he saith, he did really see Sir *Miles* at *Barmbow-Hall* at that Time, but he doth not know whether it was about that or no.

Against this, Sir *Miles* saith it cannot be; but this is an Invention of *Bolton* and *Mowbray*; and to prove this, he produceth several Witnesses, that *Bolton* should deny, and that he should sometimes say that Sir *Tho. Gascoigne* knew nothing of it; sometimes that Sir *Miles* knew nothing of it: I must tell you at this Time, that they were then discoursed withal, they at that Time were Papists themselves, and lay under the Oath of Secrecy. But now here are three Witnesses, Sir *Tho. Yarbrough*, my Lady *Yarbrough*, and Mr. *Lowder*; and they do speak as much as any of the other doth concerning *Bolton* and *Mowbray*, and they speak it when it was a Time pertinent; for what they spoke to a Justice of Peace at that Time seems somewhat probable: You heard what Mr. *Lowder* saith, they came to him to accuse them the 25th Day of *January* 79, and he put them off for that Time, and he gives you Reasons why he did it; and then he brings an Order of Council to examine *Mowbray*, and he tells him what *Mowbray* would swear, and he tells him he would swear against Sir *Miles Stapleton*, that he was at the Consult at *Barmbow-Hall*; you have heard him often deliver this, and because it was somewhat material we desired him to speak it again and again: *Bolton* denies it, he never told what *Mowbray* could swear; so that depends upon the Credit of the Witnesses.

Sir *Thomas Yarbrough* tells us that *Bolton* came to him, and knocked him up out of Bed, for his

Warrant to search for *Rushton* a Priest, who he said was at Sir *Miles*'s, and thereupon he asked him if he could tell any Thing of Sir *Miles Stapleton*, and he said no, with many Affeuerations; now if that Information were the same that was sent to Mr. *Lowder*, then 'tis of no such Weight, and it hath been presupposed by the King's Counsel, that Sir *Thomas* might forget himself, neither was there any Thing in these Papers relating to Sir *Miles*.

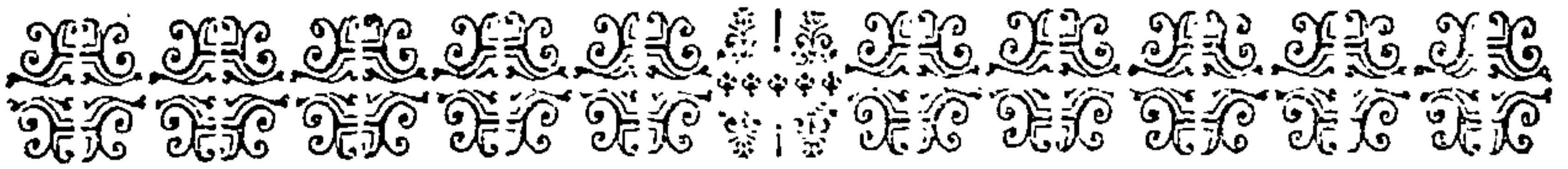
And my Lady *Yarbrough* being in Bed in the same Chamber, she saith she heard the Papers read, and her husband asked him of Sir *Miles Stapleton*, but he denied that he was concerned in the Plot: And she saith further, in the Afternoon, a Gentleman brought him into the Porch where they were sitting, and the Gentleman asked him who were Plotters, but he would not tell him; then he asked him if Sir *Miles Stapleton* was concerned, and he positively denied it. These Things hang not well together, I know not how to make any Observations upon it; he denies that he said so, they say he did. The rest of the Witnesses are not very much material; only, as I told you before, what Talk they would have talked before they changed their Religion: There is nothing proved against them, but they are good Witnesses in the Law; there is no Records, nor Perjuries, nor any Thing else that takes off their Evidence, they have sworn it several Times, and stand to it. Now you have heard and taken Notice what Objections have been made against it.

Mr. Baron *Greg*. My Brother has opened it so fully, I shall trouble you with very little, only to let you see that my Observations were the same, and that I concur in the Evidence with my Brother; for there is full Evidence against the Prisoner at the Bar. The Matter they swear is Treason of the highest Nature imaginable: There are but two that swear positively, but they swear of several Consults, and of the Particulars that were agreed on by Sir *Miles Stapleton* for the carrying it on; and there is no material Witnesses against them. For the latter Witnesses of their denying it, it must be before they were of the Protestant Religion; when they were concerned as much to conceal it, as any Persons that were guilty of it: Besides, in a Discourse a Man is not bound to tell a Neighbour all Things that he doth know, he cannot be safe to tell it to a private Person at that Time. It is very true, as my Brother hath told you, they were resolved when they discovered it they would have Security for themselves: I suppose they needed not have feared Sir *Miles* flying from being apprehended; but if Sir *Miles* was at large they might have feared it. But when they came to be examined upon their Oaths before Mr. *Lowder* and Mr. *Tindal*, there could not be any Thing to excuse them; It is true, to my Apprehension, there was no probable Reasons why these two Gentlemen should ask them if Sir *Miles* were concerned in the Plot; for in the Information they saw his Name was not mentioned; thus they were as much afraid as Sir *Miles* was; it may be; it was their care of him, knowing what Religion he was of, and knowing him to be related to Sir *T. Gascoigne*. Now it doth depend upon the Credit of what they have sworn; they deny what is charged upon them by these Gentlemen;

lemen; by Sir *Thomas Yarbrough* and by my Lady; and 'tis true, Mr. *Lowder* was as a Magistrate too, and Sir *Thomas* was as a Magistrate too; it is true, he was not upon the Examination of them upon Oath at that Time, therefore that was not as before a Magistrate; but Mr. *Lowder*, they came to him as a Magistrate; therefore it must be for you to consider whether or no there might be a Forgetfulness of them in their speaking, or a misunderstanding of them; there is nothing else that I know can tend to the reconciling of it: For if there were a Mistake by the one, or a Forgetfulness in the other, then it might alter

the understanding; but if they heard well and remembered true, then it will be, as I have said before, more difficult to be reconciled. But, Gentlemen, upon the whole Matter, it will depend upon the Construction and Reputation of what they swear, and these Gentlemen speak, which you are to consider.

Having sworn a Bailiff, the Jury withdrew for about half an Hour's Consultation together, and then returned into Court, and gave in their Verdict NOT GUILTY.



CV. *The Trial of GEORGE BUSBY, at Derby Assizes, for High-Treason, being a Romish Priest, July 25, 1681, 33 Car. II.*

THE Court being sat, and the usual Formalities preceding Business over, the Pannel of the Grand Jury was called over, and nineteen of them sworn. The Names of which Gentlemen of the Grand Jury, which found the Bill of Indictment, &c. against *George Busby*, were as follows.

1. Sir *Henry Every* of *Egginton*, Baronet.
2. Sir *Robert Coke* of *Langford*, Baronet.
3. Sir *William Boothby* of *Ashborn*, Kt. and Bar.
4. Sir *Robert Clark* of *Cbilocote*, Knight.
5. *William Fitz-Herbert* of *Tiffington*, Esq;
6. *Henry Cavendish* of *Dovebridge*, Esq;
7. *William Mundy* of *Darley*, Esq;
8. *John Lowe* of *Denby*, Esq;
9. *William Berrisford* of *Bently*, Esq;
10. *John Allen* of *Gresely*, Esq;
11. *William Hopkinson* of *Bonsall*, Esq;
12. *William Lees*, Gent.
13. *Lionel Parsbaw* of *Dionfield*, Gent.
14. *Joseph Harpur* of *Yeavely*, Gent.
15. *John Stuffin* of *Hopton*, Gent.
16. *Matthew Smith* of *Denby*, Gent.
17. *John Whigly* of *Cromford*, Gent.
18. *Paul Jenkinson*, Gent.
19. *George Birds* of *Stanton*, Gent.

The Indictment being brought into Court, *Billa vera*.

Clerk of the Assizes. Goaler, set *George Busby* to the Bar. (Which was done.)

Clerk of the Arraignments. *George Busby*, hold up thy Hand. (Which he delayed to do.)

Clerk again. *George Busby*, hold up thy Hand.

Which he did not do, but instead thereof, presented a Petition to the Court to this Effect, That he was committed to the Goal in *March* last, for being a Popish Priest, and that great Industry had been used to procure Witnesses to swear against him, and that having obtained his *Habeas Corpus* to be removed to *London*, the Under-Sheriff falling sick, and being since Dead, the *Habeas Corpus*

was not executed; he prays he may be removed to the *King's Bench*, that he may have Time to make his Defence, he depending upon his *Habeas Corpus*, his most material Evidence to clear him, and to prove his being an Alien, being then in *London*, &c.

Baron Street. Mr. *Busby*, notwithstanding I must proceed to try you, the Grand Jury having found the Bill *Billa vera*; you say you are an Alien; if that be so, then you are without this Law of the 27th of *Eliz*.

Busby. I had not my *Habeas Corpus*, and so am deprived of my Witnesses to prove that I am an Alien born:

Baron Street. If they prove you not a Native, then the Indictment falls.

Then the Clerk of Arraignments proceeded to arraign the Prisoner.

Clerk. *George Busby*, hold up thy Hand, (which he did.) Thou standest indicted by the Name of *George Busby*, late of *West Hallam* in the County of *Derby*, Clerk, for that thou, being a Subject of our Sovereign Lord the King that now is, and being likewise born within this Kingdom of *England*, was made and ordained a Priest by the Authority derived and pretended from the See of *Rome*, after the Feast of the Nativity of *St. John Baptist*, in the first Year of the Reign of our Lady *Elizabeth*, late Queen of *England*, &c. and before the 16th Day of *March*, in the 33d Year of the Reign of our Sovereign Lord *Charles* the second, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, &c. the Laws and Statutes of this Kingdom of *England* little weighing, nor the Punishments in the same contained not at all regarding; with Force and Arms, &c. at the Parish of *West-Hallam* aforesaid, in the County of *Derby* aforesaid, being within this Kingdom of *England*, voluntarily, freely and treasonably, the 16th Day of *March*, in the 33d Year of the Reign aforesaid, hath been and remained, contrary to the Form of the Statute in that Case made and provided; and

and against the Peace of our Sovereign Lord the King, his Crown and Dignity, &c.

Baron Street. How sayest thou, *George Busby*; art thou Guilty of this Felony and Treason whereof thou standest indicted, or Not Guilty?

Busby. This Indictment, my Lord, is not full; it recites not the particular Case in the Statute of *Queen Elizabeth*, viz. that I took Orders beyond Sea, and another Point, that I am a Native of the King's Dominions.

Baron Street. You may be made a Priest in *England* by the Authority of the Bishop of *Rome*, as well as at *Rome*.

Busby. How can I be made a Priest in *England* by the Authority of the Bishop of *Rome*, where there is no such Authority?

Baron Street. You must plead to your Indictment as it stands.

Busby. Then, my Lord, I humbly beg I may be allowed Council.

Baron Street. If any Point in Law arise, you shall be allowed Council.

Busby. The Time and Place is not specified in the Indictment.

Baron Street. If that be so, 'tis material. But upon View of the Indictment, 'twas found right.

Clerk of Arraignments. *George Busby*, hold up thy Hand; art thou Guilty of this Indictment, or not Guilty.

Busby (then holding up his Hand) said, Not Guilty.

Clerk of Arraign. Culprit, How wilt thou be tried?

Busby. By God and my Country.

Clerk. God send thee a good Deliverance.

Baron Street. Now we will see if your Objections be of any Weight; you hear the Indictment read, which was *ut antè*, being a Subject of the King's, born within this Realm; you may be made a Priest by the Authority of *Rome*, in *England*, *Ireland*, or *Germany*, or any where else, and that will make you a Priest within this Law.

Busby. I am no Native, I was born beyond the Sea.

Baron Street. Your being a Native, is Matter of Fact, and must be proved.

Busby. My Lord, I move I may have right of challenging the Jury.

Baron Street. Sure we must have the Jury before us first, before you can challenge any of them.

So the Jury being called, *Busby* challenged peremptorily, near the Number allowed by the Law, viz.

<i>John Burrows</i> , Gent.	<i>John Rose</i> .
<i>Henry Goodyer</i> , Gent.	<i>William Salt</i> .
<i>John Hawksworth</i> , Gent.	<i>John Hurd</i> .
<i>Thomas Cockayne</i> , Gent.	<i>John Stone</i> .
<i>Cornelius Dale</i> , Gent.	<i>Robert Rowland</i> .
<i>Thomas Wetton</i> , Gent.	<i>Robert Cooper</i> .
<i>Thomas Wingfield</i> , Gent.	<i>Edward Ridge</i> .
<i>William Kirkland</i> , Gent.	<i>William Alsop</i> .
<i>John Agan</i> , Gent.	<i>James Cooper</i> .
<i>Henry Wild</i> , Gent.	<i>John Wallat</i> .
<i>Thomas Coxon</i> .	<i>Gregory Seele</i> .
<i>James Dawson</i> .	

The King's Council did except against two Persons only, viz. *Robert Doxey*, *Christopher Holmes*.

Bar. Street. Have a care, Mr. *Busby*, at your Peril, if you challenge peremptorily above the Number of 35.

The Names of the Petty-Jury sworn.

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|--------------------------------|----------------------------------|
| 1. <i>Samuel Ward</i> , Gent. | 7. <i>George Tricket</i> , Gent. |
| 2. <i>Tho. Wilson</i> , Gent. | 8. <i>Jeremiab Ward</i> . |
| 3. <i>John Steer</i> . | 9. <i>John Roper</i> . |
| 4. <i>John Ratcliff</i> . | 10. <i>John Creswel</i> , Gent. |
| 5. <i>Ed. Wolmesly</i> , Gent. | 11. <i>Edmund Woodhead</i> . |
| 6. <i>William Horn</i> , Gent. | 12. <i>Anthony Bowne</i> . |

Then Mr. *Bridges*, Council for the King, opened the Indictment.

Mr. *Bridges*. May it please your Lordship, and the Gentlemen of the Jury, the Prisoner at the Bar, *George Busby*, stands indicted for High-Treason, as it is alledged in the Indictment; that he being born within the King's Dominions and made a Priest, and having received Orders by pretended Authority from the See of *Rome*, did the 16th Day of *March* last come into the Realm of *England*, as 'tis laid in the Indictment, to *West-Hallam* in the County of *Derby*, and there he did abide, contrary to the Form of the Statute; and this is laid to be traiterously done. To this he hath pleaded Not Guilty; and we are to prove it upon him, by the King's Evidence, whom we are now to call.

Mr. *Coombes*. Gentlemen of the Jury, you have heard the Indictment read and opened, you will presently have it fully proved, and highly aggravated by our Evidence; for, Gentlemen, we shall prove that the Prisoner at the Bar is not only a Popish Priest, but a Jesuit, and this by his own Confession; and that his Name was inserted in Sir *William Waller's* Warrant, when he came down into this Country to search for Jesuits: That he has held a secret and dangerous Correspondence with *Harcourt*, *Ireland*, and other Popish Traitors: That he has been their Procurator, and disbursed and received great Sums of Money for them.

Gentlemen, the Prisoner hath been a Person highly suspected, as well as dangerous to the Government, for some Years; for treasonable Matters of another Nature than he stands indicted of, have been deposed against him upon Oath at the Council-Board, and thereupon a strict Warrant to apprehend him was directed to Mr. *Gilbert* (a worthy Gentleman and Justice of Peace of this County.) Mr. *Gilbert*, Gentlemen, will presently tell you the Manner of his taking him in an obscure Place in the Roof of one Mr. *Powtrel's* House at *West-Hallam* in this County. But here I must beg leave to digress; for I cannot but take Notice of the malicious Temper and base Practices of this sort of Men; for though Mr. *Gilbert* acted by Virtue of a Warrant from the Lords of the Council, and has since received an Approbation from his Majesty of what he did, under the Hand of a Secretary of State, yet could not those People forbear to raise false and scandalous Reports of, and make false Accusations against him, upon this very Account: But what is it they will not do to discourage Protestant Magistrates from doing their Duty against them? I confess, nothing is to be wondered at since the barbarous Murder of Sir *Edmundbury Godfrey*. But to proceed, Gentlemen, we shall

also prove to you that the Prisoner is so little a Friend even to the Civil Government of this Nation, that he would not suffer his Nephew, Mr. *Powtrel*, to take so much as the Oath of Allegiance, which is scrupled only by the Jesuits; for I think their secular Priests will generally take it. Gentlemen, the Things I have already opened, are Matters of high Aggravation, and come in by way of Indictment. But that which in this Case we rely upon is this, that the Prisoner has baptized, married, confessed and absolved in the Popish way, that he has given the Sacrament, and said Mass very frequently in his Popish Vestments; and for proof of this we have a Cloud of Witnesses.

Gentlemen, you hear the Prisoner is indicted upon a Statute made in the 27th *Eliz.* which makes it Treason for any Subject born to take Orders from the See of *Rome*, and afterwards to remain in *England*; which Law I conceive was not only made for the Security of the Government, but also in Favour of the Lay Papists themselves; for though several Statutes were made to keep them within the Bounds of their Allegiance, and to secure the Government from their villainous Designs; yet it was experimentally found true, that no Dangers or Penalties whatsoever, could deter or hinder them from plotting against the State, in order to bring us back again to the Slavery of *Rome*; whilst those juggling Managers of their Consciences were suffered to come amongst us; and therefore I may well call this Statute, upon which the Prisoner stands indicted, an Act of Charity to the common *Papists*; for it was made to prevent the Dangers they would otherwise run themselves into, as well as the Nation. 'Tis true, indeed, Gentlemen, that the lively Execution of this Law has (by the Clemency of our Princes, and good Nature of the Government) been many times suspended, and might yet have continued in the Shade, had not the Popish Priests and Jesuits roused up this sleeping Lion against themselves, by a damnable and hellish Plot against his Majesty's Life, the true Religion and well established Government of this Nation; the Reality of which has been confirmed to us, not only by the unanswerable Evidence of *Coleman's* Papers and other loyal Proofs, but also by frequent Proclamations, and the uniform Votes and Resolutions of several Parliaments. I may therefore very well borrow the Words of a great Man upon the like Occasion, and say, That at this time of the Day 'tis much better to be rid of one Priest than many Felons: And therefore, Gentlemen, if our Evidence shall make good the Indictment, I hope you will do your King, your Country, and yourselves the Right to find the Prisoner Guilty.

Mr. *Coombes*. We shall call our Evidence.

Call Mr. *Gilbert*. (who was sworn.)

Pray tell my Lord and the Jury what you can say concerning the Prisoner at the Bar.

Mr. *Gilbert*. My Lord, I dwell within two Miles of Mr. *Powtrel's* House at *West-Hallam*, the Place where the Prisoner was taken, and have heard that he hath been a Priest in that Family six or seven Years, though I did never know him personally, nor, to the best of my Knowledge, ever saw him till I apprehended him, which was the sixteenth of *March* last, the very Day on which the Judges went out of *Derby* the last *Lent-Assizes*; the first Enquiry I made after him was occasioned

by a Letter and a Messenger from Sir *Simon Degg* about *November* 1678, at which Time I sent a Warrant to the Constable at *West-Hallam* to search for the said *George Busby*, but he could not then be found; at that Time it was reported, that he was a Jesuit, and concerned in the Plot; which I had reason to believe, because when Mr. *Gray* came to search Mr. *Powtrel's* House for some Jesuits the *January* following, by Order from the Lords of the Council (in which Service he commanded me to attend him) we perceived Mrs. *Powtrel* (who is *Busby's* Niece) to be much troubled, and in a great Passion, the Cause whereof Mr. *Powtrel* declared to be for fear the said search was made for her Uncle *Busby*, who, as I heard afterwards, was then in the House, though at that Time he was reported to be fled.

However, the Government had a jealous Eye on this *Busby* above two Years ago, as may appear by a Warrant from the Lords of the Council, which Warrant I have ready, and humbly pray your Lordship it may be read openly in Court.

Baron *Street*. Let it be read.

Clerk. ' Whereas Information hath been given to his Majesty in Council upon Oath, that *George Busby* late of *West-Hallam* in the County of *Derby*, is a reputed Priest and Jesuit, and has had a considerable Part in the late Conspiracy against the Life of his sacred Majesty, and the Peace of the Government; these are therefore to will and require you to repair to the Place aforesaid, or wherever else the said *George Busby* shall be found, and him to seize and apprehend, and convey to the next County-Goal, there to remain in close Custody, until he shall be delivered by the due Course of Law. And all Mayors, Sheriffs, Justices of the Peace, Constables, and other his Majesty's Officers and loving Subjects are to be assisting unto you in the Execution hereof, as they will answer the contrary; for which this shall be your Warrant. Dated at the Council-Chamber in *White-Hall*, the 19th Day of *March*, 1678.

Indorsed to <i>Henry Gilbert</i> , Esq: at <i>Locko</i> in the County of <i>Derby</i> .	<i>Worcester</i> , <i>Clarendon</i> , <i>Aylsbury</i> , <i>H. London</i> ,	<i>Sunderland</i> , <i>Effex</i> , <i>Falconbridge</i> . <i>John Nicholas</i> .
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(Then Mr. *Gilbert* proceeded.)

Mr. *Gilbert*. My Lord, I received this Order on *Saturday* the 22d Day of *March*, 1678. And on *Sunday* Afternoon I sent to Mr. *John Bagnall* of *Derby*, who was then Under-Sheriff, requiring him to meet me early on *Monday* the 24th, at Mr. *Powtrel's* House at *West-Hallam*, about some earnest Business lately sent down from the Lords of the Council, wherewith I would acquaint him at our meeting: As soon as he came I shewed him the Warrant; after which we searched very diligently in every Place we could see, but could not find him; though afterwards I was informed he was in the House at that Time also.

About *August* 1679, Mr. *Powtrel* obtained a Licence from his Majesty to travel beyond-Sea, and it was confidently reported by the Papists, that this Mr. *Busby* was gone over too, inasmuch that when Sir *William Waller* came into these

Parts in *January* 1679, with Warrants to search for Jesuits (in one whereof I saw *Busby's* Name) and would have searched at *Hallam*, I dissuaded him, and did assure him I believed he was gone beyond Sea, and told him how often I had searched for him in vain; whereupon *Sir William Waller* diverted to another Place, though I have been informed since, that *Busby* was never out of *England*, since the Discovery of the Plot.

But about *Christmas* last, and since, I having had Notice that *Busby* was in *England*, and particularly at *West-Hallam*, and had been seen last *Corn-Harvest* to walk in *Mr. Powtrel's* Garden with one *Anne Smalley*, a Widow, I thought it my Duty to make it my further Enquiry after him, which I did on the first Day of *March* last, and came to the House to buy some Wood for my Coal-pits, and then brought five or six Persons with me, and sent for the Constable to help me to search for him, which we did most part of the Afternoon, but could not find him, though he was seen to be walking in the Garden with the said *Anne Smalley* when I came first into the House, as I was afterwards informed; but when I asked the said *Anne Smalley* for him, she affirmed with many Protestations, that he was in *Flanders*, and not in *England*, and that if I had any Business with him, I must go beyond Sea to him, for she had not seen him for above two Years; though she had helped to convey him out of the Garden into his hiding-hole, but a few Minutes before: However, I proceeded in my Search, and found in the Chamber where *Busby* lodged, a Crimson Damask Vestment, wherein was packed up a Stole a Maniple of the same (as the *Papists* call them) an Altar, Stone, Surplice, and a Box of Wafers, Mass-Books, and divers other Popish Things: Then I told *Mrs. Braylsford* (a Kinswoman of *Mr. Powtrel's*) and the said *Anne Smalley*, those Things did signify that a Priest belonged to the House; for the Book had been lately used, as was apparent by the String which was put betwixt two Leaves, whereof *Festa Februarii* was on the one Side, and *Festa Martii* was on the other Side; but they stiffly affirmed, that no Priest had been there of above two Years before, and jeered me when I could not find him, and said, if there was a Priest in the House, why did I not take him?

When I had done searching, and could not find him, I took away the Vestment, and other Things, which I brought to the *Affizes*, a Fort-night after, and did ask *Mr. Justice Charlton* (who came that Circuit) his Opinion, what I should do with them; he told me, they must be burnt, according to Law; I entreated his Favour, that I might send them again to the same Place, for two or three Days, to make the Priest more confident, that I might better apprehend him; he told me, he could give no such Permission; but insisted, that they ought to be destroyed.

When all the Business was done at the *Affizes* on the Crown-side (where I was obliged to attend) on *March* the 15th Day at Night, I went to the Judge again, and craved his Lordship's Pardon for presuming to send back the Popish Things, contrary to his Opinion; but acquainted him that I intended to go after them to *West-Hallam* that Night, and that I could not catch the Priest, I resolved to bring the same Things again; and after I had asked his Lordship some Questions,

and received his Directions, I came to my own House, and went about eleven of the Clock at Night (with some Company to assist me) to *Hallam*, and set two Men to watch in the Garden, and one in the Church yard (joining to another side of the House) to see if they could spy any Light, or hear any Walking, in the Lofts or false Floors, when I made a Noise on the other Side of the House. I sent a Man before to call up the Constable, and when he and two or three more came, I knocked at *Mrs. Anne Smalley's* Window, about twelve of the Clock in the Night, and said aloud, *Mrs. Smalley, open the Doors, I am come to search for a Popish Priest.* She started up, and said, *Who was there?* I told her, *It was I, she knew me well enough, I dwelt at Locko.* Then I staid a pretty Space of Time, and called aloud to her again, and spoke the like Words: but by that Time, I suppose she and her Bed-fellow, *Mrs. Braylsford*, were gone to give the Priest Notice, and to help him to his hiding-hole, for no body answered me; then, after a pretty Space, I called to her a third time, and required her, in the King's Name, to open the Doors, for I was come to search for *Busby*, the Jesuit, who was a Traitor by Law, and if she would not open the Doors, I would cause the Constable to force them open; and when I could have no Answer from her, I went to *Joseph Dudley's* Chamber-Window, and called there, charging him in the King's Name to open the Doors, but no Answer at all was returned; for he also was gone into the Priest's Chamber, and found *Anne Smalley* busy in helping *Busby* to secure himself, as the said *Joseph Dudley* did afterwards inform me.

After I had staid about a quarter of an Hour, I commanded the Constable, in the King's Name, to break the Doors open, which was done; and when we came into the Priest's Chamber, I found the Fire had been lately extinguished, the Counterpane and the Blankets laid in confused Heaps on the Bed, and some part of them warm, and some part cold; the upper part of the Feather-bed was cold; which I wondered at, then I put my Hand underneath, and the Bed was warm; for they had turned it. I looked for the Pillow, Sheets, Cap, &c. but *Anne Smalley* (as I was afterwards informed) had taken them into the Chamber where she lay. I asked her divers Questions about the Person that had lain in that Bed that Night, and particularly, whether or no it was not *Busby*? She told me, no body had lain in that Bed that Night; I told her, I was sure some Person had lain there; for the Feather-Bed was warm on the under-side: She took many Protestations, that no body had lain there of divers Nights before: I replied, if she would discover the Person who had lain there, it would save her and me much Trouble: But when all I could say would not prevail, I told her, I must search, for I was confident, that *Busby* was in the House, because she would not declare who it was that lay there.

I began to search about one of the Clock, and continued till after ten next Morning before I could find him: And though the Watchers in the Garden told me, they heard his Paces and Steps very plainly amongst the Lofts and false Floors, and described on the out-side of the House the Place where they last heard him, within the Space of nine or ten Foot where he

was hid ; yet were we almost so many Hours before we could find him.

At last when the Searchers were almost all tired, *Anne Smalley*, and others of the Family scoffed at us, and asked, *What have you not found him yet ? You said there was a Priest in the House, why do you not find him then ? Why do you not take him, I said, All in good Time ? I was resolved to find him, or starve him out :* Nay, the Foot-Boy of the House, seeing my Servant look within the Kitchen-Chimney, where there hung a Port-Mantle, said, jeering to my Man, *Look if he be not in the Port-Mantle.*

After those Persons had pleased themselves a good while with mocking us for our Disappointment, I persuaded two or three of the Searchers once again to climb upon the Lofts (which I could not do myself, by reason of a Lameness in my Shoulder,) and look well near the Place where *Busby's* last Steps were heard. Which when they had done some while, and found nothing, I took my Sword and Scabbard, (being in the Room underneath) and knocked on the Plaster-Floors over my Head, and caused them to answer me with the like Knocking as near the same Place as they could, and when we had examined the Floors in this Manner, I knocked near unto a Stack of three Chimneys, but they could not answer within a Yard ; I knocked again in two or three Places near the Chimneys ; yet still they could not answer near those Places, but told me there was nothing but Tiles and Roofing ; I bid them break open those Tiles, which they did, and espied under them a wooden Door, and a little iron Hinge ; I bid them break the Door ; then one of the Searchers put in his Hand into a little Hole that was broken in the Door, and felt a Hat ; then he told me some Body was in that Place, for a Man had thrown his Hand off the Hat ; then I caused them to break open the Entrance, which when they had done, *Busby* spoke to them, and desired them to be civil ; when they told me what he said to them, I charged them to be civil to him, and bring him to me, which they did. Then I arrested him in his Majesty's Name, for High-Treason, and after he had refreshed himself a little, I told him he must get on his Boots, and prepare himself to go to *Derby*.

Soon after his Apprehension, (I perceiving him to be a little dismayed) I encouraged him, and said, he should have all the Favour a Person in his Circumstances could expect ; for I told him, I understood he was a Gentleman of a good Family in *Buckinghamshire* or *Oxfordshire*, and that his Brother lived at *Coddington* in *Oxfordshire*, which he acknowledged, and thanked me for my Civility.

I was so well satisfied that we had apprehended him, after much tedious watching and searching, that I never thought of sending any Man to look what was in the hiding Hole with him ; but after an Hour's stay, or thereabouts, I took him away from *Hallam* between eleven and twelve o'Clock on the 16th of *March* last, and brought him to *Derby* between one and two of the Clock ; where, after I had taken his Examination, I made a *Mittimus*, and committed him to *Derby-Goal*.

On *Saturday* following, I writ a Letter to *Oxford* to the Right Honourable the Earl of *Con-*

way, one of his Majesty's principal Secretaries of State, informing his Lordship of the apprehending and Commitment of *Busby*, and inclosed a Copy of his Examination, to which his Lordship writ me a Letter in Answer, that he had acquainted his Majesty with my Proceedings, who did very well approve of what I had done.

Busby. My Lord, I am an Alien, born at *Brussels*.

Bar. Street. Was your Father of that Place ? It is a very good Family.

Busby. My Father lived at *Coddington*, my Mother was an Heireis, and here is an *Affidavit* ready to be produced of what Children my Father had before he went beyond Sea, born at *Coddington*, out of the Register of that Place ; I have had no Time to bring a particular Certificate where I was born, and what other Children my Father had beyond Sea ; my Father went over about the beginning of the Troubles, and I am about forty Years of Age.

After the Judge had told *Busby* of the Act for Naturalization,

Mr. Busby. I suppose (my Lord) that Act my stand good as to Privileges of the Subject, but not as to Penalties.

Bar. Street. Yes, as to all Intents and Purposes : Read the Act 29 *Car. II.* cap. 6.

An Act for the Naturalizing of Children of his Majesty's *English* Subjects, born in foreign Countries during the late Troubles.

WHEREAS during the late unhappy Troubles in *England*, which began in the Year of our Lord, one Thousand six Hundred forty One, and continued until the Time of his Majesty's most happy Restoration, divers of his Majesty's *English* Subjects, as well of the Nobility as others, did either by reason of their Attendance upon his Majesty, or for fear of the then usurped Powers, reside in Parts beyond the Seas out of his Majesty's Dominions, and it may hereafter become difficult to make Proof of the Occasion of such their Residence : Now for preventing of all Disputes and Questions that may arise, whether the Children of such his Majesty's Subjects of this Realm are Natural-born Subjects of our Sovereign Lord the King, and to express a due Sense of the Merit of all such Loyal Persons as out of their Duty and Fidelity to his Majesty and his Father of blessed Memory, did forego, or were driven from their native Country ;

Be it declared and enacted by the King's most excellent Majesty, by and with the Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, That *Charles Gerard*, and *Elizabeth Gerard*, Children of the Right Honourable *Charles Lord Gerard of Brandon*, *Trever Wheler*, and *Dorothy-Elizabeth Wheler* Children of *Sir Charles Wheler*, Baronet, *Anne Ravenscroft* the Wife of *Edward Ravenscroft* of *Bretton* in the County of *Flint*, Esq; one of the Daughters of *Sir Richard Lloyd*, Knight, deceased, born at *Calais* in *France*, and

all other Persons who at any Time between the fourteenth Day of *June* in the said Year of our Lord one Thousand six Hundred forty one, and the four and twentieth Day of *March* in the Year of our Lord one Thousand six Hundred and sixty, were born out of his Majesty's Dominions, and whose Fathers and Mothers were Natural-born Subjects of this Realm, are hereby declared and shall for ever be esteemed and taken, to all Intents and Purposes, to be and to have been the Natural-born Subjects of this Kingdom; and that the said Children, and all other Persons born as aforesaid, and every of them, are and shall be adjudged, reputed, and taken to be and to have been, in every respect and degree, Natural-born Subjects, and free to all Intents, Purposes, and Constructions, as if they and every of them had been born in *England*.

And be it further enacted and declared by the Authority aforesaid, That the Children, and other Persons as aforesaid, and every of them, shall be, and are hereby enabled and adjudged able, to all Intents, Constructions, and Purposes whatsoever, as well to demand, as to have and enjoy any Titles of Honour, Manors, Lands, Tenements, and Hereditaments, and all other Privileges and Immunities belonging to the Liege People and natural Subjects of this Kingdom, and to make his or their Resort or Pedigree, as Heir to his, their or any of their Ancestors, lineal, or collateral, by Reason of any Descent, Remainder, Reverter, Right, or other Title, Conveyance, Legacy, or Bequest whatsoever, which hath, may, or shall descend, remain, revert, accrue, come or grow unto the said Children; or Persons born as aforesaid, or any of them; as also to have and enjoy all Manors, Lands, and Tenements, or other Hereditaments, by way of Purchase or Gift of any Person or Persons whatsoever; as also to prosecute, pursue, maintain, avow and justify all and all manner of Actions, Suits and Causes, and all other Things to do as lawfully, liberally, freely and fully, as if the said Children, and the Persons born as aforesaid, and every of them had been born of *English* Parents within this Kingdom, or as any other Person or Persons born within this Kingdom may lawfully in any wise do; any Law, Act, Statute, Provision, Custom, or other Thing whatsoever, had, made, done, promulged, proclaimed, or provided, to the contrary thereof in any wise notwithstanding; provided always, that no Person, other than the Persons expressly named in this Act, shall have any Benefit thereby, except such Person shall within seven Years next ensuing, receive the Sacrament of the Lord's Supper, and within one Month next after such receiving the Sacrament, take the Oaths of Allegiance and Supremacy in some of his Majesty's Courts at *Westminster*, and deliver into the Court, at the same Time, a Certificate of such his receiving the said Sacrament, and then make Proof thereof by Witnesses to be examined *viva voce* upon Oath.

And be it further enacted, That no Person or Persons, other than the Persons expressly named in this Act, shall have any Benefit thereby, until he or they shall have received the

Sacrament, and made Proof thereof by Certificate and Witnesses, and taken the said Oath in Manner aforesaid.

And for the better Manifestation and Proof of such Qualifications as may entitle any Person to the Benefit of this Act, which in process of Time may be very hard to be proved; Be it further enacted, That any Person having received the Sacrament, and made Proof thereof by Certificate and Witnesses, and taken the said Oaths within the Time aforesaid, in any of his Majesty's Courts, in manner aforesaid, shall and may be admitted to make Proof of such his Qualification in the said Court by Witnesses *viva voce* to be examined upon Oath; and if he shall make Proof thereof to the Satisfaction of the said Court, he shall thereupon have a Certificate thereof under the Seal of the said Court, to be likewise enrolled in the said Court, and for ever after upon shewing such Certificate or Enrollment thereof, every such Person shall have full Benefit of this Law, as if he had been therein expressly named.

Bar. Street. Then you are a Natural-born Subject by the late Act of Parliament; whereby it appears that all Persons born abroad in the late Troubles, who went out of this Kingdom by reason of their Sufferings for the King, are made Natural-born Subjects, as if born here.

[Then Joseph Dudley was called and sworn.]

Bar. Street. Joseph Dudley, do you know the Prisoner at the Bar? Look upon him.

Joseph Dudley. I have known him these six Years and more, to belong to Mr. *Powtrel's* at *West-Hallam*, to whom I was at that Time a Servant, where he officiated as a Priest, and was kept to do that Office; where I have heard him say Mass, preach, pray, and have seen ten, twenty, or thirty, or more at a Time before him in the Chappel there, when he hath officiated with his Priestly Robes upon him; and likewise seen Children brought to be christened by him, others to be catechised; which he frequently did, as if he had been a Parish-Priest, but with what Privacy he could: And I myself have taken care of the Doors at such Times, which care they left to me, though I was not of their Opinion; yet upon my promising to be so, they did repose that Trust and Confidence in me.

Bar. Street. Tell us what you know concerning Mr. *Busby's* being an Alien, as he pretends, which I cannot believe.

Joseph Dudley. He tells you, that when the Civil Wars were here in *England*, his Father and Mother, with their Family, went beyond Sea, where he was born; but, my Lord, in discoursing with my Master and others of the late Wars, I have heard Mr. *Busby* relate what happened to their Family in those Times, and that their House was often plundered, and his Father and Mother living at *Coddington* in *Oxfordshire* (as he tells you) the first Time the Soldiers came to plunder the House, he was about two Years old or more, and being frightened at the Soldiers, he hid himself behind the Bed in the Curtains, so that while they were there, none of the House knew where to find him, which made them believe that the Soldiers had taken him, or made him away;

away; but when the Soldiers were gone, his Mother and some of the Family lamenting for him in her Chamber, he hearing them, appeared; so that with great Joy they received him. My Lord, I think the Place was *Coddington*, where he tells you his Mother lived, and that it was hers, she being an Heiress. At least, I am very certain I have heard him speak of the Place where he was born, to be in or about *Oxfordshire*, I think it was *Coddington*; for it is the Place where Mr. *Charles Busby* his eldest Brother now liveth, and he saith, that from thence his Father and Mother went beyond Sea.

Busby. When did you hear me discourse any such thing as you have related, and with whom; you speak this by hear-say, do you not?

Jos. Dudley. Several times with my Master and others, as I said before, when they have been talking how some Families have been ruined by the great Oppressions of those Times, some being plundered, others sequestered, and forced to leave their Estates and Friends, which you have said was your Mother's Case; for their great Sufferings forced them to go from their own House: And, my Lord, when he was about five Years old, he did also say, that he could remember Soldiers coming again to plunder, and he being at that Time in the Garden or Orchard, he did hide himself in the Hedge, where he did continue till they were gone, and then he came forth when it was late in the Evening; but his Mother nor any of the Family knowing where he was, did very much fear they had lost him; but when he came to them, they were not a little joy'd; but after this they went immediately beyond Sea, and took him with them, where his Mother continued several Years, and had several Children there, the which I have heard him say of himself, and of her being at *Brussels*.

Bar. Street. Mr. *Busby*, the Evidence says, that you told a Story of your Mother's House being plundered, and how you hid yourself in the Curtains, when you was two Years old, and in the Garden-Hedge, when five Years old, for fear of the Soldiers, and that soon after your Mother went beyond Sea, where she had several Children, which yourself told, from your own Mouth, and he had it not from other People.

Bar. Street. But, Mr. *Dudley*, What can you say as to his being a Priest or Jesuit?

Jos. Dudley. My Lord, my Master and his Family, and all Papists that were acquainted with him, ever owned him to be a Jesuit; and several of them have many times told me so: Besides he himself has owned, that he was of the Society of *JESUS*, particularly one time, when I should have been his Convert; telling me, *While I was out of the True Faith, I could not be saved; and there was no way to be saved, but by believing the Catholick Church, which was the Roman Catholick, as Tradition makes appear; for God help me, I was a poor Heretick, and led by weak and blind Pastors; for they had their Religion only from Calvin and Luther, and every silly Fellow was made now a Preacher of the Gospel, before he understood it; but that he and all Jesuits were fifteen Years labouring in their Studies and Degrees, before they came to be ordained.*

Busby. I pray you, where and when was it I said all this to you?

Jos. Dudley. In the Gardens at *West-Hallam*,

where my Master Mr. *William Powtrel* and Mrs. *Anne Smalley*, after great Persuasions, sent me to you; and told me they had sent you before; and that I should find you there, where I did. And your first Discourse was of the Gardens, withal giving me a Description of the Jesuit's College in *Liege*, where you did (as I remember) own your receiving Orders. Besides, I have heard my Master, Mrs. *Smalley*, Mrs. *Winifred Atwood*, and *George Harrison* (who lived in the Colleges beyond Sea) own it. And your self said, *That Mr. Evers, my Lord Alton's Priest, (who hath been with you at West-Hallam) was your Master and Tutor*, when, as I think, you were a Scholar at *St. Omer's*.

Busby. How long do you say you have lived at *West-Hallam*?

Jos. Dudley. Betwixt six and seven Years.

Busby. When was that I talked of the Gardens at the College of *Liege*? And whether I told you I was a Jesuit when I spoke of *Liege* Gardens? What Time was it, what Year?

Jos. Dudley. I cannot say the Time, but 'twas since I lived at *Hallam*, and 'twas when you persuaded me to be a Catholick.

Busby. You take a Compass of six Years, this is a mere Story. Pray, what were my Arguments?

Bar. Street. You were about to convert him, and then you told him this; 'tis enough you have endeavoured to make him change his Religion; but it seems your Arguments were not of so much weight as to be remembered.

Busby. I pray you, was I ever with you alone to tell you I was a Jesuit? Let me know the Year and Time, and what induced me to say so?

Jos. Dudley. I cannot satisfy you when the Discourse was; but I have been alone with you in the Garden a hundred Times and more; when you did satisfy me that you was a Jesuit, was the Time when you did move me to be of your Persuasion; the which I did so far condescend to, that ever since there was none of the Family more trusted than I; for, my Lord, I did give them all the Assurance that might be of being of your Religion; but the Times being troublesome, and the fear of disobliging my Friends, particularly one or two, who had the Care and Management of a House of mine (which was then in Trouble) then I durst not consent, yet my seeming Inclination did ever much please them, and they did so far credit me that my Master did intend (as he told me) to take me beyond Sea with him; nor did I know the contrary, till I was upon the Road for *Dover*, and then he told me that his Uncle *Busby* was inserted in the Pass (by the Name of *Thomas Jackson*) which he shewed me; but he having no Mind to go, stayed in *England*, (and for the most part at *Hallam*) so that my Master commanded me back, to look after his Affairs there: And for some Time before he was to return he said he would send for me over. Ever since he left *Hallam*, Mr. *Busby* hath continued privately there, for none besides Mr. *George Brent* and myself, and the Women of the House, were suffered to know of him; nay, some of his Relations who have lain in the House, have not known but that he was beyond Sea, though they were Papists, yet he would not suffer them, but concealed himself.

Busby. I pray, will you tell me what Day, Month, or Year it was, you and I had this Discourse you speak of; and tell me how it came that I was so familiar with you?

Bar. Street. What need you impose it upon him, when he saith he hath lived with you six Years and more? He cannot remember it; but he tells you that it was in the Garden, where he has been with you a hundred Times and more, not thinking further of it; 'tis impossible to satisfy you the particular Time: therefore why do you ask him such a foolish Question?

Busby. I desire you will let me know how you (as you pretend) come to know I was a Jesuit.

Jos. Dudley. Sir, it is what you know to be Truth, and I am sure you cannot but remember, it was in the Walk at the Head of the Orchard, where you was before me expecting my coming to you, and did then use all the persuading Means that might be to confirm me in your Opinion; in which I seemed so well satisfied, that you told me you would leave me to consider of it, but that I ought to forsake my Friends, and whatever else, to come to God Almighty, of which you did not doubt; but bid me be careful, for Delays are dangerous: And, my Lord, as to his being a Jesuit, he did own it when my Master was committed to Prison for refusing the Oaths of Supremacy and Allegiance; (for he was then private at *West-Hallam*) withal saying, in his Conscience he ought not to take them, for their Church would not allow it, but on the contrary did expressly forbid it: Nevertheless *Mrs. Powtrel*, *Mr. William Powtrel*, and divers of the Family did argue for his so doing, especially after *Mr. Thomas Cannynge* came from *St. Thomas* in *Staffordshire*, and said that his Uncle *Fowler*, he, and all belonging to him, had taken the Oath of Allegiance: And that it was the Opinion, and with the Consent of *Mr. Fitter* their Priest, that they might do it; and for that Reason *Mr. Cannynge* came to advise my Master the like: But *Mr. Busby* did reject the Motion, and said no secular Priest could give Leave so to do, and for his Part he was absolutely against it, and so was all the Society: But if Seculars gave too much Liberty, he would not be guilty of their Fault; so when all would not prevail with him, then *Mrs. Powtrel* and I went to *Mr. William Brent* at *Fox-Coat* in *Warwickshire*, her Grandfather, and *Mr. Busby's* Father-in-Law, a Counsellor, to have his Advice; and upon his writing several Letters to my Master, and *Mr. Busby*, that it was proper for my Master so to do, nor could he avoid it; then in Compliance to *Mr. Brent*, he did not much oppose the taking of the Oath of Allegiance: And those Letters, the next Night after *Mr. Gilbert* had taken *Mr. Busby*, *Mrs. Smalley* (for fear he should find them) did burn, but shewed them to me as she was looking over many Papers more, the most of which she did likewise burn.

Mr. Gilbert. For your Lordships and the Juries further Confirmation, that the Prisoner is a Jesuit as well as a Priest, and that he held a dangerous Correspondence with some of his Order, which have been executed for their Treasons in relation to the Plot, I must acquaint your Lordship that this *Busby* was Procurator for the Jesuits, and that he received the Rents of their Lands, from 1673 till 1677, and that he disbursed and returned several great Sums of Money to divers Je-

suits, as may appear by Letters; and his Account-Book, which I took, where may be seen what Dealings and Transactions he had with *Gaiwen*, *Harcourt*, *Turner*, *Ireland*, *Pool*, *Bennet*, *Heaton*, *Tomson*, and others of his Tribe: He could not deny it to be his own Hand-writing.

My Lord, here is the Book.

(Which was presented to the Judge, and perused by him.) Then *Mr. Gilbert* proceeded.

My Lord, I did also search at *West-Hallam* House for popish priestly Garments, (being well informed that there were such in the House) and found divers Suits of Vestments and other popish Trinkets, which I brought away; together with those I formerly sent back from the last Affizes; all which I have ready in Court to be produced, and have also a Minister here, (who has formerly been a popish Priest himself) to inform your Lordship the Names and Use of all the Particulars; here are also (my Lord) a Box of Wafers, which I suppose they use for the Sacrament at the Mass; the larger Sort I am told are for the Priests Use, the lesser for the People; and here are the Wafer-Irons which made them.

Mr. Sheppey, pray tell my Lord and the Jury the Names of all those Things, and how the Priest used them at Mass.

Mr. Sheppey taking up the Things, said, *My Lord*, this is a Vestment used when the Mass is said, this is a Stole, and this is a Maniple, and this an Antependiana: And so gave an account of the rest of the Trinkets.

[Then *Thomas Houis* was called and sworn.]

Bar. Street. What can you say, Friend, of the Prisoner? See if you know him, look upon him.

Thomas Houis. I know him well enough, he persuaded me to be a Roman Catholick, when I was about to marry a Man's Daughter that was a Papist; whom I could not have, until I turned to their Religion. *Mr. Busby* persuaded me, and when he had converted me, bound me to believe that Matrimony was a Sacrament; he gave me Absolution, and made me do Penance; the Words of the Absolution I cannot pronounce, but I have been several Times at Mass when he said it, when I had Absolution from him; after Confession I was to say these Words:

' For all which, and whatever else I cannot at
' this present call to Mind, I am heartily sorry
' for, for the Love of God; and purpose by
' God's Grace to amend, beseeching you, my
' Ghostly Father, to pray to God for me, and to
' give me Absolution and Penance.'

Afterward you know you married me, and I was cited to *Lichfield*-Court for being married privately by you. My Lord, I have been present when *Mr. Busby* said Mass at *West-Hallam*, and have heard and seen him say Mass several Days in his priestly Robes: I never knew any other Priest but him at *West-Hallam*; most Sundays and Holydays he said Mass, where were present most of the Roman Catholicks in those Parts; I have heard him preach three Times, and no more.

Busby. Did I come to you, or you to me?

Tho. Houis. I came to you.

Busby. Then I did not persuade you to turn Catholick; you was satisfied upon the first Persuasion before you came to me, and declared you would turn Catholick.

Tho.

Tho. Houis. I was persuaded by Mr. *Shirborn* of *Standly-Grange*, yet not fully convinced but by you.

Mr. Gilbert. My Lord, this *Shirborn* he speaks of was one Captain *Shirborn* a great Papist, who lived near me, a Letter-Carrier (as was reported) and one that sold them Books and Trinkets.

Tho. Houis. For I was fully satisfied then in all Things by your Instructions, and hearing your Sermons; as for Mass, I did not understand it; but you said it was Mass; besides, others called it so.

Busby. How can you swear to a Thing you do not understand?

Tho. Harris. If I did not, you told me so, and I believed you, because you did the Office of a Priest.

Bar. Street. It seems this is the Matter, you courted a Papist for your Wife, and *Busby* told you the Way to have her was to be a Papist, and you did hearken to *Busby* to persuade you; he told you Matrimony was a Sacrament, and before you were married, you must be confessed, and have Absolution; and Mr. *Busby*, you put Words into his Mouth to desire Absolution, but gave it in such Language as he understood not: He says he has heard you say Mass frequently; but preach only three Times.

Busby. It is an easy Matter for him to say such Things, but how does he prove it to be Absolution or Mass, when he says he understands not the Language?

Tho. Houis. My Lord, I have not only been present at that which they call their Mass, but I have also received the Sacrament from Mr. *Busby* then, and have seen him give the Sacrament to divers other Persons too; and besides, my Lord, I did send my eldest Child to the Chapel at *Standly-Grange*, to have it christened by Mr. *Busby*: This Woman (pointing to *Sarah Clark* who stood by) carried it: When we came there, Dr. *Richard Needham* (who lived there) said to me, Are you the Father of this Child? I answered, yes: Then says Dr. *Needham*, You ought not to be present when your Child is christened: Whereupon, my Lord, I went into a Corner of the Room, but could perceive well enough what was done, and Mr. *Busby* did christen my child, and gave her the Name of *Anne*, Mr. *Peter Waldron* was Godfather, and Mrs. *Anne Smalley* Godmother.

King's Council. We shall now call *Elizabeth Evans* for further Proof of Mr. *Busby's* exercising his priestly Office: (Who was also sworn.)

Bar. Street. Come, good Woman, what can you say of the Prisoner at the Bar, do you know him?

Eliz. Evans. Yes, I know the Prisoner at the Bar, it's Mr. *Busby*, my Lord, and have seen him in his priestly Habit say Mass in the Chappel at Mr. *Powtrel's* House at *West-Hallam*; I saw him christen *Henry Avery's* Child of *Stauton*, I was Godmother to the Child: He has confessed me several Times; and I have received Absolution from him: I have received the Sacrament from him.

Bar. Street. What was it he gave you, when you received the Sacrament from him?

Eliz. Evans. I know not what it was Mr. *Busby* gave me.

(Then the Wafers were called for; they were of several Sizes in the Box.)

And being shewed to her, she said, Yes, my

Lord, these are what he gave us at Mass for the Sacrament; I remember them, they were just such.

Busby. Wafers are Things usually put under Biscuits and Macaroons; therefore how can she say those are the Sacrament, for they are what I have seen given to Children to eat and play withal.

Bar. Street. They are Things indeed to give to Children.

King's Council. Pray call *Dorothy Saunders*.

(Who appeared and was sworn.)

Bar. Street. Well, *Dorothy Saunders*, what say you?

Dor. Saunders. He has several Times absolved me, and given me the Sacrament, and has said Mass, where the Company were sometimes more, and sometimes less; (and having a Wafer given her into her Hand) and he held up the Wafer thus, (and shewed the Court and the Jury the manner of his Elevation of the Host.) And being asked by the Judge whether she knew priestly Vestments? (answered,)

Dor. Saunders. Yes; I know priestly Vestments when I see them; (which being shewed to her) she said she had seen *Busby* in some of them; but for his christening of Children, I know nothing of that.

Busby. Is that the Sacrament? Those Wafers in the Box, is that the Sacrament?

Dor. Saunders. We took it at your Hands for the Sacrament.

Bar. Street. Mr. *Busby*, you are so impertinent in your Questions, you think you have weak Persons to deal with; I hope the Jury will take notice of it.

King's Council. Call *Sarah Clark*.

(Who appeared and was sworn.)

Bar. Street. *Sarah Clark*, have you heard Mr. *Busby* say Mass?

Sa. Clark. Yes, my Lord, that which he told us was Mass, but I did not understand it, for it was in another Tongue, which they said was *Latin*.

Bar. Street. But had he his Vestments on, or how was it, tell us, good Woman?

Sa. Clark. Yes, my Lord, he had Vestments on, and he did then give us the Sacrament as he called it, which was a Wafer, and that he put into our Mouths after that he had elevated the Host: And he himself told me it was the Sacrament.

Bar. Street. Well, and have you made Confession to him, and has he absolved you after you have done so?

Sa. Clark. I have been at Confession before him upon my Knees, and when I had done, he spoke something to me in *Latin* (as I think) which he said was Absolution, and I did take to be so; and I have sometimes, my Lord, heard him preach, and that I understood, because it was in *English*. He told me what Absolution was, and the Mass, and the same was to be read in *English*, and those that could read, at those Times said the same.

Bar. Street. Several Witnesses have spoken closely that he has exercised his Office in all Things as a Priest: Have you known him marry any Body, and christen Children; if you have, speak?

Sa. Clark. My Lord, he did not marry me, one Mr. *Gavan* married me; but I have heard that he did marry *Thomas Houis*, and I am sure he did christen

christen *Thomas Houis* his first Child, for I carried it to him, and Mr. *Waldron*, and Mrs. *Anne Smalley* were Godfather and Godmother, and he did name it *Anne*; it was christened at *Standly Grange*, at Dr. *Needham's* House, and several others were there at the same Time, and afterwards I brought it home.

Busby. How do you know it to be Mass and Absolution, when you say you do not understand the Language I spoke in?

Sa. Clark. Though I did not understand what you said, you told me what every Thing meant, and I did believe you, because others told me so too; besides, all Papists thought it their Duty (as you told us) to be there Holy-days and *Sundays*; to prevent a venal Sin, which if we omitted we were liable to Penance.

Mr. Gilbert. My Lord, we have three or four more Witnesses, but we are loth to trouble your Lordship and the Court with any further Testimony of this Nature; hoping the Matter of the Indictment has been fully proved against the Prisoner; and if your Lordship please we will rest here.

Bar. Street. I suppose the Jury will believe there has been sufficient Evidence given to convict him; but Mr. *Busby*, what can you say for yourself?

Busby. *Joseph Dudley* tells your Lordship how I should tell a childish Story of hiding myself in the Curtains, when I was two Years old; pray, my Lord, consider how I could remember what I did at two Years old; I know not how I could. I have told your Lordship I was born beyond Sea, I am sure I was bred there; I hope your Lordship will not take notice of an Hear-say; my Mother went beyond Sea at the beginning of the Troubles, not after, 'twas before *Edge-Hill* Fight. As to what *Houis* says, he himself does acknowledge, that he does not understand what Language I absolved him in, nor the Language of the Mass, and therefore he cannot swear to it; and for ought I know, as to his being married, it was in a privileged Place, and could not be cited to *Litchfield*-Court; and for what the other Witnesses say, their Evidence is only that they heard something read in an unknown Language, usually Women pray in an unknown Language, and those publick Prayers were only Family-Duties; they swear not what it was, because they understand it not.

Bar. Street. I believe not one in a hundred understands your Prayers that hear them; else they would not be so juggled by you.

Busby. There are Vespers and Mattins, and Even-song; he does not distinguish what it was that was said, by reason 'twas in an unknown Language to him; it was only Family-Duty. I can produce a Witness to prove it, that Women do Family-Duty in an unknown Language.

Bar. Street. I know Women do not officiate in your Church.

Busby. He swears, my Lord, to what he does not understand. As for *Elizabeth Evans*, she swears concerning saying Mass, and understands not one Service from another, and this proves not particularly my priestly Office.

Bar. Street. Mr. *Busby*, you forget christening *Avery's* Child, and *Houis's* Child, confessing and absolving divers Persons, the material Evidence: You only offer some little Diversions.

Busby. *Dorothy Saunders* knows not what she

swears, nor *Sarah Clark*; none of the Witnesses can distinguish one Service from another; they cannot therefore swear what was, and what was not; giving of Bread is not the priestly Office; they do not swear positively to my exercising the priestly Office, other Persons wear those Garments as well as Priests: Those Things are Monuments and Heyre-Loomes to the Family, they were taken out of Churches in former Times at the Reformation: There are now to be seen in the Cathedral at *York*, Church-Stuff and Vestments, which are kept for Antiquity; and so were these.

Bar. Street. Mr. *Sheppy* has been a Priest, and he knows the Use of those Things as well as you.

Busby. My Lord, those Things Laymen do wear as well as Priests, I desire to call a Witness to prove it,

Bar. Street. You may if you will, but to what Purpose?

Busby. Pray call *Robert Needham*.

(*Who was called and appeared.*)

Bar. Street. Well, *Needham*, do you know these Things?

(*The Vestments being shewed unto him.*)

Rob. Needham. I have had these Things on myself, my Lord, and have said my Prayers in them; and have thought my Prayers more acceptable when I had them on; and I have seen them used by others several Times.

Busby. More wear them that are Laymen, than such as are Priests.

Bar. Street. *Needham*, it seems you wore them whilst you said your Prayers, that they might be more acceptable?

R. Needham. Such like Vestments are worn by Laymen in several Places.

Busby. I desire one Mr. *Charles Umphrevill* may be called, to speak to my being an Alien born.

(*Who being called for the Prisoner, was not sworn.*)

Char. Umphrevill. To Mr. *Busby's* being an Alien, I have known Mr. *Busby* several Years, and I have heard his Mother and Brother affirm he was born at *Brussels*: And I have an Affidavit from the Register at *Coddington* of all their Children born in *England*, and we do not find Mr. *George Busby's* Name in the Register.

Bar. Street. How can you be sure of that? You ought to have brought the Man along with you to testify it.

Char. Umphrevill. My Lord, the Sexton is an old Man above sixty Years of Age, and could not come; but he made Affidavit of it, which is here.

Bar. Street. That does not signify any Thing at all; that Affidavit cannot be allowed, for he might be born there, and yet not registered; but what makes you say we? What makes you concerned?

Charles Umphrevill. I say we, because I was one of those employed to get Mr. *Busby's* *Habeas Corpus*.

(*Upon Mr. Umphrevill's being at a stand, and Busby directing him to tell what he had seen beyond Sea, the Judge taking notice thereof, said,*)

Bar. Street. What would you have him say, Mr. *Busby*? Tell him.

Charles Umphrevill. I have seen Canons beyond Sea wear such Vestments that are not in Orders ; I have seen Children wear them, and they, I am sure, are not in Orders.

Busby. I call Mr. Mayo to prove that I am not a natural-born Subject of the King's.

Bar. Street. (Come, Sir, though you are not upon your Oath, yet you must tell us the Truth, as faithfully as if you were.)

Edw. Mayo. I have searched the Register at *Coddington*, and I do not find *George Busby's* Name, the Prisoner, registered ; I have searched all the Books, and I find no Register of him.

Bar. Street. An hundred Children may be born in that Parish within this 20 Years, and not registered ; all that are baptized, are registered only.

Busby. Mr. Mayo, satisfy my Lord of the Disappointment I had of my *Habeas Corpus*, which you got for me.

Bar. Street. To what Purpose ? But Mr. *Busby* you shall not say but I will hear him : What say you, *Mayo* ?

Edw. Mayo. My Lord, I was employed about an *Habeas Corpus* for Mr. *Busby* in *Easter-Term* last, and did obtain one for him then, but by reason of some Slackness it was presently out of date, and so became ineffectual. Also in *Trinity Term*, I procured another *Habeas Corpus* for him, which was delivered to the Under-Sheriff of this County of *Derby*, who was then very Sick at *London*, of which Sickness he died there at last, and that *Habeas Corpus* for that reason did likewise fall short ; by which Disappointments Mr. *Busby* is not so prepared for his Trial at this Time as otherwise he might, if he had not really depended upon his being removed to *London* by *Habeas Corpus*.

Bar. Street. All this is too little to the Purpose ; for if he expected to have had his Trial there, and was prepared for it a Term or two ago, how comes it to pass he is not prepared now ? Come, come, Mr. *Busby*, what can you say more ?

Busby. I could not be born at *Coddington*, I was born beyond Sea, out of the Kingdom. My Lord, here is not one Word proved of the Substance of the Indictment, not a Word proved that I took Orders beyond Sea, nor here, from any Person that saw me take Orders ; not a Word of that proved ; nor not a Word of the Substance of that Statute of Queen *Elizabeth*, which I am indicted upon ; only some few Women say they heard me pray in an unknown Language, which was no more than Family-Duty ; and I can produce a Witness that Women say their Prayers publicly in an unknown Tongue, and all answer ; and by these Circumstances I am accused for being a Priest.

Bar. Street. I find, Mr. *Busby*, you understand the Law. But pray you, is the Sacrament given by Women ? And is Absolution given by Women ?

Busby. If they understand not the Language, they understand not the Thing : Treason may be spoke in *French*, and I not know it to be so.

Bar. Street. Then it seems no Man can prove a Priest that does not understand the *Latin* Tongue.

Busby. None of the Witnesses has sworn that I gave Absolution, nor that I said Mass, but in an unknown Tongue. What they have said are only Circumstances, and do not prove the Indictment ; and what they say I did, are Things that are performed by those who are not Priests. I offer it again to your Lordship's Consideration, that I have not been proved a born Subject of the King's.

I was deprived of my *Habeas Corpus*, which was detained in the Sheriff's Hand, and so lost the Benefit of it ; (these Things are material ;) and have not had Time to produce Witnesses that I was not born in *England*, but beyond Sea : At *London* I could have got Evidence to prove that ; and here has been no Proof made of that, but a Story told of me when I was a Child : I have proved that my Name cannot be found in the Register at *Coddington*. For the rest I have not had Time ; if I had had the Benefit of my *Habeas Corpus*, to have been tried at *London*, I had Friends there that could have proved me born beyond Sea : This *Dudley* that appears an Evidence against me, was a Servant of Mr. *Powtrel's*, who was gone away upon Disgust ; he sent away several Loads of Goods, and now he comes to swear against me ; I am verily confident that he carried away above three Horse-load of Goods, that he carried privately out of the Garden, of Plants and such Things, and sent them all away.

Mr. Gilbert. My Lord, they were his Clothes, and other Things of his own, which he took with him when he went away.

Bar. Street. All this signifies nothing, if it be proved ; but bring what Witnesses you will to prove it.

Busby. I hope your Lordship will consider that I am an Alien born, and that by the Loss of my *Habeas Corpus* I had not Time to bring my Witnesses ; and that the Prayers I said were only Family-Duties : I hope that will be considered ; and that those People that have sworn I said Mass and Absolved, do not know what Mass is, nor Absolution. My Lord, here is nothing proved of the Indictment against me.

Bar. Street. You have said all this six Times over, if you have nothing farther to say in your Defence, I must sum up the Evidence to the Jury.

Bar. Street. You of the Jury, the Prisoner at the Bar, *George Busby*, stands indicted of Treason upon the Statute of 27 *Eliz. Cap. 2.* the principal Branch whereof is this :

‘ And be it further enacted by the Authority
‘ aforesaid, That it shall not be lawful to or for
‘ any Jesuit, Seminary Priest, or other such Priest,
‘ Deacon, or religious or ecclesiastical Person
‘ whatsoever, being born within this Realm, or
‘ any other of her Highness's Dominions, and
‘ heretofore, since the said Feast of the Nativity
‘ of St. *John Baptist*, in the first Year of her Ma-
‘ jesty's Reign, made, ordained, or professed, or
‘ hereafter to be made, ordained, or professed, by
‘ any Authority or Jurisdiction, derived, chal-
‘ langed, or pretended from the See of *Rome* ; by
‘ or of what Name, Title, or Degree soever the
‘ same shall be called or known, to come into, be
‘ or remain in any Part of this Realm, or any
‘ other her Highness's Dominions, after the end
‘ of the same forty Days, other than in such spe-
‘ cial Cases, and upon such special Occasions only,
‘ and for such Times only, as is expressed in this
‘ Act : And if he do, That then every such Of-
‘ fence shall be taken and adjudged to be High
‘ Treason : And every Person so offending, shall
‘ for his Offence be adjudged a Traitor, and
‘ shall suffer, lose, and forfeit, as in Case of High
‘ Treason.’

This makes every Offender against this Statute a capital Offender, and guilty of High Treason : Now whether he is within this Law, you are to consider. Mr. *Gilbert* has told you that he is a

reputed Priest and Jesuit in the Neighbourhood, and that as such he had an Order from his Majesty to apprehend him. He used his Endeavours to take him for some Time, but could not apprehend him till the sixteenth of *March* last, and then he found him; but in such an obscure Hole, that no Body would hide himself in, but such an extraordinary Offender. Innocent People do not obscure themselves in that Manner. *Joseph Dudley*, to prove him a Native and not an Alien, tells you, that when Soldiers in the Time of the late Wars, came to plunder his Father's House, he heard him say, that at two Years old he hid himself in the Curtains in his Mother's Chamber for fear of the Soldiers. But (says the Prisoner) my Memory could not serve me at two Years old to retain what I did then. But our Parents tell us what we did then. If a Man be asked, What Age are you of? No Man can tell but as his Parents tell him. My Father told me I was six Years old, and from thence I remember it. His Father and Mother were not out of *England* (as appears) till about 1646, and then the War was ended; and the Prisoner confessed himself to be about forty Years of Age, which shews him born in *England*. He that but observes his Language, will find that the Tone of the *English* Language remains with him. One born in *Wales*, (though he came young from thence) he will have a *Welsh* Tone as long as he lives. The Prisoner tells you, that no Man has proved his being in Orders of the Church of *Rome*, nor where, when, or by whom made a Priest: But if all that were to be proved, it would make the Law idle and insignificant. If he be made a Priest in *England*, 'tis as much as if made at *St. Omer's* or *Rome*. He did own to *Joseph Dudley*, that he was made a Jesuit, and laboured to make a Convert of him in the Garden, when he was alone with him. The next was *Thomas Houis*, who courted a Woman, and must not have her, unless he turned *Roman* Catholick. *Busby* must discourse him, and make a Convert of him. He hears *Busby* preach three Times, and heard him say *Mafs* several Times; and was not only married by him, but has been confessed and absolved by him divers Times. But *Busby's* fallacious Argument has no Weight in it, that because he understood not *Latin*, therefore he proves it not *Mafs* nor other Services of the Church of *Rome*. *Dorothy Saunders* speaks to the same Purpose, that he confessed and absolved her. And she tells you, that he has seen him elevate the Host, and has shewed you the Manner how; and he gave her the Sacrament, which she and the rest took from him as the Sacrament: And that she has seen him

officiate in some of the Robes produced in Court. *Sarah Clark* speaks to the same Purpose, and so did *Elizabeth Evans*. But *Busby* says, because this was done in an unknown Tongue, they cannot swear it; and that he is no Priest, because they do not swear where, and when, he received his Orders. Whoever does exercise that Profession, we do believe him of that Church. When a Minister of our Church preaches or officiates, we do not say, Pray let us see your Orders first; but if he officiate usually as a Priest, 'tis taken for granted that he is one. He can tell where he received his Orders, but it may be cannot produce them upon all Occasions. Must he therefore be no Priest? Upon the Whole, if you believe the Witnesses, or any two of them, you are to find the Prisoner guilty; I believe you have had full Evidence; go together, and consider of it.

(*The Jury went forth, and after a short stay came back into the Court.*) And then,

Clerk. Gentlemen of the Jury, have you agreed on your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. The Foreman.

Clerk. *George Busby*, hold up thy Hand: Look upon the Prisoner.

Clerk. Do you find *George Busby* guilty of the High Treason and Felony he hath been arraigned of, or not guilty?

Foreman. Guilty.

Clerk. And so you say all?

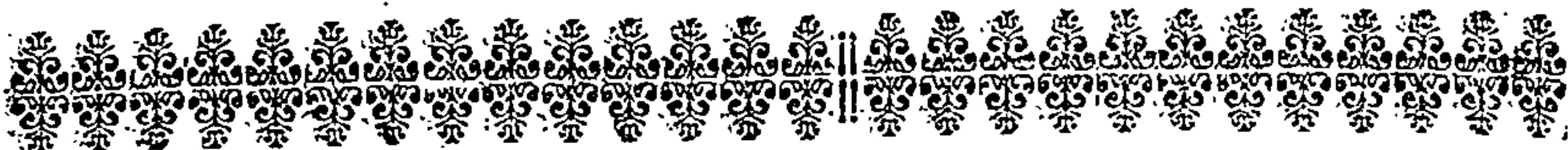
Jury. Yes.

Clerk. Look to him Jailor.

Bar. Street. Though I must pass Sentence upon you of course, the Jury having found you guilty; yet I must tell you, that his Majesty hath commanded me to reprieve you from Execution.

(*Then Mr. Baron Street passed Sentence,*)

That you the Prisoner now at the Bar be conveyed hence to the Place from whence you came, and that you be conveyed thence on a Hurdle to the Place of Execution; where you are to be hanged by the Neck; that you be cut down alive, that your Privy Members be cut off, your Bowels taken out and burnt in your View; that your Head be severed from your Body; that your Body be divided into four Quarters; which are to be disposed of at the King's Pleasure: And God of his infinite Mercy have Mercy upon your Soul.



The Petitions of STEPHEN COLLEDGE, precedent to his Trial, with the Orders made thereon, 33 Car. II. 1681.

To the King's most excellent Majesty.

The humble Petition of STEPHEN COLLEDGE, now Prisoner in your Majesty's Tower of London,

Most humbly sheweth,

‘ THAT whereas your Petitioner being charged with High-Treason, is under strait Confinement, that he hath not Liberty to see or speak with any of his Friends or his Children, and being lately informed, that it is ordered your Petitioner shall come to his Trial at the City of Oxon about the Middle of the next Month ;

‘ Your Petitioner therefore most humbly prays your sacred Majesty, That Leave may be given for Mr. *Aaron Smith* and Mr. *Robert West* to come to him ; and also to have the use of Pen, Ink, and Paper, in order only to make his legal and just Defence, and also to have the Comfort of seeing his two Children.’

And your Petitioner as in Duty bound shall ever pray, &c.

A true Copy,

Francis Gwyn.

At Hampton-Court, July 28, 1681.

‘ UPON reading this Day at the Board the Petition of *Stephen Colledge*, Prisoner in the Tower, praying that in order to the making his Defence at his Trial, which he hears is to be the Middle of the next Month, he may be permitted to see his two Children, to have the Liberty of Pen, Ink, and Paper, and that Mr. *Aaron Smith*, and Mr. *Robert West* may come to him ; his Majesty was pleased to order, That the Lieutenant of the said Tower of London do permit the said *Stephen Colledge* to have Pen, Ink, and Paper, and to see his two Children, and the said Mr. *Aaron Smith*, and Mr. *Robert West*, and to converse with them as often as he shall desire in Presence and Hearing of the Wardour who attends him.’

A true Copy,

Francis Gwyn.

To the King's most excellent Majesty, and to the Right Honourable the Lords of his Majesty's most honourable Privy Council.

The humble Petition of *Stephen Colledge*, now a Prisoner in the Tower of London,

Humbly sheweth,

‘ THAT your Petitioner having been a close Prisoner ever since his first Commitment, is altogether ignorant of the particular Matters charged against him, and of the Names of the Witnesses who are to prove the same ; upon his Knowledge of both which, as well the Nature as the Manner of his Defence must depend ; and because upon the Consideration of his Case, several Matters of Law may arise as well before as at the Time of his Trial, in which Council will be necessary to assist him, and several Matters of Fact preparatory to his Trial, with which under his Confinement he cannot be furnished without the help of a Solicitor, and he is like to be wholly incapable of receiving any Benefit from the Privilege allowed by Law of peremptory Challenge to several Jurors, especially in a Country where he is absolutely a Stranger, unless he may have some Knowledge of them before his Trial.

‘ In full Assurance therefore of the great Justice and Clemency of your Majesty and this honourable Board, which he hath lately had some Experience of, and doth with all Humility and Thankfulness acknowledge, your Petitioner doth humbly beseech your Majesty and this honourable Board, that he may have a Copy of the Indictment against him, or the particular Charges of it, that his Council and Solicitor may have free Access to, and private Conference with him ; and because their own private Affairs or other Accidents may call away some of his Council from his Assistance, that Mr. *Wallop*, Mr. *Smith*, Mr. *Thompson*, Mr. *Darnel*, Mr. *West* of the Middle-Temple, Mr. *Hawles* of Lincoln's-Inn, Mr. *Rotherham*, Mr. *Lovell*, Mr. *Rowny* of Gray's-Inn, Mr. *Pollexfen*, Mr. *Ward* of the Inner-Temple, may be assigned him for Council, and *Aaron Smith* for his Solicitor, and that he may have a Copy of the Jurors to be returned upon his Trial some Days before the Trial.’

And your Petitioner shall ever pray, &c.

A true Copy,

Francis Gwyn.

At

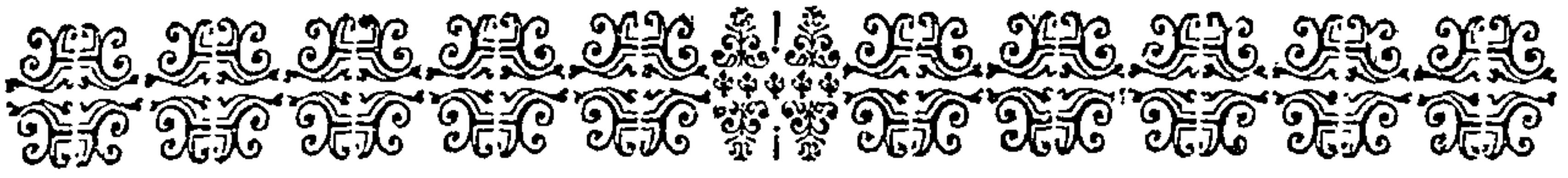
At *Hampton-Court*, Aug. 11, 1681.

IT is ordered by his Majesty in Council, That the Friends and Relations of *Stephen Colledge*, a Prisoner in the *Tower*, shall have Liberty of visiting and freely conversing with him; and the Lieutenant of the *Tower* having

first caused their Names to be taken in writing, is to suffer such Friends and Relations to have Access to the said *Stephen Colledge*, without any Interruption from Time to Time accordingly.

A true Copy,

Francis Gwyn.



CVI. *The Trial of STEPHEN COLLEDGE* *, at Oxford, for High-Treason, August 17, 1681, 33 Car. II.

ON Wednesday the 17th of August, 1681, the Lord Norreys, Lord Chief Justice North, Mr. Justice Jones, Mr. Justice Raymond, Mr. Justice Levinz, Commissioners of Oyer and Terminer and Goal-Delivery, met at the Court-House in the City of Oxford; and after Proclamation for Silence, the Commission of Goal-Delivery was read, and then the Commission of Oyer and Terminer. Proclamation was made for the Sheriff to return the Precepts to him directly: The Justices of the Peace of the County of Oxford were called over; and the Appearance of the Grand Jury summoned to attend this Commission was taken.

L. C. J. North †. Gentlemen, you that are returned of the Grand Inquest, there has been a Sessions so lately that in all Probability there will be no great Matter to trouble you with at this Time. And so I shall not trouble myself nor you to give you any Charge, because we know of no Business yet that we shall need you for. The Court hath recorded your Appearance. You will do well to be in the way either in the Town or here about the Court, that you may be ready if any Thing should happen. 'Tis necessary for us to have your Attendance, but we know not of any Thing that we have in particular to trouble you with. We have an Indictment before us, let us proceed upon that.

Cl. of the Crown. Goaler, have you your Prisoner?

Goaler. We will fetch him presently.

Then the Prisoner was brought to the Bar.

Cl. of Cr. *Stephen Colledge*, hold up thy Hand. (Which he did.)

Thou art here indicted by the Name of *Stephen Colledge* late of Oxford, in the County of Oxford, Carpenter; for that thou as a false Traitor against the most illustrious, most serene, and most excellent Prince, our Sovereign Lord *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, &c. thy supreme and natural Lord, the Fear of God in thy Heart not having, nor weighing the Duty

of thy Allegiance; but being moved and seduced by the Instigation of the Devil, the cordial Love, and true due and natural Obedience which true and faithful Subjects of our said Sovereign Lord the King towards him our said Sovereign Lord the King, should, and of right ought to bear, wholly withdrawing and machinating, and with all thy Strength intending the Peace and common Tranquillity of our said Sovereign Lord the King of this Kingdom of *England* to disturb, and Sedition and Rebellion, and War against our Sovereign Lord the King, within the Kingdom of *England* to move, stir up and procure; and the cordial Love, and true and due Obedience which true and faithful Subjects of our said Sovereign Lord the King, towards him our said Sovereign Lord the King should, and of right ought to bear, wholly to withdraw; put out and extinguish, and him our said Sovereign Lord the King to Death and final Destruction to bring and put, the tenth Day of *March*, in the three and thirtieth Year of the Reign of our Sovereign Lord *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, &c. at Oxford, in the County of Oxford, falsely, maliciously, subtilly, and traiterously, did purpose, compass, imagine, and intend Sedition and Rebellion within this Kingdom of *England*, to move, stir up, and procure, and a miserable Slaughter among the Subjects of our said Sovereign Lord the King to procure and cause, and our said Sovereign Lord the King from his Regal State, Title, Power, and Government of his Kingdom of *England*, to deprive, depose, cast down and disinherit; and him our said Sovereign Lord the King to Death and final Destruction to bring and put, and the Government of the said Kingdom at thy Will and Pleasure to change and alter, and the State of all this Kingdom of *England*, in all its Parts well instituted and ordained, wholly to subvert and destroy, and War against our said Sovereign Lord the King, within this Kingdom of *England* to levy; and thy said

* Burn. *Hist. of his own Times*, Vol. I. p. 504.

† See his Character, *Ibid.* 655.

' most Wicked Treasons and traitorous Imagi-
 ' nations and Purposes aforefaid to fulfil and
 ' perfect, thou the faid *Stephen Colledge* the faid
 ' tenth Day of *March*, in the three and thirtieth
 ' Year of the Reign of our faid Sovereign
 ' Lord the King, with Force and Arms, &c. at
 ' *Oxford* aforefaid, in the County of *Oxford* afore-
 ' faid, falſly, maliciously, ſubtilly, adviſedly,
 ' devilishly and traiterouſly didſt prepare Arms,
 ' and Warlike offensive Habiliments to wage
 ' War againſt our faid Sovereign Lord the King.
 ' And thyſelf, in War-like Manner, for the Pur-
 ' poſes aforefaid, then and there falſly, mali-
 ' ciously, ſubtilly, adviſedly, devilishly and trai-
 ' terouſly didſt arm, and one *Edward Turbevill*,
 ' and other Subjects of our faid Sovereign Lord
 ' the King, to arm themſelves, to perfect thy
 ' traiterous Purpoſes aforefaid, then and there
 ' adviſedly, maliciously and traiterouſly didſt
 ' incite and adviſe. And further, then and there
 ' falſly, maliciously, ſubtilly, adviſedly, de-
 ' vilishly and traiterouſly didſt ſay and declare,
 ' That it was purpoſely deſigned to ſeize the
 ' Perſon of our faid Sovereign Lord the King
 ' at *Oxford* aforefaid, in the County of *Oxford*
 ' aforefaid. And that thou the faid *Stephen Col-*
 ' *ledge*, in Proſecution of thy traiterous Purpoſe
 ' aforefaid, would be one of them who ſhould
 ' ſeize our faid Sovereign Lord the King at
 ' *Oxford* aforefaid in the County aforefaid. And
 ' that thou the faid *Stephen Colledge* thy faid moſt
 ' wicked Treasons and traiterous Imaginations,
 ' Compaſſings and Purpoſes aforefaid the ſooner
 ' to fulfil and perfect, and Diſcords between
 ' our faid Sovereign Lord the King, and his
 ' People to move, cauſe and procure, then and
 ' diverſe Times and Days, as well before as after,
 ' in *Oxford* aforefaid, in the County of *Oxford*
 ' aforefaid, in the Preſence and Hearing of di-
 ' verſe liege Subjects of our faid Sovereign Lord
 ' the King, then and there being preſent, falſly,
 ' maliciously, ſubtilly, adviſedly, devilishly and
 ' traiterouſly didſt ſay and declare, That nothing
 ' of good was to be expected from our faid Sove-
 ' reign Lord the King, and that our faid Sove-
 ' reign Lord the King did mind nothing but
 ' Beaſtlineſs and the Deſtruction of his People:
 ' And that our faid Sovereign Lord the King
 ' did endeavour to eſtabliſh arbitrary Govern-
 ' ment and Popery, againſt the Duty of thy
 ' Allegiance, againſt the Peace of our Sovereign
 ' Lord the King, his Crown and Dignity, and
 ' againſt the Form of the Statutes in this Caſe
 ' made and provided.'

How ſay'ſt thou, *Stephen Colledge*, art thou Guilty of this High Treason, whereof thou ſtandeſt indicted, and haſt now been arraigned, or not Guilty?

Colledge. My Lord, I do deſire, if it pleaſe your Lordſhip, to be heard a few Words.

L. C. J. Look you, Mr. *Colledge*, the Matter that hath been here read unto you is a plain Matter, and it hath been read to you in *Engliſh*, that you may underſtand it. 'Tis an Indictment of High Treason; now you muſt know, that no Plea can be received to it, but either Guilty, or Not Guilty, as to the Fact; if you can aſſign any Matter in Law, do it.

Colledge. Will you pleaſe to ſpare me, that I may be heard a few Words. I have been kept a cloſe Priſoner in the *Tower* ever ſince I was

taken: I was all along unacquainted with what was charged upon me. I knew not what was ſworn againſt me, nor the Perſons that did ſwear it againſt me, and therefore I am wholly ignorant of the Matter. I do humbly deſire, I may have a Copy of the Indictment, and a Copy of the Jury that is to paſs upon me, and that I may have Council aſſigned me, to adviſe me, whether I have not ſomething in Law pleadable in Bar of this Indictment.

L. C. J. Theſe are the things you aſk, you would have a Copy of the Indictment, you would have Council aſſigned to you, to adviſe you in matter of Law, and a Copy of the Jury.

Colledge. One Word more, my Lord, I deſire to know upon what Statute I am indicted?

L. C. J. I will tell you for that. Is it not *contra formam Statut.* with an Abbreviation?

Cl. of Cr. Yes.

L. C. J. That refers to all manner of Statutes that have any Relation to the Thing in the Indictment that is High-Treason. For it may be meant *contra formam Statut.* which are all the ſeveral Statutes that are in force concerning High-Treason. Now for thoſe things that you demand, you cannot have them by Law. No Man can have a Copy of the Indictment by Law; for Council you cannot have it, unleſs matter of Law ariſes, and that muſt be propounded by you; and then if it be a matter debatable, the Court will aſſign you Council, but it muſt be upon a matter fit to be argued: For I muſt tell you, a Defence in Caſe of High-Treason ought not to be made by Artificial Cavils, but by plain Fact. If you propoſe any matter of Law, the Court will conſider of it, and aſſign you Council, if it be reaſonable. For a Copy of the Jury, that you can't have neither, for there is no ſuch thing as yet; there is no Iſſue joined whereupon ſuch a Jury ſhould be impannelled. When you have pleaded to Iſſue, then we muſt award the Sheriff to impannel a Jury to try that Iſſue. So as to what you ſay as to want of Preparation for your Trial, we cannot enquire what Notice you have had; and yet if you had never ſo little Time, there is no Cauſe why you ſhould not plead, though you were but juſt now taken and brought to the Bar to answer it, and never heard of any thing of it before. So that I think you ought to plead preſently.

Colledge. My Lord, I am wholly ignorant of the Law, I may ruin myſelf by miſtaking the Law; I deſire Council, not to delay my Trial, but only to adviſe me whether there is not ſomething in Law proper for me to plead to this Indictment, and thoſe things I alledged were not at all to delay the Trial, but only that I may not be wanting to myſelf in what I may by Law have.

L. C. J. I tell you, Council cannot be aſſigned you, till the Court be poſſeſſed of ſome Matter to grant it upon.

Colledge. I had ſome Papers, my Lord, that were taken from me, which I deſire may be reſtored to me. I only plead, that I may have my Birth-right, and that which the Law gives me; if I may have Juſtice, I deſire no more. Thoſe Papers were taken from me in the Houſe over the way ſince I was brought from the Priſon; they were Papers that concerned my Defence; ſome Directions and Inſtructions how

to manage my self in that Defence. If you please to let me have those Papers, I will not take up much of your Time; I desire to have but common Justice, and that which is my right by Law.

L. C. J. That which you demand, Justice, you shall have by the Grace of God to the best of our Skill, without any Partiality in the World. But you must trust the publick Justice of the Kingdom. We are to be of Council for you, so far as to see that all Things proceed fairly on all Sides. And when Things come before us that are fit for you to have Council upon, you shall have Council assigned you; for we are tender of the Life of a Man, as well as of the Life of the King, and of the Publick Justice of the Kingdom. But this is no Reason why you should not now plead. For the Papers you speak of, we will take an Examination of them afterwards. If they were Papers that are necessary for your Defence upon your Trial, in God's Name you must have them restored to you; but we know not which way you came by them, nor what they are.

Colledge. They were taken from me just now, under Pretence of bringing them to your Lordship.

L. C. J. How comes any body to give you Papers? No body can solicit for one that is under an Accusation of High-Treason, unless he be assigned so to do by the Court*.

Colledge. God have Mercy upon any Man that is so accused then; for 'tis not possible for him to make his Defence, if he cannot be at Liberty to look after it himself, nor any of his Friends permitted to do it for him.

L. C. J. You can say, whether you are Not Guilty without any Papers.

Colledge. My Lord, I know not but there may be something in Law for me to plead to this Indictment, which I shall lose the Benefit of, if I plead. I humbly conceive, you are to be my Council; and as you are Judges, are to proceed according to the Law. You are upon your Oaths to do me right according to the Law.

Mr. Just. Jones. But till you have proposed a Matter of Law fit for Council to argue, there is no Council to be assigned you.

Colledge. If I had those Papers I could tell what I should plead. My Lord, this is one Thing, I am a Free-man of *London*, and I am not impleadable by the Charter of *London* any where out of the Liberties of the City in Pleas of the Crown.

L. C. J. You are indicted in *Oxfordshire* for High-Treason committed here. If there be not any thing of High-Treason proved, done in *Oxfordshire*, you will be acquitted. But a Free-man of *London* cannot have a Privilege to commit Treason in *Oxfordshire*, but must be tried for it there.

Colledge. Will you please to order me my Papers back that were taken from me?

Mr. Justice Jones. You ought first to plead. You have a right to demand Council in Matters of Law, but then it must be upon such Matters of Law as you your self propose to the Court, and the Court shall judge to be Matters of Law fit to be debated: Till then we cannot assign you Council.

Colledge. It was so in the Trial of *Lilburne*, and in the Trial of my Lord *Stafford*, there was Council assigned to them.

Mr. Just. Jones. Not before they pleaded to the Indictment.

Colledge. Did not your Lordships, some of you, that are Judges of the *King's-Bench* say, that it was the Right of the Prisoner, to have a Copy of the Pannel and of the Jury before the Trial?

Mr. Just. Jones. No sure: Here are two of us that are of the Court, and we never heard of any such thing.

Colledge. Pray, my Lord, do me Right, I am ignorant of the Law, and through my Ignorance may mistake.

L. C. J. God forbid we should not do you Right; you may expect it from us; we are upon our Oaths to do all the King's Subjects Right.

Colledge. I am ignorant in the Law, and 'tis impossible for me to make my Defence without the Assistance of my Papers.

L. C. J. Cannot you tell, whether you be Guilty or Not Guilty of this Treason?

Colledge. I can so; but I know not what Error I may run my self into, if I should plead presently, and lose the Benefit that the Law may give me.

L. C. J. All Matters of Law are saved to you after you have pleaded.

Colledge. Pray, my Lord, let me have my Papers again that were taken from me.

Cl. of Cr. You must plead to the Court, Guilty or Not Guilty.

Colledge. Shall I not have my Papers after I have pleaded?

L. C. J. We will not capitulate with you. Move what you will then; but till you have pleaded, we can enter into no other Business.

Colledge. I know not but I might plead some other thing to the Indictment.

Mr. Just. Jones. Propose what you will, if it be a Matter in Law fit to be argued, you shall have Council assigned you.

Colledge. Pray, my Lord, let me have my Papers again. If it were not my Right to have them, or to have Council, I would not ask it; but if it be, I would not lose what is my Right.

L. C. J. You must plead first. I know not but he may be a Criminal that brought you those Papers; for we allow no Solicitors in Cases of Treason.

Colledge. Some of those Papers were received from me in the *Tower*, and were brought back to me, and taken away but to Day, I desire they may be returned.

Cl. of Cr. Are you Guilty or Not Guilty?

Colledge. Those Papers tell me I have a Plea in Law, but what it is, I cannot directly tell without my Papers.

L. C. J. You must mention it and propose it, and then we will do what is fitting for us to do in it.

Colledge. I have not that Method about me, nor can I directly tell it without my Papers; but 'tis something of Law about the Indictment.

* This was very strange Treatment of the Prisoner, who had an Order of King and Council appointing him a Council and Solicitor, which is printed before the Trial.

L. C. J. You are not bound up to Forms of Law. For if you propose the Matter never so loosely, yet if it be a Matter of Avail, and that which the Law is not clearly against you in, you shall have Council, and Time to draw it up in Form.

Colledge. I cannot propose the Matter so regularly as if I had my Papers.

Mr. Just. Jones. You are not bound to propose it in Formality of Law, my Lord tells you; only let us know what it is.

Colledge. If I have a Privilege in Law, I hope you will give me the Benefit of it.

L. C. J. We will deny you nothing that the Law gives you; but we cannot give you Council. It is not one particular Case, but the common Course of Justice is concerned. Without a Matter of Law arises, we cannot assign you Council; if we would, we cannot in Justice till you have proposed the Matter which the Court thinks fit to be argued.

Colledge. My Lord *Coke* says, it is the Birth-right of every *Englishman* to have Council in Matters of Law, and *Libburne** had it upon solemn Argument in his Trial⁴⁵.

Mr. Just. Jones. What Times were those? That was before the High Court of Justice.

Mr. Att. Gen.†. If there be Matter in Law, it must be proposed to the Court, and they are to judge, whether it be a Point fit to be argued, and then Council is to be assigned you, and not till then.

Colledge. My Lord, I know not but there may be somewhat in Law for me to plead to this Indictment, till I have my Papers I can't tell what it is.

L. C. J. We know nothing of your Papers what they are; you must answer whether you be Guilty or Not Guilty.

Colledge. If I had my Papers, I would answer to it immediately; but I hope I shall not be murdered.

Mr. Just. Jones. Have a care of aspersing the Court. Pray who intends to murder you?

Mr. Serj. Jeffries. I remember in *Libburne's* Trial, that he speaks of, such Words were used indeed.

Colledge. My Lord, I hope I shall not be denied what is necessary for my Defence. This Design is not only against me, but against all the Protestants.

Mr. Att. Gen. How long have you been a Protestant *Mr. Colledge*?

Colledge. Ever since I knew what Religion was, Sir; I never was any thing else. For God's sake, my Lord, let me have the Justice of the Nation, and what by Law an *Englishman* ought to have.

L. C. J. You must plead Guilty or Not Guilty, or you must shew some Matter that you will plead, that is proper for us to assign you Council. If we should record your Refusal, you would be judged to stand Mute, and Sentence would pass upon you.

Colledge. If I have a Privilege in Law as an *Englishman*, I will not forfeit it, if I can help it, for any thing in the World. Therefore I desire I may have my Papers again, that I may see if I can plead any thing in Law; for if I have a Privilege by the Law, before I will forfeit it, you shall do what you please with me.

L. C. J. You'll have the Advantage of all that Matter that is in your Papers after you have pleaded, if there be any Advantage.

Colledge. Pray, my Lord, order me my Papers that were taken away from me.

L. C. J. They were not taken away by me.

Colledge. They were taken away by the Keeper, under Pretence to bring them to your Lordship.

L. C. J. I know not how you came by them. There came one to me last Night that is a common Solicitor, one *Aaron Smith*, and desired he might have Liberty to go and speak with the Prisoner; I told him, I did not understand till he were assigned by the Court, that any could justify soliciting for a Man that is accused of High-Treason, nor could any be of Council till they were assigned: For a Defence against Treason ought to be by plain Matters of Proof and Fact, and not by artificial Cavils. But if you will propose any thing of Substance as a Matter in Law which the Court shall think fit to be argued, propose it, and then we will assign you Council.

Colledge. Is it not my Right, that I ought to have a Copy of the Jury?

L. C. J. Look you for that now, you cited the Opinion of the Judges of the *King's-Bench*. My Brothers two of them that are here who are Judges in that Court, say, they know nothing of any such Matter: But I tell you, you have Liberty by Law to challenge 35, by your Sight peremptorily without shewing Cause. They are bound to look upon you when they come to be sworn, and if you have just Cause, you may except against as many more as you will. But now we that proceed upon a Commission of Goal-delivery, are to proceed with expedition; there are no particular Men designed for a Jury that I know of. But when you have pleaded, we shall award the Sheriff to impanel a Jury.

Colledge. If the Law allows me the Liberty of Challenging, it does intend it me, that I may challenge those Persons that I think will not do me Justice; but where they are Strangers unto me, if I can have no Information about any of them by my own Inquiry or my Friends, I may challenge my Friends as well as my Foes: And should there be any Person that has a Prejudice against me, and I not know it, he may chance to be one.

L. C. J. I hope they will be neither Friends nor Foes, but true Men.

Colledge. I know not that, my Lord.

Mr. Just. Jones. This that you say as to a Copy of the Jury is unseasonable. There is no Jury, nor can be awarded till you have pleaded. There must be first Issue joined; and that cannot be but upon your Plea of Not Guilty. Therefore you must plead first, and then say all you will.

Cl. of Cr. Are you Guilty or not Guilty?

Colledge. My Lord, may not I have a Pannel of the Jury?

Mr. Justice Jones. There is no such thing in being.

Colledge. I know not what to say to it; pray, my Lord, let me have my Papers.

Cl. of Cr. You have heard the Opinion of the Court, you must first plead.

Colledge.

Colledge. I cannot plead first. I must lose my Life, if I must; I neither know who accuses me, nor what it is they accuse me of; 'tis impossible I could defend myself if I have not my Papers.

L. C. J. We know not what Papers you mean.

Colledge. The Goaler took them from me, and one of the King's Messengers. Pray, my Lord, will you order them to be returned to me again? Let me but see whether I have any Right or no, and whether I have any thing to plead or no: When I have perused my Papers, I will propose it as well as I can to you. Pray, my Lord, let me have a fair Trial.

L. C. J. We promised you a fair Trial, but you must put yourself upon that Trial by your pleading.

Colledge. I cannot do that without my Papers, my Lord. Let me but have them again, and I will not delay your Time at all.

L. C. J. You can tell whether you are Guilty, or Not Guilty, can't you.

Colledge. If I have a Plea in Law against the Indictment, I hope you will not hinder me of that which is my Right. It is possible the Indictment does not lay it right, either as to the Matter of Treason, or as to the Place.

Mr. Just. Jones. That is upon the Issue of Not Guilty upon your Trial. If there be not Matter of Fact, or Words proved that are Treason in this Place, you will have the Advantage of it upon your Trial.

Colledge. I know not, my Lord, but that the Indictment does mention something of Treason, and something of Misdemeanour.

Mr. Just. Jones. That which is Misdemeanour, won't amount to a Proof of the Treason upon the Trial.

L. C. J. If they prove no Treason against you here, but only Misdemeanour, I do not understand that the Jury can find you Guilty of that Misdemeanour, for 'tis another Crime, and there is another sort of Proceedings for it. In Misdemeanour, there are no peremptory Challenges; in Misdemeanour Council is to be allowed for the Prisoner, but not in Treason.

Colledge. Pray, my Lord, be pleased to order me my Papers again: I know not what to say without I have the Assistance of my Papers; when I have them, I shall be ready to plead presently according as I shall find I may by Law. This I am sure, I have done nothing, nor said nothing of Treason, and I pray for nothing but Justice, and that which is my right. This is a most horrid Conspiracy to take away my Life; and it will not stop here, for it is against all the Protestants in England.

L. C. J. *Mr. Colledge,* you do not only trifle, but run out into very great Extravagancies. Who has any Conspiracy against your Life? You shall be allowed to give in Evidence any thing of any Conspiracy against you, or Contrivance against you when you are upon your Trial. Now the Question is, Are you Guilty, or not Guilty? I see no Use of Papers that you can have as to the Plea.

Mr. Just. Jones. You will run into Danger by spending of Time.

Colledge. Pray, my Lord, order me my Papers, they are in the Hands of *Mr. Murrell* the Goaler, and *Sewell* the King's Messenger.

L. C. J. When you have pleaded, we will take it into Consideration.

Coll. It may be too late then.

L. C. J. 'Tis a plain Matter before you, whether you be Guilty or no. You know what to answer.

Coll. I will give a direct Answer, after I have my Papers again.

Mr. Just. Jones. You can give an Answer to that without Papers.

L. C. J. Consult with your own Heart, and there you may receive an Answer to that Question.

Mr. Att. Gen. *Mr. Colledge,* can any body tell whether you be guilty, or no, better than your self?

Mr. J. Jones. If you expect any Papers, they ought to be framed by your self; for by Law, none can advise you what to plead.

Coll. I don't expect it in Matter of Fact, but if Matter of Law arise.

Mr. Justice Jones. But this is a Matter of Fact, and therefore you may plead Not Guilty, as well without your Papers, as if you had them.

Colledge. But if there be any Matter of Law, that I ought to have the Advantage of.

Mr. J. Jones. Then you ought to have no Advice, till they be assigned by the Court: For by the Law, neither Council nor Advice are allowable to you, till the Matter has been proposed, and the Court think fit to assign you Council.

Mr. J. Levinz. You talk of the Privilege of an Englishman; you have all the Privileges of an Englishman: You are here brought to an open Trial, according to the Law, and by that Law you must plead. Now if a Man be indicted for High-Treason, he is bound to plead either Guilty, or Not Guilty, unless he has a Matter in Law to excuse him from that Plea, which must be proposed to the Court, and then Council will be assigned; and if so be Matter of Law arises upon any Evidence that is given against you at the Trial, you may demur upon that Evidence, and pray Council of the Court to argue that Demurrer, and they will not deny you; but I think you must plead presently.

Colledge. I suppose other Persons that have been tried, have had Council before they have pleaded.

Mr. Just. Jones. But never before the Matter was proposed to the Court.

L. C. J. It was so in the Case of my Lord *Stafford.* The Court made him propose his Matters in Law, and so it was in *Lilburne's* Case. He did insist upon a great many Matters in Law, and had the Books there himself.

Coll. I am wholly ignorant of the Law, my Lord.

Mr. Serj. Jefferies. Your Lordships are the Judges of the Law in this Case. The Question here in short is, whether the Prisoner be Guilty or Not Guilty, and that being demanded of him by the Court, if he refuses, let him take the Consequence of it.

Coll. What is that, pray, Sir *George*?

Mr. Att. Gen. Judgment of High-Treason. For if a Person stand mute, and will not plead to an Indictment of High-Treason, the common Judgment of pressing to Death must not