greater Accidents) want Power to send a Medlen-
gger to rancion and compound for them? What
Law therefore was there ever yet fram'd, or can
be enacted (let the Commerce or Intercoarces
between Nations be never so much broken and pro-
hibited) but that a Commander in Chief, in a
General, and much more a King, may be a Perly,
dispatch a Truncheon, may send and receive Let-
ters after the fashion of a Person of Quality does require?

Now, Mr. Speaker, for Religion, I neither
had any Conscience concerning it, nor transacted
with his Holiness about it: and as no body ever did,
or could lay any thing of that Nature to my
Charge, so for some Confirmation of it, I will ap-
peal even to the Agno-Prefet Houses of Rome, and
to all the Protestant Gentlemen of our Nation
there during my Embassay; for though what I tell
you, Sir, be a Wonder, yet the honourable Per-
fsons who have resided in those Parts, know it to
be true, that for a Dith of Chocolate, or a Dith of
Limonade, one may know the Munkes and Particulars of an Embassy as well as we do what paffes within our Walls at the
Coffee-Houses.

I do, however, mean my under Servants had oft
lied at the Grimaces and Mysteries which my Secretaries used in the Beginning to make before my Audience; for they have told them, within few Hours after my Return, almost
Word by Word what had past'd. Give me also leave,
Sir, to add one Truth more, which will affure you that I had no dangerous Intrigue in
Hand; and this, that notwithstanding his Ho-
liness never had the least Imagination or Thought,
but that I was as real and sincere a Catholic as
any Man living; and the same Thing alfo I can say of all the Cardinals; and in fine, of the whole Court in general; yet none of them (and every Engliifher in Town knew it) but look'd upon me as one that if my Influence should
were in Question, or any Temporal Concern of the
Kingdom touch'd, would stand as much in the
Gap, and he in a Diametrical an Opposition at
any Perfon of the Reform'd Religion whatfoever.

You fee then, Sir, both how and why I went;
nor have I done any thing certainly to merit any
Man's Unkindness or ill-will; nay, to lay further
before you the Hardship I am under, I shall
state you a Cafe not fuch'd out of old forgotten
Records, or tranfacted in an Age diftant from
ours, but of a Man attainted in this very Houfe,
in the Memory of several now living, and even
whilft myself had the Honour to be a Member of
it. The Cafe, Mr. Speaker, is Astel's the Re-
public; one whole Crime, I dare fay, my great
Enemies think it liker in the High Court than I;
not do I mention them as Favourers of the Cri-
me, but as Father of his grave and worthy
Judges. Astel, you know, Mr. Speaker, was in-
dicted for the Murder of Charles the First; and to
shew that he maliciously contrived and abettet it,
the King's Council urged his commanding in the
Hall at the Trial; his placing the Centinels all
about; and in flouting, his performing there the
whole Office of Captain of the Guard. The Pri-
foner answer'd, but pray, Mr. Speaker, let me
beg Pardon, if the Interval of almost thirty Years
has made me forget his Words, I am sure the Senfible
of them I have not. I say, Sir, the Prisoner an-
swer'd; My Lords, I am under great Oppifion, I
am hardly dealt with. His Charls the Second been
so judicious as to pass over the ordinary Transiges into
of his fuffer'd Subjects, and to look upon the Occurrence
of Soldiers to their then Superiors, as if the Authority
had been more legal; And Noll I roo die (who was
under Military Discipline) for that which I ought
already to perform, but the Royal Paff is by
the Orde'er me, and perfo'n'd all the other Duties, the Con-
course being great and troublesome? Upon this the
Judge reply'd; I confess (considering the King's
merciful Refolutions) that your Argument is
strong; it has great Weight in it; but Mr. Astel,
did you no more? Did you only perform the Duty
of a commanded Soldier? Who was it, I pray,
that animated the Rabble? Who beat the Soldiers
for not crying Justice? Who encouraged it sitting
in the King's Face? And who barbarously revil'd
and threaten'd a Noble Lady, that in the Trans-
por' of her Zeal (when the law her Sovereign
abd't, when the head such Blasphemy against him, and
tus this father'd upon the Nation) made a Noise or Stir in the Court? These Things there-
fore, Sir, being prov'd against him, he was con-
victed, condemn'd, and put to death, and the debt to Office, and to the sacred Altar of that great and just Man,

Now, Mr. Speaker, to Application; And first
(after a littleGlance on the Tenderness of these
Judges, when any Neceffity could be pretend'd)
let me, with your Pardon, ask you, shall I suffer
as a Transgressor of the Law, were there any,
when I must have suffer'd by the Law, had I re-
frain'd his Majesty's Orders and Commands? But,
Sir, if you demand, did I no more than carry a
Letter, or go with a Ceremonious How d'ye from
the King? I must answer yes, and a great deal
more too. For my Houfe was an Affaire, a Place
of Refuge to all diffir'd or oppr'ss'd Fellow Sub-
jects. If Seamen murder'd, or had any Contell
with their Captains, here a Reconciliation was made,
and there they return'd to their Obligation; or
the Captains themfelves, frighted for the Per-
nance, were delay'd their Money, or mis'd by
under Officers, they quickly found Redress; and of-
ten, by my Intered, receiv'd more than they them-
selves expected. And if the Question happened
about Quantity, or how Goods were condition'd at
Delivery, the Vendicr I am fore went on their Side: Nor was my Care confin'd to Rome only, but
reach't to all the Factories of Italy; For the Con-
texts themselves, may every private Perfon, found
both an easy Access to me, and an indefinable
Zeal in their Concerns; So that the Merchants in
general that had to do in those Parts, were far
from being behind Hand in their thankful Acknow-
ledgments. Nay, one of the greatest Companies
of our Nation, I mean that for Turkey, not only
return'd their Thanks very heartily by Letter, but
did it again by Word of Mouth after my Ar-
ival Home.

I am sure, Mr. Speaker, if the Employment I
submitted to were a Fault, I have already not a lit-
tle suffer'd for it; for I never put Bounds (as our
Travellers, as well as my own Officers, fully know)
to any Expence that could be imag'd for the
Dignity of the Nation. And give me Leave to
tell you also, Sir, that though the Name of Rome
may be harsh and ungrateful to your Ears, yet what
I did was with a good Intention, and like a true
and faithful Englipean, for had I been bent with
a Character to Confront等功能, where they are
Minnian, or to Chians, where Gentiles, the Echel or
Figure which I should have endeavou'red to make,
would never be consider'd by you as an Honour
to their Religion, but our Country; therefore

since


since it is a Disparagement and great Reflection to a
Kingdom, to come below, or short of others, in any
thing that is Publick and of Note, I cannot
but have at least fair Hopes, that you will have some
Consideration, some Opinion of an Embas-
sador, though at Rome, that kept up, to his Pow-
er, the Glory and Grandeur of England.

But, Mr. Speaker, not to trouble you longer on
the present Head, I'll end when I have told you this:
That if I have done amiss in obeying the
King's Commands, no Confidal that has purfued a
Pirate or Banditti at Rome; no private Factor that has
follow'd a Debtor thither, nor in short, any
Man that has been sent on such a Mission to that
City, though it were to demand his own, but is a
far greater Criminal than myself, and lies at
the Mercy of every Enemy, to be indicted as a
Contemner and Breaker of the Laws.

Your second Charge, Mr. Speaker, is my be-
ing a Privy Councillor, without taking the appoint-
ment of Oaths; to which I can truly say, they were
ever offered me; though I must allow confes (for I shall
be sincere with you in every thing) that I believe,
my that I am certain, I should not have taken them,
had they been offered: So that I do acknowl-
edge the Omifion a Fault against Law—

[Here the Speaker, thinking that his Lordship bad seen no End, defied him to come thither;
but being informed that he had not done, he ex-
cused the Interruption, and then his Lord-
ship went on.]

I say, Mr. Speaker, I acknowledge this a Fault
against Law, were there not several Things of
Weight that will, I hope, justify me to you:
And here, Sir, I must entreat you not to con-
ceive that I come now to defend, or make good the
Dispensing Power, but only to shew you how
necessarilly I was driven and induc'd to the afore-
said Omifion; for, Mr. Speaker, in Controvers-
ies and Disputes, what can one do, but recur ei-
er to his own Oberration, or to the Opinion
of learned Men, and Professors in the Science?
In the first Place then, when I began to ex-
amine myself as to the Right the King claim'd
and affirfed, I saw New objections don't Legal,
which signified to me Dispensing: I found the
Power of continuing Sheriffs out'd for many
Ages to be undoubted Law, and yet I knew there
was a positive Statute against it: Nay, I
remember'd an Act which I my self had in this
House given my Vote and Consent to, viz;
That about the Regulation of Carriages and Wag-
gons; or if this be not the exact Title, I must
beleeve you to pardon my treacherous Memo-
ry, and vts, I'll affirre you, the only Traitor I
ever yet accouered or supported. I say, Sir, I re-
member'd this very Act, almost as soon as made,
by Charles the Second's Proclamation,
without the least Question or Murmur; and I
took so much Notice of it, as to make even then
this Reflection (and do I affirre you upon my Ho-
our 'tis true) That though our Monarchs could
not impose and abrogate Laws of them selves, yet
they had the Power, I perceive'd, to replete them.

In the second Place, Mr. Speaker, if I went
abroad; I mean, if I confided the Thoughts and
Sentiments of others, I found not only great
Men of the long Rake, but the Judges alsoThemselves, declaring in Favour of this Prerogative;
and the Interpretation or Determination of these
Suges was always told me to be Law, till a new
Law, or a new Explanation should be enacted.

What would you then, Mr. Speaker, have me to
do, who was call'd to the Board by the King;
who could not in Conscience take the Oaths, and
yet had no Reaon to think I committed, in not
taking them, a Crime; seeing the Law was thus
openly expounded and publish'd?

And now, Sir, since I have been forc'd to men-
tion my Religion, which I know is a legal Fault,
and of a high Nature, I must not forget also to
celebrate the Goodness of this House, which has
pardon'd the Fault, even in the solemnest Way,
and by the solemn Act that ever pass'd since
Magna Charta; to wit, The great Act of Oblivion.

Now let us, Sir, to this too, for I can justly
demands, that being so faithful and so true an
Englishman, I neither should, nor could, I am free
have ever, during my Life, sworn to any Country,
or in my Religion. Pardon also I humbly bes-
peak you this Digression, and together with it
the Incoherences and Disjunctions all along; nor
shall I any ways doubt of it, since you so well
know how uneasy and troublesome a long Dis-
course (which my Circumstances have now requir-
ed) much needs be to one that wants both Elo-
quence and Practice.

But, Mr. Speaker, to return where I left, and
so conclude: How, Sir, I pray you (and I demand
it again of you with great Respect) I could I think
the Omifion, as I said, of the Oaths a Breach of
the Laws, when our Guides, who had the Laws
in their keeping, told us explicitly, and without
Reserve, the said Oaths were not necessary? Shall
I then say, that had neither Bonny nor Mark to di-
rect me? Certainly no, Sir, when first I was
for, 'tis not I must suffer, but the Judges, and thos
knowing and deputed Pilots, that hang out, it
seems, the wrong Flag and Signal. I have, Sir,
but one Word more to trouble you with; and this
I speak in Behalf of all here; nay, in Behalf of all
the People of England; that if I now undergo
your Sverity, and that single Persons (notwith-
standing the Determinations and Judgments of our
Courts of Justice) must be still responsible, no
Man can be safe, no Man can be at rest; nor for
body that acts can know (as Accients will often
happen) whether he be innocent or guilty.

Mr. Speaker, I am in great Disorder for impos-
ing this on your Patience; and especially fecling I
must yet pretend to do it, one thing more occur-
rine to me, as I hope, to your further Consideration,
or at least Satisfaction: And 'tis to let you know how
I came to be a Prifoner, and why I continued to
so long. Be pleased, then, Sir, that I tell you, that
as soon as the King first let Whitehall, I thought
it Decency to go out of Town; and therefore
three Days after I took Coach for Montgomery-
shire, where of late I use'd to reside in the Summer
Time. On the Borders of that County, at a small
Corporation called Offa'sride, I was first flopp'd
by the Raddle, and afterwards detain'd, with a
strong Guard, at my Inn by the Mayor; though
no body, as he confess'd, made any Oath against me;
and though he had no Orders, as he said, from
London for it; nay, after a Months Refrains, he
denied me my Liberty upon Bull, notwithstanding
two neighbouring Lawyers, whom I sent for, al-
ready had not the Authority to give me the Law.
I do not, Sir, complain of any Incivility, either from
him or the People; for I was us'd with Respect
enough; but I judge it extremely fit to let you
see how the Liberty of a Subject was wilfully in-
vaded by a Magistrate, and how little conscious I
was.
was of any Guilt, since instead of Flying, I went to a Place where I was known by every body.

In this, Mr. Speaker, after a Confinement of seven Weeks, I was sent for up, and brought bi-
ther by a Party of Horse; nor was I ever questioned or examin'd by any body, but kept (upon the Sus-
pension of the Habeas Corpus Act) at a Melfeger's House for three Months; and when the said Act was suspended the last Time, I was committed by my Lord Shrewsbury's Warrant to the Tower, for Sufficient of treafurable Pratishes.

His Lordship having ended, retir'd with the Sergeant at Arms to his Room, where, after a little Stay, he was sent for in again; and then the Speaker told him, that since he said his Journey to Rome was with a Letter of Civility to a Temporal Prince, and nor about Religion, the House (to be more fully satisfied of it) desired to see his Instructions.

To which his Lordship thus anw'rd.

I hope, Mr. Speaker, though I shall readily acknowledge my own natural Weakness, you will not yet think me so imprudent, as that, in a Time of such Troubles and Distractions, I would keep Papers by me; and especially about Rome, to render my self liable to every malicious Man's Extra-
vagancy and Comment. This therefore caused me, Sir, the Night before I went towards Wales, to burn all Papers that came to hand; and truly, some among the rest, that I have since wanted: Nay, this I can also justly aver, that I remember not now one Word of those Instructions, having, I'm confident, never read them twice; only this I remember, they were Things of Court, Words of Form, and needed no further Consideration. Yet, Sir, that you may plainly see my Sincerity, and how far I am from any Design of illusing and deceiving you, I shall shew you how you may re-
trieve them, when I tell you, that Mr. Molyneux brought them me, and that they were drawn, as I take it, by Mr. Bridgman; for I'm certain they came from my Lord Sunderland's Office.

But, my Lord, reply'd the Speaker, had you no private Instructions? None, answer'd his Lord-
ship. What none at all? said Mr. Speaker again. None, I'll assure you, Sir, reply'd his Lordship, unless the King's Orders, to demand a Cardinal's Cap for Prince Reinschul of Elbe, were private In-
structions; nor do I certainly know, whether those Commands were in my former mention'd Instructions, or whether I had them by Word of Mouth.

My Lord, said the Speaker, I have another Quer-
plion to ask you, viz., who of the long Robe told you of the King's Power of Disposing, and that there was no Necessity of taking the Oaths?

I am, Sir, answer'd his Lordship, infinitely troubled, if I have, through Want of Care, or by any improper Explication, given you Occasion to misapprehend me; for I never ask'd any particular Man of that Profession about this Affair: But my Meaning was (and I hope my Words are not con-
trary to my Meaning) that the said Power was ma-
ner'dly, and openly declar'd to be Law by Judges and Lawyers; so that I deem'd it no Sobilism in Discourse to mention it as if they themselves had told it me.

Then his Lordship retir'd again, and after a long Debate, the House pass'd this Order, That the Earl of Cattlemaine stand committed to the Tower by a Warrant from this House of High Treason, for ende-
avouring to reconcile this Kingdom to the Set of Rome, and for other High Crimes and Misdemeanors.

As soon as his Lordship was inform'd of this Vote, he entreated a Member to let the House know, that he had a Word or two more to trouble them with: So that being brought in, the Speaker told him, that the House having Notice, he had something further to acquaint them with, was very willing to hear him.

Mr. Speaker, reply'd his Lordship, I have nothing more to say about the former Matters; but understanding your Pleasure, I thought it my Duty to let you know, how the Curtains of the Tower, as to Prisoners, is changed; for in Courte here-
fore, unless there were a particular Order of State to the contrary, they had the Liberty of the Tow-
er: that is to say, they could walk about at Rea-
sponsible Hours with a Warder: But now as soon as one is committed, though it be upon Suf-
picition, as I was, he is confin'd to his Lodging, and bound from the Confusion of facing his Friends, till, after much Solicitation and Trouble, Leave be granted by the Secretaries. Therefore, Sir, being morally certain that I shall be confin'd again as soon as I return, I humbly desire the Favour of this Freedom; it being all that I hitherto enjoy'd after I had been restrain'd for some Days in the aforesaid Manner.

This said, his Lordship went out, and then was carried to the Tower, where he was made a close Prisoner, as he foretold; though what he moved, occasion'd the following Vote.

That a Committee be appointed to bring in a Bill for the better regulating the Imprisonment of the Sub-
jects of this Kingdom, and to seize the Fees of Goalers. And it was likewise refer'd to them to examine into the Abuses of Goalers towards their Prisoners which have heretofore been committed.

On Wednesday the 5th of the following February, his Lordship mov'd for his Habeas Corpus, and was brought by the Lord Lucan, the present Go-
vernor of the Tower, to Westminster, on the 10th. So that appearing at the King's Bench, his Com-
mitments were read, and Mr. Attorney having nothing to object against his being bailed, the Court awarded it upon the Security of Thirty thousand Pounds, that is to say, a Recognition of Ten thousand for himself, and Five thousand a-piece from his four Surets, which were, John Earl of Bath, Thomas Earl of Albany, Thomas Earl of Suffolk, Claver Lord Lennox.
CXLVI. Proceedings against John Price, Esq; late Receiver of Ireland, and One hundred other Protestants, at the Assizes at Wicklow in Ireland, for High Treason, against King James, March 6, 1688-9, 1 W. & M.

John Price, Esq., Receiver General to the late King Charles the Second, having his Country House in the County of Wicklow, at Ballinderry, twenty-four Miles from Dublin, didn for the Safety and Preservation of himself and Family, obtain the Lord Deputy Tyrone's Protection, as many more of the English Protestants living in the Country at the same Time did: For the late King James going away for France, and the Administration of the Government being put into the Hands of his present Majesty, the Lord Tyrone gave out Commissions, for the raising a mighty Army, to any Irish Pazift that would take one, and promise to Subsist, Maintain and Clothe their Men for three Months. Most of these new Officers are Men of mean Fortunes, nor capable of subsisting themselves; their Men live altogether on the English, coming into their Houses in the Day-time, and commanding from them their Meat and Drink; and often robbing them in the Night, fleecing away their Cattle. Likewise the Priests of every Parish obliged all their People to furnish themselves with Half-pikes and Skews, and bring them to Malt, or not presume to appear there, on the Penalty of Excommunication, or a severe Punishment; which caused all the Irish to arm themselves with the aforesaid Weapons; upon which, Robberies, Thefts and other Outrages were daily committed upon the English, particularly in the County of Wicklow, where some Hundreds were got together for that Purpose, who gave themselves the Name of Merry Boys, and had very great Success in their Thieves' Attempts upon their Protestant Neighbours, that lived hitherto secure in their own Houses. It is observable, what great Power the Roman Clergy have over the Irish; they arm themselves immediately at their Command, and yet to this Day have neither kept them from robbing of the English, nor restored them any thing taken away; which if they had been so minded, they might have done by the same Power. Several of Mr. Price's Neighbours repaired to Ballinderry, to prefer themselves and Goods; but an Order coming out soon after, for the taking away all Horses and Arms from the Protestants, both in City and Country, Colonel Tole, with a Party of his Men, came to demand what Arms and Horses they had at Ballinderry. Mr. Price and the rest having the aforesaid Protection, refused to obey their Orders; and Complain coming to Dublin, Colonel Sheldon was immediately sent away with a Body of Horse and Foot against Ballinderry. Mr. Price, upon his Approach, presently submitted to him, who thereupon was made Prisoner, and all the rest of the Men that were in the House: But the Prison of Wicklow not being able to contain them, several of them were admitted to Bail, until the following Assizes, which began March the fifth last past, and ended the eighth.

The Prisoners Names that were Indicted for this Treason, are as follows: viz.

1. John Price, Esq.
2. Thomas King, Gent.
5. James Lewis, Gent.
7. John Burroughs, Gent.
8. James Barrow, Gent.
9. Thomas Burroughs, Gent.
10. Thomas Fetherby, Gent.
11. John Christley, Gent.
12. George Christley, Gent.
15. J. Clark.
16. Caleb Coal.
18. John Boughamy.
20. Henry Gilpin.
24. William Gurney.
25. Thomas Bourne.
27. William Export.
29. William Neal.
30. William Hill.
32. Stephen Robins.
33. Charles Export.
34. Stephen Rattor.
36. John Colyn.
37. William Watten.
38. Henry Delanoy.
40. John Kempton.
41. Thomas Watts.
42. Edward Elton.
43. Robert Anson.
44. Alexander Hill.
45. James Hill.
46. John Hill.
47. William Sewill.
49. Peter Blond.
After they were sworn, as usual, they received the following Charge.

Lord Chief Justice Keating’s Charge to the Grand-Jury.

GENTLEMEN,

You are here returned to serve on this Grand-Jury, you have this Day before your Eyes the gestetst Example, and the firmest Proof that a Gracious Prince can give to the best of Subjects. You see his sacred Majesty King James the Second (whom God long preserve for the Protection of all his good and faithful Subjects, and for the Subversion and Extirpation of all those who dare subvert his Government, either by Foreign Force or inward Conspicacy) notwithstanding the great Troubles on his own Person, yet he is not wanting in his Care towards you; and I dare boldly say, it is the last thing he will relinquish in the World, after that of his own Confidence, the Care of his Subjects. He hath sent us with his Commission to enquire into all the Maladies, Diffracts, and Sorrows within your County. He has likewise given us Command to apply the healing Ballam of the Laws, which will preserve the Subject most entirely in his Property. And I am sure I must tell you, that there was never more need than now at this Time. I am glad at the same Time that I can say, that the Ministers fallen on a great part of this Kingdom, and on no part more than on this County, that is under the very Eye of the Government. I say, I am glad it can be said to have arisen, for the most part, from a rabble of People, who have armed themselves without any Direction from the Government, and that with unusual Weapons: I mean Half-pikes and Sikeans. Gentlemen, I must tell you plainly, it looks rather like a Delight to massacre and murder, than anything else. They do not belong to the Army, neither are they any part of them; but these are the Vultures, Kites, and Ravens that follow Armies. Soldiers that have travelled abroad say, such are not known among them there. I am told, and very well assured, that in Foreign Parts, these Vultures and Birds of Prey are, it is hard for an Army to lie concealed, without being discovered by them; for it is Odds, but that a Horse or a Man drops where such Multitudes of People are; I am very far from laying this to the Charge of any that are under Command; though it is possible that some of them, under the Scarcity they are in, do give their Assistance, or at least encouragement to these Robbers; otherwise it could not be, that whole Flocks and Drovers of Cattle are daily driven away, and yet no one taken or brought to Justice for it. The King is not wanting in his Care; he has given Directions to have the Laws put in Execution, that Criminals may be brought in and punished; and the Government has filled out many Declarations, but they are grown too familiar with them. You are to enquire into this Matter, in order to bringing to Punishment, not only them that first, but those that receive. I am told that open Markets are let up in this County of Middlesex: A fat Ballock for five Shillings, and a fat Sheep for one Shilling; but it will fall heavy on them at last. Divines say, that God Almighty oftentimes makes the very Crime to become their own Punishment; and I verily fear, that a few Months will produce...
a Famine in this Kingdom; and what succeeds  
a Pestilence, and the want of all Peculiar  
; for it is observed, that a starved Rot is the  
worth of all Rots; it falls out unhappily at this  
Season of the Year, when the Cattle are breed-  
ling. Under the old Law the Jews were not  
to feed the Kid in the Mother's Milk; but  
these unmerciful Wretches go further than that,  
fearing none, but destroying old and young,  
the Encreese and all. Pray, Gentlemen, consider  
of it, and search the Hoaxes of such as you  
have Reason to suspect, that had not any thing  
to eat the last Year; go now into their House,  
and you will find whole Carcasses of Beast  
powdered up: Nay, it may be for Want of Salt,  
or Money to buy it, lying rotting and flinking.  
Let me tell you, it will be your Turn next,  
when they have robbed and spoiled your Pro-  
testant Neighbours, they will come to you, un-  
less you take speedy Care to prevent it. The  
King has done what he can, and the Govern-  
ment what they can; in vain is the Law made,  
if Offenders be notrought to condign Punish-  
ment. You all know, there has been an Invad-  
ion in England, and a foreign Enemy, the Prince  
of Orange; and the same is designed on this King-  
dom: The Effects of an Invasion is not known.  
Defence is natural to all Kingdoms and States,  
and therefore the Government has given Direc-  
tions for raising a greater Army than at any Time  
therefore this Kingdom ever had. It was so  
among the Romans of old, who in Cases of Ne-  
cessity did Things clear contrary to the Funda-  
mentals of their Laws. The same Necessity has  
put the King on arming here (in France they  
have their Ban, and with us our Commission of  
Array, from sixteen to sixty) but without any  
Duige that the Effects should be to arm the  
Country with Half-pikes and Spears, They are  
fit indeed for the Mountains, or to guard a  
Man's House, but not to go abroad with at Noon-  
day. Gentlemen, you are that Justices of the  
Peace, and Officers of the Army, wherever you  
meet, you ought to secure them, and bind them  
ever, and know by what Authority they dare go  
abroad with such Weapons. I need not say any  
things to you in Defence of the King, for it is  
really and truly your own Defence; and therefore  
I shall proceed into the Heads which are prepar-  
ed for your Enquiry at this Time. Our Business  
here is like to be very great, and our Time short,  
and therefore I shall not trouble you with small  
Things; we have greater Matters than Affair  
and Batteries. We have Defections and Ruins  
to show you, and yet before you, and without  
your Care, we are like to fall into the Gulph of  
Mickey and Desperation. The first Thing we  
have to speak of, is High Treason; we have no  
Petty Treason in Ireland. If any shall go about  
to confine the Death of the King, Queen, or  
the Heir apparent, the Prince of Wales, this is  
High Treason at all Times; it was so at Com-  
mon Law: You must look to this, because, for if  
a high Treason is to be brought, there can be no  
retracting of it. If any one should go about to  
fright the King's Person, or imprison him, this,  
Gentlemen, is Treason; there is but few Steps be-  
tween the Prisons and Graves of Kings; and, by  
all the Observation that I can make out of the  
Grilles, or Stairs, or Iron Histories, where we have  
had Swarms of murdered Kings, that if once  
they went into Prison, they seldom ever esca-  
ped with Life. Our King has more Reason than  
any to dread this: His Father, who now is a glori-  
ous Martyr in Heaven, lost his Life; and the King  
himself, ever since his Escape with Colonel Bun-  
field from St. James's, has had so many miracu-  
lous Deliverances both by Sea and Land, that we  
may conclude he is preferred for some mighty  
Matter, or else Providence had not done such  
great Things for him; and 'tis but of late that he  
himself is escaped out of Prison. I am told by  
Authority, and they ordered to tell you, that he  
is expected in this Kingdom very suddenly, as a  
Place of Refuge. He is the first King, I think,  
that since Henry the Second, except Richard, that  
has been in this Kingdom. It is a great Misfortune  
that he should be forced to it, but we may look  
upon it as a great Blessing, that he should think  
himself safe here, when he cannot be so else-  
where.  
To seize any of the King's Forts or Ships of  
War (for these are the Bulwarks to defend him  
against his Enemies) this, Gentlemen, is Treason.  
To hold Correspondence with any of the King's  
Ships, or with their Officers, or with Rebels in  
actual Rebellion, or to join with them, this is Tres-  
aton. You are not to enquire into the Punishment, but  
to open a Door for the petty Jury to enquire into  
the Matter of Fact, and what the Law is, shall by  
the Blessing of God be our Business.  
To counterfeit the King's Coin, or clip it (and  
you have very little of it at this Time, therefore  
you had need be careful in a more ejecptial Man-  
ner) this likewise is Treason.  
It is likewise Treason to counterfeit the Great  
Seal of the King; for 'tis the common Security,  
by which many hold their Efficacies, and fond their  
Lives.  
The killing of the Chancellor, or any of the  
Judges or Justices of Oyer and Terminer, in the  
doing of their Duty, this likewise is Treason, not  
to much with regard to their Persons, as to the Work  
that they are about, they representing the King's  
Person. The meanest Conflable there, if he has  
his Staff in his Hand, and doing his Duty, he that  
kills him shall die the fame Death as he that kills  
the best Man that wears Scarlet on the Bench.  
Gentlemen, I must tell you another Crime, and  
it looks like a Mark of Infamy on this Kingdom.  
Murder in England is but Felony, but it has been  
thought fit to make it Tresfon here; and they  
that go out on burning and robbing Houses, they  
shall be indicted for Tresfon: And Clerk of the  
Crown, if any such be here, now take Notice,  
I will have them indicted for Tresfon.  
The next Thing for your Enquiry is Felony,  
that concerning the Life of the Subject. For a  
Man to kill his Fellow Subject, this is Felony,  
if he does it on a sudden Passion and Heat: A  
Man may kill another in his own Defence; for  
'tis natural for a Man to kill rather than be killed,  
and therefore he shall have his Pardon of Court.  
But, Gentlemen, this is not in Favour of Dues,  
and only where there is a great Provocation; There  
is not a Man but has some Passion about him;  
but for a Man to go to Bed with Malice, and  
afire the next Morning and go meet his Fellow  
Subject and kill him, this is Murder and Tresfon  
in Ireland.  
The next Thing that is Felony, is concerning  
the Goods of the Subject; for an honest labouring  
Man, that by the Industry of his whole Life has  
gotten a fair Stock for the Maintenance of him-  
self,
self, his Wife and Children, at Night goes to Bed, and next Morning when he rises, he is a Beggar, and wants Bread. Gentlemen, it would make every honest Man's Heart bleed to hear what I have heard since I came into this Country. It is ill in other Parts of the Country, but here they spare not even the wearing Cloaths and Habit of Women and Children, that they are forced to come abroad naked, without any thing to cover their Nakedness: So that besides the Oath you have taken, and the Obligation of Christianity that lies upon you as you are Christians, I conjure you by all that is sacred, and to your future Salvation, that you make diligent Enquiry. Let it never be said by any of you, that it was your Neighbour, or your Neighbour's Servant did it, and you are forry for it, but will not trouble your selves: I tell you it is every Man's Business, and I beleech you look into it.

To break into any Man's House after Night-fall, is Felony. It is a found Sleep that the labouring Man takes, but the idle Rogue that lies lurking and sleeping all the Day, at Night he appears and robs them whom he may devour. If you were to do the most charitable Work, as building of a Bridge or Chappell, or mending a Highway, how many do you think of these Men with half Pikes and Skewers would come to your Affilience? Not one of them I'll engage. But if a House or Town be to be plundered, they all run thicker. All Riots and Rous are to be enquired into. Numbers of People may meet for their own Defence, if they should hear or see the Country robbing and spoiling, by a notorious Multerer and Robber, whom they may chance to see. In this Case they may meet and defend their Goods, and apprehend the Robbers, in order to bring them to Justice; but after all this, they do not come to consult with the Government, nor do any thing to the Prejudice of that. I told you, I would not trouble you with unnecessary Matters: All are lost in the greatest of Crimes and Outrages that are committed daily in the Country round about.

If I should go through all the Heads of this Charge, it would take up more Time than we have to spend here; and therefore I should shut up all, and say no more than this, that every Man do apply himself to his Husbandry and Tillage, to prevent that imminent Danger of an approaching Famine that seems to be coming upon us, and that you make it your Bufinefs to furnish all, and bring to Judgment the Robbers that live on the Mountains; and while you continue to do your Duty, you shall have all the Protection the Government can give you. So upon Complaint of any Justice of the Peace that shall be backward or unwilling to appear against them, Care shall be taken to punish such, and make them Examples. Go together, Gentlemen, and consider of these Things.

[The Priests' letters brought into Court.]


Hold up your Right Hands.

Clér. John Price, Tho. King, &c. You stand here indicted, for that you on the 25th Day of February, in the fifth Year of the Reign of our Sovereign Lord King James the Second, at Bathamby in the County of Wiltshire, with divers other wicked Traitors and Rebels, in a warlike Man-ner then and there did assemble your selves, and a cruel and open War and Rebellion against our Sovereign Lord the King, and his faithful Subjects of this his Majesty's Kingdom of Ireland, did raise and levy, and did intend our Sovereign Lord the King to Death and Deprivation, to bring, and to depole him from his Kingly Authority and Government of this his Kingdom of Ireland: And to fulfill and accomplish the said traitorous Intentions and Designs, you the said Per- sons, with others the said wicked Traitors and Rebels, the Day, Year, and Place aforesaid, did arm your selves with divers warlike Weapons, as well offensive as defensive, and did much and excite divers others the Subjects of our So- veraign Lord the King, to join themselves wickedly and traitorously, against the Peace of our Sovereign Lord the King, and the Duty of your Allegiance, and the Statute in that Case made and provided, &c.


Clér. God send thee a good Deliverance.

Note. The Priests were brought into Court to federal Parties, to be arraigned, as many as the Docket would hold, at one Time.

[The second Time the Docket was filled.]

Clér. Or, Set William Fullman to the Bar, &c. [Thady Brine, the High-Sheriff, stood up and said, My Lord, Fullman was elected.]

Bar. Lynch, pray, Sir, who charged him? Fullman. The charge committed Oliver that was here; Colonel Shebald had it.

Bar. Lynch, Sir, do you well to reflect on your Employer.

High-Sheriff to the Sub-Sheriff. You have done this to get Money for your self. My Lord, Full- man was not concerned at all, and therefore was discharged.

Priests. Lewis. My Lord, we are so crowded with a File of Multicipers and a Servant, that they take up our Chairs, that we cannot sit down; and they come with their lighted Matches to our very Noses; and last Night a Piece was off in the Room among us: We have not the Conveniency of quiet Rooms, nor our Friends the Liberty of eating us. My Lord, we were not but Lawyers, therefore before we may have our Friends come to us, and Council to advise with.

[This Lewis and Lord Galmoy are Brother and Sibbys Children, and was offered a Troop if he would turn Papist.]

J. Keating. Mr. Lewis, you have been bred to the Law; but you shall have Council allowed you; and you, Mr. Sheriff, you are not to keep them with Fire-Arms, nor with your Soldiers. I saw a Crew at this Door Yesterdays, and forbid it — I remember that when Warren, Jephson, and Thompson...
Thomaston were tried in 1663, for a Design to
surprise Dublin Castle, because this was a great
Matter, fortoth, they must be guarded with Sol-
diers — (They were tried at the King's
Bench; and several Persons deposed to see or hear,
being gotten up into the Arch in the Wall next
the Court of Common Pleas) as they were going up
Stairs, a Piece went off, and shot a Man through
the Head. I tell you Mr. Sheriff, that brown
Bill is your Guard [pointing at one in Court] the
Law knows nothing of Fire Arms; [speaking to
the Prisoners] Gentlemen, I must tell you plainly,
that I received Directions from my Lord Deputy,
by the Attorney General, that you should have
all the Justice imaginable.

But Mr. Sheriff, you must command
these Soldiers to be civil, they are your Guards
when you employ them.

Seven Prisoners were arraigned and returned back
to Prison; 34 more were indicted, and up
on Bail, did not appear.

Next Day — Thursday March the 7th, they
were again brought to Court to their Trials, and
the Jury was impannelled, whole Names were as
followeth, Papists marked thus; † suffi.

† Thomas Cavendish.
† Philip Cradock.
† John Paw.
† Alexander Higdon.
† Christopher Talbot.
† George Brine.
† Dudley Kough.
† John Kough.
† David Toole.
† James White.
† Darby Toole.
† Gorward Harwell.
† Daniel Bone.
† Patrick Mac Donnell.
† Patrick O'Donnell.
† Christopher Brine.
† Daniel Perc.
† Richard Tunstall.
† Thosplin Higdon.
† Nicholas Wolf.
† Charles Tooll.
† Anthony Archer.
† Charles Bone.
† Cornelius Kavan.
† Tho. Elliott.
† Richard Boker.
† Thoby Bone.
† Francis Tuft.
† James More.
† Hugh Bone.
† Bryan O'Neil.
† Denis Colley.

Jailor, set the Prisoners to the Bar.

Clerk Cr. You good Men that are to try
the several Issues between the King and John Price,
&c. and other Prisoners at the Bar, that shall be
given you in Charge, &c. Jury, look at the Pris-
oners; Prisoners, look at the Jury.

Clerk Cr. Thomas Cavendish, to the Book.
Prisoner Lewis. I challenge him.

Clerk. What is your Cause of Challenge?

Deputy King's Council, Fitz-Patrick, My Lord,
before they begin their Challenges, let us know
whether they will all agree in their Challenges,
Vol. IV.

otherwise we must be forced to try them sever-
ally.

It was at length agreed, that if any one made a
properly Challenge, the other Prisoners were
to be satisfied with it.

[Col. Tool on the Beach, speaking to the L. Chief
Justice Keating.]

My Lord, Mr. Lewis has been Sub-Sheriff of
the County, and knows all that have Freehold.

J. Keating. It is the better for himself that he
does know them.

Prisoner Lewis continued to challenge, until they
had gone through the Panels, and only two Gen-
tlemen that were Protestants, Mr. Cradock
and Mr. Paw, were sworn.

Clerk Cr. Mr. Sheriff, a new Panel — The
Sheriff gave in another of eleven in Number, which
were all Lifewife challenged by Mr. Lewis. —

While both the High and Sub-Sheriff were look-
ing about the Court, for to make up a third Pan-
nel, says

L. C. J. Keating. Mr. Sheriff, How many Free-
holders have you on the Grand Jury?

Sheriff. Six or Seven, my Lord.

J. Keating. You have been sparing enough of
your Freeholders. The Law requires that all
the Grand Jury should be Freeholders, and have you
but fix?

Sheriff. There is but very few Freeholders in
the County, my Lord.

Coun. Fitz-Patrick. In Cales of Necessity, my
Lord.

J. Keating. You know the Law is so.

Coun. Fitz-Patrick. Yes, there is a Statute for
it.

J. Keating. The Prisoner for his Life may chal-
lege twenty peremptorily, without shewing
Caucle ; and the whole World for Want of Free-
hold — And shall I put such a one on for his
Life? Sir, I will not be hanged for any body.

Fitz-Patrick. Was ever a Judge hanged?

Mr. Handcock, Council for the Prisoners. Yes,
above Twenty in a few Years.

J. Keating. Mr. Fitz-Patrick, I will not be hanged
with Judaism Belchamp, nor Traffillin neither.

Coun. Handcock. My Lord, they were hanged
at Tyburn.

J. Keating. I think they were. — The great-
east Part of this County is in the Hands of two or
three Men, my Lord Strofford and Rifs.

J. Keating. Who is here that is concerned for
my Lord Strofford and my Lord Rifs?

Coun. Here is Dr. Hall on the Bench for the
Lord Strofford, and the Sheriff is concerned for
my Lord Rifs.

J. Keating. Dr. Hall, and you Mr. Sheriff, let
me tell you, I do not know but that their Lord-
ships have forfeited their Estates for this Day's
Work. In the Act for Plantation, there was
Provision made for Freeholders, and there were
enlarg:-
enlarge your Pannel; but you can never enlarge it farther than it was at first.

Clerk Cr. Birne, to the Book.

Prpf. Lewis. I challenge him for Want of Freehold.

J. Keating. Mr. Birne, have you a Freeholder in this County?

Birne. My Lord I have a Lease of Lives.


Bar. Lynch. What Sir, do you begin to challenge? This shall not be allowed you, to challenge one upon another.

Coun. Hancock. My Lord, you are Council for the Prisoners.

Bar. Lynch. Sir, you are not to tell me my Duty; I will have you to know, Sir, I shall give an Account for myself. I am Judge for the King too, as well as Council for the Prisoners; and I am concerned for the King.

J. Keating. [Turning towards him.] And do you think I am not concerned as well as you?

Bar. Lynch. Yes, my Lord, I speak for you as well as myself.

Coun. Fitz-Patrick. My Lord, they agreed at first, that one man should challenge them all. At this Rate we are never like to get a Jury for them. It is but an ill Sign of their Innuence, that they are not willing to come to a Trial.

[Mr. Hancock Council for the Prisoners.]

In the peremptory Challenges they agreed (but not in the Challenges for Freehold) and this peremptory Challenge we will stand by.

J. Keating. I will tell you how I understood it; That in their peremptory Challenges, if any one of them challenged, the rest should be concluded by it. Mr. Wyfland has made a peremptory Challenge, and they are willing to stand by that. However, Mr. Birne, stand by, do not go away, we may call you again. Clerk of the Crown proceed—&. which he did, until he ended the third Pannel.

[Sub-Sherif. calls William Baker.]

Auso. My Lord, he has a Freehold.

Baker. My Lord, I have no Freehold.

J. Keating. You see the Sub-Sheriff is a fit Man to be an Officer; he is blind—he is indifferent.

[High-Sheriff calls Peter Ayres.]

Auso. He is on the Grand-Jury.

J. Keating. Mr. Sherif, why do you call a fit? Sherif, I saw him in Court, and so I called him, my Lord.

J. Keating. There is already but five peremptory Challenges made, so that they may challenge fifteen more peremptorily; and there is but two sworn, so that there wants ten.

Clerk Cr. Sherif, see if you can get any more. Sherif. I see never a Freeholder in the Court.

Coun. Fitz-Patrick. My Lord, the Sherif ought to be punished for his Negligence.

Bar. Lynch. Sir, why did you not take care to return a Jury of Freeholders? You shall be fined for it.

High Sherif. My Lord, I have returned all the Freeholders in the County (I sent Yesterday above twenty Miles for one Gentleman here) they are all gone out of the Country. I hope you do not expect I should go to the North, or to the West, or to the South, among the Rebels, to summon them? J. Keating. I do really believe you, Mr. Sherif; you have done like an honest Man—Mr. Fitz-Patrick, what do you say in this Cafe?

Fitz-Patrick. My Lord, I cannot tell what to say.

Duty King's Couns. Hammond. What if there was not one Freeholder in the County, must not Justice be done?

J. Keating. Can we make a Law for it?

Hammond. My Lord, I know that in Cafe of an Election, a Trial has been removed from one County to another.

J. Keating. Can you by Law go to another County in Cafe of Life?

Hammond. It appears there is not sufficient Freeholders in this County, the Lands being in many Hands.

J. Keating. You know the Law is otherwise, and what would you have us that are Judges do? Pray tell us, Sir, what you would be at.

Hammond. We would have it removed to the next County, or another County.

J. Keating. For God's sake, Mr. Hammond, do not put us on making Law.

Lynch. Mr. Hammond, when did you hear that ever a Matter capital was tried in a Foreign County? In Matters Civil, by Rule of Court, or Order of Chancery it may be, but of a capital Office it was never known; and we are by our Commission to try Offices committed against the Law in the Counties where the fact was committed. We must try them in this County, and cannot remove them from one County to another.

J. Keating. Mr. Hammond, because I would take you off of this new Law that you much infilt on, that in Cafe of an Election it may be tried in a Foreign County—I tell you it cannot be tried in a Foreign County: We have No Law for it but that of K. James, and the Reason was, because of the Story that was here on Foot; on an Her Male, if collateral, he carried it against the Heir general. K. James he gave Direction that in that Cafe it should be tried in a different County. That my Brother tells you of trying in a different County, by Order of Chancery is this: A Person comes in Chancery, and he finds that such an one was too potent in such a County, and therefore he directed it might be tried in an indifferent Country, or get such a Rule of Court on such a Suggestion. And this was the Cafe of the Archbishop of —— when he was Bishop of Limerick. And if Welast might be believed, he said, was the Occasion of his running into Rebellion.

C. There is a Cafe in Hobart, &c.

J. Keating. I would undeceive you in that Particular: As in the Cafe of Aylen and Colonel Garret More. If in the County of Galway it was Aylen's; if in the King's County, it was Colonel More's. So that you see, in dispute of Cakes, the Law has Regard that it be tried by Jurors in proper Counties: And truly I think it one of the most reasonable Laws in the World, that a Man shall be tried by his County, by the Neighbourhood; and it has given Ground to a good English Proverb, He that has an ill Name, is bold hanged. A Man's Repate among his Neighbours goes a great Way in this Matter: When his Neighbours shall say they never knew ill by him. And this Man to be carried out of the County of Wicklow, to be tried at Wexford, you may by the same Rule bring a Jury from Tyrone, or the last Part of Connought. There is nothing like what you lay in the Law.
Hannud. I do not say that ever I met with such a Thing in the Law.
Bar. Lynch. And do you think that we will make the Precedent?
Hannud. That three or three Persons should have it from whole County.
J. Katting. Before God, I believe they think they have little enough, whatever you may think of their having too much.
Bar. Lynch. What you say, Mr. Hannud, if there be any thing in it, we shall advise with all the Judges. The Judges declaring their Opinion, that the Prifoners after being arraigned, could not be admitted to Bail.
Cont. Seabourgh is Bar. Lynch. My Lord, you took Bail for Captain Ruddy at Killeeney, after his Arraignment.
Bar. Lynch. What, Sir, do you reflect on me? There was no Evidence of it barred, and my Brother bailed him as well as I.
Cont. Seabourgh. I say he was bailed.
Mr. Haunsteck. My Lord, Mr. Cooper at Galloway was bailed by your Lordship likewise;
Lord Chief Justice Katting lent privately to Dubh in the Deputy, acquainting him, that if they were left in Prifon until the next Assizes, they would certainly perish, they having lost all they had, and the County was not able to maintain them; upon which he received Orders to bail all but six of the Principal; viz.

*Table Price, Esq.*
*James Becon,*
*Thomas King,*
*Joseph Crundley,*
*Richard Wishland,*
*George Crundley,*
*William Lacy,

Who are kept clofe Prifoners, in order to their Trial the next Assizes, which will be in this Month of Feb. Upon the taking these Gentlemen Prifoners, the Soldiers and Rabble plundered and pillared all the English Families in Balinade, Redlins, Boland-Chols, &c. and the Irish Women with their Sheep came afterwards and strip’d the Women and Children naked, leaving them in a most miserable and deplorable Condition, having not left them either Bread, or any Food in several Towns, but carried away all with them. And as an Irtmahom, a Tanner, declared to several at the Assizes, in the Hearing of this Relater, that one Captain Tool had for his Share twenty-six Horse-Loadis, or more, of Plunder; and the Lord of Lundy’s Troop of Dragoons that were quarter’d in Wickeha Town, had great Quantities of Woollen and Linen Cloth, Women’s Cloaths, Petty, and other Goods in Abundance. But the Lord Chief Justice Katting coming there to the Assizes, and having an Account of the extreme Poverty and Mifery the Protestants thereabouts were reduced to, did encourage them to Petition, and where they could find their Cloaths, &c. he endeavoured to help them in the Recovery of them. And Mr. Richard Lamb having ten fat Ballocks taken away by Col. Tool’s Men, and brought to Wickeha, and there killed and eaten by the Soldiers, he preferred a Petition to the Court. Col. Tool being present on the Bench.
J. Katting. Colonel Tool, you heard the Petition do you know any thing of thee? Oen Mr. Lamb had taken from him by your Soldiers?
C. Tool. My Lord, I will tell you how it was: Mr. Lamb had fold the Ballocks to Mr. Price, and as they were driving them to Balinade, the Soldiers met them and took them away.

J. Katting. But Mr. Lamb was at home at his own House, and not at Balinade; the Ballocks were to be paid for upon Mr. Lamb’s delivering them to Mr. Price at Balinade, your Soldiers took them away from his Servant several Miles from his House, I see no Reason why Mr. Lamb should not be paid for them.
C. Tool. My Lord, Colonel Sheldon came down soon after with the King’s Army, and I advised with him, and he ordered they should be killed for the Army, which was done accordingly.
J. Katting. Pray Colonel Tool, however, Mr. Lamb ought to be paid for them; he was not concerned with Balinade, but kept his own House.

Cont. Fitz-patrick. My Lord, his House was a Garrison too.
Mr. Haunsteck. For Shame, Mr. Fitz-patrick, a Thatched Cabin a Garrison! I find you are for making all Protestants Rebels that live peaceably at home in their own Houses.
C. Tool. My Lord, I have no more to say to the Matter.

Clerk of the Crown. Calling over the Gentlemen of the County, called one —— Scott, Gent.
Mr. Scott. Here I am, my Lord, God knows, a poor Gentleman, being robb’d of all, and not a Penny left me to buy a Pint of Drink.
J. Katting. Pray, Sir, when were you robb’d?
Mr. Scott. The last Wednesday they came and took away what little they had left untaken before, my Wife and Children’s Cloaths, robbing me of all.
J. Katting. Pray, Sir, what Value may your Loss be?
Mr. Scott. Truly, my Lord, I have not yet computed my Loss, but they have taken away all; I desire your Lordship will discharge me from attending the Court, for I have not wherewithal to subsist while I am here.
J. Katting. Sir, I am sorry for you, I discharge you.
J. Katting. Colonel Tool, let the Officers be sent for into Court, to hear this Proclamation read, that is sent down here by the Government.
C. Tool. My Lord, they are here most of them. Here is Captain Archbold, Captain Tool, &c.

Clerk of the Crown read the Proclamation, the Substance whereof was, That they should relieve the Protestants such of their Horses again, as were not fit for the King’s Service, &c.
J. Katting. Nay, Sir, if Colonel Sheldon must be obeyed before the Government, I have no more to say; I have done.
C. Tool. My Lord, I shall obey it.
J. Katting. Pray then, Colonel Tool, let the Horses be sent for while that I am here, that what Horses are not可用able may be return’d: I cannot in my Conscience go about to fine Men for not appearing at the Assizes, when they have not a Horse left them to ride on.
CXLVII. The Trial of Maurice Cavenagh, Ed- 
mund Poor, and William Bownland, in Ireland, 
for Felony, in stealing Cows, March 7. 1688-9. 1 W. & M.

E V E R A L were arraigned for 
stealing considerable Numbers of 
Cows, Sheep, &c. but the Evi-
dence against most of them durst 
not appear to prosecute.

Lugton Burne indicted for 
stealing nine Head of Black Cattle from one Colwell; 
no Person appearing to prosecute, says 
Justice Keating [to the Jury], Gentlemen, you 
have nothing against this Man; he was born in 
the State of Innocency; but the Truth is, the 
Parties dare not appear against him.

[Witnesses came in against three Fellows: viz. 
Maurice Cavenagh, Edmund Poor, William 
Bownland.]

[Clark of the Cowan calling them to come and pro-
duce their Cows, before the Jury.]

J. Keating. You that are Evidence against 
the Prisoners at the Bar, I charge you, as you will 
answer it before God, that you neither for Favour 
or Affection beinclined to spare any of these Vil-
ains; and likewise, that you will conceal nothing 
of the Truth, as you will answer it at the Great 
Day; for I tell you, the Cries and Grouses of the 
poor Women and Children, and the many 
Families that are ruined, and in great Distress, will go 
up to Heaven against you.

Evidence against Edm. Poor. My Lord, when 
I came to him, and asked him why he stole my 
Cows, he said, the Devil did make him do it. 
I flake him fair, and he gave me Money for my 
Cows.

Poor. Ay, my Lord, and he promised not to 
trouble me.

J. Keating. It was an unlawful Promise; the 
Law would not justify him in it; he has done like 
an honest Man. If you paid the Money out of 
Confidence, you did well; but I fear it was your 
Danger of the Halter made you part with your 
Money; for if twenty-two Shillings and Damnation 
fool in the Way, I believe you would have 
kept the Money. I am here, without Satisfaction, 
you cannot expect Absolution; the Priests that gave 
the other Advice for the Maddoger or Skean, will, 
I suppose, tell you so.

Two Pragmatic Evidences against Maurice Ca-
venagh, for stealing several Head of Black 
Cattle, before Judge Keating Speaks against 
Skeans; faild.

Evidence. My Lord, when we seized him, we 
took a Skean away from him.

J. Keating. Sir, How durst you carry such an 
unlawful Weapon?

Cavenagh. My Lord, I am a Butcher, it was 
a Butcher's Knife.

J. Keating. Ay, I do not question but thou 
couldst butcher upon Occasion.

One Hicky Jack, my Lord, He is no Butcher, 
but one of the greatest Rogues in the County 
round us. I have been in Pursuit of him several 
times.

Cavenagh. He is a Murderer, my Lord, do not 
believe him.

Evidence. My Lord, it was near ten Inches long, 
thick at the Back, and sharp Point, every way a 
Skean.

J. Keating. Is that your Butcher's Knife? you 
are a great Villain, for carrying such a Weapon.

Cavenagh. I was ordered to have a Skean, my 
Lord.

J. Keating. Pray, Sir, who ordered you?

Cavenagh. The Priest of the Parish.

J. Keating. A Priest, Sir, [turning to his Bro-
ther Judge] do you hear that Brother?

What is your Priest's Name?

J. Keating. Hold, Brother. Come, Sir, I 
shall not ask your Priest's Name: I believe you 
will have Olication to see your Priest soon, to do 
you a better Office, than to advise you to carry 
Skeans.

[And looking towards Col. Tool, and two Priests 
on the Bench, next Sheriff Burne.]

J. Keating. A Priest, Gentlemen! A Priest is 
a Minister, and a Minister of the Gospel; his 
Doctrine ought to be Peace, for the Gospel is 
the Doctrine of Peace. When our Saviour came 
into the World Peace was proclaimed; and when 
he went out of the World he left it for a Legacy 
to his Disciples: My Peace be with you. And pray, 
Sir, tell your Priest 60 from me when you see him. 
It is not for Priests to arm or animate such Vil-
ains as you are for Miktind. I shall not ask 
your Priest's Name.

Chancy, an Irish Gentleman. My Lord, he 
blessesthe Priest; he is a Rogue.

Cavenagh. I do not: The Priests of every Parish 
did give Orders to get Half-pikes and Skceans; 
and they were getting together in Companies in 
every Parish.

J. Keating. Who were they that were gotten 
together; such Fellows as you?

Cavenagh. No, my Lord, better Men than I: 
a great many that are here in Court.

[The Jury withdrawing, and returning soon again, 
brought Poor and Bownland in guilty, Cae-
venagh not guilty.]

J. Keating. Gentlemen, you have acquitted the 
greatest Villain; at your Door let it lie.

[The Ordinary being called to give Bownland and 
Poor the Book, for their Clergy.]

J. Keating. Sir, I expect as true a Return from 
you, as I were there my self. The Times are 
so, that Men must forget Bowels of Mercy. Or-
dinary, do your Duty: What Place do you throw 
them?

Ordinary. My Lord, I threw them the fifteenth 
Palm.

J. Keating. Let them read the fifth Ver. —

This is an Act of Mercy, and I know not why it 
should not be in Irish rather, the Country Lan-

guage.
in Ireland, for Felony.

This, That you be bate, and each of you, taken from this Place, to the Place from whence you came, and there your Imus to be struck off, and from thence to the Place of Execution, and there you shall be hanged by the Neck till you are dead, and the Lord have mercy upon your Soul.

And now let me give you Advice; your Time is short, spend it well, and flatter not your fellows with the Hopes of a Reprieve or Pardon: And for you, Poor, you have shortened the Work of your Life; you have gone a great Way towards Heaven, if that Reformation you made was out of Confidence. Mr. Sheriff, let them have a Conductor sent to them, for Saturday is the Day of their Execution. [She Women, their Friends, setting up their Cry in the Court.]

J. Kasting. They did not cry thus when the Cows were brought Home to them, they were bugled then in the kilning and the powdering them up.

The Copy of a Protection or Pacts, given by an Irish Officer to some notorious Robbers of the County of Wexford.

James Byrne, Ensign to Captain Charles Byrne, do hereby certify to you, Turlagh Kelly, Patrick Byrne, and Patrick Mac-Tage, and William Doyle, to serve you bravely from any Misfortunes whatsoever. As witness my Hand this 24th of April, 1689.

JAMES BYRNE.

The following Letter being sent by the Lord Deputy to the Judges of Alizet, was read in Court to the Grand Jury, &c.

By the Lord Deputy General, and General Governor of Ireland.

A FT E R Our hearty Compliments, We Greet you well. As his Majesty was graciously pleased to entrust us with the Government of this his Kingdom, so upon the invading of England, and upon receiving certain Information, that the Prince of Orange doth intend also to invade this Realm, We have, for the Defence thereof, raised a considerable Army, for which we thought it necessary to bring the Trade of this Country to the most flourishing Condition. This we have done by the King's Command, to support his Royal Authority, Crown and Dignity, and to preserve the Lives, Liberties and Properties of all his Loyal People within this Kingdom. And since our Dangers are at Hand, and that we may daily expect the Landing of an Enemy, who intends the Subversion of his Majesty's Government, and the total Distraction of all his good Subjects, and that we find our Forces under an absolute Necessity to keep the King's Army filled and armed, in order to our Preservation from the approaching Danger, and the we have hitherto with all the Care and Industry imaginable, and by the generour Contributions of the Officers, supported the new raised Forces, without being a Burden to any of his Majesty's People: For considering the Decay of Trade, the great Fall of the Revenue in these distressed Times, the great Charges the Officers have been at in fitting Men, it cannot be expected that the firearming Men can hereafter be maintained without Supplies; and since the same cannot be done by Parliament, We cannot think of a more effectual Expedition, than by voluntary Subscriptions, by way of Loans, from the People, which, if generally done, with what may be made of the Revenue, may support the Army, and still keep all the Difficulties that may be
be committed by the Soldiers, which we shall always endeavour to prevent with all the Care and Industry possible. By this, Hungary may go on as formerly, and we shall be in a Capacity to form the Army so as that, with the Affirmation of Almighty God, we do not doubt to put this Kingdom in a perfect Figure of Defence. We do therefore pray your Lordship to recommend this weighty Matter effficiently to the open Affairs in every County when you sit, to all the Inhabitants of those Counties, and to appoint the respective Sheriffs of such Counties to procure voluntary Subscriptions, by way of Loan, from the Inhabitants of such Counties, of some certain Sum of Money from each, to be subscribed to their Names, to be afterwards satisfied by them respectively, in Money, Wheat, Oats or Oatmeal, towards the Maintenance of the Army, to be paid in, or delivered to the respective Sheriffs, or their Order, and in such Places as the said Sheriffs shall respectively appoint, from whom we expect an Account of their Proceedings herein, and a Copy of such Subscriptions as shall be made. We do not doubt but every true and loyal Subject will, according to his Ability, and the Excellence of the subject Matter, generously and cheerfully contribute towards the carrying on of so great, so necessary, and so glorious a Work.

We expect your diligent Care herein, and so we bid you heartily Farewell.

From his Majesty's Cabin of Dublin, March 5, 1658.

Your very loving Friend,

TYRCONNEL.

An Answer to the foregoing Letter being drawn up by the Grand Jury, and entered into their Book, and presented to Sir Henry Lynch, setting forth the extreme Poverty of their Country, occasioned by the daily Ruin of the English, &c. That they were not in a Capacity to subsist themselves, and therefore not capable to raise any thing considerable for the Army (Chief Justice Keating returning to Dublin, and leaving Baron Lynch to go on to the other Counties, &c.) the said Lynch told the Grand Jury, before he discharged them, that the Writing they had drawn up, was a Reflection and Scandal to their Country, would be taken very ill by the Government, and did not question but it would be brought in hereafter as an Evidence against them, and therefore ordered it should be torn out of the Book, which was done accordingly.

CXLVIII. The Trials of Sir Richard Graham, Baronet, Viscount Preston in the Kingdom of Scotland, and John Ashton, at the Old-Bailey, for High Treason, Jan. 17. 1690. 2 W. & M.

Die Veneris, 16. die Januarij, Anno Dom. 1690.

The King and Queen's Writ of Habeas Corpus was sent to the Governor of the Tower of London, to bring up the Bodies of Sir Richard Graham, Baronet, Viscount Preston, in the Kingdom of Scotland, John Ashton and Edmund Elliot, Gent. to the Seelions-House in the Old-Bailey, London; where they were brought between the Hours of Ten and Eleven in the Forenoon; and being placed at the Bar, were arraigned upon an Indictment of High Treason, found the Day before the Grand Jury for the County of Middlesex, at Fitch's-Hall, in Manner following:

Clerk of Ar. "Sir Richard Graham, hold up your Hand, (which he did, and so declared) You stand indi- cted by the Names of Sir Richard Graham, late of the Parth of St. Anne within the Liberty of Wellingborough, in the County of Middlesex, Baronet; John Ashton, late of the Parth of St. Paul Ca- vent Garden, in the County aforesaid, Gentle- man, and Edmund Elliot, late of the Parth of St. James within the Liberty aforesaid, in the County aforesaid, Gent. for that you, as Traitors against the most Illustrious and most

Excellent Princes William and Mary, King and


your Sovereign Lord and Lady, not having the

Feats of God in your Hearts, nor weighing the

Duty of your Allegiance, but being moved and

seduced by the Instigation of the Devil, the

cordial Love, and true, due, and natural Ob- dience which every true and faithful Subject of

our said Sovereign Lord and Lady the King

and Queen that now are, towards them our

said Sovereign Lord and Lady the King and

Queen should, and of Right ought to bear,

wholly withdrawing, and contriving, plot- tings, and with all your Strength intending

the Peace and common Tranquility of this

Kingdom of England to disquiet, mole and

disturb, and War and Rebellion against our

said Sovereign Lord and Lady, the King and

Queen that now are, within this Kingdom of

England to stir up, move, and procure; and the

Government of our said Lord and Lady, theKing

and Queen of tis Kingdom of England, to lub- vert, change and alter; and our said Lord and

Lady, the King and Queen, from the Title.

Honor, and Royal Name of the Imperial

Crown of this their Kingdom of England to de- pose and deprive; and our said Lord and Lady,

the King and Queen, to Death and final De-

struction to bring and put; you the said Sir

Richard Graham, John Ashton, and Edmund Elliot,

the nine and twentieth Day of December, in

the second Year of the Reign of our said Lord

and Lady, the King and Queen that now are:
and divers other Days and Times, as well before as after, at the Parth of St. Clement Danes, in the County aforesaid, falsely, maliciously, de-
vilishly, and traitorously, with Forces and Arms, 
&c. with divers false Rebels and Traitors, to the \nKing, and Queen, their Subjects, and Subjects, com-
manded, and pretend to, and intend our said Lord and \nLady the King and Queen that now are (your su-
preme and natural Lord and Lady) from the \nRoyal State, Crown, Title, Power, and Go-
vernment of their Kingdom of England, to de-
prive, depose, and cast down; and the \name our \nLord and Lady the King and Queen that now are, \nto, kill, and bring and put to Death; and the \nGovernment of this Kingdom of England \nto change, alter, and wholly to subvert; and a \nmiserable Slaughter among the Subjects of our \nKing and Queen, in their Kingdom of England, to caufe and pro-
cure; and an Insurrection, War, and Rebel-
lion, against our said Lord and Lady, the King \nand Queen that now are, within this Kingdom of \nEngland, to move, procure, and aid; and the \nsame your most evil, wicked, and devilsf \nTreasons, and traitorous Compollings, Imagina-
tions, and Purposes aforesaid, to fulfill, per-
fet, and bring to Effect, you the said Sir Richard Greaves, John Aiston, and Edmund Elliott, as \nfalse Traitors, then and there, to wit, the said \nnine and twentieth Day of December, in the said \nsecond Year of the Reign of our said Lord and \nLady, the King and Queen that now are, and \nthe second Day of the said Month, as also our \nLord and Lady, the King and Queen that \nafter, at the Parth of St. Clement Danes afo-
resaid, in the County aforesaid, with Force and \nArms, &c. falsely, unlawfully, wickedly, and \ndevilishly, did propose, conspire, and agree to \nto procure and prepare great Numbers of arm-
ed Men, War and Rebellion against our said \nLord and Lady the King and Queen, within this \nKingdom of England to levy and make; and \nthat you the said Sir Richard Greaves, John \nAiston, and Edmund Elliott, afterwards, to wit, \nthe same nine and twentieth Day of December, \nthe said second Year of the Reign of our \nsaid Lord and Lady, the King and Queen \nthat now are, at the Parth of St. Clement Danes afo-
resaid, in the County aforesaid, falsely, ma-
laciously, and traitorously, did prepare, and \ncompel, and then and there did cause, and \nprocure to be prepared, and composed, several \ntraiterous Letters, Notes, Memorandums, and \nInscriptions in Writing, to shew and inform \nLews then, and yet the French King, and his \nSubjects, then and yet Enemies of our said Lord \nand Lady, the King and Queen that now are, \nand yet many other evil-disposed Persons, and \nfalse Traitors, to the Jews amongst us, and of and \nconcerning the Number, Force, and Condition of \ncertain Ships, and, on the Behalf of our \nsaid Lord and Lady; the King and Queen of \nEngland, then, and they directed and prepared for \nthe Defence of their Kingdom of England, \nand their Enemies aforesaid to rebel and resist; \nand how some of the same Ships were Manned, \nand of the Names of the Captains of several of the \nShip; and how the Cattles and Fortresses of \nour said Lord and Lady, the King and Queen, \ncalled Fortresses, and Gofpers, within this Kingdom of England, were strengthened and fortified, and how the same Cattles and \nfortresses, into the Hands and Possession of
412 148. The Arraignment of Sir Richard Grahame, 1 W.M.

"where the same Enemies of our said Lord and
Lady the King and Queen, this Kingdom of
England might invade and infect, and the En-
emies, and Ships of the Enemies of this King-
dom of England, might fight against the same,
our said Lord and Lady the King and Queen of Eng-
land, and their faithful Subjects; as also to
procure, provide, prepare, and obtain against
our said Lord and Lady the King and Queen,
Affirmation; and armed Men, to invade this King-
dom of England, and our said Lord and Lady
the King and Queen that now are, from their
Royal State and Government of this Kingdom of
England, to cut down and depose, and to the
up, promote, and procure the aforesaid Lewis
the French King then, and yet an Enemy of our
said Lord and Lady the King and Queen, to
invade this Kingdom of England, and to send
Ships within this Kingdom of England, the Ce-
ty of London, of our said Lord and Lady, the
King and Queen, to plague, as also to cause
very many Subjects of our said Lord and Lady,
the King and Queen, to raise, and War and
Rebellion against our said Lord and Lady, the
King and Queen, within this Kingdom of Eng-
lend, to move, procure, make, and levy. And
you the said Sir Richard Grahame, John Aiston,
and Edmond Ellett, afterwards, to wit, the
thirtieth Day of December, now last past, at
the aforesaid Parish of St. Clement Danes, in the
County of Middlesex, concerning, and for the
name your Treasons, and treasonable Complotting,
Imaginations, and Purposes aforesaid to exec-
cute, fulfill, perfect, and bring Effect to, for
the said Lewis and Edmond Ellett, numbered by
you the said Sir Richard Grahame, John Aiston,
and Edmond Ellett, then and there paid, and
deposited, unlawfully and traitorously did hire
and prepare, and then and then did cause and
procure to be hired and prepared a certain Ship,
and three Men: you, the said Sir Richard
Grahame, John Aiston, and Edmond Ellett, with
the said Bills of Exchange, and the aforesaid
traitorous Letters, Notes, Memorandums, and
Instructions in Writing, into the Hands, Cu-
stody and Possession of you the said Sir Richard
Grahame, John Aiston, and Edmond Ellett, sec-
cretly, unlawfully, and traiderously did cause
caused and detained, from this Kingdom of
England, unto, and into France, in Parts be-
yond the Seas, then and yet under the Rule
and Government of the said Lewis the French
King, then and yet an Enemy of our said Lord
and Lady the King and Queen, secretly to car-
ry and transport, with that Intent, the said Bills
of Exchange, treasonable Letters, Notes and Me-
norandums, and Instructions in Writing there
in Parts beyond the Seas, to the Enemies of our
said Lord and Lady the King and Queen, and
other evil-disposed Persons to deliver and
differ. And the said most wicked Treasons, and
treasonable Complotting and Imaginings aforesaid,
to fulfill, perfect, and bring Effect to, as
also to cause, procure and procure the aforesaid
Enemies of our said Lord and Lady the
King and Queen, to invade this Kingdom of
England with Ships and armed Men. And you
the said Sir Richard Grahame, John Aiston,
and Edmond Ellett, afterwards, to wit, the thirtieth
Day of December now last past, at the aforesaid
Parish of St. Clement Danes, in the County afores-
aid, concerning, and for the same your Treas-
sons, and treasonable Complotting, Imaginations
and Purposes aforesaid, to execute and fulfill, ma-
cially, traitorously, and advisedly, and then
there, and divers other Days and Times, as
well before as after, took upon yourselves to ve-
ry many other Traitors to be aiding and assist-
ing in the Execution of the Treasons, and trai-
sonable Complotting, Imaginations and Purposes
aforesaid; and then and there, to wit, the same
thirtieth Day of December now last past, at the
Parish of St. Clement Danes, in the County
aforesaid, maliciously, secretly and traitorously
did hire, and prepare, and then and then did
cause and procure to be hired and prepared a
certain Ship, and one Man, to the Jurors afores-
aid unknown; you the said Sir Richard Grahame,
John Aiston, and Edmond Ellett, from thence
io, and into the aforesaid Ship, so as aforesaid,
hired and prepared to carry and convey. And
you the said Sir Richard Grahame, John Aiston,
and Edmond Ellett, maliciously and traitorously
to the aforesaid Ship, and then there did enter;
and yourselves from thence, in and by that
same Boat, unto and into the Ship aforesaid,
and there unlawfully and traitorously did caue,
and procure to be carried with the Intention
aforesaid. And you the said Sir Richard Grahame,
John Aiston, and Edmond Ellett, with the same
Boat, and with the Ship aforesaid, did泊s in the
Letters, Notes, Memorandums and Instruc-
tions in Writing, and in your Hands, Custody
and Possession of you the said Sir Richard
Grahame, John Aiston, and Edmond Ellett,
and the aforesaid Lewis the French
King was begun, declared, and wagged, and
yet is: Which said Lewis the French King, and
his Subjects, and the Men of those Parts, then
and yet were, and are, Enemies to our said
Lord and Lady, the King and Queen, then and yet
are, and to their Kingdom of England: And
that in the Time of the aforesaid War between
then our said Lord and Lady, the King and
Queen, and the aforesaid Lewis the French
King, you the said Sir Richard Grahame, John
Aiston, and Edmond Ellett, with our said Lord and
Lady, the King and Queen, to the said Lewis the
French King, and our said Lord and Lady, the
King and Queen, and our said Lord and Lady,
the King and Queen, during the War aforesaid, to
wit, the nine and twen-
tieth Day of December, in the second Year
of the Reign of our said Lord and Lady, the
King and Queen that now are, and divers
other Days and Times as well before as after,
at the Parish of St. Clement Danes aforesaid, in the
County aforesaid with Force and Arms, &c.
to the aforesaid Enemies of our said Lord and
Lady, the King and Queen that now are, un-
lawfully, and traitorously were adhering, and
affiliating, and in Execution, and Performance

of
of the same adhering, you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, then, and there, to wit, the said nine and twentieth Day of December, in the second Year of the Reign of our said Lord and Lady the King and Queen that now are, aforesaid, at the aforesaid Parish of St. Clement Danes in the County aforesaid, falsely, maliciously, and traitorously did prepare, and compose, and then and there did cause and procure to be prepared and composed, as also into your Coffins and Coffin-fonion, and then and unlawfully, secretly, and traitorously, did obtain, detain, conceal, and keep, divers traitorously Letters, Notes, Memorandums, and Instructions in Writing, to shew and inform the aforesaid Lewis, then, and yet the French King, and his Subjects, then and yet the Enemies of our said Lord and Lady, the King and Queen that now are, of and concerning the Number, Force, and Condition of certain Ships, for and on the Behalf of our said Lord and Lady, the King and Queen of England, then and there designed, and preparing, for their Defence and their Furtherance of England, and the said Enemies aforesaid to repel, and repel, and how some of the said Ships were manned, and of the Names of several of the Captains of the said Ships and how the Caffles and Fortresses of our said Lord and Lady, the King and Queen, called Portsmout, Smith-sea, and Copen, within this Kingdom of England, were strengthened, and fortified, and how those same Caffles and Fortresses into the Hands and Possession of the said Enemies of our said Lord and Lady, the King and Queen, might be taken, and seized; as also of the Time, Places, Ways, Manners, and Means, by which, when and where the said Enemies of our said Lord and Lady, the King and Queen that now are, this Kingdom of England might invade, and invade; and they the said Enemies, and the Ships of the said Enemies of this Kingdom of England, should fight against our said Lord and Lady, the King and Queen, and their faithful Subjects. And that during the War aforesaid, to wit, the aforesaid thirtieth Day of December now last past, you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, at the aforesaid Parish of St. Clement Danes in the County aforesaid, unlawfully, and traitorously did hire, and prepare, and then and there did cause and procure to be hired and prepared a certain Ship, and three Men, you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, with the same traitorous Letters, Notes, Memorandums, and Instructions in Writing, from this Kingdom of England unto, and into France in Parts beyond the Seas, then and there under the Rule and Government of the aforesaid Lewis the French King, and then and yet an Enemy of our said Lord and Lady, the King and Queen, secretly, during the War aforesaid, to carry, and transport, to the Intent the same traitorous Letters, Notes, Memorandums, and Instructions in Writing there, in Parts beyond the Seas, to the aforesaid Lewis the French King, and Queen that now are, to deliver, and deliver, during the War aforesaid, in Aid of the said Enemies of our said Lord and Lady, the King and Queen, in the War aforesaid: And that you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, during the War aforesaid, to wit, the aforesaid thirtieth Day of December now past, at the Parish of St. Clement Danes, in the County aforesaid, concerning, and for the said your Treasons and traitorous Adherings and Purposes aforesaid to execute and fulfill, maliciously, traitorously, and advisedly, then and there did hire and procure to be hired, and then and there did cause, and procure to be prepared and certain Ship, and one Man to the Jurors unknown, you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, from thence to and into the Ship aforesaid, by you as aforesaid, hired and prepared to carry and convey: And that you, the said Sir Richard Grahame, John Aiton, and Edmund Elliot, maliciously and traitorously into the same Boat, then and there did enter, and yourselves from thence secretly in and by the same Boat, unto and into the same Ship, then and there did cause and procure to be carried in Proclamation of the Adhering aforesaid. And you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, then and there with the same traitorous Letters, Notes, Memorandums, and Instructions in Writing, in your Coffers and Coffin-fonion, during the War aforesaid, to wit, the same Day and Year aforesaid, and with the Ship aforesaid did sail, and depart towards the aforesaid Kingdom of France, to the Intent the same traitorous Letters, Notes, Memorandums, and Instructions in Writing, in Parts beyond the Seas to the said Enemies of our said Lord and Lady, the King and Queen, mentioned above, that now are, to deliver, concerning and for Aid, Intelligence, and Council, by you the said Sir Richard Grahame, John Aiton, and Edmund Elliot, to the said Enemies of our said Lord and Lady, the King and Queen that now are, to give and yield, during the War aforesaid, against the Duty of you Allegiance, against the Peace of our said Sovereign Lord and Lady, the King and Queen that now are, their Crown and Dignity, and against the Form of the Statutes in that Cafe made and provided. How say you Sir Richard Grahame, are you Guilty of this彭洛 and High Treason, whereof you stand indicted, or Not Guilty? L. Preflat. My Lord, I have something humbly to offer to your Lordships. L. C. J. Hol. What is it your Lordship would say? L. Preflat. My Lord, I find I stand indicted by the Name of Sir Richard Grahame, Baronet, but I do take myself to be entitled to another way of Trial, as being a Peer of England, by Virtue of a Patent before the Vote of Abdication was made; and it was in a Time when all your Procellies, and all your Writs went in the late King's Name, and all Officers acted by Virtue of his Commmissions. My Lord, this is a Matter that concerns me in Point of Life, Estate, Power, and all that's dear to me; and therefore I define to know whether your Lordships think fit to allow me my Petition; I offer it, my Lord, with the Rest and Modesty imagine.
L. C. J. Holt. 50; on Mr. Solicitor.
Mr. Selk. Gen. My Lord upon the eleventh of November 1689, my Lord Presten did make some Claim in the House of Lords that he was a Peer of the Realm; the House of Lords demanding of him upon what he founded his Pretence: He said he claimed by Letters Patents from the late King James, which passed the Great Seal before the Time of the Vote of Abdication. The Lords required that those Letters should be produced, which being done, and my Lord Presten inflicting upon his Claim to be a Peer of England, the Lords thought it fit that the Paper, Lord Presten to the Cudofly of the Black Rod. The next Day being the twelfth of November, upon solemn De-

bate of the Validity of the Letters Patents, and consulting with the Judges then present, the Lords, Novem. concordatissimo, did adjudge and declare those Letters Patents to be void and null; and by another Order of the same Date, they did order Mr. Attorney General to prosecute my Lord Presten in the King's-Bench for a High Misdemean-
or, in prefacing to claim Peerge by those Let-
ters Patents. And by a third, it was ordered, that the Letters Patents should remain in Cudofly of the Clerk of the Parliament. Thus you see, my Lord, this Matter hath had already a strange Determination in a Court which had the most pro-
ger Conscience and Jurisdiction of Claims in this Nature. And they having pronounced their Judg-
ment, I did not think it would have been urged again in this Place. I thought it proper to men-
tion these Things, to shew how it comes to pass that my Lord Presten has not his Letters Patents to produce, and to satisfy every Man that there is no Hardship put upon my Lord Presten, by trying him here, when he ought to be tried by another Judicature. The Lords have given Judge-
ment against these Letters Patents, and have ordered that they shall remain in Cudofly of the Clerk of the Parliament, and my Lord Presten is not a Stranger to these Transactions; and there-
fore if my Lord's Court had been of Opinion he could have made any use of them, they would have informed him he must have taken another Court to have got them, and could not expect this Court should make an Order for him, contrariously to the Order of the House of Lords, to take the Letters Patents out of the Hands of the Clerk of the Parliament, and this, to help him to a Plea against their own Jurisdiction. I omitted one thing, that upon the Thirtieth of the same Month of November, upon my Lord Presten's humble Submission and Petition, his Lordship was dis-
charged of his Imprisonment, and the House of Lords were pleased to remit the Order given to Mr. Attorney, for prosecuting him in the King's-

Bench for the Misdemeanor; So that I cannot but wonder to hear of this Claim of Peerge after that Submission. But there is nothing offered to the Court by my Lord that the Court can take any legal Notice of. If my Lord will plead any thing to the Jurisdiction of the Court, he ought to have his Plea in Form, and be ready with his Proofs to make it good.

Mr. Serj. Tho. my Lord Presten, upon this last Order of the House of Lords, has dis-


claimed any Right of Peerge when he made his Petition, otherwise he had not been dis-

charged.—

L. Presten, My Lord, I beg leave—

Mr.

L. C. J. Holt. So; on Mr. Solicitor.
My Lord, I hope your Lordships will put no hard thing upon me, but give me leave and your Lordships help to make my defence.

L. C. j. Holt. You shall, by the grace of God, have all the liberty you can desire to make your defence; but you must first plead.

L. Preston. Since your Lordships are pleased to over-rule me in this cafe, I shall say no more of it. I did not intend to offer any thing that might be an offence to the Court.

L. C. j. Holt. As I told your Lordship before, so I assure you now again, it shall do you no prejudice. You have my full consent.

L. Preston. Then, if your Lordship please, since the language is different in which the Indictment is written from that in which it was read, and some Things may be of different Signification in both Languages, I desire the Indictment may be read in Latin.

L. C. j. Holt. Read it in Latin, L. Preston. I have one thing to beg of your Lordship before it be read.

L. C. j. Holt. What is it you desire, my Lord? L. Preston. My Lord, I humbly desire, because I cannot retain all the Contents in my memory, that my Solicitor may have leave to stand by me.

L. C. j. Preston. Do you all join in this desire? For if you should each of you severally, have it read a great many Times over, they take Notes in short-hand may take a Copy of it as it is read, and a Copy is not to be allowed.

L. C. j. Holt. If we find they desire to be troublesome, we can over-rule them.

L. Preston. I would be guilty of nothing that I may go to the Court Office, nor offer any thing that should take up the Time of the Court unnecessarily.

L. C. j. Holt. If they would have it read in Latin, let it be read.

L. Preston. If it be troublesome to the Court, I waive it my Lord.

L. C. j. Holt. No, we do not think it troublesome.

L. C. j. Preston, Mr. Ashton, and Mr. Elliot, do you desire that it should be read again?

Ashton. Elliot. We all join with my Lord, and desire it may be read in Latin. [Which was done.]

Cl. of Aris, Faverston pro Domino R One & Dr. Dunia Regna, super Sacramutum fomn procrastinum quod—et contra faram Statutis in co'cadi edit & prorogii.

L. Preston. My Lord, I am sorry I have taken up so much of your Time, I thought the difference of Language might have made some mistake, which I thought would be of Advantage to me in my Trial; And for the same reason, I humbly request you will please to order me a Copy of the Indictment.

L. C. j. Holt. My Lord, that we cannot do; it hath been frequently demanded upon these Occasions, but always denied. I have always known it denied.

L. Preston. Your Lordship will give me leave to say what your Lordship must needs know much better than I. There is a Statute in the 46th of EdwIII. that doth order a Copy of any Record to any Person, or other Person, if he demand it: And it has been granted, as I am informed in other Cases, particularly in the Cafe of Colonel Sidney.

L. C. j.
L. C. J. Holz. No, my Lord, it was denied in Colonel Sidney's Cafe.

L. Proffes. If I mistake, I beg your Lordship's Pardon. It is a Rule in a late Law made for the Reversal of Mr. Carroll's Attorney. The Parliament do there say that it was not a legal Trial, because he had not a Copy of the Indictment, and Time given him to prepare for his Defence.

L. C. J. Holz. Truly, my Lord, I do not know how that Matter stands: That Reversal of Mr. Carroll's Attorney is but a private Act of Parliament. I never saw it, nor heard it read, nor can we take Notice of it. But your Lordship is not to be guided by the same Methods of Law that all Persons that have gone before you have always been. It has always been the Court, that the Prisoner should not have a Copy of his Indictment; Colonel Sidney had it not; and I remember, in the Cafe of Sir Henry Vane, in the Year 1662, he demanded a Copy of the Indictment, and it was denied him; and it has been contended without ever since in such Cases.

L. Proffes. I humbly desire to know whether it was not grained in the Cafe of my Lord Ruffell.

L. C. J. Holz. No indeed, my Lord, my Lord Ruffell had it not; I can take it upon me to say that, for I know all the Proceedings in that Cafe.

L. C. J. Pollexfen. No, my Lord, never any Man had it in all my Experience.

L. C. J. Holz. Some of us that are here were of Council for my Lord Ruffell at that Time, and we did not advise him to demand a Copy of the Indictment, for we knew he could not have it by Law.

L. Proffes. I am very tender of taking up your Lordships Time unnecessarily, but it stands me upon to do all I can to defend myself; may not I have my Council heard to that Point? Because if it be a Point of Law, though your Lordships are of Council for th' Prisoner, yet I beg that I may have my Council heard to argue it.

L. C. J. Holz. To what Point would you have your Council heard to argue it?

L. Proffes. To that Point, whether I may not have a Copy of my Indictment according to the 46th of Edward the Third. That is the Point I would have my Council heard to.

L. C. J. Holz. There is no such Statute as your Lordship mentions, that gives the Prisoner a Copy of his Indictment.

Mr. Jour. If your Lordship please to hear me for my Lord Proffes—

L. C. J. Holz. Nay, Mr. Jour, you are mistaken in this Matter: If my Lord himself will shew that there is any such Statute, we will consider of it, and if it be a Matter that requires Debate, we will affix my Lord Council to argue it; but till then Council are not to be heard. My Lord Proffes, if your Lordship can shew us that Statute, pray do.

L. Proffes. My Lord, I define none if it be not so.

L. C. J. Holz. I have heard a Discourse concerning such a Statute, but I could never find it.

L. Proffes. I suppose my Solicitor is here with it; there is such a Statute, my Lord.

L. C. J. Pollexfen. The Court over-ruled it in the Cafe of Sir Henry Vane.

L. C. J. Holz. And so it was I remember in another Cafe, and in none of the Trials that have been since King Charles the Second came in, was ever a Copy given that I know or heard of.

Mr. Soll. Geo. My Lord, this Statute that my Lord Proffes mentions, 46 of Ed. III. is printed at large in the Preface to my Lord Coke's third Report; and has been inflected upon in several Cales in the King's Bench, where the Prisoner has defied a Copy of his Indictment; but a Copy has been always denied, and this Statute has been taken to extend only to Records, which may be Evidence for the Subject.

L. C. J. Pollexfen. Our Town always ruled that it did not extend to this Matter.

L. C. J. Holz. My Lord, 'tis a Misconstruction of that Statute that your Lordship thinks it gives the Prisoner a Copy of his Indictment: For that Statute says, that all Persons shall be free to make use of the publick Records, and take Copies of them, because otherwise the Records are Evidence of Mens Fatales, and their Titles.

L. Proffes. My Lord, an Indictment I suppose is a Record.

L. C. J. Holz. But not such a Record as is within the Intent of that Statute.

L. Proffes. My Lord, I am tender of taking up your Lordships Time; but since all that is dear to me is at Stake, I desire to this Point I may be heard by Council.

L. C. J. Pollexfen. My Lord, I am satisfied you have had Council with you, I have heard a great many. Does any one of them tell you that this has been done? If ever any one of them will come and shew us when it has been done, you may dispose of them, will, or can. Mr. Jour there, is as like as any body, but I believe he will not lay it ever was done.

L. Proffes. My Lord, I cannot say my Council has told me so, but I have read such a Statute myself; for it stands me upon it, and I believe there is such a Statute, and it will be produced before your Lordships. If your Lordships will inflect upon not allowing me a Copy, I desire I may be heard to it by my Council; for I take it to be a great Point of Law, with humble Submission to your Lordships.

L. C. J. Holz. My Lord, we must not hear Council to debate plain Points that have no manner of Question in them: It has been always disallowed, and 'tis a settled Point at Law, and as plain as any whatsoever, that no Copy of an Indictment ought to be allowed to a Prisoner in Felony or Treason.

L. Proffes. My Lord, there is a Statute that says it shall be allowed to a Prisoner to have Copies of Records, as well for, as against the King, and certainly the Indictment is a Record, and a Record of great Consequence to me at this Time; and though my Council has not told me when it was done, yet these that I have advised with, do say that the Statute is express.

L. C. Barrow. If any doubtful Words be in such a Statute, yet the constant Practice must expound it; and since it has been so often denied, 'tis always, the Law is now settled, that it is not within the meaning of that Statute.

L. C. J. Holz. We must go in the Way of our Predecessors, we received the Law from them, and must not contradict the received Practice of the Judges in all Ages, nor alter the Determinations.
tions that have been made in all Cafes of the like Nature.

L. Proffan. I hope your Lordship intend, and I don't question it, that my Trial should be a legal Trial. If there be such a Statute that gives me a Copy of the Indictment, and the Court deny it me, I am not legally tried.

L. C. J. Pellecas. If you please to name the Statute, my Lord, it shall be read to you; but you are mistaken if you think there is any thing in that Statute that will do your Lordship Service in this Point.

L. C. J. Holt. See the 46th of Ed. III. Read it.

L. Proffan. Here is a Copy of the Record in Court.

L. C. J. Pellecas. It is not printed, but it is mentioned in the Preface to my Lord Calke's third Report, and is mentioned no where but there that I know of; but whether there were any such Statute or no, Novo coalet; for it is not printed. But if it be a Statute, it does not meddle with Things of this Nature, such as Indictments; for you must consider, my Lord, yours is not a Cafe different from all other Cafes of like Nature as to this; but it is the Cafe of all Men that are tried as you are to be. And if all People were to have Copies of their Indictments to make Exceptions out of them before they plead, instead of Days of Great Delivery, the whole Year would not be sufficient, but there would be spent before they could be brought to their Trial.

L. Proffan. My Lord, I am to defend my self as I can by Law, and not to consider what other People's Cases are. It is my particular Cafe now; what the Cafe may be as to any other hereafter, or what the general Consequence may be, it is not to be considered; but if there be any thing that is legal, that can give me an Advantage in making my Defence, I know your Lordships are too just to hinder me from taking Advantage of it.

L. C. Baron. My Lord, it is no new Thing to demand it; it has been frequently demanded, but it has been always over-ruled.

L. Proffan. My Lord, it is now defined, and a Reason is given you that perhaps was not given before: There is such a Law. My Lord Chief Justice says well it is not printed, but it is a Record, and there is a Copy of that Record in Court. I desire there should be, I am sure.

L. C. J. Holt. If you have a Copy of any Record of an Act of Parliament, it shall be read, if it be proved.

L. Proffan. Nay, we offer nothing if we don't prove it; but there is such a Record, and the Solicitor is ready to attest it. Pray swear Mr. Whitterer.

Mr. Sirj. Thumpson, Swear him.

Clerk of Ayr. You shall true Answer make to all such Questions as shall be demanded of you by the Court. So help you God. Is this a true Copy?

Mr. Whitterer. It is a true Copy.

L. C. J. Holt. Where did you examine it?

Mr. Whitterer. My Lord, it is a true Copy of the Record, I examined it at Mr. Petty's Office in the Tower.

L. C. J. Pellecas. Upon what Number Roll is it?

Mr. Whitterer. There is the Number Roll and all upon the Book.

Clerk reads. Item prior les Commiss que cause recorde & que en la Cour le Roy de refuz que devoir demurer introduire elleques por perpetuel evidence & cede de toute parties a jesez & de toute ceux a quan de au mannaer dix atteignant quant, inferier leur font. Et ja de movens refuzant en la Cour subire dit Sieguier de ferbe en evidence encrire le Roy on disabanagement de bye. Roy poplu en dehier per Enfante que Serre & Explication se fait faire ou toutes Genz de que- coque Recorde que les touche en eves manner any bien de ce que doit encontre le Roy conus autres Genz. Le Roy le voet.

L. C. J. Pellecas. It is only Copies of Records that they shall have for Evidence.

L. C. J. Holt. My Lord Proffan, your Lordship hears by this Record, you may as well pray that an Exemplification be made of this Indictments & Records for so the Words of this Act run, it is only. If these Records that were to be given in Evidence. But this Indictment that you would have a Copy of, is not now to be given in Evidence, nor to be exemplified, and for it does not reach your Cafe.

L. Proffan. My Lord, this Indictment is a Record, and a Record against me, and I think it is given in Evidence against me.

Mr. J. Eyres. No, my Lord, it is no Evidence, but an Accusation; it is no Proof at all.

L. Proffan. It is a Record, it is.

Mr. J. Eyres. The Witness are sworn that testify the Matter of it to the Grand Jury, but the Indictment itself is no Evidence.

L. C. J. Holt. Suppose a Statute be doubtful, as truly I do not take this to be, we are to expound the Statute as it has been expounded in all Ages. It was never thought by any Judges in any Reign, that this Statute did entitle a Prisoner to have a Copy of his Indictment, but always held the contrary.

L. Proffan. Will your Lordship be pleased then to allow me Council to be heard to it?

L. C. J. Holt. No, my Lord, not Council in a plain Cafe: If the Court apprehend there is any Matter that may be debateable, or whereupon a Doubt may be made, we may affign Council, and shall; but never in a plain Cafe, where there is no Manner of Question.

L. Proffan. My Lord, here is a Doubt in this Cafe.

L. C. Baron. But, my Lord, it's not the Doubt of the Prisoner, but the Doubt of the Court, that will occasion the affining Council.

L. Proffan. But the Prisoner may offer his Doubt to the Court, and your Lordships are so just, that you will take Care that the Doubt may be legally resolved.

L. C. J. Holt. My Lord, it is our Duty to see Justice and Right done, and God willing, it shall be.

L. Proffan. And I am bound in Duty to myself, in each a Cafe, to inflict upon all Advantages I can have by Law.

L. C. J. Holt. My Lord, no body blames you, though your Lordship do urge Things that are unnecessary, or improper; and we shall take Care that it shall not tend to your Lordship's Prejudice. We consider the Condition you are in; you stand at the Bar for your Life; you shall have all the fair and just Dealings that can be; and the Court, as in Duty bound, will see that you have no Wrong done you.

L. C. J.
L. C. J. Pollesfan. My Lord Prifon, for this Thing that you now mention, in all Ages, in all our Books, it is the same Thing, and has been in all Mens Caleas that have been for their Lives, denied; and this Statute that you bring is quite of another Intent: For it is said, the Records shall remain in Court for perpetual Evidence, and the aiding of all Perons to whom they shall belong. My Lord, this is none of your Caleas; for God knows, you expect no Aid from this Indiction: But this is meant of all Copies that concern the Estates of Men, that they may have Records to their Records to make out their Evidences to their Estates, or to have them exemplified under the Seal of the Court for Evidence: But to have a Copy of an Indiction, thereby to be enabled to condict with Council how to make Exceptions to that Indiction, is a Thing that has been denied in all Ages, by all the Judges that ever were. If a man can fly to the contrary, it were something; but shall we now admit Council to debate a Thing that has been in all Ages denied, and never admitted so much as once? That cannot be expected from us.

L. Prifon. The Act lays, That it shall be all Records that shall be in Aid to any Peron that shall define it. Here is no Dilillation made of what Kind the Records are to be. If it be for the Aid of any Peron, it ought to be granted, and I must say, if you expect a Copy of it; and I think it is hard, when I am so much concerned in this Record, that I cannot be help'd to it by this Law.

L. C. F. Pollesfan. Contant Experience has gone according to what we say.

L. Prifon. If that be Law, and it has not been demanded, then they are not entituled to have the Benefit of it: But now I demand it, sure it is good Law.

L. C. F. Holt. It is no Question a good Law, but not applicable to your Lordship's Case: I suppose we are all of the same Opinion; if any think otherwise, I defere they would speake.

L. Prifon. My Lord, I submit to the Court, but then I define one Thing. You know my Life, my Fortune, my Reputation, my Politerity, and all are at Stake, and all that is dear to me must fall with me if I miscarry: Therefore I take Leave to represent, that I have had very short Notice of my Trial. I do assure you, I have not had more fixt or seven Days Notice: I hope you will not refuse me a little longer Time before I come to your Trials and I have had no Copy of the Jury yet.

Mr. Sall. Gow. If my Lord pleas to plead to the Indiction, that will be Time enough to move afterwards, and till Blue is joined, it cannot properly be moved for.

L. C. F. Holt. It is not proper to define Time yet, till you have put your full upon your Trial, by way of Answer to the Indiction.

L. Prifon. It was granted in Colonel Sidney's Calea: He had eight or ten Days granted him after he had pleaded; and in the Act for the Reversal of Mr. Corndol's Attainder, it is given as one Caeuf for the Reversal, that he had not Time to prepare for his Defence.

L. C. F. Holt. My Lord, seven Days is very fair Notice. Your Lordship knew when the Seelions would be, and your Lordship might reasonably expect, that you should be try'd here: I think truly you have had very fair Notice.

Mr. Aiton. My Lord, we have had seven Days' Notice of our Trial; 'tis true. This Day Serennight at Night we had Notice we were to be tried as this Day; but three of the seven, we had not the Liberty of seeing any Friend, or Council, or any body, not till Thursday Night, and that we got with great Application, and great Charge, to get an Order for Council to come to us: So that in that Way we had four Days, and we had but three Days in all to consult with any body; and we never have had a Copy of our Jury till this Minute.

L. C. F. Pollesfan. We see the Nature of the Thing, and I am sorry that I must say, it is fit that we should take Notice of it. Perhaps the Thing that you are accused of is not true; but if it be true, you see what it is, that there are Letters and Papers preparing for a Design to let all the Kings Vow this Month. Men that will venture upon such a Fort of Things, I will not condemn the Law, if it be a little hard upon them; for 'tis the common Predestination that is principally aimed at in Professors of this Nature; and if this Accusation be true, 'tis but just and reasonable, that all Speed should be used to enquire into, and prevent it; and as it falls out in this Case, it is not in our Power to do it. This Seelion is let before this Befun is known, and this is an Act done in this Country, and therefore the Seelions is the Property for the Trial; and you are now in the same Fort of Proceedings that all other Criminals have, which are very many, though I hope not many of so high a Nature. Seven Days Notice you have had, you acknowledge; if my Lords please we will indigle you as far as we can, and give you Time for your Trial till to Morrow, but you must plead presently.

L. C. F. Holt. My Lord, we debate the Time of your Trial too early; for you must put your Case upon your Trial first, by pleading.

L. Prifon. My Lord, I hope I shall always carry my Load as becomes me towards the Court; but I do not really think that you have any Trials that are of so great Concernment, and this Fort is a fit Time for me to offer it; for it may be I have a great many Wundfuls in the Country, and at a Distance from this Place, and one another.

L. C. F. Holt. My Lord, we cannot dispute with you concerning your Trial, till you have pleaded. I know not what you will say to it, for ought I know there may be no Occasion for a Trial, I cannot tell what you will plead; your Lordship must arrive to the Indiction before we can enter into the Debate of this Matter.

L. Prifon. Will your Lordship give me Leave to move it afterwards?

L. C. F. Holt. You may offer any Thing then concerning your Trial: If you can shew any Reason to defer it, it will be proper to do it then.

L. Prifon. Truly, my Lord, I think one Reason why my Trial ought to be put off is, because I have Privilege of exercising upon so many of my Jury; but if I have not Time to look into the Pannel, I shall lose that Privilege.

L. C. F. Holt. We are not to come to that yet, you are to plead now.

L. Prifon. Then your Lordships are pleased to over-rule my Claim of Pardon.

L. C. F. Holt. My Lord, we are of Opinion you ought to plead to this Indiction.

Clerk of the Pr. What Cases your Lordship, are you guilty of this High Treason, or not guilty?

L. Prifon.
Clerk of Arr. God fend you a good Deliverance—Edmund Elliot. How say you, Are you guilty of the fame High Treason, or not guilty?

Clerk of Arr. Not guilty.

Clerk of Arr. How will you be tried?

Clerk of Arr. By God and my Country.

Clerk of Arr. God fend you a good Deliverance.

L. Prestan. My Lord, I hope now it may be Time to pray that my Trial may be deferred.

C. J. Holt. Why would you have it deferred?

L. Prestan. Because of the Distance of my Witneesses, and other Things that would be necessary for me to have prepared me for my Defence; and besides, we have not had a Copy of the Pannel of our Jury, and the Reason of the Law does order, that because it gives us Liberty to except against them, and that we cannot know how to do, unless we inform our Selves of the Men; and therefore I beg that I may have a Copy of the Pannel.

C. J. Holt. As for having a Copy of the Pannel, the Court grants it. Let them have a Copy of the Pannel.

Clerk of Arr. Here is one ready for you.

Mr. Stil. Gen. There was Direction given that there should be one ready.

Mr. Atkinson. We have demanded it every Day since we had Notice of our Trial.

L. C. Baron. You could not have it till there was an Order joined, and that could not be till you had pleaded.

C. J. Holt. And as to the putting off your Trial, I know not what Time to put it off.

L. Prestan. My Lord, I am willing to have this Matter tried as soon as possible; for it cannot but be uneasy to me to lie under these Ac��ations; but some of my Witneesses live in the Country, at a remote Distance. If it may be, next Term, my Lord, or the next Sessions; for, if I have a Copy of the Pannel to Night, and am to be tried to Morrow Morning, how can I provide for my Defence? I cannot be prepared to except against the Jury, and I am sure you will be tender, and consider the Cafe of a Man, whose Life and Fortune are concerned in this Business.

L. C. J. Holt. To put it off till the next Term, is to remove it out of this Court; that we cannot do, and to put it off till after the Term will be too long a Time.

L. C. J. Prestan. We cannot sit here after Monday, because the Term begins on Tuesday.

L. Prestan. My Lord, this Term is always a short Term, and if I be tried to Morrow, it is trying me without giving me Time for my Defence.

Mr. Soll. Gen. My Lord, there has been all the Care taken that the Nature of the Thing was capable of, to prevent any Complaint of this kind. Order was given, that my Lord and the Gentlemen should have Notice as early as was possible, As soon as ever Mr. Attorney General had had an Opportunity of looking into the Evidence, Notice was given them, that they should be tried, and that this was the Day appointed for their Trial. But there shall be no contending in a Matter of this Nature for a Day. If it be deferred, and the Court please to put it off till to Morrow, we are contented; but there can be no Reason to put it off for a longer Time. As there is always a Tenderness to be used, and I know will be, and
and, as far as I am concerned, always shall be towards Persians in these Circumstances; so there is a Regard to be had towards the Government and the Public. I am sure if the Accusation that is against them Gentlemen is true, the Government is highly concerned that this Matter should come to a speedy Examination, and that Persians that enter into such Designs be brought to Judgment. The Charge in the Indictment is of such a Nature as draws very great Confidences along with it; it concerns no less than the Life of the King and Queen, the Destruction of the Fleet of the Kingdom, and the Invasion of the Realm by the Forces of a Declared Enemy. These are the Things that the Prisoners are charged with, and certainly there ought to be no Delay in the furthering into such Matters as these. They have had a Week's Notice of Trial already, and for many Days of that Week, at least they have had as many Council to affix them as they desired, and all the Solicitors that they had a Mind to, have had free Access to them; so that they have wanted no Opportunity to prepare for their Trial that Men in their Circumstances could have. As to what has been said with relation to the Jury, the Law indulges them in the Number of their peremptory Challenges, without being put to show Cause, and the Court hath granted them at the very last Moment of the Trial, as is the Law, in the Case of the Panel; and there is a reasonable Time between this and to Morrow for their making such Enquiry into the Jury as is justifiable, and fit to be made: But if by Time to look into the Jury, it be meant, that there may be a Time for tampering, that I am sure your Tenderness of the Government will not permit; you will take Care as much that no such thing be done, as you will that they should not be surprized. If your Lordships are pleased, that the Trial be put off till to Morrow, we will be ready to Morrow to attend it.

L. Presten. My Lord, this is a very hard Preposition that Mr. Solicitor makes of our asking a Copy of the Panel, that it is with a Design to tamper with the Jury.

Mr. Sel. Gen. I did not say so, but I said till to Morrow was Time enough to make a justifiable Enquiry.

L. Presten. But if I be to be tried to Morrow, I am willing to be tried to Day, for I am as ready now as I shall be then.

L. C. J. Hol. It may be so, and as ready as you will be after the Term; but I know not what your Lordship means by expressing such Retrenchment, that therefore you cannot have what Time allowed you would, therefore you will have none, but be tried now.

L. C. J. Presten. You may have Time enough to prepare yourself as to the Jury, certainly, between this and to Morrow.

Mr. Staig. Thomas. My Lord, we that are for the King, have given the Gentlemen Notice long enough to be prepared, if we should try them now; for that's the Time we gave Notice for: But because we would indulge them as far as we could, we are willing that they should have till to Morrow, and intending them that Kindred, are not ready to try them to Day, and there can be no Pretence for them to put off their Trial any longer; for there can be no want of Evidence as to the Fact we can charge them with; for all the Evidence that we shall bring against them was taken from themselves, or the greatest Part of it.

L. C. J. Hol. Well, what Time will you be ready then?

Mr. Staig. Thomas. To Morrow Morning.

L. C. J. Hol. Then to Morrow at Eight o'Clock you are to be tried.

L. C. J. Presten. My Lord Presten, do but consider you have had few Days Notice, and to Morrow makes eight.

L. C. J. Hol. You had Notice for this Day, this Day seven-night.

Mr. Abbot. But we have had only three Days Time to consult with our Council, though we declare we might have our Council come to us that Day.

Mr. Sel. Gen. They were told, they must apply themselves to the King for that at the same Time.

Mr. Abbot. We did for that Night to my Lord Sidney, then Sunday interwelled, which was no Day for Buncifine, and we could not have our Order.

On Monday we could not have it till Night; so that it was Tuesday before we could get any body to us. My Lord, it is a weighty Concern, and all such weighty Proceedings were thought very hard in the late Times, and particularly the denying Mr. Comish Time; and his one of the Refusings given in this King's Declaration for his coming here into England, the Hardships that the Law laid upon Men in their Trials, which he came to prevent.

L. C. J. Presten. The Hardship that was upon Mr. Comish was, that he was taken upon the Tuesday off from the Exchange, and tried before that Day seven-night, and that was hard indeed: But besides, he was taken about his Buncifine off from the Exchange. I know not whether you were about your Buncifine, your lawful Buncifine, when you were taken, God of Heaven knows that. And pray consider here is a Matter of very great Confidence on the one Side, and on the other: For if Men be plotting against the Government, to give them Time to carry on their Plots will be mischievous on that Side.

Mr. Abbot. My Lord, till that be legally proved before your Lordships, that is but a Supposition.

L. C. J. Presten. That will lie upon them to prove.

L. C. J. Hol. Mr. Abbot, we are to suppose you not guilty, 'till you are proved guilty.

Mr. Abbot. Then, my Lord, the Law says we may except against so many Persians; what is the End of the giving us a Copy of the Panel? 'Tis not to be pretended we can by their Faces; for what can I say to the Face of one I never saw? We must enquire concerning the Men, and that is a Work of Time; for some of the Gentlemen, I presume, live eight or ten Miles out of Town. Is it possible for me before to Morrow Morning eight o'Clock to find to thirty-five Men to enquire after them?

L. C. J. Hol. No, nor is it intended you should.

L. C. J. Presten. Nay, if you intend to find to the Jury-men, we have no Reason to give you Time.

Mr. Abbot. I mean to enquire after the Men, their Lives, what Religion they are of, what sort of Men they are.

L. C. J. Hol. I suppose they are all Protetants of the Church of England, but suppose they are all Strangers to you, and yet good and lawful
lawful Men of the County, and there be no Difference between you and them, then they are fit to try you.

Mr. Atton. 'Tis true, my Lord, but if I have Liberty to except against thirty-five, I ought to know something of them.

L. C. J. Pellegren. Yes, and inform yourself as well as you can of them, but not to tend to them, that is not to be permitted.

L. Presten. There is another Point to enquire of them, and that is, whether they be Prebendaries or not?

L. C. J. Pellegren. We have neither your Lordship's Affidavit, nor the Oath of any other Person, only an Allegation.

L. C. J. Holt. My Lord, you must expect your Trial to Morrow Morning; we cannot put it off, we are limited in Time, the Sessions can hold no longer than Monday, because of the Term.

Mr. Atton. Then will your Lordship please to put it off till Monday?

L. C. J. Holt. No, we shall not have Time to do it, it may be a long Trial.

L. Presten. I protest to your Lordships, I cannot be ready to Morrow to make that Defence I design, and design to make, and which I may make if your Lordships give me a longer Day.

Clk of Arr. Here is a Copy of the Panel for your Lordship.

[It was delivered to the Lord Presten, who gave it to his Solicitor.]

Mr. Atton. My Lord, we shall not have Time to enquire into the Jury.

L. C. J. Holt. Look you, we are not bound to do this, but you have it as soon as you have pleased.

Mr. Atton. My Lord, it will take up five or six Hours in Writing of it, and we must each have a Copy.

Mr. Sol. Gen. They are all joined in one Indictment, and have joint Council, and joint Solicitors, as we are informed.

Mr. Atton. Then I hope you will allow us Liberty till Monday for our Trial.

L. C. J. Pellegren. The Court cannot allow longer Time; the Court here can sit no longer than Monday, and here must needs be a great deal of Business to do of the ordinary Business of the Sessions, and when that Day comes, perhaps it will not have time to go through with the Trial, and then it must be adjourned all till the Term, and in the mean while, some are in hopes the King of France may come and determine the Matter.

Mr. Atton. Pray, my Lord, let no Suggestion against us prejudice the Opinion of the Court before we be tried.

L. C. J. Pellegren. I don't suspect any thing, but 'tis in the Indictment alleged against you, and that you are to be tried upon, and if such Things be there suggested, as would give you all reasonable Time for your Defence, so we must take Care that the Government suffer no Hurt by Delays.

L. C. J. Holt. It is observed by the King's Council, that they are Things of very great Consequence, and therefore they press for the Trial.

L. C. J. Pellegren. I cannot believe but that you will be as ready to Morrow, as you can be on Monday.

Mr. Atton. The Government cannot be prejudiced by putting it off till Monday, sure, V o l. IV.

L. C. J. Pellegren. The Evidence that is to convict you, lies all on their Side that are for the King, and I cannot imagine where your Witnesse should be, unless they are in France; but you had Reason to expect your Trial, being apprensibed in the Manner as you were, and to provide for it.

L. C. J. Holt. The want of Witnese is only a Surmise, and a Pretence, for there is no Oath of any Witnese that they want, or who they are; Indeed, if we had Oath made that they wanted material Witnese, and to material Points for their Defence, that might be Occasion for our further Consideration; but shall we put off a Trial upon a bare Suggestion of the Want of Witnese? Sure that was never done.

L. C. J. Pellegren. Name any one particular Man that is your Witnese, and the particular Thing that he can prove; for if any of your Witnese do know any thing of this Kind, it must be Particulars, and not Generals: If you will not name them, it is plain, it is only a Pretence you infilt upon for Delay.

Mr. Atton. My Lord, I insist upon the Point of the Jury, that we have not Time to look after them.

L. C. J. Holt. Then that of the Witnese is waved.

L. Presten. 'Twas I that desired Time for my Witnese.

L. C. J. Pellegren. But you neither name them, nor bring us any Oath about them, or of any thing they can prove for you.

L. C. J. Holt. Pray don't spend the Time of the Court, nor your own Time unnecessarily, you must prepare for your Trial to Morrow.

Mr. Atton. My Lord, there is not a Person in Court, I believe, but will think it hard that we are so frighted in Time.

L. C. J. Holt. The Time you have had Notice to prepare for your Trial, is sufficient.

Mr. Atton. Mr. Cornell's Cafe has been complained of as a very hard Cafe in this very Respect, and we would hope, the King that now is, came to reform such Abuses.

L. C. J. Holt. You have been already told, wherin the Hardship of that Cafe lay, I am sure yours is not like it, but take Notice, we will be sitting here punctually at Eight.

L. C. J. Pellegren. Will your Lordship please to let us have our Council come to us, and our Friends?

L. C. J. Holt. Yes sure, you shall have all that is necessary for your Defence that we can allow you, but unnecessary Delays must be avoided.

[Then the Prisoners were taken away by the Keeper of Newgate to the Goal.]
as they come to the Book to be sworn, and before 
they be sworn.

L. Profess. My Lord, I beg your Lordship will inform me, whether I have any thing to offer to the Court, it is proper before the Jury be impannelled, or after.

L. C. J. Holt. My Lord, I don't know what your Lordship has to offer; I think you have no 
thing to offer why the Jury should not be sworn, for now your Lordship has put yourself upon your Trial, and are going to proceed in that Trial, and the Jury are going to be sworn: If you have any thing to offer, as to them, you may challenge them.

L. Profess. Truly, my Lord, I have something to offer, but it is only what I did humbly offer Yesterday, and that is, That my Warning was so flimsy, that I am not prepared for my Trial. We had not above three or four Days wherein we might consult about it, all the former Time we have been kept cloistered; we are now brought here to be tried, without having Time to look into the Pannel of our Jury. The Pannel we had not till Yesterday, and I humbly beg, that I may have some Time to prepare for my Defence.

L. C. J. Holt. My Lord, this is that which you intimated upon Yesterday. Your Lordship said you wanted Witnesses, and your Lordship did not then mention what Witnesses you wanted, nor was any Oath made of any one that you wanted; and therefore the Court over-ruled you, and wished you to prepare for your Trial, and would not put it off: For if it should not be to Day, but should be put off till another Time, it must be the putting of it off till another Session: for we are acquainted with it in Point of Time, for the Session can last no longer than Monday, and you have had convenient Notice.

L. Profess. Truly, my Lord, I think it is hard when my Life and Fortune, and all are concerned, that I should be hurried on to a Trial, only because the Court is foiled in Point of Time; and yet that is the only Reason that I can perceive why such Haste is made. I define a little more Time to prepare myself, and I think it very hard I should be denied; I must submit it to your Lordships: If you will not allow me Time, I cannot make my Defence as I would.

L. C. J. Holt. My Lord, as to the Shortness of the Time, that is no Objection; you have had convenient Notice; as much Notice as the Law requires, and as much Time as without particular Caufe shewn, hath here at any Time been given in such a Case. If indeed there had been any particular Reason offered for putting off the Trial, and you had made it appear by Oath, the Court possibly might have put off the Trial; but because your Lordship only suggested you wanted a Witness, naming neither Person, nor Place, or Matter such Witnesses should prove, they are of Opinion no Caufe appears for such Delay of your Trial.

L. Profess. My Lord, I assure you I am not prepared for my Trial.

L. C. J. Holt. My Lord, the Court over-ruled this Matter Yesterday, it cannot be put off.

Mr. Soll. Gen. My Lord, I would humbly offer your Lordship one Thing before the Jury be called 
and sworn. By the Law, these Gentlemen at the Bar have the Privilege to challenge peremptorily to the Number of Thirty-five; which is to great a Number, that if each of them severally take Advantage of it (as they may do by Law, and God forbid they should be denied any Ad 

vantage the Law gives them) it will be next to im 
possible to have a sufficient Number of Jurors ap 
pear so as that we may proceed in the Trial.

L. Profess. Truly, my Lord, we don't hear what Mr. Solicitor says.

L. C. J. Holt. Do you not? Then I'll tell you what he says when he has done: Go on, Mr. Sol 
licitor.

Mr. Soll. Gen. My Lord, all that I would know of them is, whether they intend to take the Ad 
vantage that the Law gives them, of Single and particular Challenges; for then they must be tried severally; or whether they will be content that the same Persons that are challenged by one, shall stand challenged for all three. I leave it to 
them to take their own Choice; let them do what they please in it.

L. C. J. Holt. My Lord Profess, Mr. Solicitor tells you what the Law is, that every one of you may challenge five and thirty without Caufe; and if the Court should proceed to try you all together, and every one of you should challenge five and thirty, perhaps a sufficient Number will be wanting to try you: The Number challenged will then amount to 105 in all. If to be you agree in your Challenges, that what one challenges shall be challenged by the other two, then the Court will go on, and try you all together, otherwise you will be forced to sever you; therefore he defires to know, whether you will join, or sear in your Chal 

lenges.

Mr. Soll. Gen. Take your own Choice Gentle 
men, and do what you think best.

L. Profess. My Lord, the Matter of Challeng 
ing is so great an Advantage to a Man upon his Life, that for any Part I must insist upon that which the Law gives me, to challenge as many for myself as I think fit, to the Number that the Law allows me.

L. C. J. Holt. My Lord Profess says he will, as 'tis fit he should, take all Advantages he can: What says Mr. Afluen to it?

Mr. Afluen. My Lord, I expect the same Ad 
vantage.

L. C. J. Holt. You must have it; it is not pro 
posed to preclude you from any Advantage that the Law allows you: If you inflict upon that Ad 
vantage, you must have it, and then you must be tried severally.

Mr. Soll. Gen. Then, my Lord, since they are pleased to declare they will sever in their Chal 
lenges, we must defire to sever them in their Trial, and to begin with the Trial of my Lord Profess.

Mr. Afluen. My Lord, I define the Liberty to be by when my Lord is tried.

L. C. J. Holt. No, no, that is not to be per 
mitted.

Mr. Soll. Gen. If you had joined in your Chal 
lenges, then you had been tried all togeth 

L. C. J. Pollesfen. That Advantage you lose 
by searving in your Challenges; you lose the Af 
flence of each other at your Trial.

L. C. J. Holt. That is the Consequence; but 
so as you please; let them by.

L. C. J. Pollesfen. It may be they do not fo 
well weigh the Consequence, therefore call
1690. O. B. J. Alston and Edmund Elliot, for High Treason. 423

then again. Gentlemen, do you consider the Consequence of your not joining in your Challenge? You must not be by, if my Lord Preton be tried by himself, but must withdraw, and thereby you will lose the Advantage of helping one another.

Mr. Elliot. My Lord, I define to be tried alone.
Mr. Abbot. And so do I, my Lord.
L. C. J. Halt. Then, Captain Richardson, take them away.

[Afterwards the Court was informed that Mr. Elliot declined to be tried with my Lord Preton, and therefore they were called again.

L. C. J. Halt. Gentlemen, do you define to be tried alone, or with my Lord Preton?
Mr. Elliot. My Lord, if you please, I define to be tried with my Lord.
Mr. Sel. Gen. Then we will try my Lord Preton by himself.
Mr. Sel. Gen. Does Mr. Abbot define it too?
Mr. Abbot. No, my Lord, I define to be tried by myself.
Mr. Sel. Gen. Then we will try my Lord Preton by himself.

L. C. J. Halt. Mr. Elliot, the King's Council do not think fit to try you with my Lord Preton, without Mr. Abbot; and unless you all join, you must all be tried severally.
Mr. Elliot. I can only answer for myself.
Mr. Abbot. I am for being tried alone.

L. C. J. Halt. Then my Lord Preton must be tried alone.

[The other two were carried back to Winchester, and the Lord Preton was bid by the Clerk to look to his Challenges.]

Clerk of Arr. Sir Goddard Nelthorpe, Baronet, Challenged.

Sir Thomas Catesby, Knt. Challenged.
Sir William Heddes, Knt. Challenged.
James Bodallin, Esq. Challenged.
Thomas Bostock, Esq. Challenged.
Ralph Buckland, Esq. Challenged.
Gracen Pyton, Esq.

L. Preton. I do not except against him, Savvy.
Clerk of Arr. Then swear Mr. Pyton, [Which was done.]

Lucy Knightley, Esq. Challenged.
Savoy Barker, Esq. Challenged.
Thomas Cathbott, Esq. Challenged.
Allan Charter, Esq. Challenged.
John Herbert, Esq. Challenged.
Hugh Squire, Esq.

L. Preton. I have nothing to say him. Savvy.

George Ford, Esq.


John Croft, Esq. Not appeared.

Thomas Smith, Esq. Challenged.

William Whitter, Esq. Challenged.
Richard Gradeck, Esq.

Mr. Cradock. My Lord, I know not how I came to be summoned upon this Jury; for I am no Freeholder.

L. C. J. Halt. Then set him aside.


William Jacomb, Esq.

Mr. Jacomb. My Lord, I am no Freeholder.
L. C. J. Halt. How long have you not been a Freeholder?

Mr. Jacomb. Neate our Months.

L. C. J. Halt. Give him his Oath. [Which was done.]

Have you no Freehold in the County of Middlesex in your own Right, nor in the Right of your Wife?
Mr. Jacomb. No, my Lord.
L. C. J. Halt. Then you must go on to the next.

Mr. Dawson. My Lord, I am an antique Man, and not fit to serve upon the Jury.

L. C. J. Halt. Well, now you are here, for this Time serve; we will excuse you hereafter.
Mr. Sel. Gen. My Lord, we challenge him for the King.
L. Preton. My Lord, I define to know when any one is challenged for the King, whether they must not first Cause.

L. C. J. Halt. By and by, if there be not enough they shall close Cause. L. C. J. Pococke. You shall have all that the Law allows you certainly, my Lord.

Richard Paget, Esq.

L. Preton. Has this Gentleman any Freehold?

Mr. Paget. Yes, my Lord, I have in the County of Middlesex.
L. Preton. I do not except against him.
Mr. Serj. Trangin. My Lord, we challenge him for the King.

L. Preton. My Lord, I humbly define they may have their Cause.
L. C. J. Halt. My Lord, Cause is not to be shown by the King's Council till all the Pannel be gone through; and then, if there be not twelve left to try, then they are bound to close Cause; that is the Law.

L. Preton. My Lord, it is a Thing of a very tender Concern to me; I define to know, if it be not usual that they should affin a Cause, when they challenge any for the King: For if it be not according to Law, it may be a Prejudice to me; and I define I may have Council heard to that Point.

L. C. J. Halt. My Lord, shall we affin Council to that Matter not disputable? There is no any more clear Case in all our Law than that: If your Lordship please, you shall have a Book to read, that the King is not bound to close Cause till the Pannel is gone through.

L. Preton. Then I do not insist upon it.

Samuel Hodgkins, Esq. Challenged.

Thomas Elton, Esq.

L. Preton. I do not challenge him.
Mr. Serj. Trangin. Then we challenge him for the King.


L. Preton. I have nothing to say against him. Savvy.

Richard Paget, Esq.

L. Preton. I do not except against him.

Mr. Serj. Trangin. Then we challenge him for the King.


Mr. Maybo. My Lord, I define to be excused; I am not fit to serve upon a Jury.

L. C. J. Halt. Why?

Mr. Maybo. I am thick of Hearing.

L. C. J. Halt. Methinks you hear me very well.
Mr. Marth. Truly, my Lord, I do not hear well.
L. C. J. Hals. Well, you may spare him if there be enough.
L. Preston. My Lord, I do not challenge him; I desire he may be sworn.
Mr. Serje. Trouman. We challenge him for the King.
L. Preston. I do not except against him.
Mr. Sol. Gau. We challenge him for the King.
Clerk of Arr. Matthew Brawne, Gent.
Mr. Serje. Trouman. We challenge him for the King.
L. Preston. I have nothing to say against him.
Clerk of Arr. John Bignell, Gent.
L. Preston. I do not except against him. Mr. Serje. Trouman. We challenge him for the King.
Clerk of Arr. John Owings, Gent.
Clerk of Arr. William Silcock, Gent.
L. Preston. I do not challenge him. Mr. Serje. Trouman. We challenge him for the King.

Then they were counted, and the twelve sworn were these whole Names follow.

JURORS.

Craun Preslan, Esq.
Hugh Squire, Esq.
George Ford, Esq.

Arthur Bailey, Esq.
Robert Breden, Gent.
John Bignell, Gent.
James Parne, Gent.
John Owings, Gent.
Mark Leneon, Gent.
Edmund Fuller, Gent.
John Collis, Gent.
Benjamin Boulby, Gent.

Then Proclamation for Information and Evidence was made as usual.

Clerk of Arr. Sir Richard Grahame, Hold up your Hand——[Which be did]——Gentlemen, you that are sworn, look upon the Prisoner, and hearken to his Cause. He stands indicted by the Name of Sir Richard Grahame, late of the Parish St. Anne within the Liberty of Westminster, Baronet, together with John Afton, Sec.——pront in the Indictment montasticum untendens——and against the Form of the Statute in that Cause made and provided. Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his Trial hath put himself upon God and his Country, which Country you are; your Charge is to enquire, whether he be Guilty of this Felony and High Treason whereof he stands indicted, or Not Guilty. If you find that he is Guilty, you are to enquire what Goods or Chattels, Lands or Tenements he had at the Time of the Felony and High Treason committed, or at any Time since. If you find him Not Guilty, you are to enquire whether he fled for it. If you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him Guilty. If you find him Not Guilty, nor that he did fly for it, you are to say so, and no more, and hear your Evidence.

Mr. Knapp. May it please your Lordship, and you Gentlemen of the Jury, This is an Indictment of High Treason against my Lord Preston, who is indicted by the Name of Sir Richard Grahame, Baronet, and stands now Prisoner before you at this Bar; and the Indictment sets forth, that the Prisoner, together with one John Afton and Edmund Elles, as false Traitors against our Sovereign Lord and Lady, King William and Queen Mary, not weighing the Duty of their Allegiance, the 29th of December, in the second Year of their now Majesties Reign, at the Parish of St. Clement Danes, in this County of Middlesex, did conspire, confab and intrigue, to depose their Majesties from the Throne and Government of these Kingdoms, and to bring the King and Queen to final Death and Destruction, and levy War within this Kingdom, and procure an Invasion to be made here; and that to bring their Treasons to pass, they did prepare and compose, and cause to be prepared and composed divers treasonable Letters, Notes, Memoranda, and Instructions in Writing, which were to inform the French King and his Subjects, and other Enemies of the King and Queen, of the Number, Force and Condition of their Majesties Ships, and how some of them were Manad, and the Names of several of the Commanders of them, and how the Captains and Forces of Port-foynes, South-Sea, and Goftort, within this this Kingdom were fortified, and how they might be seized and surpriz'd by the King's Enemies; as also to inform them of the Time, Places, Ways and Means how they might invade this Kingdom, depose their Majesties, and fight with their
their Ships against their Majesties Ships, and cause
and procure great forces to be raised against the
King and Queen, and send Ships to plague the
City of London, and War and Rebellion within
the Kingdom to procure; and that they did know-
ingly and secretly prepare and conceal two sev-
eral Bills of Exchange for the Payment of Money
to the King’s Enemies, and got these Bills of Ex-
change, Letters, Notes and Memorandums, into
their Custody; and afterwards, the 30th of De-
ceber, for the Sum of one hundred Pounds, by
them, or some of them paid, they did hire a Ship
to carry them and the said Bills of Exchange, Let-
ters, Notes, Memorandums, and Instructions, in-
to Parts beyond the Seas, to, and among their
Majesties Enemies; and did also prepare a Boat,
which was to carry them to the Ship, and accord-
ingly they went into the Boat, and went on Board
the Ship with the Bills of Exchange, and Papers
aforesaid; and being on Board they set sail, and
made away towards France with those Bills of Ex-
change and Papers, with Intention to deliver
them, and to perfect their said Treason. And
the Indictment further sets forth, that there was,
and is a War between our King and Queen and
the French King, and the People of those Parts,
under his Dominions, who are Enemies of the
King and Queen. The Prisoner, together with those
other two named before, as falsely Treason, did ad-
hance to the Enemies of the King and Queen,
and to bring about this Treason, they did procure
such Bills of Exchange, Letters, Notes, Memoran-
dums and Instructions, and did hire such Ship
and Boat to carry them and those Papers into
France; and did go on Board the said Ship, and
failed away for France, with Intention to aid and
assist the King’s Enemies in Counsel and Intelli-
gence, by those Papers, and Bills of Exchange, as
I before opened unto you; and this is laid to be
against the Duty of his Allegiance, against the
Peace of their Majesties, their Crown and Digni-
y ty, and against the Form of the Statute in that
Cafe made and provided. To this Indictment,
Gentlemen, the Prisoner pleaded, he is not guilty;
and for his Trial hath put himself upon his Coun-
try, which you are. If we prove him guilty, it
is your Duty to find him so.
Mr. Solicitor. My Lords and Gentlemen of the
Jury, the Indictment hath been opened to you at
large, and I do not doubt but you have observed
it: this is a conflict of two Parts, which are formed
upon two several Branches of the Statute of the
25th of Edward III. The one is for compassing
and imagining the Depoying and Delivering of
the King and Queen; the other for aiding and
affiling the King and Queen’s Enemies. Treason,
Gentlemen, conflicts in the Imagination of
the Heart; but because that Imagination of
the Heart can be discovered no other way but
by some open Act, therefore the Law doth re-
quire, that some Overt-Acts, manifesting that
Intention and Imagination, be affliated and proved.
I doubt not but you have observed that there are
several Overt-Acts of both these kinds of Treason,
affliated in this Indictment.
Gentlemen, the general Delign of the Conspi-
acy (as will appear by the Evidence) was this:
The King and Queen were to be depoyed, and
this was to be effected by a French Army, and
a French Fleet.
It will be easily granted, that nothing more
dreadful can enter into the Imagination of an
Englishman, than the Destruction of our Fleet,
and the Conquest of the Kingdom by the Arms of
France.
But yet it will be part of the Evidence that
we shall offer to you, that the Prisoners, and
others of the Conspirators seem to be of another
Mind; for amongst the Papers which were taken
with the Prisoners, you will see one, which is
filed, The Refut of a Conference, wherein they
pretend to fowe the Profitability of Refreshing King
James by the Power of the French King, and yet
to preferve the Protestant Religion, and the Laws
and Liberties of the Kingdom. They themselves
went no farther than to think it possible; and I
believe it will be hard to persuade any other Eng-
ishman, that it is possible, unless one Instance
could be given, that the French King ever em-
ployed his Arms for setting up any body but him-
self, his own Religion, and his own Government.
I never heard that he did pretend to form any
Part of his Glories upon the Virtue of Moder-
nation, or Self-denial. And there can hardly be
imagined a greater Instance of Self-denial, than for
the French King, after he had destroyed the Dutch
and English Fleets, and subdued our Forces at
Land, not to make use of his Succes, so as to
add those three Kingdoms to his Conquests, and
possess himself of the uncontroverted Dominion of
the Sea, but only to enable him, at so great Hazard
and Expense, to become a Medi-
ator between King James and the People of Eng-
land, and, by his Mediatory, to establish the
Protestant Religion, and the Liberties of the
People: And yet, as aforesaid as this feams, you
will find this to be the Reful of one of their
Conferences. I did never think it was the Part
of any who were of Council for the King in
Cafls of this Nature, to endeavoure to aggravate
the Crime of the Prisoners, by going about to
put false Colours upon Evidence, or to give it
more than its due Weight; and therefore I shall
be free to forbear any thing of that Nature.
But I think it my Duty to give some short Ac-
count of the Nature and Course of the Evidence
to be produced to you; which consisting of se-
veral Sorts, it will be in some sort necessary to
open it, that you may the more clearly appre-
ciate it, and with more Ease make your Obser-
vations upon it.
Gentlemen, we shall produce in Evidence, as
well living Witnefses, as Papers and Writings,
which by a strange kind of Providence were
taken upon my Lord Preston, and the other two
Prisoners named in the Indictment; when they were
apprehended; and though in this Deftiga that I have
opened to you, you will be made evident beyond all
Contradiction.
As to the living Witnefles, the Course of the
Evidence will be this. One Nicholas Pratt is
the Owner of a Smack, called the Thomas and
Elizabeth, he does ufually entrust his Wife, Jane
Pratt, with the hiring out of this Smack; William
Poby is Master of the Veilful, and has of late
been made a Part-Owner, to protect him from being
preft’d; for it is a Privilege that the Owners of the
Veilful claim, not to be preft’d.
Some Time since (the Witnefles will tell you
the precise Time) this Jane Pratt was sent for to
one Mr. Burder’s House in the City, where the
meet with Mr. Atton, who defired to know,
whether he could undertake to convey him
and
and some others, with Safety into France. She said, she did not doubt but she could do so; and thereupon Mr. Afton told her, that he and his Friends were Merchants, and Traders, and that they should make great Advantage, to the Value of a Thousand Pounds at least, if they could be there quickly. Their Difficulties went no farther at that Time; but Mrs. Pratt was appointed by Mr. Afton to bring the Mather of the Veefel along with her, for he had a Mind to discourse himself with the Mather, and they were to meet at the Wonder Tavern in Lincoln's-inn-fields; and because there should be no Mistake about the Meeting, Mr. Afton gave the Woman a Note of Direction in Writing, ready to be produced.

Accordingly, by the 9th of December, Mrs. Pratt and the Mather, came to the Wonder Tavern, where Mr. Afton met with them, and there they treated of the Price to be given for the hiring of this Vessel to carry them to France, and I think 130 Guineas was the Sum then affixed upon, but no Bargain was made at this Time; but there was a new Appointment to meet the next Day, which was the 30th of December, at Mr. Burdett's House.

The next Day, when the and the Mather came thither, they found there together Afton and Elliott, the two other Persons named in the Indenture, and there the Mather was treated of with great Secretly in Mrs. Burdett's Bed-Chamber.

And they came to an Agreement that 150 L. should be the Sum to be paid to Mrs. Pratt for conveying into France Afton and Elliott, and two other Persons. So the Contract was originally made for others besides Mr. Afton and Elliott, and the Money was actually deposited by Mr. Afton and Elliott in Mrs. Burdett's Hands, and a Six-pence was broken; one Half of which was delivered to Mrs. Burdett to keep, the other Half Mr. Afton was to take along with him, and when the Mather had safely landed them in France, Mr. Afton was to deliver his Half of the Six-pence to the Mather; which being procured to Mrs. Burdett, either by him or Mrs. Pratt, upon the joining of the two Pieces together, the Mather was entitled to receive the hundred Pounds.

The next Appointment was to meet at one Mr. Rigby's House in Covent-Garden, and that was to be on the one and thirtieth of December, when the Voyage was to be begun; And the Tide not serving to go through Bridge till late, the Appointment was to meet the latter. When they, Mrs. Pratt and the Mather, came there, they found only Mr. Afton and Mr. Elliott; but before that Time Care was taken to provide a Sculler at Servy-Stairs, to be ready to carry them on Board. So Afton and the Waterman was appointed to wait in a little Ale-house thenceabout, to be ready when he should be called.

About ten o'Clock at Night four Persons came down together, and went into this Sculler with the Master of the Smack, and made what Haste they could through Bridge till they came to Pimble-harring Stairs, over-against the Tower, where the Smack lay, and there went aboard the Mather and these four Persons, my Lord Preston, a Servant of my Lord Preston's, Mr. Afton, and Mr. Elliott.

The Smack let Sail immediately after they were on Board, and their Haste made them carry away the Waterman's Coat, which he had lent them their while they were in the Sculler, and that Accident was the Occasion of discovering who the Waterman was that carried them from Servy Stairs.

After they were on Board the Smack, they were provided with great Fear of being surprized. They knew the Nature of the Bums they were about, and the Danger they were in, if they should be dis- discovered; and therefore when they were to pass by the George Frigate, a Man of War that lay in the River, they desired the Mather to hide them, which he did, by putting them under the Quarter-Hatches, a Place where they could not stand or sit, but must lie along on the Ballast. When they were pulled by the George Frigate, they quitted that Place; but when they were near the Black-Hooge at Graves, they grew apprehensive, and they desired to be hid a second Time, which was accordingly done.

And they continued to lie in that Place till they were taken; and it was a happy Thing they did so. The Place was such, that they had not any Possibility of throwing away their Letters and Papers, though they had made Preparation for it in Cafe of any Accident, having tied them together, and fixed a Piece of Lead to them, that so if they lay themselves in Danger of being taken, they might easily unfet the Piqueur. But being so close shut up in this Place, that they could not execute their Purposes, the Papers were taken, and will be offered to you in Evidence.

Gentlemen, Captain Bilboop, by the Order of a noble Lord, now present, was directed to use his utmost Diligence to seize some dangerous Persons, of whole Delign of going beyond Set for some very ill Ends, an Intimation had been given. He got ready a Pinnace well manned, and went in Pursuit of them down the River; and both as he went and returned, he took Care to search suspect- ed Vessels. When he came to this, he demanded of the Mather what Number of Men he had on Board, pretending he came to prefer Men. The Mather told him he had but three, and for those he had a Protection. But the Captain said he must be better satisfied, and must search the Veefel; and in the Search he found the four Persons lying concealed in this secret Place, under the Quarter-Hatches.

As they were taken out one after another, one of the Seamen observed Mr. Afton to take up a Bundle of Papers from off the Ballast, and put it in his Bosom; and near the Place where the Papers lay, he took up two Seals, which after proved to be my Lord Preston's Seals when he was Secretary. Captain Bilboop being informed of this by that Seaman, he put his Hand into Mr. Afton's Bosom, and took a way from him the Bundle of Papers with the Lead fixed to it.

When they were put on Board the Captain's Pinnace, they all prefixed him much, that he would let them go on Shore at Gravesend, pretending want of Refreshment, they not having eaten, and the Night having being cold; but he did not think that proper nor safe, but told them, they should go on Board the George Frigate, and refresh themselves there.

When they came on Board the George Frigate, all the three Gentlemen, and my Lord Preston in particular, were very earnest with Captain Bilboop to dispose of the Bundle of Papers, mixing extraordinary Promises with great Complemen- Not
Not prevailing there, when they were return-
red to the Pinnace, they renewed their Solici-
tations, and one of them told him, it would be
easy to remove all Supsicion, by fixing the Lead
to some other Papers of small Signification,
which were found in my Lord Profon's Pocket,
which, he might produce, and they would with-
out Difficulty pass for the Papers that were ta-
ten.

But the Captain was too just to comply with
this Proposal. When they found he was not to
be moved, you will find from the Witnelseks,
that their Promises were turned into Threats, and
they used another sort of Language.

When they were brought to Whitehall Stairs,
upon their Landing they gave Money to the Ma-
ster and the Servants, deeming them to say, they
were hired to go for Flanders, and not for France.

Gentlemen, Thesethings which I have open'd,
carry a strong Pretension of Guilt, for Englis-
hes, especially one of that Quality of my Lord
Profon, to go into the Country of an Enemy,
without any manner of Fals-port, and in such a
Manner as they could not expect but to be seiz'd
for Spies, unless they were prov'd. and that their Cha-
acter was to be known there, that they should be
look'd upon, not as Persons coming to get Intelli-
gence, but to give it: unless they were well affir-
med of a good Reception when they came there,

But there is no Occasion to leave any thing to
conjecture in this Case; what is contained in these
Papers makes the Defign of the Voyage beyond
Dispute. I think, Gentlemen, after you have heard
the Evidence, you will be very well satisfied, that
my Lord Profon, and the other two who hand
indicted, were equally concern'd in those Papers;
there were all alike exercis'd to preserve them from
being seen; they all fillicited for the disabling of
them, and promised Rewards if they might prevail.

Gentlemen, these Papers are of various Na-
tures,

One I mentioned before, is entitled, The Re-
feft of a Conference between several Lords and Gen-
thelme, both Tories and Whigs in which it was un-
dertaken to prove the Possibility and Methods of
Reforming King James by a French Power, with-
out endeavoring the Protestant Religion, and the
Civil Administration, according to the Laws of
this Kingdom.

Another contains Heads for a Declaration to
be prepared, in order to be publish'd when the
French have had Success at Sea, and are landing;
that is fill'd with such Pretences as they thought
most specious, and most likely to amuse and de-
ceive the People.

There is another Sort of these Papers which
consists of Letters. These Letters are direct'd
in sable Names, and are not subscrib'd; and it is
not to be imag'd it should be otherwise. Yet,
Gentlemen, (though that is not the present Bu-
finct) the Hands of the Writers of these Letters
are very well known, and the Subject Matter of
them will easily reveal to you for whom they
were intend'd; for though these Letters are most
of them written under divers Cants, some under
the Colour of Trade, some of them under the
Colour of a Law-suit for the Redeeming of a
Mortgage, others under the Notion of a Match,
and a Settlement to be made upon that Match,
yet the real Busines is so plain, that you need
but hear them read, to fee through the Dif-
guise,

Though they begin generally in the Stile of
Merchants writing to one another, or the like,
yet towards the End of the Letters you will ob-
liev e Expressions of Duty and Revenue (Terms
which do not usually pass in Correspondence be-
tween Persons of that Sort) sufficient to shew, that
what else was intended was to be cover'd in what
went before.

Gentlemen, It will appear to you, that some
of the Writers of these Letters were of the
Number of those who were secur'd the last
Summer, when the French Fleet was upon our
Coasts, and you will obliev e them complain, that
by reason of that Restraint, the Defign was very
much hinder'd, though they have endeavow'd to
r ead them that Loss of Time since their Discharge,
and have carried on the Busines with more Vigour
than ever.

In short, the Defign of these Letters is to
importune the setting out of the French Fleet
with all possible Expedition: They say they must
do fitch a fit Season to be fient unprofitably:
That the best Time is between this and the
first of March to come to a good Market; and if
they come not by the end of April, all will be
lost. In another of their Letters they say, If
the Suit be well fillicited and managed, it may
come to a final Hearing before the End of Ear-
ly Term.

They complain, that there are several indis-
cert Letters came from St. Germain, that turn
to the Prejudice of the Defign. These Letters
are not enough fillicited to deceive the People
here, but speak too plainly what is to be expos'd
from themselves, and from the French. You
will take Notice, that the Letters which are
will have all Bills with high Characters of the
Bears; for which Reason they write in such gen-
mral Terms, because the Bearer was entrusted
with the whole. Some of the Letters say, no Parti-
culars are, or need be express'd, because he will
inform them of every thing; Others, that they
could not write so much as he could say; and
that nothing was wanting, but to allow him a full
and fit Season to give an Account of all the Busi-
ness; and that they entirely depend upon his Ac-
count of them and their Condition.

And, Gentlemen, in one of the Letters the Bearer
is a Lord, and to whom can that be appl'd,
unless to the Prisoner at the Bar?

In another Letter, when they speak of sending
the Copper and Linen (the Goods pretended
for carrying on the Trade) it is added. And what
the Meaning of that is, they must refer to the
Bearer, who was able to give them a particular
Account.

I have mention'd so much of the Papers, only
that you might have a general Notion of them;
that so when you hear them read, you may more
readily make your Observations. I assure you I
have been as careful as I could, not to exceed the
Truth in opening any Part of the Evidence: But
it is your Part to see whether what I have open'd
be made out in Proof.

There is another Paper that gives an Account
of their Majesty's Fleet to be sent out this Sum-
mer; and there is an Observation at the End of
it, that it was hoped it may be out in March. But
you will find by other Papers (and particularly
by one of my Lord's own Hand-writing) that he was
of another Mind, that the Fleet would not be out
before June.

Gentle-
148. The Trial of Sir Richard Graham, 2 W. & M.

Gentlemen, the last Sort of Papers which I will mention to you, are some Memorandums and Notes written by my Lord Persefin, wherein he gives an Account of several Things of great Moment; which, as his Memory served him, are put together without Connection or Method, being only to remind him of them when he should have Occasion to mention them.

He therein gives an Account of the Number and Strength of the English Fleet, how they are Man- ned, and who are the principal Officers and Commanders, and in what Time they will be out.

He likewise gives an Account of the Number and State of the Dutch Fleet, and how that is to be divided and disposed of.

And with relation to the French Fleet, there is a particular Memorandum, That they must be out at farthest in April; that they must be out so as to separate the Dutch Fleet and ours; that they must be bare to look in at Spithead as they come by, and secure what Ships should be in that Harbour from joining the rest of the Fleet.

There is also a Hint given of those that were most likely to come in to them: And there is Advice in what Place their Fleet should fight ours. They must not come so high as Breda, where they fought the last Year, but rather choose to fight in the Chops of the Channel.

There is an Account of Portuguese, how fortified and garrisoned, that it had but five hundred Men; that Gobapt had nothing but Pallidados about it, and Smith Inn-Gobapt very weak.

There are Memorandums of other Heads proper for a Declaration.

There are the Names of several Persons, some of them with particular Characters, and some without; and amongst the rest, there is the Character given of the Clergy of the City of London, that they are the worst of all others.

Gentlemen, we shall proceed to the Evidence, and first call the living Witnesse, and then read the Papers; and when you have heard what the one can say, and what the other contain, we must leave it to your Consideration, and submit all to the Direction of the Court.

Mr. Sir, Trevisan, Pray swear Mrs. Pratt, Jane Pratt.

[Who was found, with five or eight more.]

Mr. Sir, Trevisan, Mrs. Pratt, pray will you tell us what you know concerning the hiring of a Vessel, and whether it was to go, and by whom it was hired, and for what? Pray tell your whole Knowledge in this Matter.

Mrs. Pratt, Mr. Birdet, may it please your Lordship, lent me to his House, to hire a Vessel to go for France, and asked me, if I could carry them with me. I told them I could let them have a Smack that would carry them; and, if it please you, my Lord, we met several times at his House, and at last there was Mr. Ablon there, and Mr. Ablon appointed to meet at the Dog Tavern upon Livergate-Hill, I think they call it the Waterer Tavern.

L. C. J. Holt, Milrefes, pray begin again, and freak out.

Mrs. Pratt, Mr. Birdet lent me for hire my Smack to go for France, and they asked me if I thought it would carry them secure. I told them yes, I thought it would; and I came several times about it to Mr. Birdet's House. The Smack was not then come to the Fever, as it did afterwards; and then after they set for Mr. Ablon, and he met me at Mr. Birdet's, and meeting at Mr. Birdet's, he gave me a Note, to meet at the Dog Tavern upon Livergate-Hill, and there Ablon met, but Mr. Birdet did not come.

Mr. Sir, Trevisan, Who was with Ablon when you met at the Dog Tavern?

Mrs. Pratt, None but a Man of his, as Mr. Ablon said: There we sat about an Hour and a half and did nothing. At length we went away, and appointed to meet at Mr. Birdet's House the next Day at seven or eight O'Clock, and there we met, and the Bargain was made.

Mr. Sir, Trevisan, What Bargain?

Mrs. Pratt, I asked 150 l., and they told me that was too much. Says Ablon, I will give you 400l:; says Mr. Birdet, pray encourage them, offer them 100 l. Thereupon he did offer 100 l. and we agreed for 100 l.

Mr. Sir, Trevisan, What Day was that, can you remember?

Mrs. Pratt. We met on the Mondays and the Thursdays agreed.

Mr. Sir, Trevisan, What Money was paid?

Mrs. Pratt. Ninety-three Guineas and Sixpence.

Mr. Sir, Trevisan, Who was by when the Bargain was made?

Mrs. Pratt. Mr. Ellet was along with them, Mr. Birdet, and the Matter of the Vessel, at the Agreement.

Mr. Sir, Trevisan, What is the Matter's Name?

Mrs. Pratt. His Name is Joly; and there was Sixpence broken, and Mr. Ablon took one of the Sixpence, and Mr. Birdet ordered him to give his Wife the other, and fo he did; and when the Money was paid, Mr. Ablon brought in a Paper wrapped up, and said, we should file it told out, and he told it out there, and it was ninety-three Guineas, and the Sixpence.

Mr. Sir, Trevisan, Who did they tell you they were to carry into France?

Mrs. Pratt. Truly, my Lord, they said three, that was all.

Mr. Sir, Trevisan. What followed then? Did they give you any Note where you were to come for them?

Mrs. Pratt. Mr. Ablon bid Mr. Ellet write a Note where they should come; it was at Mr. Biggs's in Court Garden, at the Seven Stars, and there we were to meet at eleven O'Clock at Night; and when we came there, Mr. Ablon was within, and went out and fetch in some Company, Mr. Ellet came, and two other Gentlemen that I never saw in my Life before.

Mr. Sir, Trevisan. Milrefes, you speak of the breaking of a Sixpence, what was to be done with that?

Mrs. Pratt. My Master was to bring the half of the Sixpence that Mr. Ablon had, to Mr. Birdet, and then we were to have the 100 l.,

Mr. Sir, Trevisan, Had Mrs. Birdet the other Piece?

Mrs. Pratt. Yes, Mr. Ablon had one half, and the bad t'other.

Mr. Sir, Trevisan. Was there any Provision carried on Board this Smack?

Mrs. Pratt. Yes, there was a Hamper and a Trunk, which were fetched from Mr. Birdet's House; my Man, John Fisher, carried the Trunk, and a Porter carried the Hamper, and I took Care to see it put in the Vessel.
Mr. Serjeant. When you came to Cavers- 
Garden that Night, what Difcourage had you? and what Enquiries were there made, and by whom? 

Mrs. Pratt. Mrs. Atkyns comes in, and she said Mr. Atkyns was her Husband, and said there was some News from Court, of having Papers in a Hat, and that they had chosen some Lord or other: Something it was, I remember, I can't tell what; but some one Gentleman that flod, by, and said, I was chosen the last Year, that signified nothing; and another said, it is only a Christmas Cake, it signifies little.

Mr. Serjeant. What further Difcourage had they? 

Mrs. Pratt. Mrs. Atkyns said she was afraid they should have no very good Luck, for the Cock crowed.

Mr. Serjeant. Was there any Difcourage what Advantage they should get by going, or you by carrying of them?

Mrs. Pratt. They said they would help us to the carrying of 1000 l. before Lady-day, if they went this Time past.

Mr. Serjeant. Pray Militres, recollect your fellow whom they go to Flanders, or where? 

Mrs. Pratt. They were to go for France; they were not to go for Flanders.

Mr. Serjeant. Time of Night did you depart from Mr. Rigby's? 

Mrs. Pratt. About Eleven o'Clock.

Mr. Serjeant. How did they go away from Mr. Rigby's? 

Mrs. Pratt. I did not go with them; Mrs. Atkyns kept me, and gave me a Leg of a Goose, and some Drink.

Mr. Serjeant. Do you know any thing further? 

Mrs. Pratt. No; I think I have told all.

Mr. Serjeant. Were you hired for France or Flanders? I ask you once again.

Mrs. Pratt. We were hired for France; any Place there where we could touch.

Mr. Serjeant. Was there any particular Port mentioned? 

L. C. J. Heil. If you have done with her, will my Lord ask her any Question? 

L. Rigby. My Lord, I desire she may be ask'd, whether she ever saw me before?

Mrs. Pratt. No, never, my Lord, but in the Tower.

L. C. J. Pollesse, But the firs, when they were at Rigby's, there came in two Gentleman with Mr. Elliott that Night.

L. Rigby. I desire to know of her whether I was one of them two.

Mr. Serjeant. My Lord, the Lord, does not say your Lordship was one of them.

Mrs. Pratt. No, my Lord you were not one of them.

Mr. Serjeant. Then let up Pollesse, Pollesse, what do you know about hiring of this Smack to go for France? I think you are Master of the Smack called the Thomas and Elizabeth, are you not?

Mr. Pollesse. Yes.

Mr. Serjeant. Then pray give an Account of the whole Matter.

Mr. Pollesse. The Smack was hired of the Waterman, and not of me; and when I came up to London, the told me she had got a Voyage over to France, if I was minded to go; I had, yes; and she appointed me to go along with her to this Mifrelfs what do ye call um's Houfe; this Mrs. Bardet: and when she came to this Houfe, there was no body within but Mr. Atkyns; Presently after came in Mr. Elliott. After they came in they told us the Things were not ready yet, but they would be ready presently to carry on Board. When they Things were ready, John Fisher carried the Trunk down, and the Porter carried the Hamper, and I went along with them to Billington's, and carried them on Board; and when I carried them on Board, I went to Billington's again, and so we went along to this Mr. Bardet's Houfe; and fo when we came up to Mr. Bardet's Houfe, Atkyns and Elliott were not there present, but we had been there but a little Time e'er they came in; and then they came and said to my Owner and me. You shall fee the Money told: it was all in Gold but one Six-pence; there was Ninety-three Guinea's. And, after the Money was told, there was a Six-pence that was broken in half, and the Guinea he rolled up in a Paper, and gave them to Mrs. Bardet, and bid her lay them up; and he gave her one half of the Six-pence, and kept the other half himself; and when I brought that other half that he had, or my Owner, then he was to give the Money to her or me.

Mr. Serjeant. Pray what Room of the Houfe was this in at Mr. Bardet's?

Pollesse. It was on the left. Hand going in, Mr. Serjeant. Was it a Bed-Chamber?

Pollesse. Yes, it was.

Mr. Serjeant. What Time of Night was it, pray?

Pollesse. About Eight o'Clock.

Mr. Serjeant. What Difcourage had you with them there, pray?

Pollesse. They asked me if I thought they might get well over? I told them yes, I believed they might.

Mr. Serjeant. Did they tell you what Part of France they were to go to?

Pollesse. No, they named no Place, but any Part in France.

Mr. Serjeant. Well, go on, tell us what they said further.

Pollesse. So, Sir, they gave us Direction to meet them at the Seven Stars in the little Piazza's in Cavern-Garden. When we came there it was Eleven o'Clock at Night, and they were not in the Houfe when we came in, except 'twere Mr. Atkyns; but presentely after Atkyns and Elliott came in, and they sat down; and so in came two Gentlemen more, but what they were, or who they were, I don't know; and they discoursed about Papers thinking in a Hat, and said they should have no good Luck, for the Cock crowed. And after this Elliott and Atkyns came out of the Houfe, and called me to go with them; and after we were gone out, Mr. Atkyns leaves Elliott, and went away from him, and Elliott bid me go along with him; they, he, come, Mafter, come along with me. He did not name any Place whither they were to go; but it happened to be Serres-Stairs, and going down, he calls in at the Corner Houfe, which is an Alle- houfe, for the Waterman, and bid me go before to the Water-side; and when we came there the Waterman steps into his Boat, and I after him; and when I was in the Boat I went into the Stern, and by that time I was feated in the Stern, there came down four Men: but I never saw my Lord and his Man before they came into the Wherry.
L. C. J. Hall. Who came into the Wherry?

Pafley. There was all those four, Mr. Afton, Mr. Elliot, my Lord, and his Man.

L. C. J. Hall. Where was this do you say?

Pafley. At Surry-Stairs, there the Boat was, Mr. Serje, Treman. Was the Prisoner at the Bar one of them?

Pafley. Yes, he was.

L. C. J. Hall. Well, what did you do then?

Pafley. After we were landed in the Boat at Surry-Stairs, we put off, and went down through Bridge, and going through Bridge we came on Board, the Veilf riding just against the Tower almose, and we were all on Board; and when we came on Board, my Men were all asleep, and being asleep, I call'd them out of the Cabin to lace up the Anchor; and there being very little Wind stirring, we could not go very far, but came just below the Half-way Tree, and then we stopp'd, and I order'd them to drop the Anchor for fear of the Veilfs in the River; and the next Morning about Eight o'Clock we weigh'd our Anchor again, and went on till we came near to the Great Man of War, and there they all of them hid.

Mr. Serje, Treman. Who?

Pafley. All of them, my Lord. There was Afton, and Elliot, and my Lord Prefton, and his Man.

Mr. Serje, Treman. In what Place did they hide?

Pafley. In the Quarter-Hatches, under the Hatches where we lie.

Mr. Serje, Treman. Did they desire you to hide them?

Pafley. Yes, they did.

Mr. Serje, Treman. What did they say?

Pafley. They said, that if there should come any Boat on Board to press, I should show them my Protection; and so there came no Boat then.

Mr. Serje, Treman. How big is this Place that they hid in?

Pafley. 'Tis in the Quarter under, near the Cabin-hatches.

Mr. Serje, Treman. I ask you what kind of Place it is?

Pafley. They cannot sit upright, nor stand upright, but they are fast to lie along, or lean upon their Elbows.

Mr. Serje, Treman. Well, go on, what happened afterwards?

Pafley. After that we were past'd the Man of War, they came up and faste in the Cabin, where we used to eat our Viands; and when we came to Greenwich, over against the Black-boat, they would go down again and hide, and do so till we pass'd the Black-boat, and then they were for coming up again; and then I saw a Boat coming about Tilbury, which made towards us, and thereupon they duck'd down again, and the Hatches were laid down upon them, and there they remained till they were taken.

Mr. Serje, Treman. Where were they taken?

Pafley. They were taken between the North Black-boat and the Little ——

Mr. Serje, Treman. But I mean in what Part of the Ship?

Pafley. They were taken in that little Place where they were hid.

Mr. Serje, Treman. Were the Hatches shut down upon them?

Pafley. Yes, they were.

Mr. Serje, Treman. How long had they been hid before they were taken?

Pafley. A quarter of an Hour, or thereabouts.

Mr. Serje, Treman. Did they desire to be hid there?

Pafley. Yes, they did; and they were hid there.

Mr. Serje, Treman. How was it that after they were taken, Captain Bilby ordered them to go into the Boat, and us with them; and when we came to Whitechapel-Stairs, one of them faid to me, Master, when you come upon your Examination, say you were bound for Flonders, and not for Franche.

Mr. Serje, Treman. Which was that faid so?

Pafley. 'Twas Elliot, and he gave me half a Crown to bear my Expences that Night, and said he would remember to take Care of us afterwards.

Mr. Serje, Treman. Did they give any Money to the Seamen?

Pafley. Yes, Afton gave one of my Men half a Crown, and bid him fay he was bound for Flonders, and not for Franche; and my Lord's Man gave my other Man half a Crown.

L. C. J. Hall. Was my Lord Prefton by when that Money was given?

Pafley. My Lord was upon the Bridge, but not near me.

Mr. Serje, Treman. If my Lord have any Questions ask to him, we have done with him for the present.

L. Prefton. No, my Lord, I have no Questions to ask him.

L. C. J. Palfenfa. Was my Lord Prefton by when the Direction was given you to fay you were to go to Flonders, and not to Franche?

Pafley. I fay, he was upon the Bridge, but was not near me.

Mr. Serje, Treman. What Difcourfe had you on Board with any of them?

Pafley. Very little. They ask'd me if I thought they should go clear, and I told them yes, I thought they might.

Mr. Serje, Treman. Clear of what?

Pafley. Clear of the Veilfs searching. They examin'd me that Night I was at the Seven Stars, if I knew the Way of the Swing, on the Back of the Channel, to go clear of the Town. I told them I did not know the Way by the Back of the Sands by Margaret's, but the Swing would not keep them clear of the Town.

Mr. Serje, Treman. Was there a Note written whither you were to come?

Pafley. Yes, there was a Note written to meet them at the Seven Stars in the Little Pi-a-zo's.

L. C. J. Palfenfa. Whereabouts is Burde's House?

Pafley. That is in Queen-street in the City.

Mr. Serje, Treman. You, Pafley, Did the Waterman that brought them on Board leave two Coats behind him?

Pafley. Yes, the Waterman did leave two Coats.
Coats; and I put them into my Chest, and afterwards they broke open my Chest, and took them out, and brought them to my Lord Chief Justice.

Mr. Serj. Tremanin. Then we will now produce that Waterman. Set up Charles Beffworth.

Mr. Serj. Thomson. Come, will you give us an Account who you carried on board a Smack, and what happened? Befworth. I was going over the Water from Sturry-Stairs about seven or eight o’Clock, and a Gentleman at the Stairs called Scaller, and ask’d me if I would carry him down the River; said I, how far? says he to me, seven Leagues; Said I, ‘tis against Tide, and I can’t carry you down so low. He said he would pay till the Tide turn’d; Said I, if I be out of my Bed so long, I deferre to be well paid for it; if you will give me Half a Crown I’ll carry you down. Says he, I’ll give you it. So then I came ashore, and he ask’d me what my Name was; I told him, Charles Beffworth: Says he, will you be sure to pay for us? Yes, I said, I’t will be sure to come. If I be not at the Stairs, I’ll be at that Althoeuse there in the Corner: So I flaid, and carried a Fare or two over the Water; and about eleven o’Clock, I was going into the House a Gentleman comes, and calls, Charles, and so I went into my Boat, and took them in.

There was one Man, as I suppos’d, in the Stern, and he that called me out, followed me down, and by and by came three more into my Boat; one of them had a white Cloack on, and the other a grey Joose Coat, and a red Bag of the Quantity of a Peck, and so we put off, and row’d away; and just under the Tangle-Wall, which was all the Words I heard from them that I can remember, says one Gentleman, When do you hear the King goes away? and another made Answer, and said, on Tuesday. So we row’d down through Bridge; and when we were through Bridge, they ask’d where the Velvè lay; and he that was in the Stern said, it was Southwalk-Side, over against the Tower, and bid me row over thither. And when we came just below Battle-Bridge, that Man said, that’s the that rides a-head of us. I looked, and the had a Pennant up: So they were put on board, and as soon as they were on board, the went off, and I row’d up to the Bridge, and went through Bridge, and came up as far as and there I lay’d, and took my Sculls and my Staff out of my Boat; and when I took them out, I missed my Cloaths. Says I, God blest me, I have lost my Cloaths; but then I thought it was but a still Tide, and therefore I would try if I could overtake them; for I thought they could not be got far, there being little or no Wind; so I went down to the Place where the Velvè lay, and she was gone; and I enquired of several Smacks that lay there, but could hear nothing; and I row’d as low as Limbourough-Rauch; and about Black-Wall and Limbourough-Rauch, I come up to a Smack that I appos’d was the, and I ask’d them, Do the Smack, and they answer’d me. So, I ask’d them if I did not bring a Fare a Board that Smack awhile ago? Then they said no. I told them I had brought a Fare a Board some Smack that lay about Herfig-dray and Picklet-barring-Stairs, and they had got two Coats of mine, which I had forgotten, and it had a Pennant up when they went on Board, but this had none; so I row’d on further, till I came as far as Barking-Slory; and I thought there being so little Wind, that none could be gone beyond me, and therefore waited to see a Smack with a Pennant coming down; but I could not meet with it, and there I lay all Night in my Waitboat, and the next Day I came back to Greenwod, and as I came along, I went on Board several Veleifs to enquire, because I took her for an Attendace upon a Man of War; but I could not hear of my Cloaths, till last Friday was Seven-night two Watermen came, and brought me the Cloths I lost.

L. C. J. Then you have your Cloaths again?

Befworth. Yes, I have.

Mr. Serj. Thomson. Pray look upon that Gentleman there, my Lord President, are you sure that he was one of them that was in your Boat?

Befworth. I can’t tell that ever I saw him in my Life before.

Mr. Serj. Tremanin. You Pofley, I ask you, was my Lord President one of the Gentlemen the Waterman brought on Board your Smack?

Pofley. Yes, he was.

Mr. Serj. Tremanin. Is that the Waterman?

Pofley. Truly, my Lord, I do not tell but the Waterman’s Coat was left on Board.

Mr. Serj. Tremanin. Then let me ask you another Question. Had you a Pennant?

Pofley. Yes, I had when I came on Board.

Mr. Serj. Tremanin. Did you take in your Pen-
nant?

Pofley. Yes, I did afterwards.

Mr. Serj. Tremanin. Why did you take it in?

Pofley. They afford me if there was a Pennant, and I told them yes; and they bid me take it in.

Mr. Serj. Tremanin. Who bid you take it in?

Pofley. Elliot did; so we took it down.

Mr. Serj. Thomson. Will my Lord ask Befworth any Questions?

L. Prefton. No, I have nothing to say to him.

Mr. Serj. Tremanin. What did they carry on Board with them, Pofley?

Pofley. They had no thing on Board but the Trunk and Hamper, that were brought down before from Burder’s House; and there was nothing brought in the Boat but only a Leather Bag.

Mr. Serj. Tremanin. Then set up Pofley. I think his Name is John Pofley. You was one of the Seamen that did belong to the Smack, I think.

Pofley. Yes, I was.

Mr. Serj. Thomson. Pray tell us, who were brought thither, and what happened upon it.

Pofley. About six Hours before they came on Board us, our Master came himself on Board, and took me along with him; but whither I was to go then I did not know. He carried me to a House in the City, and there gave me a small Trunk to carry, and a Hamper to a Porter; and we went away with them; and he bid us at Billington, carry them on Board, which we did.

L.C.J. Hob. When was the Trunk and Hamper brought on Board?

Pofley. About fix or seven o’Clock at Night, on Wednesday, I think.

L. C. J. Hob. Well, and what followed?

Pofley. My Lord, and Mr. Alton and Mr. Elliot, and my Lord’s Man, and the Mater, came on Board between eleven and twelve: There was no more came on Board that I know of; but we were asleep when they came on Board;
Board; and immediately our Master ordered us to hoist up the Anchor. Now there was but little Wind blowing; and by that Time we were fallen down as low as the Half-crazy Tree, it being till Flood, we could go no farther: So there we were ordered to fly, and we lay by till Morning; and about eight in the Morning we weighed Anchor again, and directly we came to the George Man of War, they hid; they desired to go down into the Quarters, and we hid the Hatchets upon them.

Mr. Scrj. Treman. What kind of Place is it that they hid in?

Fisher. They could not stand upright, nor sit upright, but they must lie, or lean upon their Elbows. So when we were got below the Ship, they came up again into the Cabin: And when we came at Gravesend near the Black-Heary, then they hid again till we were below the Black-Heary, and then I knew a Boat coming, which made them to keep below; and there they continued till Captain Ellip took them.

Mr. Scrj. Treman. Were they all four there?

Fisher. Yes, all four.

Mr. Scrj. Treman. After they were taken, what said they?

Fisher. After such Time as they were taken, and come up with Black Sails, Captain Abbot gave me a Half Crown Piece, and bid me say, they were going to France, and not to France.

Mr. Scrj. Treman. But whether were you going?

Fisher. Truly, I did not know where we were to go, till then we came on Shore. I understand nothing till they hid; and then indeed I thought we were going to France.

Mr. Scrj. Treman. When did any body tell you you were to go to France?

Fisher. Since we came on Shore.

Mr. Scrj. Thownhon. Will my Lord ask him any Questions?

L. Prefon. No.

Mr. Scrj. Treman. Then the next Witness we call is one 

Then they tell you what you know of this Matter.

Scrj. Abbot. May it please you, my Lord, I know nothing concerning my Master's Billifs; but all that I know of this Billifs is, That they came on Board about Twelve o'Clock at Night, and I was then asleep in the Cabin, and hearing some come on Board, and my Master call, I looked out, and there were three or four Gentlemen, and my Master, and he ordered us to set Still immediately, and make our Way down as fast as we could. There was little or no Wind: So that when we came down to the Half-crazy Tree, we were forced to come to an Anchor, and there we laid at Anchor till it was broad Day, when there was a Brave Gale to the Widdward; and by that Time we got down to Long Reach, about nine o'Clock we came to the George Frigate, a Man of War, and they understanding that, desired to hide these Gentlemen.

L. C. J. Holt. What Gentlemen?

Awards. My Lord Prefon, Mr. Abbot, and Mr. Elliot, and the other Gentleman that was with them.

L. C. J. Pollefon. Look upon my Lord there, was he one?

Awards. Yes, that Gentleman was one.

L. C. J. Holt. Well, go on.

Awards. And so, Sir, after we were pulled the Frigates, they came up again, and did not design to go down any more till they see some other Danger. When we came almost to Gravesend, they went down again: When we past the Black-Heary I was at the Helm, and they were resolving to go to Dinner, and bid that Man, my Fellow, to reach them some Vithals out of the Hambunck, and while he was reaching them some Vithals, I saw the Finneca coming towards us: Said I, here is a Finneca coming a Board: Says my Lord, and they, we must go down again and hide; and so they did go down again. We apprehended that they were coming a Board to purs us, and they had no Mind to be seen. When the Finneca came near, they waved us to this manner, as much as to bid us stay: So we laid the Sillby, and laid for them till they came up; and when the Captain came on Board, says he, this is worth our coming on Board, here are a Couple of brisk Scamn will do the King Service; I must have them, I think. Says I, I hope not, noble Captain: Says he, have you any thing to keep your Knife clear? Yes, says our Master, I am sorry for that, says the Captain. What is it? Says the Master, I have a Protection. Says the Captain, let us see your Protection: So the Master pulls out his Protection, and flows it. Well, says the Captain, I must look a little further, and away he goes into the Cabin, and takes up the Hatchets, where those Gentlemen were. Says the Captain, Why, why, who is here? Turn out, says he: But I suppose they did not make to much Haste as the Captain expected; so he called some of his Men on Board; and when they came on Board, my Lord came out, and the rest of the Gentlemen; and says my Lord to the Captain, I hope you will be so kind as not to take any thing from us. Says he, I'll meddle with nothing but Papers; 'tis Papers I look for, and put his Hands in both his Pockets, and pulled out Papers, and put them into his own Pocket; but whether they were new or old I can't tell; and there was a Watch likewise, but that he gave my Lord again, and said, I'll meddle with nothing but Papers. Then he searched Mr. Elliot, and Mr. Abbot was the bill that came out, and there was one had his Papers in the Cabin with him; and, says he, and please you, noble Captain, that Gentleman put something in his Bosome. Says the Captain, What did you put in your Bosome, Sir? Nothing, says he, but my Handkerchief.

L. C. J. Holt. Who said so?

Awards. Mr. Abbot, and they threw him his Handkerchief; and afterwards the Captain put his Hand in Mr. Abbot's Bosome, and pulled it out.

Mr. Scrj. Thownhon. What did he pull out?

Awards. A Roll of Papers, with a Piece of Lead to it.

Mr. Scrj. Thownhon. Did you see the Lead fit into the Papers?

Awards. I did see it fit into the Packthread that tied the Papers.

Mr. Scrj. Treman. What sort of Place is it in which they were taken?

Awards. They could not fit, nor stand upright in it.

Mr. Scrj. Treman. Had you any Money given you?

Awards. I had Half a Crown given me by my Lord's Man.

L. C. J. Holt. Who was it gave you the Money?
It was my Lord’s Man; he that was on Board the Ship: He gave me Hal a Crown in Whitehall, and said, I should lay we were bound for Flanders, and not for France; but who the Half Crown came from I cannot tell, my Lord said nothing to me at all.

Mr. Serj. Tremain. Did you hear any Discourse as they came down?

Annals. No, I did not mind any thing of Discourse; for I never came among them, unless it were at the Hour of Watching.

L. Proffan. Pray did I say any thing to you at Whitehall?

L. C. J. Holt. My Lord, your Way is to propose your Questions to the Court, and they will ask them for you.

L. Proffan. My Lord, I desire to ask him if I said any Thing to him at Whitehall.

Annals. No, my Lord, he never said any thing to me at all; it was his Man that gave me the Half Crown, and spoke to me.

L. C. J. Holt. Will your Lordship ask him any other Questions?

J. Proffan. No more Lord.

L. C. J. Holt. Then call your next Witness.

Mr. Serj. Tremain. Swear Capt. Billop. [Which was done.]

Mr. S. J. Thomason. Come, Captain Billop, pray will you tell my Lord and the Jury, where you did apprehend my Lord Proffan, and the Circumstances of what happened at their Talking.

Capt. Billop. Sir, I met with them at the upper End of the Hope.

Mr. S. J. Thomason. Pray give us an Account, from the Beginning to the End, what passed; how you came with the Boat, and all that happened at that Time.

Capt. Billop. About two o’Clock, or between one and two, upon the 1st of December, my Lord Dandy came to me at one of the Doors of the House of Lords, and told me his Father would speak with me; and he carried me to my Lord Lindsay’s Chamber, where immediately my Lord President came, and told me there were some Persons going for France about Bufflech of dangerous Consequence, and he desired me to use some Means to get them apprehended: I then proposed what I should have to enable me for the Undertaking; my Lord Dandy said, there was such a Boat that he would provide; and my Lord President gave me a Letter to another Person, who was to instruct me further about this Matter. My Lord Dandy got the Boat ready, and some Men and Arms in it: But I thought there were not Arms enough; so I borrowed some Arms of my Lord Lords, and about eleven o’Clock, as near as I remember, we put off from Tower-Wharf. It being very calm, I thought we should be swifter than any Vessel, and should have the Advantage of them all; and therefore ran down as far as Gravesend, and I brought several Vessels by the Lee, in which Time I prefed some Bovin Men, two of them, and amongst the Men that knew the Vessels that lay in the River, having been on Board several, and we did board divers, and took out some Men, having a Prent-Warrant; and he that I had taken of the Bovin Men, after he had prefed several Vessels, seeing this Vessel falling, told me that was the Thomas and Elizabeth: Whereupon we made up to them, and waving towards them, they fled for us. When we came up, there was standing by the Masts two luyt Sailors, and I told him I would take but one of them: He said he had a Protection; I bid him flew it me. When I was come on Board, and had looked upon his Protection, I told him I must look a little further, and went down into the Cabin, and took up the Hatches, and there I found them all four lying together.

Mr. S. J. Thomason. What four?

Capt. Billop. My Lord Proffan. I did not know them, nor till afterwards.

Mr. Serj. Tremain. Who else was there?

Captain Billop. Mr. Elliot was there, and Mr. Athon, who were both my former Acquaintance; but my Lord Proffan I had forgotten, till one of them called him my Lord, and I asked them what Lord it was; and they said it was my Lord Proffan; so then I saluted my Lord: So we rowed up.

Mr. S. J. Thomason. Pray Captain tell us what happened in the Vessel before you went out of it, after you found them there.

Capt. Billop. I handled my Lord Proffan up fine; and after he came out of that little Place, which he was forced to creep out of on his Knees, I turned my Lord about, and told him I must search him. He said, he hoped I would not meddle with anything, I told him I would meddle with nothing but Papers; So I put my Hand in his Pocket, and took all the Papers I could find, and put them in my own Pocket; and taking out a Watch, I delivered it to my Lord again. The next was Mr. Elliot, and I searched him, and found nothing at all upon him. After that Athon came up, and one of my Men told me, that a Gentleman had put something in his Bofon: Whereupon I gave him a folded Turn, his Back being towards me, and asked him what was that he put in his Bofon? He told me nothing but his Handkerchief, and pulled out his Handkerchief out with that I clapped my Hand in, and got the Packet, and took it out, with the Lead fixed to it. I have the Lead now in my Pocket.

Mr. S. J. Tremain. Pray will you produce it, Sir. [Which he did.]

Capt. Billop. This is the Lead, several of my Men saw it when ‘twas fixed to the Packet.

Mr. S. J. Thomason. What did you do with the Packet?

Capt. Billop. I put it immediately into my Packet, as soon as I had search’d Mr. Athon further, and as I forced them to my Lord gentlemen all into my Boat, and took all the People that belonged to the Smack with me, after I had brought her to an Anchor, and left two of my Men on Board of her, and there she rid till next Day, when I sent two more of my Men to bring her up; and those two Men I ordered to search all the Parts of the Vessel, and take what they could find; and whatsoever they found, they should carry it to the Tower, to my Lord Lords; which I supposed, they did.

Mr. S. J. Tremain. Well, Capt. Billop, after that, or as you had taken those Papers, and brought those gentlemen into your Boat, pray what Discourse had you with them? What said they to you concerning the Papers?

Capt. Billop. It was a pretty while before we talked of any thing: The Beginning of our Talk was, I remember, they desired to go Afloat at Gravesend to refresh themselves, for it was cold, and they had not eaten any thing. It was my Lord
Lord that defied it; but I beg'd his Pardon for that, and told him there was a Man of War that lay at Long-Reach, where, as I believe, his Lordship would be very well accommodated with any thing he wanted.

Mr. Serj, Townsend. Well, what said they afterwards.

Capt. Billop, My Lord Prefont, after I had saluted him, upon knowing who he was, and Mr. Afovon and Mr. Elliot telling him I was of their Acquaintance, he said he was glad he was fallen into the Hands of a civil Gentleman, and they said they were glad they were fallen into the Hands of an Acquaintance. I told my Lord, I hoped he should never find any thing otherwise than civil from me. My Lord was very civil to me in complementing, and affring me he would acknowledge my Favour and Kindness to him.

Mr. Serj, Townsend. Ay, what did he say to you?

Capt. Billop, My Lord Prefont told me, if ever it lay in his Power to do me Service, he would, and he would take care he might; and he used many Words and Expressions of Kindness, and his Readiness to do me Service; and amongst the rest, my Lord said once to me, if I would dispose of the Packet.---

Mr. Serj, Townsend. Pray speak that again.

Capt. Billop, My Lord Prefont, in one of his Discourses of his Kindness in doing me Service, had this Expression, as near as I can remember, if I would dispose of the Packet?

Mr. Serj, Tremain. What would he do for you, if you would dispose of the Packet?

Capt. Billop. He did not come to any particular Influence of what he would do, but he said he would serve me in any thing that lay in his Power. Mr. Elliot and Mr. Afovon discoursed me several times about it: They counted me, and defined me to throw the Packet over Board; but I told them I would not do any thing of that kind: And Mr. Elliot, said, that I might take the Papers that I took out of my Lord Prefont's Packet, and tie the Lead to them, and say that was the Packet, and throw the other over Board. I told him, he took the King's Council to be odd People, and very indiscreet, that could not find out a better Thing than that. After this was over, we had a little Interval, and there was a Hamper in the Boat's Stern, and there was some Bottles of Wine taken out, and we drank several times; and by and by we had some Discourse a little further about the same thing, and they pressed me to throw the Packet away; and one time particularly Mr. Afovon, I remember, said, it would be a generous Thing. Billop, if you would go along with us, I think you make do as well there as here.

Mr. Serj, Tremain. Whither would he have had you gone with them?

Capt. Billop. He did not name any Place, as I remember.

Mr. Serj, Tremain. What Promises did they any of them make you?

Capt. Billop. Man Elliot all said, it was impossible the Current, or the Tide could run long this Way, or always this Way.

Mr. Serj, Townsend. When you had refused this to them in my Lord's Name, or the Packet, how did you continue your Discourse into Threatnings.

Capt. Billop. Elliot told me, when nothing would prevail, that every Dog had his Day; but I answered, I hoped never to see it your Day, but, however, said I, pray defile from any such Language, for I can't bear it. After that they never asked me any thing about it.

Mr. Serj, Townsend. Now tell us what you did with these Gentlemen, and these Papers, afterwards.

Capt. Billop. I brought these Gentlemen up to my Lord Nottingham's Office, and delivered the Packet with the Lead fixed to it, and it floated by my Lord Nottingham in the Room till he had opened the Papers, except while my Lord Prefont was examined; and when he opened the Papers I stood by, that I might take them up again; and I think I took some of them in my Hand, and he said I might read them; but I was uneasy, and not disposed at that time to read many of them; so I did not read them all.

Mr. Serj, Tremain. They were all by when Afovon said you would do generously to go along with them, were they not?

Capt. Billop. Yes, they were all in the Boat.

Mr. Serj, Tremain. Did not one of them say to you, I know if Captain Billop do serve us, he will do it generously?

Capt. Billop. Yes.

Mr. Serj, Tremain. Who was it?

Capt. Billop. It was Afovon. I desire I may ask Captain Billop a Question.

L. Prefont. I desire I may ask Captain Billop a Question.

L. C. J. Holt. Pray, my Lord, put your Question to the Court, and they will ask him it.

L. Prefont. I desire to know, my Lord, where it was this said to Captain Billop, that he would dispose of the Packet.

Capt. Billop. Just after I had first saluted your Lordship, you said you were glad you were fallen into the Hands of a civil Gentleman.

L. Prefont. Was it aboard the Boat that I desired your Confidences of the Packet?

Capt. Billop. Yes, and before we came on board the George Frigate, when we drank about, upon the opening of the Hamper, it was in the Boat I am very sure, and before we came on Board the George.

L. C. J. Holt. My Lord Prefont said to you, you say, he would do you all the Kindness that lie in his Power, if you would dispose of the Packet; how would you have him dispose of it? What did he mean by it?

Capt. Billop. I don't remember he used any other Word but that, dispose of the Packet.

Mr. Serj, Townsend. But Afovon and Elliot did defere of you a great many times to throw it over Board?

L. Prefont. I desire he may be asked this Question. You said you carried thee to my Lord Nottingham; Did you see them opened?

Capt. Billop. Yes, I did see them opened, and I saw my Lord as he opened them, lay them one by one, and read them over, and put them up again. And I looked upon several of them, while my Lord Nottingham was reading others;
and I stood by the Fire, and I see my Lord make them up, and he tied them with a Piece of Twine, and he clapp'd his Seal upon them, and delivered them to me; and I went immediately and delivered them to my Lord President.

Q. Proctor. Were you all the while by, while my Lord Nottingham was reading the Papers?

Capt. Billop. Yes, I was by when he opened them, and read them, and prepaid till he put them up again; and as they came from his Hands, I immediately carried them to my Lord President.

Q. Proctor. Are you sure, or can you swear that these are the same Papers which were taken on Board the Snack, that you carried from my Lord Nottingham to my Lord Denby?

Capt. Billop. So many of them as I looked into, I mark'd; and all that I mark'd I can swear to, and no more than them I cannot.

Mr. Serj. Thoscps. I think I lay all those Papers that you delivered to my Lord Nottingham, you saw my Lord Nottingham seal up, and all them you carried to my Lord President.

Capt. Billop. Yes, I did so; all that my Lord opened at that Time, were put together again, and his Seal put to them.

L. C. F. Holt. But my Lord asks you, whether you can forcar to the particular Papers?

Capt. Billop. What I read I mark'd; and them I can swear to.

L. C. F. Holt. You say you carried all those Papers to my Lord Nottingham sealed; after he had opened them, to my Lord President.

Capt. Billop. Yes, my Lord, I did see my Lord Nottingham open them: I saw him make them up again, and when they were made up, he put his Seal to them, and I carried them to my Lord President.

Serjeant. My Lord, I desire Captain Billop may be asked one Question.

L. C. F. Holt. Ay, what is it you would ask him?

Serjeant. I desire to know whether the Papers were sealed when he took them and brought them to my Lord Nottingham?

Capt. Billop. No, they were all tied together with a Tape, or a Twine, I think with both, very fast together.

Serjeant. There was no Seal on them when he took them.

Capt. Billop. No, but there were several Letters within the Packet that were sealed.

L. C. F. Holt. Was not the Outside of the Packet sealed?

Capt. Billop. I don't remember the Outside was sealed. There was a Cover, but as near as I remember, they were Folds of Paper fast tied together.

Mr. Serj. Thoscps. You delivered them as you took them, to my Lord Nottingham?

Capt. Billop. Yes, I never took them out of my Pocket, after I had taken them from Mr. Atkison, till I came to my Lord Nottingham's Office, where I delivered them to him.

Mr. Serj. Thoscps. Had you ever opened them, or seen them opened, before they came to the Hands of my Lord Nottingham?

Capt. Billop. No, indeed.

Mr. Serj. Thoscps. Then set up Jobhns. [Which was done.] I pray tell us what you know of this Matter.

Jobhns. I was in my Lord Denblain's Barge, and I went down with this Captain Billop, and we were on Board several Vessels; and we light upon a Ketch, where we prend some Men. We thought it had been only some Seamen that were to be prend; we did not know of any thing else. When we had rowed down as far as you have heard, we rowed up again, and fetched several little Vessels and Smacks that were in the River, when a Pilotman that we had prend'd, said, that that was the Vessel the Captain enquired after: And then the Captain bid us take some small Arms, and I took a Pistol and went on Board. The Captain read the Protection, and then said, he must look further. When the Captain look'd into one of the Cabins, and took up the Hatches, I saw a great Piece of Roast-Beef, and my Lord Proctor by it, and a Mince-Pie, and a Bowl, and we took the Beef out; but my Lord's Man said, he miffed his Knife, it lay upon the Bench: And then came my Lord up, and his Man, and Mr. Elliott's, and when Mr. Atkison (the Man with the Pock-holes) came up, he went down again, and pretended to look for his Hat; but when he was down I see him cram something into his Boast, and I told the Captain, I had seen him put something into his Boast; and the Captain took him hold by the Buttons of his Coat, and turned him about, and asked him what he put into his Boast? He said, Nothing but his Handkerchief; and pulling it out of his Boast, he threw it to the Captain; but the Captain put his Hand into Mr. Atkison's Boast, and pulled out the Packet.

Mr. Serj. Thoscps. You say, you see him put something in his Boast when he went down. Did you observe whence he took it?

Jobhns. It was upon the Gravel, and there were a Couple of Seals, which he afterwards took up lying by; and I believe he took up the Packet and forgot the Seals.

Mr. Serj. Thoscps. Pray let us see the Seals.

Mr. Sell. Gen. Your Lordship objects, the Packet was not at first in Mr. Atkison's Boast.

L. C. F. Holt. No, it was.

Mr. Sell. Gen. But he took it up from the Place where the Seals lay, and put it into his Boast. Pray in what Place did this Packet and these Seals lie?

Jobhns. Upon the Ballast, for they had showed away the Board.

Mr. Sell. Gen. Was my Lord Proctor upon the Ballast?

Jobhns. Yes, my Lord lay almost upon his Back; he was the first that we saw, and he came out first. They were all four lying together there.

Mr. Sell. Gen. Who lay next my Lord Proctor?

Jobhns. My Lord's Footman; Mr. Atkison lay next, and Mr. Elliott lay next.

Mr. Sell. Gen. Where were the Seals then?

Jobhns. My Lord was the first that I come up.

Mr. Sell. Gen. But I ask you where the Seals were?

Jobhns. The Seals were down upon the Ballast, whether they were my Lord's or no, I cannot tell, or whether they were.

Mr. Serj. Thoscps. Now that we will ask Captain Billop. Are these the Seals?

Capt. Billop. Yes, these are the Seals this Man gave me.

Jobhns. I took them from off the Ballast.
Mr. Serj. Thornton. Did my Lord own those to be his Seals?

Capt. Billing. I did not ask him, that I know of.

Mr. Serj. Thornton. Well, Billing, go on, tell what you know further.

Jemison. After we came to Long-Reach, a Gentleman that had a long Perriwig, a black Gentleman, Mr. Elliot, I think they call him, had a pair of Whiftlers on when he was taken, and he took a Pair of Scissors and cut them both off; and he said, if ever he lived, he should remember me, having a Tooth out, because I was so sharp upon him to make him come out: And when we came on board the Gorge Frigate, in Long-Reach, my Lord's Man came to me, and said, he would give me something to drink, if I would deliver him the Seals.

L. C. J. Holt. Had you any Discourse with my Lord Prefront himself about them?

Jemison. No, it was his Footman that came to me, and said there was no body there but myself and him: I had them, and he would give me something to drink, if I would deliver them; but I delivered them to Captain Billing.

L. Prefront. My Lord, may I ask a Question or two of this Witness?

L. C. J. Holt. Yes, my Lord, if they have done with him. What say you, Brother Thompson?

Mr. Serj. Thompson. We shall have done with him presently, my Lord. Pray had you any Money given you?

Jemison. No, but my Lord gave the Ship's Company ten Shillings to drink, and one Piece was a Half-Crown.

Mr. Serj. Thompson. What did they say as they went along, as you remember?

Jemison. They had a great Deal of Discourse while we rowed. I was at the next Oar to them, but I cannot tell what was.

Mr. Serj. Thompson. Who did discourse?

Jemison. Elliot, Afton, Elliot, and the Captain.

Mr. Serj. Thompson. Cannot you remember what they said, any of them?

Jemison. They did talk together several times; Elliot said he was a cold, and came and rowed at the Oar a while; and Elliot swore an Oath; says he, they row all as if they were rowing to Prison; but truly I did not much mind their Discourse, I minded my rowing. There were some Vidals handed to us, which we did eat.

Mr. Serj. Tremain. Did Elliot seem to be angry? What did he say?

Jemison. Elliot wished that a Thunderbolt might drop into the Boat several times, and fink it; and when we went through Bridge against Tide, he wished that Landaus Bridge might have fallen upon our Heads.

L. Prefront. Now I would ask him, if your Lordship please, Did you see Afton take up the Packet?

Jemison. Yes, I did, as it lay by the Seal.

L. Prefront. I perceive there seems to be some Stress laid upon my lying next to Mr. Afton, and Seals lying by the Packet.

L. C. J. Holt. My Lord, there has been no Inference made from that yet by the King's Council.

L. Prefront. My Lord, it is in vain to deny we were all together there.

Jemison. You were the first that I see, my Lord.

L. Prefront. We were all together; but there is no such Thing to be gathered from thence as they would intimate; but I suppose 'twould be deduced from hence, as if this Packet, because it lay near these Seals, should be my Packet.

L. C. J. Holt. We have not heard, my Lord, what Use they will make of it.

L. Prefront. But I desire to take Notice of it, my Lord, and I think it is a very hard Premption, because we were in one Place, and the Seals at a little Distance from the Packet, therefore the Packet must be presumed to be mine; I hope it shall not be presumed against me.

L. C. J. Holt. Since your Lordship mentions it, I will take Notice a little of it too. It is only a circumstantial Evidence that is made use of against you; how far it will weigh, is to be left to the Jury, when all the Evidence is heard. The Packet is found in the Place where your Lordship lay, and by it Seals that belong to you; one is the Seal of your Office, as Secretary of State, the other is your own proper Coat of Arms.

Juryman. With Submission, my Lord, I declare this Witness may be affed this Question, whether he saw Captain Billing take the Packet out of Afton's Bosom?

Jemison. Yes, I did.

Juryman. And whether he saw Billing deliver the same Packet to my Lord Nottingham?

Jemison. No, I did not.

L. C. J. Holt. You Gentlemen of the Jury, confess this; he was not then by. Captain Billing tells you, that very Packet which he took out of Afton's Bosom he carried to my Lord Nottingham; and he tells you, my Lord opened it in his Presence, and he is sure he put all the Papers together again, and set his own Seal upon them, and then he took them from my Lord Nottingham, and carried them to my Lord Prel dent.

Jemison. As soon as I came to Whitehall, I was set Centinel over thse three Men that came out of the Smack, and was not admitted into the Room.

Mr. Sol. Gen. Then we must direct, my Lord Nottingham may be sworn.

[The Earl of Nottingham sworn.]

Mr. Serj. Tremain. Where are the Papers?

Earl of Nottingham. Mr. Bridgemon, I think you have the Papers.

Mr. Sol. Gen. Pray, my Lord, does your Lordship remember Captain Billing brought a Bundle of Papers to you, and what became of them? Will your Lordship be pleased to give the Court and the Jury an Account of it?

Earl of Nottingham. My Lord, all that I have to say in this Matter is, Captain Billing brought to me a Bundle of Papers tied about with a Packthread, to which was fixed a Piece of Lead, I believe the same Piece that was now produced; at least it was one very like it: He brought also a Signet, which I presume I can know again when I see it.

Mr. Serj. Thompson. Pray shew my Lord the Seals.

[Which was done.]

Earl of Nottingham. This is the Signet I presume which he brought to me; I am sure he brought just such a one, if not the same. Those Papers, when he delivered them to me, I opened in his Presence, and when I had done, I read them, and put them up together again, and failed them with my own Seal, and delivered them to him.
him back again. What the Papers are, and what he did with them, I suppose he will give you an Account.

L. C. J. Hol. But your Lordship says, the Bundle of Papers he delivered to you, you sealed up, and delivered to him again.

Earl of Nottingham. All those Papers that he brought to me I did seal up, and deliver back to him again.

Mr. Serje. Thos. Farby. Pray, my Lord, were they ever out of Captain Billop's Sight while your Lordship had them?

Earl of Nottingham. Not after they were opened. There was a little Paper that was tied to the Bundle, which fell loose upon the taking away the Lead, and I opened that while he was by, and the Bundle lay upon the Table while I examined my Lord Prefessor; and after my Lord Prefessor was gone out, I called in Captain Billop (who went out while I examined my Lord) and I opened that great Packet in his Sight, and read the Papers, and he read some of them; and all the Papers in the great Packet, and the little Paper that was flush in, I delivered, sealed up, to Captain Billop.

Mr. Serje. Thos. Farby. Pray, my Lord, were the Lettars in the Packet sealed?

Earl of Nottingham. Yes, there were some of them sealed; and all that I received from him I delivered to him, and no more.


Earl of Nottingham. The very same, all, and no more, I say.

Mr. Serje. Thos. Farby. Captain Billop, when you had them back from my Lord of Nottingham, pray to whom did you deliver them?

Capt. Billop. To my Lord President.

Mr. Serje. Thos. Farby. Then we must direct my Lord President be pleased to be sworn.

[The Marquess of Carrrharragh, Lord President of the Council, was sworn.]

Mr. Sol. Gen. We must direct the Favour of your Lordship to acquaint the Court when Captain Billop came to your Lordship, what he said, and what he brought with him.

Lord President. Captain Billop did bring me a Bundle of Papers, and he told me he brought them from my Lord of Nottingham, and they were seal'd, wrapped up in a Broadcloth, and seal'd with a Seal, which I know to be my Lord's Seal. He delivered them to me myself; and these Papers I kept till I issu'd them the King the next Morning. And after I had issu'd them the King, the King delivered them up back to me, having read some of them, and commanded they should be delivered to the Cabinet-Council. A Cabinet-Council was called, and accordingly there I did deliver them, Paper by Paper, and they were all marked by my Lord Sidney, and some I think by my Lord Marlborough; and so I delivered them all together to my Lord Sidney.

Mr. Sol. Gen. Then we must direct my Lord Sidney would please to be sworn.

[The Lord Sidney was sworn.]

Mr. Serje. Thos. Farby. Will your Lordship please to acquaint the Court and the Jury, what Papers were delivered to you, and by whom, and where these Papers are?

L. Sidney. The Papers that were delivered by my Lord President, I have kept them, my Lord, ever since. As soon as I had them, I read them, and mark'd them with a Letter of my own Name, the Letter H. I have kept them ever since; only one Morning I gave them to Mr. Bridge'man to be copied out as soon as he could, and he delivered them me back again, and they have not been out of my Custody since; only the Night before last Night they were sent to Mr. Solicitor to read, and brought immediately to me again.

Mr. Sol. Gen. To whom did your Lordship deliver them to be copied?

L. Sidney. To Mr. Bridge'man, I tell you.

Mr. Sol. Gen. So that they were never out of your Lordship's Hands till now, but only in Mr. Bridge'man's Hands?

L. Sidney. No, I kept them in my Pocket ever since, only the Night before last, when they were sent to you.

Mr. Sol. Gen. Did your Lordship mark them before they were delivered to Mr. Bridge'man to copy?

L. Sidney. Yes, I marked them when I received them.

L. Prefessor. My Lord Chief Justice, your Lordship does observe that Captain Billop swears that there were never out of his Possession till he delivered them to my Lord Nottingham; my Lord Nottingham says he never opened them, but left the Packet upon the Table while I was examining.

L. C. J. Hol. Pray, my Lord, will you speak a little louder, that I may hear you?

L. Prefessor. My Lord, I am saying, my Lord Nottingham says, that while he was examining me, the Packet lay upon the Table unopened, and were never out of his Eye till he sent them sealed by Captain Billop, and so they came to my Lord President, and they were kept by my Lord President; my Lord Prefessor says, my Lord Churchill saw the Papers, and they were in his Possession.

L. C. J. Hol. My Lord Prefessor, your Lordship does mistake my Lord President; He does not say that they were in my Lord Marlborough's Hands; but he did communicate them at the Cabinet-Council, where my Lord Marlborough was. He said, indeed, they were in the King's Hands, but he was by all the while.

L. Prefessor. From that Time they came out of my Lord President's Hands, I know not what may have taken out. These Papers were not sealed, as I hear of, afterwards; and passing through so many Hands, no body knows what may be done to them, Truly, I think it very hard to swear, after all this, that these are the Papers that were on Board the Smack.

L. C. J. Pellose. Will you please to ask any Questions to satisfy your self of any of these noble Lords?

L. C. J. Hol. My Lord, I'll put your Lordship right.

L. Prefessor. With all my Heart, my Lord.

L. C. J. Hol. Your Lordship hears what Captain Billop says. He says, he brought them as he took them out of Atker's Bofon, to my Lord Nottingham: My Lord Nottingham opened them before him, and did deliver them to him again, having made them up: My Lord Nottingham, the same Papers Captain Billop delivered him, he delivered back again, all, and no more; and Billop says, he carried them to my Lord President; my Lord President swears they were in the King, and afterwards carried them...
to the Cabinet-Council; there the same Papers were opened, and there they were marked, some by my Lord Marlborough, and all by my Lord Sidney.

Mr. Briggs: Your Lordship will please to observe this: My Lord Nottingham was pleased to say, he opened no Papers till I was called in and examined, and then Captain Billop withdrew. Now, my Lord, I don’t know whether the Captain can say that there were the very same Papers that he took in the Smack.

L. C. J. Holt. Captain Billop says, that he saw the Papers opened by my Lord Nottingham.

Capt. Billop. My Lord Briggs observes a thing that is very right, my Lord, that after I had delivered the Packet to my Lord Nottingham, while my Lord was examined, I withdrew; but my Lord Nottingham has given your Lordship an Account, that he had not opened the Packet then, but only the small Letter or Note that lay apart from the Roll. But, my Lord, the Packet was in the same Condition when I came in again, upon the Table, as when I left it: My Lord Nottingham, as I believe, had not opened that Packet; for I found it just as I left it, upon the Table.

L. C. J. Pellew. My Lord Nottingham says, he delivered back to Captain Billop all the Papers that he received from him: They were never out of my Lord Nottingham’s Presence; nor were they opened, as my Lord says, but in Billop’s Presence, nor opened till after my Lord’s Examination, except the little Paper that was flitting in, and was loosed upon taking away the Lead.

Mr. Sell, Geo. Pray swear Mr. Briggs. [Which was done.]

Mr. Serj. Thompson. Pray, when you received the Bundle of Papers from my Lord Sidney, to whom were they carried, and to whom were they delivered?

Mr. Briggs. My Lord Sidney gave me the Papers to have them copied, and I copied some of them with my own Hand, the others I delivered to Mr. Paulson, and were copied in my Presence in the Office: They were never out of my Sight; and as soon as they were copied, I carried them back to my Lord Sidney, and delivered them to him myself.

L. Pellew. Were any of them taken from you, Sir?

Mr. Briggs. My Lord, I say I copied some of them myself, the others were copied in my Sight and Presence, in the Office.

Mr. Serj. Thompson. Pray, Sir, let me ask you one Question; Were the same Papers that were delivered to you by my Lord Sidney, re-delivered back again and unaltered?

Mr. Briggs. I am very fine I gave them all, the same back again, because I read them every one before they were copied.

Mr. Serj. Thompson. Did you observe my Lord Sidney had marked them before you had them?

Mr. Briggs. Yes, they were all marked before I had them.

L. Pellew. My Lord, I desire to ask Mr. Briggs this Question: Pray, Sir, were they sealed up when you fetched them to my Lord Sidney?

Mr. Briggs. No, they were not sealed, they were tied up; but about the Seals I remember when I was in my Lord Sidney’s Office—

L. C. J. Holt. The Question is asked you, whether you carried them back sealed or no?
Capt. Billop. No, I did not. L.C.J. Holt. But he swears all that he brought to my Lord Nottingham were sealed up by my Lord Nottingham, and carried by him from my Lord Nottingham to my Lord President; and my Lord President swears he delivered them all to my Lord Sidney; and my Lord Sidney swears this is one of those Papers.

L.C.J. Holt. My Lord, he does not swear that this was one of the Papers; but the Question is, Whether all thee Witnelks together do not prove it? You see how the Evidence runs: All the Papers taken were delivered to my Lord Nottingham; all that were delivered to him were sent back by him to me, and delivered to my Lord President; my Lord President brought them all to the Cabinet-Council, and delivered them to my Lord Sidney, and this my Lord Sidney says is one of those Papers.

L. Preffou. My Lord, I have a very great Honour for that noble Lord, and I am sure, if he had not been upon his Oath, he would have said that which was Truth; but in this Condition that I am in, I must crave Leave to observe every thing that I can for my feel; and I cannot but say these Papers are very oddily managed, and delivered up and down from one Hand to another; I declare your Lordship would please to observe, that these Papers are here brought after a very odd manner.

Mr. Serj. Thoaftern. My Lord, you are not to fum up the Evidence to the Jury till we have done, nor to make your Observations.

L.C.J. Holt. Brother, my Lord opposes the reading of the Paper, as not well proved.

L. Preffou. My Lord, I do fo, my Lord, and I hope your Lordship will advise me whether you do think it a sufficient Evidence and Proof of these Papers. They are Papers that have been copied out, and sent from one to another, and which now appear to be unsealed, and some of which he that took them cannot swear to.

Juryman. My Lord, we cannot hear one Word that is said.

L. Preffou. That is my Misfortune; but I am urging to my Lord the Judges, whether this Paper ought to be read; and I desire your Lordship to advise me, whether it can be admitted as Evidence, being thus oddly proved.

L.C.J. Holt. Is it Evidence fully, my Lord; but the Question is, what Credit the Jury will give to this Evidence; the Jury are Judges of that: But certainly it is Evidence to have the Paper read.

L. Preffou. I doubt not but your Lordship will do me Justice, and I readily acquiesce in what your Lordships do appoint.

L.C.J. Pollesfen. Pray, my Lord, see how the Evidence stands about this Matter. First, it is sworn by Billop, that he took a Bundle of Papers, though 'tis true, the Particulars he does not undertoake to swear. Well, what is next? Why, says he, all that was in that Bundle I carried to my Lord Nottingham, and I received from my Lord Nottingham all that I carried to him. What says my Lord Nottingham? He swears he delivered back again to Captain Billop the same Papers he delivered to me, and all, and no more, sealed up with my Seal. When he has it sealed up, what does he do with it? why, he carries it to my Lord President. Is there any Possibility of creeping out of this Evidence? Well, he delivers them to my Lord Sidney, and my Lord Sidney says this is one of those Papers. Can there be a plainer Evidence than this? when he says, all he had he carried to my Lord Nottingham, and my Lord Nottingham swears, all he did receive he sent back, sealed by him, to my Lord President; and my Lord President swears, all he received, he sealed, he gave to my Lord Sidney; and my Lord Sidney swears this is one of those Papers.

L. Preffou. But your Lordship will pleaze to observe they were carried to the King, and they were in the Hands of my Lord Maserborough.

L.C.J. Holt. No, my Lord, not out of the Sight of my Lord President. My Lord President says my Lord Maserborough marked some of them, but they were delivered to my Lord Sidney; and my Lord Sidney does say they are the same Papers that he hath from my Lord President; and my Lord President says, they are the same that were brought him by Captain Billop from my Lord Nottingham; and my Lord Nottingham swears he sealed them, the same Papers, all, and no more than he received from Captain Billop.

L. C. Baron. Your Lordship should observe where the Defect of the Proof is, and then it may be supplied; for truly, put it all together, I cannot see how there could be a plainer Proof given.

L. Preffou. My Lord, I desire to be heard as to this: My Lord President was pleased to say, that some of them were delivered to the King.

L.C.J. Holt. No, they were not shown to the King, but my Lord President was by all the while that the King did read them.

L. Preffou. My Lord, where a Man's Life lies at Stake, and all that is dear to him, your Lordship will certainly allow him to make what Observations he can for his Defence.

L.C.J. Holt. Ay, in God's Name, by all Means: You shall have all the Liberty you can defere.

Mr. Sell. Gen. My Lord, we desire my Lord President will be pleased to look upon those Papers. [Which were done.]

L. President. This is one of the Papers that I received from Captain Billop, and I showed it to the King, and which I brought to the Cabinet-Council; and this is another of the Papers.

L. Preffou. Pray, my Lord, was your Lordship by whom his Majesty read those Letters? L. President. Yes, my Lord, I was.

L. Preffou. My Lord, I ask it for this End, to know whether they were out of your Lordship's Sight.

L. President. No, never; I was in the King's Cabinet; his Majesty read some of them, and then put them up again, and gave them me, and I delivered them at the Cabinet-Council to my Lord Sidney.

Mr. Sell. Gen. My Lord, we desire this Paper may be read.


K k 2
The Relief of a Conference between some Lords and Gentlemen, both Tories and Whigs, in which it was undertaken to prove the Possibility and Method of restoring by a Fr. Power, without endangering the Protestant Religion, and Civil Administration, according to the Laws of this Kingdom.

1. F. Must either oblige or conquer us: If the last, he will find few Helps here; but a bloodier Reaffirmance than ever the Reasons, Senses, or Normands found: It being incredible how unanimous and obstinate that very Thought renders the People; so that it may make us a Heap of Ruin, but no Nation that can ever help or import any thing to F.  

2. If K. L. desires to oblige us, and make the Work easy, that he may be at Leisure to ply the Empire or Italy, or to have an advantageous Peace, he must take off the frightful Character we have of him, and show us he has no itch of designs as returning our offended K. a Conqueror upon us, but that he can, and will be our Friend and Mediator; upon which Terms he will find that many Lords and Gentlemen will specifically throw themselves to his Satisfaction; especially if he makes Halifax, and looses no approaching Opportunity.

3. If he incline to this sort of Sentiment, he must overrule the Bigotry of St. G. and dilute their Minds to think of those Methods that are more likely to gain the Nation; for there is one fillly Thing or other daily done there, that comes to our Notice here, which prolongs what they do passionately define. The Methods thought upon are these:

First, To prevent dangerous and foolish In-telligences, by forbidden all in that Court to write any News hither, and that K. j. only have his Correspondence by whom to hear from, and speak to People here; since Letters oft often miscarry, and are filled with nothing but what we should not hear; and what we have are Arguments for the most Part against the K.'s Re-floration.

Secondly, Since there is a great Body of Pro-tentants that never defeated, and that many Thousands are returning, and that they are the natural Weight and Power of this Kingdom; or by having the Heads, Hands, and Wealth of their Side, to the Odds and Advantage of at least two hundred Protentants to one Catholic; or the K. may think of nothing short of a Pro-ponent Administration, nor of nothing more for the Catholics than a legal Liberty of Consci-ence; for much e must is against all other Ne-cessions, to which all private Passions, and artifi-cial Frames in Government, must yield or break. He may reign a Catholic in Devon, but he must reign a Protestant in Government. Cromwell could not, yet on a broader Bottom, with a victorious Army, fobbit or keep what he had got.

Thirdly, He must give us a Model of this at St. G. by preferring the Protentants that are with him above the Catholic; one being Loy-al upon Left Ties of Interest; and to tell the Nation here what they are to hope for when he comes.

Fourthly, He must give Encouragement to Lords and Gentlemen here to come to him, at least Seven or Nine for a Standing Council, which will make us here think he is in some Degree ours again; and that we have a Relation to him, and some Interest and Share in him, and the Men of Quality of our own Religion that are with him. This will incomparably facil-itate the Matter here, nor will they, when they come, come empty, and in their own Names, which is still better, and will be more satisfac-ry there.

Fifthly, To induce this, English Protentants should be encourag'd by an Edict of Liberty from the K. of F. to have Chapels at their own Costs, in which to worship God after their re-spective Ways; by which that K. will make us reflect upon his Conduct towards his Hugonots, rather to flow from the Hazard he thought himself in by their Antimon. and refilling Prin-ciples, than a Defile of Persecution.

Lastly, All other requisite Measures depend-ing upon the Acceptance this finds, an Anijner hereunto is impatiently defrayed by those that have dilucored the King's Business to this Ma-terial. So ended with an unanimous Consent, both Tories and Whigs upon this Occasion, that are in a Way of closing in his Interest.

L. P. Ifon. I can very freely swear, my Lord, that I never flie that Paper in my Life.

L. C. J. HU. Come go on with your Ev-idence.

Mr. Soll. Gen. This is another Paper of the same, but the Words that are written short in that, are written at Length in this.

[The Paper was read accordingly, and in the fift Blank there was writen K. J. in the fiftt Paringraph (France) twize, in the third Paragraph (St. Germain) in the fiftt (Mathemat. for Much e must) the ref are obvious, and not be jopoped.]

Mr. Soll. Gen. Pray fiew my Lord Sidney that Paper. What says your Lordship to it?

L. Sidney. This is one of the Papers that I marked, and that I received from my Lord Pro-fident.

Mr. Soll. Gen. Pray will my Lord President be pleased to give himself the Trouble to cast his Eye upon that, and see if that be one of the Papers.

L. President. My Lord, I remember it well, it is one of the Papers I received from Capt. Billop.

Mr. Serj. Trenan. This Paper is what Mr. Sol-licitor mention'd as Heads of a Declaration.

L. P. Ifon. My Lord, I think it necessary to offer one Thing to your Lordships before it be read. I defile Captam Billop should swear it to be one of his Papers.

Mr. Soll. Gen. If your Lordship pleases, you ob-serve what has been done already. My Lord Pro-fident says 'tis one of those Papers that was sent him by my Lord Nottingham; and my Lord Sidney has sworn it is one of the Papers he had from my Lord President.

L. P. Ifon. I shall not give your Lordship any more trouble than it is; only offer it to your Lordhip; I wave it.

L. C. J. HU. There is Evidence enough to have the Paper read.

Clerk of the Peace reads.

"That the King will return with a Delign of making an entire Conquest of his People, is to
1690. O. B. J. Alton and Edmund Elliott, for High Treason. 441

"as ridiculous as well as difficult, that it needs
"not be spoken to.
"That the King's Declaration be worded in
"general Terms, That he will govern by the
"Laws; that they shall be the Rule of his Admi-
"rals, that he will endeavour to fettle Liberty
"of Confiance by Law; that whatsoever things
"were formerly done by him, which occasioned
"Jealousies in the Minds of his People, shall be
"left to the Determination of a Parliament, to
"be formally and regularly called as soon as is
"possible.
"That he has given sufficient Evidence of his
"Unwillingness to bring an Army of Strangers
"into his Kingdom, by refuting the Successes of
"the King of France offered him, and which
"were even ready to be embarked upon the first
"Notice of the P. of Orange's intended Invasion.
"That he brings with him such an Army only
"as is necessary for his own Defence, and for the
"Security of such of his loyal Subjects as shall
"return to him; that he will divide them as soon
"as they shall be rid of the Nation of those Foreign-
"ers who have invaded it, and trampled upon the
"Laws and Liberties of his People.
"The King's large excercising his Dispens-ning
"Power gave the great Alarm to the People,
"and contributed most of all toward the general
"Defection. Yet when that Power came to be
"debated in the late Convention, there appeared
"so many Difficulties in the limiting of it (every
"body, even the present Judges believing it ne-
"cessary, that a dispensing Power should be in
"the K.) that it was let fall, and that Point re-
mains as it was. And without mentioning
"that, or any other Particular, the K. can be in
"no Danger by leaving all things which have
"been the Occasion of Jealousies, to the Deter-
nination of Parliament, where, besides the
"King's professed Friends and Servants, there will
"not want others who will be glad of Opportu-
nity to ingratitate themselves.

L. C. J. Pellisson. Ay, in any Point; and if
they desire any Scruple should be cleared, the
Court will do it for them.

L. Jermyn. No, my Lord, there is no Occasion
for that. I believe we apprehend these three
Papers that have been read.

L. Preffen. My Lord, it is necessary the Gen-
temen of the Jury should be satisfied in this
Point.

L. C. J. Pellisson. Ay, in any Point; and if
they desire any Scruple should be cleared, the
Court will do it for them.

L. Jermyn. No, my Lord, I desire to know whether
Captain Billop signed that Paper or no.

L. C. J. Holt. No, he did not sign half of
them, but unless it be proved, you ought to take
it for granted that it is not signed by him.

L. Preffen. My Lord, I think it fit the Jury
should be satisfied in any Scruple they raise.

L. C. J. Holt. The answer to this Question, Wheth-
er Captain Billop did sign the Paper? And I
saw him signed Captain Billop did not say so; and
therefore they are to take it for granted, that he
did not.

L. Jermyn. My Lord, we take this last Paper that
was read, to be a Paper that was delivered in the
Bundle taken from Mr. Alston to my Lord Not-
tingham, but not signed by Captain Billop.

L. C. J. Pellisson. Then you take it right.

Mr. Sol. Gen. Then the next Paper that we pro-
duce is a List of the English Fleet, that these Gen-
tlemen were carrying over into France.

L. Preffen. That is printed, and to be found in
every Coffee-houle.

Mr. Serj. Treumnain. Shew that Paper to Captain
Billop. [Which was done.] Can you take it up,
on your Oath, Captain, that that Paper was in the
Packet that was taken in Mr. Alston's Boleyn?

Capt. Billop. That Paper I have marked, and
that Paper I swear was in the Packet I took away
from Mr. Alston on board the Smack.

L. C. J. Holt. You are sure of it.

Capt. Billop. Yes, my Lord.

L. C. J. Holt. Then read it.

Clerk of the Peace reads:

S H I P S.


1 8 5 3

2 11 11 1

3 35 34 1

4 53 49 4

5 14 12 8

6 9 9 1

Fire ships 25 25 8

Bomb-Vessels 1 1 8

Ketches 1 1 1

143 134 21

Brought in by Admiral Radiz in the House of
Gammes, December the 24th, 90. the Fleet,
about 60 Dutch.

Memorandum. The new Ships building, are ex-
pected will be ready to be launched by the End
of March.

Mr. Serj. Treumnain. Pray shew this Paper to Cap-
tain Billop. [Which was done.] Pray, was that
Paper there among the others that were taken with
the Gentleman?

Capt. Billop. Yes, it was.

Mr. Sol. Gen. Can you take it upon your Oath,
that that Paper was in the Packet that was in Mr.
Alston's Boleyn?

Capt. Billop. Yes, my Lord, I can.

Mr. Serj. Treumnain. Pray shew him that Paper
too. [Which was done.] Can you take upon you to
say, that that was one of the Papers in the
Packet?

Capt. Billop. Yes, it was.

Mr. Sol. Gen. My Lord, we desire these may be
read.

Clerk of the Peace reads. New-Year's Eve, and it
is directed for Mr. Rodding.

S I R,

THOUGH the Bearer of this shall do us
the Justice to assure you, we are as full of
Duty, as unreservedly and unconcernedly yours,
as yourselves could with; yet this Gentleman
has undertaken. — You will forgive the Pro-
sumption, if I do myself the Honour to give
you this fresh Affirmance in a few Words, which
I hope we do by our Accounts. I shall omit no
Occasions, not neglecting the least, and making
zealous Witnes for the greatest, to shew our
selves such as we ought to be.
"Sir, I speak in the Plural, because I write "my elder Brother's Sentiments as well as my "own, and the rest of the Family, though def "faced in Number; yet if we are not mightily "out in our Accounts, we are growing in our "Interest, that is in yours. He that delivers "this, will, I hope, entirely to your Satisfaction," represent us, and me in particular, as with all "the Devotion imaginable, and unchangeable "Affection.

Yours, God grant the happiest New-Year.

Mr. Ser. Temmin. Read the other Paper. Clerk of the Peace. This is dated December 31, 1690. "I must not let this Bearer depart, Ma "dam, without affording you:-----

Mr. Sol. Gen. Hold, Sir, don't read that yet. Here, shew this Paper to Captain Billop. [Which was done.] What say you, Captain Billop? Is that "one of the Papers taken from Mr. Attoon?" "Cpt. Billop. Yes, this is one that I read, and marked.

Mr. Sol. Gen. Then read it. Clerk of the Peace reads. This is directed for Mrs. Rooke.

"As 'tis impossible for me to express that "extraordinary great Satisfaction it gave "me this Time Twelve-month, when I had the "Honour to receive that Mark of your Favour "and Goodness under your own Hand; so I "have lived in some Pain for an Opportunity to "write you my humblest Acknowledgements and "truest Duty, from which, by the Grace of "God, I am no more capable of forbearing, than "of renouncing my Hopes of Heaven: I say, "this in behalf of my elder Brother, and the "rest of our nearest Relations, as well as for "myself. You may entirely depend upon us, "not only for a constant Adherence to so well "chosen a Principle, but for our utmost Activity "to promote your Interest, which are insepara "ble from our own. I need come to no par "ticulars by this Bearer, who can, and will tell, "our whole Heart; and I wish you could fee "them, how sincerely they are devoted to your "Service. God grant you a most happy New "Year, and many, very many, and very happy. "Our young Matter hath all our best Wishes; "he daily gains more Friends, and we get Ground "of his Adversaries. New-Years Esc.

Mr. Sol. Gen. Now read your other Paper of the 31st of December, 1690. Clerk of the Peace reads, December 31, 1690:

"I must not let this Bearer depart, Madam, "without affording you of my best Respect. "I have written by him to a Friend of yours, "but depend upon it to give my Note Credit. "Though my Creditors were no Friends to "the Match which has been so long in Treaty; "for your Relations have been very hard upon "me this last Summer; yet as soon as I could go "safely Abroad, I purifyied the Bussines, and do "beg you to believe, that no Endavours of mine "shall be wanting to perfect the Settlement. "You once put me in Hopes of seeing you be "fore this Christmas: Your Friends are sorry for "the Disappointment, may lose no more Time "than is of absolute Necessity. The Bearer will "tell all Things may be now easily settled, "if the right Way be taken. I long to hear "how your young Daughter does; she will find "many Friends, and I hope her Portion will be "well secured, God send you a happy New "Year, and that I may be merry with you before "it be far spent; and I beseech you keep me in "the good Opinion of your Friend. I will al "ways make good what I promised to you. [It "is directed for Mrs. Clarorton]."

"Juryman. My Lord, I desire to know who that "is directed to.

Clerk of the Peace. 'Tis directed to Mrs. Clarorton. Mr. Ser. Temmin. Shew Captain Billop those two Papers. [Which was done.] What say you to them, Captain? "Cpt. Billop. My Mark is on the Outside, but there is nothing written in that, I believe it is ta "ken off from the inner Paper.

L. Proffan. Pray my Lord is this any Proof? I beseech you for God's Sake to have Regard to "a Man's Life.

Mr. Sol. Gen. Pray shew the Paper to my Lord "Sidney. [Which was done.] L. Sidney. This was one of the Papers I re "ceived from my Lord President.

Mr. Ser. Gen. Then we must beg my Lord Pre "sident would be pleased to look on it. [Which was done.]

L. President. This was one of the Papers brought "me by Captain Billop from my Lord Nottingham, "in that Bundle.

L. Proffan. Captain Billop does not know the Paper, though his Mark be to it.

L. C. J. Pollertsen. It is not indeed very material "whether he does or no, because he did not read "all; but I would observe, that 'tis sworn by Lord "Sidney, that this was delivered to him by my Lord "President, and sworn by my Lord President, that "he had it in that Bundle from Captain Billop.

L. Proffan. But, my Lord, it does flow that there "may be some Alteration in the Papers; be "cause he having marked it, and marking none but what he read, he does not now own that to be "the Paper.

Mr. Sol. Gen. Pray, will your Lordship be pleas "ed to take it as it is. These are two Papers; the "one is only the Cover, the other is the Writing: "Captain Billop has only marked the Cover, and "not the Writing; but my Lord Sidney he has mar "kcd the Paper itself, as delivered him by my Lord "President, and my Lord President has given you an "Account, that it is one of the Papers he received "in that Bundle from Captain Billop.

L. Proffan. I only mark, that there may be Al "terations made in these Papers since they were ta "ken.

Mr. Ser. Temmin. Pray read it. Clerk of the Peace reads, December 31, 1690. It is directed to Mr. Jackson.

"The Bearer can give you so full an Account "of all things relating to your Estate here, "that I need not have troubling you at this Time, "but that I am defersous to lay hold of any Op "portunity I think safe to allure you of my Ser "vice, and that I will never quit your Interest. "whatever the rest of the Freeholders do. Your "Adversary has been so hard to his Neighbours, "that he has extremely disobliged all the old "Tenants, and a little Matter would redeem the "whole Estate, if you would appear in Wiltshin-
for High Treason. 443

"... for Had your self, the best Council have a good
... Opinion of your Title, and will zealously pur
... sue your Infringments: I only beg you would
... suffer them to be, and that you will appear your
... efts from any posture: No Time should be lost,
... and the Cause may be brought to a final Hearing
... before the End of Easter Term, if it be well
... solicited. I heartily with you a happy New
... Year, and beg you to tell Mr. Clarion, that I
... long to know wherein I may serve him; and
... that I will follow his Directions to the utmost,
... while I live. God keep you and yours.

L. Proffan, Pray, Sir, to whom is that Letter
directed?
Clerk of the Peace. To Mr. Jacks, my Lord.
Mr. Serj. Trinian. Pray shew that Paper to my
Lord Sidney. [Which was done.]
L. Sidney. This is one of the Papers I received
from my Lord President.
[Then it was shown to my Lord President.]
L. Proffan. This is one of the same Papers that
I received in the Bundle from Captain Billop.
L. C. J. Hol. Read it.
Clerk of the Peace read. December the 31st.

THE Interruption of the former Corres-
pondence had a very ill Effect many ways;
but for that Reason, no Opportunity ought now
to be lost, and I hope this will prove a happy
one.

In Trade, as well as in Government, Schemes
must be false; for there is no living from Hand
to Month any more in Commerce than in Politi-
ticks: Lay therefore your Decisions probably,
and pursue them diligently, and with Vigour;
though it be a hazardous Time, yet by ven-
turing boldly, where venturing advisable, it
often returns great Profit.

There is nothing more to be said, but to give
the Beirer fit and full Satisfy to tell what he
knows, both as to Goods fit for our Market, and
when and where to be sent. The Sea will quick-
ly grow so troublesome, that unless you discharge
what you intend for us, you will lose a great
Opportunity of Advantage. I hope the Ac-
count he has to give of our Negotiations here
with the Merchants that deal with us; espe-
cially those that have lately brought us their Ca-
form, will both encourage a larger Trade, and
excite the utmost Diligence. I will say nothing
of my self, it shall be enough that I can live in
the good Opinion of one I bear so great a Re-
verence and Affection for; but for this Infor-
mation I must own, I can hardly say enough.
Truth and Boldness are excellent Qualities in a
Servant, and he has blown both, as Occasion
has required him to shew them.

I have but one Word to add, and pray take
it as the truest Mark of unalterable Respect:
Choose well, but have to do but with a few; a
for a Mulitude may give, but can never keep
Council.

I shall, with more Impatience than becomes
me, wait the Result of this, and it will be a
great Mark of Goodness to let us have it the
best and safest Way.

Once more; let not the Season spend unprofi-
table: for a more likely one can hardly come
than between this and the 16th of March. To
interpret this, I pray, as no private Interest of my
own, or partial Motion of any other Person, is.
It is my Sons, my Duty, and my Friendship,
which will not let me prevaricate, nor suffer
that I love and honour to lose so happy and
prevalent an Occasion of Advantage. With the
best Wishes I clothe up this, and am, &c.

L. Proffan, Pray, my Lord, who is that Paper
directed to?
L. C. J. Poletten. This is directed to no Body
at all.
Mr. Sell. Can. Shew that Paper to my Lord
Sidney. [Which was done.]
L. Sidney. This was one of the Papers I had from
my Lord President.
[Then it was shown to my Lord President.]
L. Proffan. This is one of the Papers I had
from Captain Billop.
L. C. J. Hol. Read it.
Clerk of the Peace read. This is dated December
31st, but is not directed to any Body at all.

I T is a Preliminary incident to that
that are any where upon the Spot, to think that
they know better than those that are not, what
is fittest to be done in intelligence. This
makes me say, that now is the Time to make
large Advantages by Trading, the Sea being
furer than two Months past, or we can hope
it will be two Months hence. This Gentleman
is well instructed in our Markets, and what
the Goods are we want, and when and where
they should be sent. It is most earnestly desired
that this happy Opportunity may not be lost,
especially by the late Undertakers, and I should
not for much, they would receive the least Dis-
gust. They are somewhat partial in their
Terms; but they also say, they will be good and
confiant Custumers; and I have more than once
seen the Milch of over-rating and over-flaying
the Market. Opportunities are to be used, they
cannot be given by Men.

The Barter needs nothing from me to re-
commence him, but he is desirous in our Opin-
ion here, and many will take their Measures by
the Uffage he finds there; and indeed the pre-
ferring Politue of our Trading Affairs will not
permit more Experiments. If the several Par-
cels arrive not, that have been promised, be-
fore the 16th of March at farthest (especially
the Copper and Linen, of which the Bearer
will be more particular) I am satisfied we shall
Ipose this Summer's Profit. I am the more pref-
ing, because I am well assured of what I
write; and if ever I judged right, it is upon
this Occasion.

I have said nothing of another Gentleman
that takes this Opportunity to fee those Parts;
but he has flown a Zulil and a Secrecy in this
Affair equal to most. Jo. is not yet gone, by a
Misfortune, but he will follow with a good
Passport in this Affair. Of my self I will say
nothing; I hope I need not, for no body with-
out Vanity can be more sincerely and affection-
ately a Friend and Servant to the Company
than my self. I writ at large Yesterday, and
cannot write what the Hand that gives this can
say; and therefore will write no more, but that
with the greatest Respect, I am, &c.

Mr. Serj. Trinian. Pray shew this Paper to my
Lord Sidney. [Which was done.]
L. Sidney. This is one of those Papers I received
from my Lord President.
[Then it was shown to the Lord President.]
L. Proffan.
L. President. This was one of the Papers in the Bundle I received from Captain Bilbo.
L. C. J. Hol. Then read it.
Clerk of the Peace reads.

SIR,

I Vow to you, I do not repine at having loft
all for your Sake, which I got by your Par-
vour; but it grieves me extremally that there is
not that left which can secure me from being
troubleome to you; for that is the thing in the
World I would not be. I have told my Lord
my Condition. What I defire of you think
very moderate, I hope you will. Pray, Sir, be
not backward in fatisfying my little Affair, for I
defered your Care. Your Daughter and I
must have it, if the Government can make us. I
hope our Intents and needs be not divided; that is, you
have an equal Tendernce at leaff for both. If
you think fit to fpeak what I would have you to
this Bearer, he will give me a Jaff Account of it.
You know he is obliged to be my Friend, and
I believe him grateful, since he ventures to
bolly for you. He brings with him some merry
Papers. Ask, for I dare write no more; but
pray fend a Messanger on purpose to me, that I
may know exaftly what you will do, and I
may have it. If you fend upon no other Business,
there will be no Danger. Pray, Sir, ask my Lord,
and he will tell you how I have been used, and
upon what Account. I believe you know it not.
December 29.

Your Daughter is very well, very tall, and
very pretty, as I am told.

L. C. J. Pellefeen. That is not directed to any
body neither.

Mr. Serj. Tenmain. Pray then shew thes Papers
tomy Lord Sidney, and my Lord President. [Which
was done.] They were true.

L. C. J. Pellefeen. These Papers my Lord Sidney
seems he received from my Lord President, and
my Lord President seems he received them in the
Bundle from Bilbo.

Mr. Serj. Tenmain. We pray they may be read.
Clerk of the Peace. December 31. 90.

WAS my Condition more delicate and un-
early that it is, I defire no greater Satis-
faction than to have done my Duty to fo good a
Matter: I wish it was of more ufe to him; that
is not my Fault, nor of tho: I have acted with.
Let it bee look’d into what has been forc’d both
as to Engl. Stat. and Irel. and see if most of it is
not come to pas already, and the refl will fol-
low, if not prevented. I wish it may also be
considered what Ulfsage we have met with from
men employ’d, and how they have left
your Buffes and Friends; how they managed it,
you will know from all Hands: Things they
could not do, nor think it, were better
underdone than not done by them. Men in
this Place, and in their Times, must have some
Courage as well as Slip: to do any thing with
People here. It is not my own ill Ulgsage makes
me lay this, but my Concern for one I with
the left to in the World, and will give my Proofs of
this upon all Occasions. I need not enlarge, since
all our Grievances are known to him that brings
this. For my own part, I will lay this, for long
as I can be, if with me it go great Trouble;
but it would be some Comfort to know Men
[(when driven from hence) may be for there]
for High-Treason.

London, the 29th December
8 January 1690.

S I R,

A T one Day's Sight be pleased to pay by this
First of Exchange to the Order of Mr. Michael
Obrien, Three thousand Three hundred
Thirty-three Livres, Value of the said Gent. ac-
tording to the Advice of
Your most humble, and most obedient Servant,

To Mr. Joseph Du Lévier, Paris.

P. du Lévier.

London, 29 December
8 January 1690. Livres.

S I R,

A T one Day's Sight be pleased to pay by this
my First Exchange, to the Order of
Mr. Michael Obrien, Three thousand Three hun-
dred Thirty-three Livres Tournois, Value of the
said Gent. And I am
Your most humble,

To Mr. Anthony Pelliotier, Merchant, at Paris.

J. Berideone.

Mr. Serj. Treman. Pray how much do they all come to?

Mr. Levermore. They come to 500 l. wanting but Twelve-pence.

Mr. Serj. Treman. My Lord, we have flown your Lordship part of the Papers that were taken in this Packet, but we have referred three of the Papers till the last Place; and these three Papers, if we had no other, were sufficient to maintain this Indemnification, for they are written all with my Lord Prefet's own Hand, wherein he gives an Account how the French should In-
voke us, how the French may be taken, how Lon-
don should be plagued, and what a sort of Renunciation the Clergy of London are; these are the Contents of the Packets, among other Things. Pray shew them to Captain Billop.

(Which was done.)

Captain Billop. These were two Packets that were in the Packet, and the other little one with them.

L. Prefan. My Lord, I would desire your Lordship to observe one Thing, to the best of my Remembrance, Captain Billop said, he only marked two of the Papers.

L. C. J. Holt. Has he been proved more?

Capt. Billop. I never said so; I marked'd a great many, tho' not all, but I did not say how many.

Mr. Serj. Treman. Were these Papers taken in the Packet?

Capt. Billop. Yes, all three.

L. Prefan. Jutt now he said but two.

Mr. Sot. Gen. Have you look'd upon them all, Sir?

Capt. Billop. Yes, I marked but two of them, but the other little Paper was with them; I read them myself, I remember it very well.

Mr. Serj. Thompfin. Then we pray the Clerk may read them.

(Ch. of Peace roads. Lady D. 2000 l.)

And 200 l. for Shop Debts.

Mr. Serj. Thompfin. My Lord, we would open this Piece of Evidence before we read it, L 11 thas

Mr. Serj. Treman. Then the next Papers we produce are the Bills of Exchange. Pray shew them to Capt. Billop. What say you, Capt. Billop, were those among the other Papers?

Capt. Billop. Yes, they were I remember very well.

Mr. Serj. Treman. My Lord, they are in French, and therefore we must swear a Gentle-
man that we have here, to interpret: Call Mr. Humphry Levermore.

Mr. Levermore. Here I am.

(He was sworn.)

A Londres, le 39 December.

Monseur,

L es prêts vous sera rendus par Monsieur Or-
biert, qui est un de ses bons amis, qui s'est fâché
parque quelque Préfet de votre Connaissance.
Fait n'obligerez tressentement en de luy rendre
service en tout ce que vous pourraitez. Il pourra
vous communiquer quelque Affaire en Commissión;
vous pourrez avoir Connaissance en de toutes les
manières, je vous prie d'obéir en tout ce
que vous pourraiez. Je fais, Monsieur,
Votre tres humble & tres obéissant
Serviteur,

A Londres le 29 December;
8 January 1690.

Monseur,

A UN jour de cent il vous plaiz payer par cette
prétention d'Échange, a l'Ordre de Mr. Michel
Obriert, Trois mille trois cents cent Livres
Tournois, comme dit ci-dessus.
Votre tres humble & tres obéissant Serviteur,

London, the 29 December
8 January 1690. Pour Livr. 3333.

Monseur,

A UN jour de cent, plaiz payer par cette une
prétention d'Échange, a l'Ordre de Mr. Michel
Obriert, Trois mille trois cents cent Livres
Tournois, comme dit ci-dessus.
Votre tres humble Serviteur,
A Mon. Mon. Anthony
Pelliotier, Merchant, a Paris.

J. Berideone.

London, the 29th December.
that it may be understood, and we shall prove it to be my Lord's Hand afterwards. It consists of many Heads and Particulars, without Order or Method, and seems to be no more than many
randoms made by my Lord Pretor, to put him in Mind what he was to enlarge upon when he came thither.

(End of the Page reads) Lady D. 2000 l.
And 200 l. for Shop Debts. 
Penion upon the 14-2 Deck Ship. Britainia, Ad. 
Sovereign out and R. James.
33 3d Rates, make the 14 and 30 67.
Sunday Hopfins and Fire-Ships, some built on purpose proportionable.
Of Third Rates moth mann'd: 14 not mann'd, great ones.
Rest in some proportion mann'd, not well 
mann'd, nor will be.
Britainia not out till March, the rest, perhaps, in April.
Dutch Fleet must be out in April, and in the Dreams: Look in Spithead to secure them.
The Dutch Fleet cannot then join them.
Carter and others at Portmouth, the likelihood
Men to come to him — Dutch Fleet 36 Sall, 
9 from 70, to 60 Guns: — 1 2 from 50 to 60 
the rest between 60 and 70. — Get it to before the Conjunction, otherwise nothing. To fight in the Chops of the Channel; not to come to high as Scotland — Portmouth not man'd above 500 — One Giffen, a Scotch Peer: — Lands behind South Sea-Callo. — Nothing but Pal-
liedes above Ragusa, or Toreagini, or Strickland, or Trappinjs from St. Malcs in one Night.
much of the Gentlemen have done him most Mischief, the Tarwallins his own Friends, which dispirited — Danby desires to be in the Monk, keeps and fortiifies HOLL — King not to be on the Board the Fleet — Foolish Letters from St. G's taken every Day in the D. Pott, and read in Council — about June — England 67 great Ships.
Dutch 60 — commanded 36 to us, 24 to act by themselves — Ruffin in the Britainia Admiral — Kilgrew the Blue — the Duke. — After the Royal Years. — The Sovereign Vice-Admiral — Blue — Carter the Vanguard — Those who shall not oppose or refit him to be pardoned — Not 21 Days coming in, or shall not help the P. of 0. 60000 l. to the States of Holland — No Taxes in his Time — and the K. of Fr. will require nothing — Chimney-Money to be taken away — not excepting Outlaws — Scotland — let know whether the King will come or not soon, and acquaint him with the Weakness of the Fr. Council — and the Duke's — or the Duke of York that some kind Answer Mr. Esh Merchant of Bristol to be kept till called for William St. — from Amsterdam —
Alexander — England — George — Scotland — Darfield, Cornwallis, Montague, Stansfield, Sheaf-
bury, Macclesfield, Monmouth, Devonshire — In Feb. the K. come to Scotland — endeavour to unite the Epic. and Prebady Parties. — A left Sun. not interfere with the Fr. K. from Highlanders — Campaigns — land at Leith — the Scotch Army not a French one, 5000 good Soldiers, Foor, the Reputation of a Protestants Ally, two Morals to little Scotland — a Command given to me from Mr. P. — For F. hinder Eng. and D. from joining — two Vessels of 150 l. Price for Provandoun, for 13 or 14 Months — Ormond and Brandon disoblige about the Guards.
To have 1200 Seamen from Denmark and Hol-
land — To have Caustell — To be left at the Ship in Sheets Winsummer — Flinders — R. — Scotish Ships in Newcastle Harbour to plague London — The Main Inquiry, the Bishops An-
swer — Not the Chilling of them, but satisfi-
ying of Friends. — To tell him that he protect Friends, and as soon as Foreigens are gone, he will dismiss his. The Woman that was with the K. in Ireland, and sent to Comission to Stafford, and calling, not to be sent again; her Friends live in Court-Gardan — Private Let-
ters not — Protecting Lords against the Unger,
Three of Five against the Vacancy of the Crown, Beaumont, Newcastle, Thane, Sawyer, Luc-
iard, Pemberton, Lovat, Winnington, Montague, Slave — London Clergy the wory, we have them with them and their Oaths — K. betrayed by J. Porter, Syms was said — Lord Nottingham says there will be a Peace with Fr. and the K. left out.
—Bring Foreigners to drive out Foreigners, then dismiss them, leave all to Peace Parliament,
— No Jujices of Peace, c. actually in Commission to be criminal.
L. C. J. Hol. Well, Gentlemen, have you any more Evidence?
Mr. Serj. Treas. My Lord, We shall now prove these Papers to be my Lord Preston's own Hand. Pray call Mr. Warw. Mr. Towneley, Sir Henry Joflys, and Mr. Blind.
Mr. Serj. Towneley sworn.
Mr. Serj. Towneley, Pray shew Mr. Towneley that Paper. (Which was not) Pray, Sir, what Hand-writing is that?
Mr. Towneley. I believe this to be my Lord Preston's Hand: I did not see him write it.
L. C. J. Pellesfan. Are you well acquainted with my Lord Preston's Hand?
Mr. Towneley. I have seen his Lordship's Hand sometimes.
L. C. J. Pellesfan. How often?
Mr. Towneley. Not very often, but I have seen it sometimes.
Mr. Serj. Towneley Pray, were you Clerk in any Office?
Mr. Towneley. Yes, I am in the Office of the Great Wardrobe, where I have had occasion to see his Lordship's Hand sometimes, and I believe this to be his Hand.
Mr. Serj. Towneley. Look upon the other two Mr. Towneley, I do believe these three Papers are my Lord Preston's Hand.
Mr. Serj. Treas. Those are the three Papers that have been read last, which they say is my Lord Preston's Hand.
Mr. Towneley. I do believe it, Sir.
Mr. Serj. Treas. Pray look upon that Paper, with the little one within it; do you know which Hand is that?
Mr. Towneley. I did not see it written, Sir.
Mr. Serj. Treas. Do you believe you know who wrote it by the Hand?
Mr. Towneley. The latter Part looks like my Lord Preston's Hand; but I cannot well say anything to the other, it is written to small.
Mr. Serj. Treas. Then swear Mr. Blind.
Mr. Blind. (White coat done.)
Mr. Serj. Towneley. Give him the Papers.
We ask you, Mr. Blind, Whether you were well acquainted with my Lord Preston's Hand?
Mr. Blind.
Mr. Bland. I have seen my Lord's Hand sometimes.
Mr. Serjeant Thompson. Have you looked upon those Papers, Sir?
Mr. Bland. Yes, I have.
Mr. Serjeant Thompson. Pray whose Hand are they?
Mr. Bland. I do believe these three Papers are my Lord Preston's handwriting.
Mr. Serjeant Trencain. Then we pray Mr. Warr may be sworn. (Which was done.)
Mr. Serjeant Thompson. Do you know my Lord Preston's Hand?
Mr. Warr. I have seen my Lord Preston write, but not very often; most commonly it was only his Name: But I have seen him write some Letters too.
Mr. Serjeant Trencain. Pray, Sir, look upon those Papers; whose Hand are they do you believe?
Mr. Warr. This Paper seems to be like my Lord Preston's Hand; the other I cannot say much of, because that which I commonly saw him write was a large fair Hand, and this is a little Hand.
Mr. Serjeant Trencain. Pray, Mr. Warr, look upon these Seals; whose Seals were they?
Mr. Warr. I believe the Seals are my Lord Preston's; one of them was his Seal when Secretary of State.
Mr. Serjeant Thompson. You were under him in that Office, were you not?
Mr. Warr. Yes, my Lord, I was.
Mr. Serjeant Trencain. Now, my Lord, we have done with our Evidence, and shall rest here till we hear what my Lord Preston says to it.
L. C. J. Hol. My Lord Preston, you have heard what has been said concerning the Matter you have been indicted for: What has your Lordship to say for yourself?
L. C. J. Polletain. If the Gentlemen of the Jury desire to see the Seals, they may have them.
(The Seals were brought to the Bar.)
Mr. Serjeant Thompson. My Lord, we have done for the present.
L. C. J. Hol. Then if your Lordship please, you may make your Defence.
L. Prest. My Lord, In the first Place I must refer myself again to my Indictment, for I find, my Lord, that the Treasons which I am accused, were none of them done in the County of Middlesex, and they are laid to be done within this County; I find nothing of that kind proved upon me to be done here; for any Memo- randa that they say may be in that Hand, I hope the Gentlemen of the Jury will consider, that there was nothing followed upon any of these Things, that may be found in those Papers: And in the next Place, I desire to know, whether they are sufficiently proved to be mine; that is, whether Similitude of Hands is Proof or not against me in such a Case? I humbly offer these Things to your Lordship, and hope your Lordship and the Jury will consider of it.
L. C. J. Hol. Is this your Lordship's Defence, my Lord?
L. Prest. My Lord, I leave these Things to the Consideration of the Court and the Jury.
L. C. J. Hol. Your Lordship inflicts upon it first, that there is no Act of Treason proved in the County of Middlesex; and then, whether Similitude of Hands be a good Proof to prove Vol. IV.
these three Papers, or any of them, to be your Hand?
L. Prest. Nobody saying they see me write them, if I did write them.
L. C. J. Polletain. My Lord, have you no Witnisses, nor nothing that you would use of Evidence against yourself?
L. C. J. Hol. Would your Lordship disprove any Thing of the Matter that has been proved against you?
L. Prest. I must deny the whole Fact; but I have no Witnisses or Evidence to offer you.
L. C. J. Hol. Then your Lordship has no more to say?
L. Prest. I have not, I must leave it to you with your Lordship and the Gentlemen of the Jury.
Mr. Serjeant Sol. Gen. We shall offer nothing farther, but leave it wholly to your Lordship.
L. C. J. Hol. Your Lordship has done then?
L. Prest. Your Lordship observes none of the Witnisses have declared that I was going into France, nor knew any thing of it. I did not hire the Ship, nor any thing of that kind; tho' I suppose if they had, it was not Treason; but your Lordship observes there is no such Thing has been sworn.
L. C. J. Hol. My Lord, as to the first Matter that your Lordship makes a Question upon, Whether there be any Act of Treason proved in Middlesex, that does depend upon the Proof of your Lordship's being concerned in the Papers; for if your Lordship had an Intention in carrying these Papers into France, which speaks a Design to invade this Realm, your Lordship took Boat in Middlesex at Surrey-Stairs, in Prosecution of that Intention, there is an Overt-act in this County of Middlesex.
L. Prest. Your Lordship, and the Gentlemen of the Jury observe, these Papers were not found upon me.
L. C. J. Hol. No, my Lord; but if it be proved that your Lordship had an Intention to carry these Papers into France, and took Boat in order to go with them into France, in the County of Middlesex, where-ever your Lordship acted in order to that Design, that is Treason, and there you are guilty. It is a Treason complicated of several Facts, done in several Places.
L. Prest. My Lord, I humbly desire to know, whether they have been proved to be my Papers?
L. C. J. Hol. That is a Question that must be left to the Jury upon the Evidence.
L. Prest. Nobody swears they are mine, nor were they found upon me.
L. C. J. Hol. But what I am speaking to your Lordship, is in Answer to your Question about the Place; for you say, that there is nothing proved done in the County of Middlesex: Now the Question is, Whether your Lordship had a Design to go to France with these Papers? if you had, and if your Lordship did go on Ship-board in order to it, your taking Boat in Middlesex in order to go on Ship-board, is a Fact done in the County of Middlesex.
L. Prest. It is not proved by any Witnisses that I designed to go into France.
L. C. J. Hol. That is before the Jury upon the Evidence.
L. Prest. I hope your Lordship, and the Jury will observe 'tis not proved, and in the next Place, there are no Papers taken upon me; with humble Submission, there is no Proof of any such Thing.