

A  
Complete Collection <sup>c</sup>/<sub>f</sub>  
OF  
STATE-TRIALS,  
AND  
PROCEEDINGS  
UPON  
HIGH-TREASON,  
AND OTHER  
CRIMES and MISDEMEANOURS;  
FROM  
The Reign of King RICHARD II.  
TO  
The End of the Reign of King GEORGE I.

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The THIRD VOLUME.

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*With two Alphabetical Tables to the Whole.*

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*The THIRD EDITION, with ADDITIONS.*

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The several TRIALS, &c. contained in  
the THIRD VOLUME.

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A Complete  
**C O L L E C T I O N**  
 O F  
**T R I A L S, &c.**

XCV.

The Trial of Sir THOMAS GASCOIGNE Bar. at the  
*King's-Bench* for *High-Treason*, the 11th of *February*  
 1679. *Hil. 32 Car. II.*

January the 24th, Sir THOMAS GASCOIGNE was brought to the Bar to be arraign'd.

Cl. of Cr.



SIR Tho. Gascoigne, hold up thy Hand.

Sir Tho. Gasc. I cannot hear.

Clerk. He says he cannot hear.

L. C. J. \* Then somebody must repeat it that stands by him.

\* Sir William Scroggs.

repeat it that stands by him.

† Sir George Mr. Recorder. † Do you hear what Jeffries. I say to you?

Sir Tho. Gasc. No, I cannot hear, I am very deaf.

*Then the Clerk of the Crown went down close to the Bar, and went on thus :*

Cl. of Cr. Sir Thomas Gascoigne, hold up thy Hand. [Which he did.]

Thou stand'st Indicted by the Name of Sir Thomas Gascoigne, late of the Parish of *Elmet*, in the West-Riding in the County of *York*, Bar. for that thou, as a false Traitor against our most Illustrious and Excellent Prince King *Charles* the Second, thy natural Lord, not having the Fear of God in thy Heart, nor weighing the Duty of thy Allegiance, but by the Instigation of the Devil moved and seduced, the cordial Love, and true, due, and natural Obedience which true and faithful Subjects of our said Lord the King should bear to him, and of Right are bound

to bear, wholly withdrawing, devising, and with all thy Power intending to disturb the Peace and common Tranquillity of this Realm, and to bring and put our said Lord the King to Death and final Destruction; and the true Worship of God in this Kingdom, by Law established and used, to alter unto the Superstition of the Church of *Rome*, and to move and stir up War against our said Lord the King in this Realm, and to subvert the Government of this Kingdom; the Thirtieth Day of *May*, in the One and Thirtieth Year of our said Lord the King's Reign, at the Parish of *Barwick* in *Elmet* in the said County of *York*, in the West-Riding of the same County, with divers other false Traitors unknown, didst traiterously compass, imagine, and intend the Death and final Destruction of our said Lord the King; and to change and alter, and wholly to subvert the ancient Government of this Realm; and to depose, and wholly to deprive the King of the Crown and Government of this Kingdom, and to root out the true Protestant Religion. And to fulfil and accomplish the same most wicked Treasons, and traiterous Imaginations and Purposes, the said Gascoigne, and other false Traitors unknown, on the said Thirtieth Day of *May*, in the One and Thirtieth Year aforesaid, with Force and Arms, &c. at the Parish of *Barwick* aforesaid, advisedly, devilishly, maliciously and traiterously did assemble, unite, and gather together themselves, and then and there did devilishly, advisedly, maliciously, craftily, and traiterously consult and agree to bring our said Lord the King to Death and final Destruction, and to depose



depose and deprive him of his Crown and Government; and to introduce and establish the Religion of the *Romish* Church in this Realm. And the sooner to fulfil and accomplish the same most wicked Treasons and traitorous Imaginations and Purposes, thou the said *Gascoigne*, and other unknown Traitors, then and there advisedly, maliciously, and traiterously did further consult and agree to contribute, pay, and expend divers large Sums of Money to divers of the King's Subjects and other Persons unknown, to procure those Persons unknown, traiterously to kill our said Lord the King, and to introduce the *Romish* Religion into this Realm. And that thou the said *Gascoigne* afterwards (to wit) on the said Thirtieth Day of *May*, in the One and Thirtieth Day aforesaid, at the Parish aforesaid, didst falsely, advisedly, craftily, maliciously, and traiterously solicit one *Robert Bolron* to kill our said Lord the King; and then and there, with an Intent sooner traiterously to encourage the said *Bolron* to undertake the killing and murdering of our said Lord the King, offeredst therefore to give and pay the said *Bolron* 1000*l.* of lawful Money of *England*; against the Duty of thy Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided. How say'st thou, *Sir Thomas Gascoigne*, art thou guilty of this High-Treason whereof thou standest Indicted, and hast been now arraigned, or Not guilty?

*Sir Tho. Gasc.* *Gloria Patri, Filio, & Spiritui Sancto*, I am not guilty.

*Cl. of Cr.* Not Guilty, you must say.

*Sir T. Gasc.* Not Guilty; nor any of my Family were ever guilty of any such Thing: I hope I shall be tried fairly.

*Cl. of Cr.* How will you be tried?

*Sir T. Gasc.* By God and my Country.

*Cl. of Cr.* God send thee a good Deliverance.

*Sir T. Gasc.* I desire, that in order to my Trial, I may have a Jury of Gentlemen, of Persons of my own Quality, and of my own Country, that may be able to know something how I have lived hitherto; for I am above Fourscore and five Years old.

*L. C. J.* Tell him he shall have a good Jury of Gentlemen of his own Country.

*Sir T. Gasc.* And besides, my Lord, I desire to know when I shall be try'd.

*Mr. At. Gen.\** Some time about the latter End of the Term, as soon as I can get a Jury up.

*Sir T. Gasc.* I do not know whether I can produce all my Witnesses at that time, if there be not a longer time allowed me; for I have a great many Witnesses to fetch up: These Witnesses must be all here, or I can't make my Defence; and I know not how they shall be got hither in so little time.

*L. C. J.* Tell him he may have what Witnesses he pleases, and the Aid of this Court to fetch them.

*Mr. Just. Dolben.* Name them who they are.

*Mrs. Ravenscroft.* My Lord, some of his Witnesses are at *Paris*.

*Mr. Just. Dolben.* Why, he will not be try'd yet this Fortnight.

*Mrs. Ravenscroft.* They will not have time to come over between this and that.

*Mr. Just. Dolben.* Mistress, he had reason to believe that he should be try'd some time

this Term, for so the Council order'd it; and therefore he should have got his Witnesses ready.

*Mrs. Ravenscroft.* My Lord, he did not know where they were till a Week ago.

*Mr. Just. Dolben.* Look you, *Mr. Attorney*, here is a Lady that is, I suppose some Relation to this Gentleman.

*Mrs. Ravenscroft.* He is my Grandfather, my Lord.

*Mr. Just. Dolben.* She says a Fortnight's time will be too little to get his Witnesses together for his Defence, because some of the Witnesses are beyond Sea at *Paris*, she says.

*Mr. Att. Gen.* My Lord, I am willing he should have as long time as the Term will allow of: But sure that is long enough to get any Witnesses from *Paris*.

*L. C. J.* What say you to *Sir Miles Stapleton*? I see he is join'd in the Indictment.

*Mr. Att. Gen.* My Lord, he is not come up yet.

*L. C. J.* Will you try the one without the other?

*Mr. Att. Gen.* Yes, my Lord, if we cannot have both: He is in the Hands of the Messenger at *York*; we have writ down to know the State of his Health to some of the Justices of the Peace, and the Messenger returns word, he is sick and can't come: I have sent down an *Habeas Corpus* to the Messenger to bring him up; let him return a *Languidus* at his Peril; that's all I can do.

*L. C. J.* Well, what Day do you appoint for *Sir Thomas's* Trial?

*Mr. Att. Gen.* *Tuesday* come Fortnight I think will be a good Day.

*Mr. Just. Dolben.* By that time, Mistress, you may get your Witnesses; you must send a Messenger on purpose.

*Mrs. Ravenscroft.* But if the Wind should be contrary, my Lord, and they cannot be brought over?

*Mr. Just. Dolben.* 'Tis not an usual Thing to have the Winds long contrary between *Dover* and *Calais*.

*Mrs. Ravenscroft.* But if it do fall out that he wants a material Witness at his Trial, I hope his Life will be consider'd.

*Mr. Just. Dolben.* He should have had them ready, he had warning before.

*Mrs. Ravenscroft.* We could do it no sooner, because we knew not where they were.

*Mr. Just. Dolben.* He saith he hath a great many Witnesses; are they all at *Paris*?

*Mr. Att. Gen.* There are a great many in Town we know already.

*Mrs. Ravenscroft.* If we had known when exactly, we might have been more ready perhaps.

*Mr. Att. Gen.* But we could give no notice sooner; it is early in the Term now. But there is time enough to get any Witnesses.

*L. C. J.* Ay, you may send to *Paris* a great many times between this and that.

*Mrs. Ravenscroft.* What if the Letter miscarry, my Lord?

*Mr. Just. Dolben.* Why, you must send a special Messenger.

*Mr. Att. Gen.* My Lord, if you please, let it be *Wednesday* Fortnight, the last Day but one of the Term; because I would give him as much time to provide himself as I can.

*Mr. Just. Pemberton.* Well, Mistress, you must send a special Messenger; we must not consult your



your Conveniency; do it as well as you can, you have time enough.

Mr. Just. *Dolben*. Your Grandfather is a Man of an Estate; he may very well, in this Case, be at the Charge of a special Messenger.

Mrs. *Ravenscroft*. But what if the Winds be contrary, must my Grandfather's Life be lost?

L. C. J. We must give you that Favour we can by Law, and you must be content: Tell us at the Trial what you have done.

*Then the Lieutenant of the Tower was order'd to take the Prisoner back, and by Rule to bring him to the Bar on Wednesday the 11th of February. On which Day the Prisoner being brought up, the Trial proceeded thus:*

Mr. *Att. Gen.* My Lord, here is an extraordinary Matter: Sir *Thomas Gascoigne* had a Rule for some Friend to assist him, by reason of the Defect of his Hearing; and now there are three of them that are got among the Jury.

L. C. J. No, no, they must come in of the inside of the Bar.

Mr. *Att. Gen.* Pray let him tell which he will make choice of; for he is by the Rule to have but one.

Mr. Just. *Pemberton*. Tell him there can but one stay.

*Counsel*. He says one of them came out of the Country, and knows the Persons that are the Witnesses, which he does not himself.

L. C. J. Well, let the other come in, let him have them both.

*Counsel*. He says, the principal Man he depended upon is clapt up.

L. C. J. Well, we can't help that.

*Then way was made for the Jury to come up to the Stand, and Proclamation for Information was made in usual manner.*

Cl. of Court. Sir *Thomas Gascoigne*, hold up thy Hand.

Sir *T. Gasc.* I cannot hear what is said.

Cl. of Cr. Those good Men which were lately called, and have appeared, are to pass, &c.

L. C. J. Tell him the effect of it. If he will make any Challenges to the Jury, he must speak to them before they are sworn.

*Hobart*. If you will challenge any of the Jury, you must speak to them before they are sworn.

Sir *T. Gasc.* I cannot hear who is called.

L. C. J. Tell him who is called.

Cl. of Cr. Sir *Thomas Hodson*.

*Hobart*. This is Sir *Thomas Hodson*, Sir.

Sir *T. Gasc.* What must I say? Ay, or No?

*Hobart*. Do you except against him?

Sir *T. Gasc.* No. [*Who was sworn.*]

Cl. of Cr. *Richard Beaumont*, Esq;

*Hobart*. Do you challenge him, Sir?

Sir *T. Gasc.* No.

Mr. *Att. Gen.* Pray, my Lord, here is Sir *John Cutler* in the Pannel, one that lives in Town, and is the Foreman of the Jury; I desire the Court to take notice of his not appearing in particular.

Cl. of Cr. *John Gibson*, Esq;

*The Prisoner challenged him.*

Mr. Serj. *Maynard*. I perceive they skip a great many; pray call them as they are in the Pannel, and record their Non-appearance in Court.

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*Which was done accordingly; but their Names that did not appear, for brevity sake, are omitted.*

Cl. of Cr. *Nicholas Maleverer*, Esq;

Mr. *Att. Gen.* We challenge him for the King. I perceive the best Gentlemen stay at home.

Mr. Serj. *Maynard*. Yes, 'tis so small a Business.

Cl. of Cr. *Beckwith*, Esq; Challenged by the Prisoner.

*Stephen Wilks*, Esq; Sworn.

*Matthew Prince*, Esq; Chal. by the Prif.

*Thomas Graver*, Esq; Chal. by the Prif.

*Jervas Rockley*, Esq; Sworn.

*William Walker*, Esq; Chal. by the Prif.

*John Dimmocke*, Esq; Chal. by the Prif.

*Samuel Jenkinson*, Esq; Chal. by the Prif.

*Robert Leeke*, Esq; Sworn.

*William Batt*, Esq; Sworn.

*Richard Burton*, Esq; Chal. by the Prif.

*Robert Auby*, Esq; Chal. by the Prif.

*Charles Best*, Esq; Sworn.

*Robert Long*, Esq; Chal. by the Prif.

*John Crosse*, Esq; Sworn.

*Barton Allett*, Esq; Sworn.

*William Milner*, Esq; Sworn.

*John Oxley*, Esq; Sworn.

*Francis Oxley*, Esq; Sworn.

Cl. of Cr. *Cryer*, count these.

|                            |        |                           |
|----------------------------|--------|---------------------------|
| Sir <i>Thomas Hodson</i> , | } Jur' | { <i>Charles Best</i> ,   |
| <i>Richard Beaumont</i> ,  |        | { <i>John Crosse</i> ,    |
| <i>Stephen Wilks</i> ,     |        | { <i>Barton Allett</i> ,  |
| <i>Jervas Rockley</i> ,    |        | { <i>William Milner</i> , |
| <i>Robert Leeke</i> ,      |        | { <i>John Oxley</i> ,     |
| <i>William Batt</i> ,      |        | { <i>Francis Oxley</i> ,  |

*Cryer*. Twelve good men and true, stand together and hear you Evidence.

Cl. of Cr. Sir *Thomas Gascoigne*, hold upthy hand. Gentlemen, you of the Jury that are sworn, look upon the Prisoner and hearken to his Charge. You shall understand, That he stands Indicted by the Name of Sir *Thomas Gascoigne*, late of the Parish of *Elmet*, &c. Prout in the Indictment, *mutatis mutandis*. Upon this Indictment he hath been Arraigned, and thereunto pleaded Not Guilty; and for his Trial hath put himself upon his Country, which Country you are, &c.

*Then Proclamation for Evidence was made, and Dormer, Esq; of Council for the King in this Cause, opened the Indictment thus:*

Mr. *Dormer*. May it please your Lordship, and you Gentlemen of the Jury, Sir *Thomas Gascoigne*, Baronet, the Prisoner at the Bar, stands indicted for High-Treason, in conspiring the Murder of his Majesty, the subverting of the Government, and the introducing the *Romish* Religion: And for the effecting these purposes, the Indictment sets forth, That the said Sir *Thomas Gascoigne*, Sir *Miles Stapleton*, and other false Traytors, on the 30th of *May* last, at the Parish of *Elmet*, in the West-Riding of the County of *York*, did assemble together, and there resolved to put their Treasons in execution. And the better to accomplish their said Treasons and traitorous Imaginations, they did agree to contribute several large Sums of Money to several of his Majesty's Subjects



jects unknown, to introduce Popery, to kill the King, and subvert the Government: And that Sir Thomas Gascoigne did sollicit Robert Bolron to kill the King, and for that Service he was to pay him 1000*l.* To this he hath pleaded Not Guilty: If the King's Evidence prove the Charge of the Indictment, your Duty is to find him Guilty.

Mr. Serj. Maynard. May it please your Lordship, and you, Gentlemen of the Jury, you have heard the Indictment, and it hath been opened to you. There can be no greater Crime charged upon any, than that this Gentleman is accused of. The Design hath been to kill and murder the King, to change the Religion and the Government; and to effect this, they make Assemblies, they offer Money: and this, my Lord, we shall prove. 'Tis no new Crime, divers have suffered for the like already; and we shall not need to make any Aggravations, for indeed it cannot be aggravated more than the plain matter itself is. We shall call our Witnesses, and prove it directly upon him, even by Two Witnesses; and we shall prove, that he held Intelligence with one *Preswicke* a Priest; Letters between him and that Person are found in his Custody, and we shall produce one of them wherein it doth appear, that there was Intelligence between them, and Consultations had about the Oath of Allegiance; and that *Praud* did write to him, that it was a damnable Oath condemned by the Sorbonnists: And upon that Point hangs the changing of Religion; for the Oath of Allegiance is the great Touchstone to discover Men's Sincerity by, and the great Bond to tie them to the Government, and to the Protestant Religion. And we shall likewise prove another Passage in a Letter indorsed with the Prisoner's own Hand, wherein there is an Expression to this purpose: *That if England be converted, (the Priest writes this to him) then Low a Sum of Ninety Pound was to be disposed: Which was, as you shall hear, and we shall prove, in a Nunnery. If England be converted, that clearly shews what was their Intention, not only to destroy the King, but the Religion and the Nation; and so they were conspiring not only against his Majesty, but against God. That an old Gentleman that hath lived so long under the Peace of this Nation, and been so protected by the Government, which hath been so indulgent to Men of his Persuasion, should be guilty of such a Design, is a lamentable thing to think of; that he should so offend the Law, which hath been so mild in its Execution against such Men. We shall prove the Proffer of the 1000*l.* and so leave it with you.*

Mr. At. Gen. My Lord, these two Papers we shall use in confirmation of that Evidence will be given by two Witnesses, who I think will concur in the same thing; that is, the Conspiracy for killing the King, and for the carrying on of the Plot. The Papers the Witnesses will expound to you; the one is a Letter, as Mr. Serjeant hath opened it to you, to Sir Thomas Gascoigne from a Priest, wherein he does discourse about 90*l.* a Year at *Maunston*, which Sir Thomas had purchased to settle upon a Nunnery called *Dolebank* in *Yorkshire*; and therein it is said, *You will be well advised to put in a Proviso into the former Writing (he meant for the Settlement) That if England be converted, the 90*l.* a Year shall be bestowed at Heworth, or some other Place in Yorkshire.* Your Lordship will hear by the Witnesses, that there were several Places designed for these

Nuns to inhabit, as *Dolebank* and other Places; and this Letter will concur with their Evidence, and they will prove, that this very place that they speak of, was design'd for this purpose; and so it appears by the Papers taken in Sir Thomas Gascoigne's Custody. My Lord, there is another Letter which was mention'd, and which I believe may have a great Influence in this Cause, I am sure it may be likely to produce very bad Effects, which is that Letter from the Priest, wherein he decries the Oath of Allegiance as a damnable thing condemned by the Doctors at *Sorbonne*, and other Priests from *Rome*. And this had its effect a little time before; for it was about the time that a matter of Thirty or Forty were convicted of a *Premunire* in that County, for not taking the Oath of Allegiance, which they used to do before. And there will be some other concurring Evidence in this Cause, and is by some Papers taken in Sir Thomas Gascoigne's own Hand; they are Almanacks, in which many of his own Memorials are, several Sums of Money mentioned to be paid, and returned to Priests at *London*: The Witnesses will tell you it was returned for the Design of the Plot. There happens to be 900*l.* return'd to Mr. *Corker*, who is now in *Newgate*; and some other Sums to *Harcourt*, who is executed; and some Money is paid to him, though I think not much, about 25*l.* and several Sums are mention'd, and great Sums return'd to *London* by Sir Thomas Gascoigne, in five or six Years time, 5 or 6000*l.* to what purpose I can't tell; they will give you an Account: I think he did live always in *Yorkshire* himself, never used to come to Town; and what Occasion he might have of returning Money, I don't know. We will call the two Witnesses *viva voce*, and then use the other Evidence as we shall have occasion to confirm them. Call Mr. Bolron and Mr. *Mowbray*.

*[Who were sworn.]*

Mr. At. Gen. Mr. Bolron, tell my Lord and the Jury what you know of Sir Thomas Gascoigne.

Mr. Bolron. My Lord, and you Gentlemen of the Jury, I came to live with Sir Thomas Gascoigne in the Year 1674, as Steward of his Coalworks; and in the Year 1675, a little before *Easter*, being in the next Room to Sir Thomas Gascoigne, I did hear Charles Ingleby and Sir Thomas in Discourse together, and Sir Thomas did say he was very fearful his Estate would be liable to be forfeited to the King—

L. C. J. In 75 was this?

Mr. Bolron. Yes, my Lord.

L. C. J. What time in 75?

Mr. Bolron. A little before *Easter*.

L. C. J. Were you in the Room?

Mr. Bolron. I was in the next Room, and the Door was not shut; and Sir Thomas did say—

Mr. At. Gen. Tell the Discourse what it was.

Mr. Bolron. He said he was resolved to make a collusive Conveyance of his Estate, for fear it should be forfeited to the King. And Charles Ingleby said, it was best so to do: and then he told Sir Thomas he would have the Defeazance made ready, which he would draw with his own hands; but he bid him be sure to bring none but Protestant Witnesses along with him to testify.

And in the Year 1675, I did go along with Sir Thomas Gascoigne to Sir William Ingleby's of *Ripley*, and there I did see him receive colourably 1000*l.*

L. C. J. How do you know it was colourably?

Mr. Bolron.



Mr. Bolron. I did hear Sir Thomas tell Charles Ingleby so.

L. C. J. When was that?

Mr. Bolron. The 7th or 8th of April; the Deed bears the 8th of April 1675.

L. C. J. Was Charles Ingleby there at that time?

Mr. Bolron. Yes, when the Deed was sealed; and he read it in the Presence of the Witnesses to be dated at that time.

Mr. Just. Dolben. What, that thousand Pound was the Consideration of the Deed?

Mr. Bolron. Yes, it was. Sir Thomas Gascoigne did part thereby with all his Estate for Seven Years, he allowing him 100*l.* a Year for his Maintenance, besides the 1000*l.* at first paid. And this was done with that Intent, for fear he should be discovered in the Plot for killing the King——

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

Mr. Bolron. I did hear Sir Thomas Gascoigne and Sir Miles Stapleton discourse of it, and he said it was for that End.

L. C. J. Where was that Discourse?

Mr. Bolron. In Sir Thomas Gascoigne's Bed-chamber.

Mr. Just. Jones. When was that?

Mr. Bolron. It was in or about the Discovery of the Plot.

L. C. J. But you say you saw the Deed sealed?

Mr. Bolron. Yes, I was a Witness to it.

L. C. J. And you saw the Money paid?

Mr. Bolron. I and one Matthias Higgringil did help to count it.

Mr. Just. Jones. Were you a Protestant at that time?

Mr. Bolron. Yes, my Lord, I was at the time of the sealing the Deed; but I did hear the Discourse between Sir Miles Stapleton and Sir Thomas Gascoigne upon the Discovery of the Plot, when I was a Papist.

L. C. J. When was the Discourse you speak of with Sir Miles Stapleton, do you say?

Mr. Bolron. It was about the Discovery of the Plot.

L. C. J. After the Money paid?

Mr. Bolron. Yes, after the Money paid: And he said to Sir Miles Stapleton, he had done well to make over his Estate.

L. C. J. That is an abrupt thing for him to say; how did he begin the Discourse?

Mr. Bolron. They were discoursing about the Discovery of the Plot by Dr. Oates and Mr. Bedloe; and then Sir Thomas Gascoigne said to Sir Miles Stapleton, I have done well to make over my Estate to Sir William Ingleby, to prevent a Forfeiture.

L. C. J. What said Sir Miles Stapleton?

Mr. Bolron. I do not know what he said very well.

L. C. J. You seemed but now, as if he had said he was in the Plot.

Mr. Just. Jones. Did he own he was in the Plot?

Mr. Bolron. Yes.

L. C. J. When?

Mr. Bolron. At several times.

Mr. Serj. Maynard. Tell the manner how he was concerned.

Mr. Bolron. My Lord, in the Year 1676, I did hear Sir Thomas Gascoigne say to one Christopher Metcalfe, that he was resolved to send 3000*l.* to the Jesuits in London for the carrying on of the Design.

L. C. J. What time in 76?

Mr. Bolron. The beginning of the Year 76.

L. C. J. To whom did he say so?

Mr. Bolron. To one Christopher Metcalfe.

L. C. J. Were you a Papist then?

Mr. Bolron. Yes.

L. C. J. When came you first to be a Papist?

Mr. Bolron. About Whitsonide, 75.

Mr. Just. Jones. You are a Protestant now?

Mr. Bolron. Yes, my Lord, I am so.

L. C. J. When did you turn Protestant again?

Mr. Bolron. I turned Protestant upon the Discovery of this Business.

L. C. J. When?

Mr. Bolron. Either the beginning of May, or the latter end of June.

L. C. J. To whom did he speak it?

Mr. Bolron. To Christopher Metcalfe, who then lived in his House.

L. C. J. What said he?

Mr. Bolron. He said he was to send 3000*l.* to the Jesuits in London, for the carrying on of this Design.

L. C. J. Who was in the Room besides?

Mr. Bolron. None but Sir Thomas Gascoigne and Metcalfe.

L. C. J. Where is that Metcalfe?

Mr. Bolron. He is since dead, I think.

L. C. J. What Discourse had they about the Design?

Mr. Bolron. They were discoursing about it when I came in; and I remember he mentioned 300*l.* for Corker, 300*l.* for Harcourt, and 300*l.* for Cornwallis; and the rest by 300*l.* a-piece to other Persons.

Mr. At. Gen. What Name did Cornwallis go by besides?

Mr. Bolron. Pracid, my Lord.

Mr. At. Gen. That's the Name that is to the Letter.

Mr. Just. Pemberton. Well, what do you know more?

Mr. Bolron. My Lord, Sir Thomas Gascoigne told this Christopher Metcalfe, that he would return it by 300*l.* at a time, to prevent Suspicion, by the Hands of Richard Phisick; and about the beginning of the Year 77, I did hear Sir Thomas Gascoigne say, that he had returned it, and that if it had been a thousand times as much, he would be glad to spend it all in so good a Cause.

L. C. J. Did he say he had returned all the 3000*l.*

Mr. Bolron. Yes.

L. C. J. Did he tell you how it was to be dispos'd of?

Mr. Bolron. It was to be disposed among the Jesuits for the carrying on of the Design.

L. C. J. That was in the general; but this 900*l.* you speak of, was to those three Priests?

Mr. Bolron. Yes.

Mr. Just. Jones. You say he resolved to send 3000*l.* to the Jesuits at London about this Design; pray what was the Design? What did they say about the Plot at that time?

Mr. Bolron. My Lord, at other times I have heard them say it was for killing the King.

L. C. J. What said Metcalfe to all this?

Mr. Bolron. He did allow of it, and thought it was the best way so to do. I have seen him return several fums by Richard Phisick.

Mr. Just. Dolben. Was Metcalfe a Papist?

Mr. Bolron.



Mr. *Bolton*. Yes, and he died so, as I have heard.

L. C. J. Was you in the Room when they first began the Discourse?

Mr. *Bolton*. No, my Lord, I came in when they were discoursing.

L. C. J. You came in when they were talking, you say; but they did not stop talking because you came in?

Mr. *Bolton*. No, my Lord, because I knew of it: I was brought in by one *Rushton*, who was acquainted with the Plot, to know of it, and therefore they did not stop me when I came in?

L. C. J. You say he said, I will return 3000 *l.* to the Jesuits in *London*: Did he say in what time he would send that 3000 *l.*?

Mr. *Bolton*. No, but in 76 he said he would do it.

L. C. J. And it should be employed for carrying on of the Design?

Mr. *Bolton*. Yes, those were the Words.

L. C. J. And in 77 you heard him talk with *Metcalf* again? And then he said, If it had been a thousand times as much he would have sent it?

Mr. *Bolton*. Yes.

L. C. J. Was no body there but he, Sir *Thomas Gascoigne*, and you?

Mr. *Bolton*. No body else.

L. C. J. Then go on with your Evidence.

Mr. *Bolton*. My Lord, in the Year 77 several Gentlemen did meet and assemble together at *Barnbow-hall* in the County of *York*, Sir *Thomas Gascoigne's* House; and their Resolution was this, That they would build a Nunnery at *Dolebank*, in case that their Design and Plot of killing the King should take effect, and the Roman Catholic Religion be established in *England*: Upon which account, the Company there present did resolve they would lose their Lives and Estates to further it: And Sir *Thomas Gascoigne* did conclude he would give 90 *l.* a Year for ever for the maintenance of this Nunnery: Upon which they all agreed, that after his Death he should be canoniz'd a Saint.

L. C. J. Who were these Gentlemen?

Mr. *Bolton*. Sir *Miles Stapleton*, *Charles Ingleby*, Esquire *Gascoigne*, my Lady *Tempest*, *Thomas Thwing*, Sir *Walter Vavasor*, Sir *Francis Hungatt*, and *Robert Killingbeck* a Jesuit, and *William Rushton* a Romish Priest,

Mr. *Just. Pemberton*. Is he dead?

Mr. *Bolton*. No, he is fled beyond Sea.

L. C. J. Who else?

Mr. *Bolton*. These are the Persons I can remember at present.

L. C. J. There was a Woman there you say?

Mr. *Bolton*. My Lady *Tempest*, my Lord, and one *William Rushton*, if you had not him before.

Mr. *Just. Dolben*. That was your Confessor?

Mr. *Bolton*. Yes, and engag'd me in the Plot.

Mr. *Just. Pemberton*. What was your Discourse? Pray tell that.

Mr. *Bolton*. The Discourse was upon establishing a Nunnery at *Dolebank*, in hopes that the Plot of killing the King would take effect: The Intention was to alter the Government, and introduce the *Romish* Religion.

L. C. J. Who was it said this?

Mr. *Bolton*. It was spoken by Sir *Thomas Gascoigne* and the rest of the Gentlemen.

L. C. J. In their Discourse?

Mr. *Bolton*. Yes.

L. C. J. Did they speak of killing the King?

Mr. *Bolton*. Yes, my Lord, Sir *Francis Hungatt* said it several times.

L. C. J. How? Upon what Account?

Mr. *Bolton*. They were mutually resolved, and they would talk that they would venture their Lives and Estates in hopes the Plot would take effect; and accordingly about *Michaelmas* 1677, or near upon, as I remember——

L. C. J. How long staid they there?

Mr. *Bolton*. About six or seven Hours.

L. C. J. Were you with them in the Room still?

Mr. *Bolton*. My Lord, I was sometimes in the Room; and sometimes out: What Discourse I heard, I tell you; there was one *Barloe*——

L. C. J. What was that *Barloe*?

Mr. *Bolton*. I have had two Orders of Council for the seizing of him, and never could take him; he is a Priest.

L. C. J. Was he by?

Mr. *Bolton*. He went with them to take possession of the Nunnery.

L. C. J. Was he not in the House?

Mr. *Bolton*. No, not in the Room at that time.

L. C. J. Was there any Servant by in the Room when this Discourse was?

Mr. *Bolton*. No.

L. C. J. Well, go on.

Mr. *Bolton*. Accordingly Sir *Tho. Gascoigne* did erect a Nunnery about the year 77, at *Dolebank*.

L. C. J. What, built it?

Mr. *Bolton*. He establish'd it.

L. C. J. Who were the Nuns?

Mr. *Bolton*. Mrs. *Lashals* was Lady Abbess, Mrs. *Beckwith* and Mrs. *Benningfield* were her Assistants, *Elling Thwing*, *Eliz. Butcher*, and others, were Nuns, according as I heard Sir *Tho. Gascoigne* say: And when they went by Sir *Tho. Gascoigne*, when one *Mary Root* was taking Horse, Sir *Tho. Gascoigne* said of her, There goes an old Maid and a young Nun.

L. C. J. Whither were they going then?

Mr. *Bolton*. To take possession of the Nunnery.

L. C. J. Was it a new built House?

Mr. *Bolton*. They call'd it a Nunnery in hopes their Plot would take effect.

L. C. J. Was it an old or new built House?

Mr. *Bolton*. Nay, I never saw it.

L. C. J. Whereabouts was this House?

Mr. *Bolton*. It was near *Ripley*.

L. C. J. What, was that *Ripley* his House?

Mr. *Bolton*. No, his House is at *Barnbow*.

L. C. J. Who did it belong to?

Mr. *Bolton*. They went thither till the Business was done, and that was only till the King was kill'd, and afterwards they resolved to reside at *Heworth*.

L. C. J. How long staid they there?

Mr. *Bolton*. They lived in this place near a year and half.

L. C. J. Till the Plot was discovered?

Mr. *Bolton*. Yes.

Mr. *Just. Jones*. How do you know they liv'd there?

Mr. *Bolton*. I have seen several times Letters come from their Hands.

Mr. *Just. Jones*. How do you know they came from thence?



Mr. Bolron. The Letters were dated from *Dolebank*.

L. C. J. Did he let them lie open?

Mr. Bolron. Sometimes he did.

L. C. J. What was in them?

Mr. Bolron. I don't know any of the Particulars, there was no great Matter in them.

L. C. J. Who writ them?

Mr. Bolron. The Name that I saw was *Pracid*, or from Mrs. *Lashals*.

Mr. Att. Gen. They, or some of them.

L. C. J. You do not know whose House it was?

Mr. Bolron. No, my Lord, not I.

L. C. J. Where is *Heworth-Hall*?

Mr. Bolron. *Heworth-Hall* is about half a Mile off of *York*.

Mr. Just. *Dolben*. Does not that belong to one Mr. *Dawson*?

Mr. Bolron. It did, but it was bought of him.

Mr. At. Gen. What other Place did you hear him mention?

Mr. Bolron. *Broughton*, my Lord, but I never knew that any were there.

L. C. J. Nor at *Heworth-Hall*.

Mr. Bolron. Yes, my Lord, sometime one and sometimes the other; some of them came to *Heworth-Hall*, and some to *Dolebank*, but *Dolebank* was the Place they did generally reside at: And then Sir *Thomas* did establish 90 l. a Year, which was purchas'd of Mr. *Tim. Maleverer*, and *Alver Aloftus* enjoys it.

L. C. J. How much was it?

Mr. Bolron. 90 l. a Year.

L. C. J. Where does it lie?

Mr. Bolron. It lies at a Place call'd *Mawson* near Sir *Thomas Gascoigne's* House.

L. C. J. Did he say he had seal'd such a Conveyance?

Mr. Just. *Dolben*. I suppose he bought it of *Dawson*.

Mr. Bolron. He bought it of *Maleverer*.

L. C. J. Is *Maleverer* a Protestant?

Mr. Bolron. Yes, my Lord.

L. C. J. Where is he?

Mr. Bolron. I can't tell.

Mr. Just. *Jones*. You did not see the Conveyance of it your self seal'd?

Mr. Bolron. No, I refer to their Words for that.

Mr. Just. *Jones*. To what Purpose was it bought?

Mr. Bolron. To establish a Nunnery.

Mr. Just. *Pemberton*. And they told him he should be canoniz'd for a Saint when he dy'd?

Mr. Bolron. Yes, my Lord.

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

Mr. Bolron. My Lord about *March* last, to the best of my Remembrance, Sir *Thomas Gascoigne* and Esquire *Gascoigne* being in their Chamber together, I was reading a book call'd, *The Lives of the Saints*, and Esquire *Gascoigne* told Sir *Thomas* that he had been before the Justices of the Peace, and they had given to him and Mr. *Middleton* License to go up to *London*, which mention'd, that in Consideration that there was a Suit in Law between *James Nelthorp* Esq; and Sir *Thomas Gascoigne*, therefore it permitted the said *Thomas Gascoigne* Esq; and his Man to travel peaceably to *London*. And I did hear the other Copy read of Mr. *Middleton's* License to travel into the South,

and for his Occasion into the South Parts was pretended to receive some Rents there. But I did hear Esquire *Gascoigne* say to Sir *Thomas*, that he was resolv'd as soon he came to *London*, and had done with Mr. *Nelthorp*, that he would fly into *France*, and so would cheat the Justices, for he was resolv'd not to come back to *Yorkshire* again, but he would commit the Design in agitation into such Hands as would do it, and would not fail, but he would not stay to see Execution.

L. C. J. You heard him say so?

Mr. Bolron. Yes, I did.

L. C. J. What said Sir *Thomas*?

Mr. Bolron. He commended his Son's and Mr. *Middleton's* Resolutions.

L. C. J. What Room was it in?

Mr. Bolron. It was in Sir *Thomas's* own Chamber.

L. C. J. Were there any Rooms near it?

Mr. Bolron. None that they could hear in, unless in the Chamber within, I don't know whether any one was there or no.

L. C. J. Could they hear in no Room that was near to them?

Mr. Bolron. Yes, in the Chamber within.

L. C. J. Was there no Servant there?

Mr. Bolron. Not as I know.

L. C. J. My Reason is, because he must speak very loud to make his Father hear him.

Mr. Bolron. Yes, he did, for I heard him in the Chamber-Window that I stood in against them, they were a little Way off me.

L. C. J. Because, if any of the Servants were near, methinks they must needs be very cautious how they spoke so loud to make Sir *Thomas Gascoigne* hear.

Mr. Bolron. My Lord, he was not so deaf then as they say he is, and he seems to be now. And Esquire *Gascoigne* also, because he would be sure there should no Damage come to him, caus'd all his Goods to be sold off his Ground, and Mr. *Middleton* sold his very Household-Goods.

L. C. J. He is a Papist too, is he not?

Mr. Bolron. Yes, he is so.

L. C. J. Was not he at the meeting with Sir *Miles Stapleton*?

Mr. Bolron. Yes, Mr. *Middleton* was one.

L. C. J. You did not name him before.

Mr. Just. *Pemberton*. But he said a great many were there besides those he nam'd.

Mr. Just. *Dolben*. Yes he did so. Well, go on, Sir.

Mr. Bolron. My Lord, last Thirtieth of *May*, the Day after Holy *Thursday*, as I remember, being in Sir *Thomas Gascoigne's* own Chamber, Sir *Thomas Gascoigne* bid me go into the Gallery next to the Priest's Lodgings, and after a little time one *William Rushton*, my Confessor, came to me, and ask'd me, If I was at the last *Pontefract* Sessions? I told him, yes, and that I had taken the Oath of Allegiance, as others had done: Whereupon the said *Rushton* told me, that I and all the others were damn'd for so doing, if we kept the same; therefore he bid me sure to come next *Sunday* to have Absolution from him; for it was a damnable Sin to take that Oath, and he told me, he had Power from the Pope to absolve me, and he added, that few Priests had that Power that he had.

L. C. J. Did he make you confess that as a Sin to him.



Mr. *Bolton*. No, my Lord, for I did make the Discovery soon after.

L. C. J. When was it you first turned Protestant?

Mr. *Bolton*. In June, my Lord, after that.

L. C. J. Then you were not a Protestant at that time?

Mr. *Bolton*. No, my Lord.

L. C. J. Were you a Papist when you took the Oath of Allegiance?

Mr. *Bolton*. Yes, my Lord, I was.

L. C. J. Why would not you then go and be absolved according as your Priest bid you?

Mr. *Bolton*. I thought I had done nothing that was evil, because several had taken the Oath with me, as you shall hear afterward.

L. C. J. Well, go on.

Mr. *Bolton*. I told him that several others had done it as well as I, that were Papists, and they judged it lawful; whereupon he said, Away, and told me I was a Fool, and knew not how to judge of an Oath?

L. C. J. So you were satisfied the Papists might take the Oath?

Mr. *Bolton*. My Lord, I told him I thought it was no Sin to take that Oath, because it was an Oath only to be true to my King and to my Country; and I told him that Mr. *Ellis*, Priest to Mr. *Va-vaser*, had written Commentaries upon the Oath, and justified the taking of it. Said he again, Mr. *Ellis* was a Fool, and his Superiors will call him to an Account, and check him for his Pains. But said he, by taking the Oath you have deny'd the Power of the Pope to absolve you from it; but I tell you he hath a Power to depose the King, and had done it: And said he, you will merit Heaven if you will kill him.

L. C. J. Who spoke to you?

Mr. *Bolton*. *Rushton*, my Lord, said it was a meritorious Act to kill the King.

L. C. J. But did Sir *Thomas Gascoigne*, or any of the Company, wish you to do that Thing?

Mr. *Bolton*. Not at that meeting, but afterwards Sir *Thomas* did, my Lord, if you will give me Leave to go on.

L. C. J. What did he say?

Mr. *Bolton*. He told me he would assist me in the Act.

L. C. J. Who?

Mr. *Bolton*. *Rushton* did. And he told me the Pope had granted him the Power, that I should have the Benefit of Absolution if I would do it. I desired him not to persuade me to do such a Thing, for I would have no hand in it; then he quoted a certain Place of Scripture to me, which was, *Thou shalt bind their Kings in Fetters, and their Princes in Chains*. Whereupon he concluded, and made this Exposition, that the Pope had deposed the King, and absolved all his Subjects, and it was a meritorious Act to kill the King. And that unless the King would turn Roman Catholick, the Pope would give away his Kingdoms to another?

L. C. J. Well, go on.

Mr. *Bolton*. Then I told him I would have no hand in that Act and Deed; whereupon he answered me again, you may hang me if you please for speaking these Words. No, Sir, said I, I will do you no Injury if you do your self none. So he bid me consider what he said, and come to him again, but I did not.

L. C. J. This was the Thirtieth of May?

Mr. *Bolton*. Yes, and the same Day as soon as I

came down, I was told Sir *Thomas Gascoigne* had left Order with his Servants that I should not depart the House till he came in, and I stay'd there till about six of the Clock.

L. C. J. Did not you live with him then?

Mr. *Bolton*. I lived a little Way off the House.

L. C. J. How far?

Mr. *Bolton*. About a quarter of a Mile.

L. C. J. Were you not his Servant?

Mr. *Bolton*. No, my Lord, not at that time.

Mr. *Just. Jones*. How long had you been gone out of his Service before?

Mr. *Bolton*. I went out of his Service about the Beginning of July 1678.

Mr. *Just. Pemberton*. Did Sir *Thomas Gascoigne* send you into this Gallery?

Mr. *Bolton*. Yes, my Lord:

Mr. *Just. Pemberton*. And there you found *Rushton*?

Mr. *Bolton*. My Lord, he was not there when I came, but he came as it were from Chapel.

L. C. J. You were his Servant when all the Gentlemen met at his House?

Mr. *Bolton*. Yes, my Lord, I was.

L. C. J. When did you leave his Service, say you?

Mr. *Bolton*. The first Day of July 1678.

L. C. J. And this was in May 1678, was it not?

Mr. *Bolton*. No, in (79) my Lord, last May. My Lord. I watched and stayed till he came in, and took him as he came in. I went up Stairs with him, and when he came into his Chamber he calls me to him, and asked me what Discourse had passed between me and *Rushton*? I told him our Discourse was concerning the Oath of Allegiance, and the Lawfulness, or Unlawfulness of it. Then Sir *Thomas Gascoigne* took me by the Hand, and told me, Well, Man, if thou wilt undertake a Design that I and others have to kill the King, I will give thee 1000 *l.* and I will send thee to my Son *Thomas*, if he be in Town; but if he be not in Town, he said he would give me such Instructions that I should find the rest that were concerned in the Business——

L. C. J. The rest, what?

Mr. *Bolton*. The rest that were in the Plot.

L. C. J. That you should know where to find them in London, you mean so?

Mr. *Bolton*. Yes, my Lord, if he were gone beyond Sea.

L. C. J. What said you to him?

Mr. *Bolton*. My Lord, I told him I would have no hand in Blood, and would not do such a wicked Deed, and desired him to persuade me no more. Then he desired me of all Love to keep secret what he had said. But afterwards I recollected that it was a very ill Thing, and went immediately to the Justices of the Peace.——

L. C. J. How soon did you go?

Mr. *Bolton*. Soon after.

L. C. J. To whom did you go?

Mr. *Bolton*. To Mr. *Tindal* a Justice of Peace, and to Mr. *Normanton*.

L. C. J. Did you make an Oath there?

Mr. *Bolton*. Yes, that Sir *Thomas* promised me 1000 *l.*

L. C. J. And for what Purpose?

Mr. *Bolton*. For killing the King.

L. C. J. Did you put that in the Oath you made?

Mr. *Bolton*. Yes, my Lord.

L. C. J.



L. C. J. What time was this after the Discourse?

Mr. Bolron. It was about a Week or such a time.

L. C. J. Was it the next Day?

Mr. Bolron. No.

L. C. J. Was it within a Fortnight?

Mr. Bolron. Yes, I believe it was, my Lord.

L. C. J. Was it not a Month?

Mr. Bolron. No, it was not above a Fortnight, for Sir Thomas Gascoigne was apprehended in July or thereabouts, I believe, my Lord.

L. C. J. But was that the first time that Sir Thomas ever spake to you to kill the King, the 30th of May?

Mr. Bolron. Yes, my Lord.

Mr. Just. Jones. You say you left Sir Thomas's Service in July 1678?

Mr. Bolron. Yes, the first Day of July.

L. C. J. How? did you leave him in good Friendship?

Mr. Bolron. Yes, my Lord, in very good Friendship.

Mr. Just. Jones. Were you in good Correspondence?

Mr. Bolron. I always went to his House to hear Mass, and oftentimes was there.

L. C. J. How came you to leave his Service?

Mr. Bolron. It was my own Fault I left it.

L. C. J. Why, it might be no Fault neither. But why did you leave it?

Mr. Bolron. My Lord, it was because there was one Henry Addison and Bennet Johnson did seek to take my Work and Service out of my Hands. Sir Thomas Gascoigne did desire me to let them come in and see what they could do, and that I should have my Salary, and that I should gather in his Debts; I was willing to be rid of it, and told him they that look'd after the Pit should gather in the Debts, for I conceived else it would be but a double Charge to him.

Mr. Just. Dolben. This is only how he left Sir Thomas his Service; Sir Thomas thought the other Men could do it better than he, and so said he, then let them do your whole Work.

Mr. Just. Jones. But he says he did usually resort to the House after he had left his Service, to hear Mass.

Mr. Just. Dolben. They will ask him some Questions, it may be.

L. C. J. Had you any Estate of your own when you left Sir Thomas's Service?

Mr. Bolron. Yes, I had a Farm I rented of Sir Thomas Gascoigne.

L. C. J. What Rent?

Mr. Bolron. Fifteen Pound and a Mark a Year, after I was married.

L. C. J. When were you married?

Mr. Bolron. In July (75.) but afterwards I was there, and did still Service.

Mr. At. Gen. I think you have some Estate of your own besides that?

Mr. Bolron. Yes, I have 7*l.* a Year.

Mr. At. Gen. Well, will you for Sir Thomas ask him any Questions?

Mr. Babbington. No.

L. C. J. Mr. Bolron, Pray what did the Justice say to you when you made this Oath?

Mr. Bolron. My Lord, thus; I was resolved to come to London, and make my Confession here, and desired I might so do, whereupon one of

the Justices was unwilling, but at last they said I might do what I would.

L. C. J. You say Justice Tindal it was sworn before, what did he say when you made the Oath?

Mr. Bolron. My Lord, as remember, he said, he must give the Council an Account of it, and perhaps he should not have an Answer of it in a Month after; so I thought it was better to come to London, and make a speedy Dispatch of the Business; for I did not know but the Priests in the mean time might escape.

L. C. J. But did Mr. Tindal do nothing upon that Oath that was made?

Mr. Bolron. Yes, he did make out his Warrant for the apprehending of one.

L. C. J. Did he not make out a Warrant for the apprehending of Sir Thomas Gascoigne?

Mr. Bolron. My Lord, I think they would have done it, but I desired I might come to the Council.

Mr. Just. Pemberton. How long after came you there?

Mr. Bolron. As soon as I could get ready.

L. C. J. What time came you thither?

Mr. Bolron. My Lord, I set out upon Monday, and came hither to London upon Wednesday.

L. C. J. Do you know what Month it was in?

Mr. Bolron. In June it was, I think.

L. C. J. And who did you come and apply yourself to in London, when you came there?

Mr. Bolron. My Lord, I had a Letter directed from Mr. Justice Tindal to his Brother Tindal in London, to carry me to the Council. I chanced to lose this Letter at Ware, and losing it there, I came to the Green Dragon in Bishopsgate Street, I was acquainted with the Man of the House, and having told him some of my Business, he carry'd me before Sir Robert Clayton, and then we went to my Lord of Shafisbury, President of the Council, and presently got an Order of the Council about me.

L. C. J. How long was this after Dr. Oates's Discovery? When did Oates and Bedloe make their Discovery?

Mr. Just. Pemberton. This was a long time after, in May last.

Mr. Just. Jones. Did Mr. Tindal take your Examination in Writing?

Mr. Bolron. He took a short Thing in Writing.

Mr. Just. Jones. Did you set your Hand to it?

Mr. Just. Pemberton. He resolved to go to the Council and tell them.

Mr. Bolron. I was not willing to tell the Justices all, for I had a mind to go to the Council.

Mr. Just. Jones. But you told them the great Matter of all, Sir Thomas's Proffer to give you 1000*l.* to kill the King.

Mr. Bolron. Yes.

Mr. Just. Jones. Had you a Lease of your Farm under Sir Thomas Gascoigne?

Mr. Bolron. It was but a Lease paroll.

Mr. Just. Jones. For how long?

Mr. Bolron. For nine Years.

Mr. Babbington. May I have Leave to ask him any Questions?

Court. Yes, yes, you may.

Mr. Babbington. You say you had a Lease of the Farm, a Lease paroll.



Mr. Bolron. Yes, I had so.

Mr. Serj. Maynard. Council must not be allowed in matter of Fact, my Lord.

L. C. J. But Brother, this Man hath made a long Narrative.

Mr. Serj. Maynard. Ay, and a shrewd one too.

L. C. J. His Evidence is very great, and Sir Thomas Gascoigne does not hear any one Word.

Mr. Bolron. One thing more I would speak to. It was in September 1678, a little before the Discovery of the Plot, I did hear Sir Thomas Gascoigne say, and tell my Lady Tempest, that he would send 150 l. to Dolebank in hopes the Blow would be given shortly.

Mr. Serj. Maynard. That is the same Word us'd by all the Witnesses.

L. C. J. When was this?

Mr. Bolron. In September 78; the Plot was not known by us to be discovered then, as I know of.

L. C. J. Who did he speak it to?

Mr. Bolron. To his Daughter, the Lady Tempest.

L. C. J. What said she?

Mr. Bolron. She seem'd to like it very well; I did not hear any thing to the contrary: And I heard a Letter read afterwards from Cornwallis, that he had received it, but it was too little for the carrying on so great a Design.

L. C. J. Who is Cornwallis?

Mr. Bolron. And it was for the arming the poor Catholicks when the Blow should be given.

L. C. J. Is his Daughter living?

Mr. At. Gen. Yes, she is out under Bail.

Mr. Recorder. My Lord, I shall desire to ask but one Question, which concerns the Prisoner at the Bar: How long after the Discourse that you had with the Priest in the Gallery was it that Sir T. Gascoigne spoke to you of the same thing?

Mr. Just. Pemberton. Mr. Recorder, if you ask him but one Question; let it not be that which he hath answered before; he says the same Day.

Mr. Hobart. I desire to ask him one Question.

Mr. Just. Pemberton. No; tell Sir Thomas first what he hath said, and see if he will ask any Questions.

Mr. Hobart. Sir Thomas, here is Mr. Bolron hath given Evidence against you, will you ask him any Questions?

Mr. Just. Pemberton. Read your Minutes to him.

*Then Mr. Hobart repeated the first Part, about his coming to Sir T. Gascoigne's Service, and the Colliery Conveyance.*

Mr. Just. Jones. Ask him if he will ask any Questions upon this Part. *[Which he did.]*

Sir T. Gasf. No, 'tis no great matter at all, for it is true; when 'twas I can't tell, there was something I did seal to Sir William Ingleby, and some Money I had of him.

*Then Mr. Hobart repeated his Saying to Metcalfe, he would send 3000 l. to the Priests in 76.*

Sir T. Gasf. How comes that? I deny that utterly.

Mr. Bolron. 'Tis all true that I have said, by the Oath that I have taken.

Sir T. Gasf. There is no such Thing at all.

Mr. Hobart. He says it was return'd by Mr. Phiswick.

Sir T. Gasf. Phiswick was a Servant to me, and return'd some Money for me sometimes, but it was all for my Children, my Sons and my Daughters, and my Kinspeople, to whom I paid Annuities; but it was a far greater Sum of the whole than 3000 l. and for one great Sum of 1000 l. you know how it was dispos'd of.

Mr. Hobart. He says, that in the beginning of 77, you said you had return'd this 3000 l. to London, and if you had a thousand times as much, you would give it for so good Cause.

Sir T. Gasf. I never said any such thing, never thought of any such thing in my life.

L. C. J. Now tell him of the Meeting at Barmbow.

Mr. Hobart. He says, in the Year 77 there were several Gentlemen met at your House at Barmbow.

L. C. J. Name them. *[Which he did.]*

Mr. Hobart. These were all together with you.

Sir T. Gasf. No such Matter at all.

Mr. Hobart. And he said all these Persons did discourse with you about establishing a Nunnery at Dolebank, and another at Herworth, and another at Broughton.

Sir T. Gasf. Not one Word of all this is true.

L. C. J. Tell him what he said concerning killing the King.

Mr. Hobart. He says that the Nunnery was establish'd at Dolebank, and such and such were Nuns.

Sir T. Gasf. He may say what he will, but not one Word of all this is true.

Mr. Just. Dolben. But you skip over the main Thing, what the Gentlemen resolv'd upon at that Meeting.

Mr. Hobart. He says, these Gentlemen did resolve the Business should go on for the killing of the King, and that they would venture their Lives and Estates for it.

Sir T. Gasf. I never heard of any such thing as killing the King. Sir, did I ever say any such thing?

Mr. Bolron. It was in your own Dining-Room, and in your own Chamber.

Mr. Just. Pemberton. He did not say so, I think, about their Meeting.

L. C. J. Yes, he says they all met at his House, and there they had Discourse of killing the King. In what Room was it?

Mr. Bolron. In the old Dining-Room.

Sir T. Gasf. I deny it utterly; there was no such thing: Some Persons might be at several Times at my House, but no such Meeting, nor Words at all at one time or other.

*Then Mr. Hobart told him of Mr. Gascoigne's and Mr. Middleton's Licenses to go to London, and Intention to go to France.*

Sir T. Gasf. 'Tis very true, my Son did go to London for that End.

Mr. Hobart. And so Mr. Middleton, upon pretence of receiving Rent.

Sir T. Gasf. I cannot tell about Mr. Middleton.

Mr. Hobart. He says, your Son would immediately fly into France, and commit the Design into other Hands; and you said you approv'd of it: And this he heard you discourse very plainly.

Sir T. Gasf.



Sir *T. Gascoigne*. But I plainly deny it all.

Mr. *Hobart*. He says you bid him go up (the 30th of May) to the Gallery to Mr. *Rushton*.

L. C. J. No, not to him, but when he was in the Gallery, *Rushton* came to him.

Then Mr. *Hobart* repeated the Discourse with *Rushton* about the Oath of Allegiance.

L. C. J. You need not tell him what *Rushton* said.

Mr. *Just. Dolben*. Yes, my Lord, it is convenient.

Mr. *Bolton*. For I told him our Discourse about the Oath of Allegiance my self.

Then *Hobart* repeated Sir *Thomas's* further Discourse and Proffer to him.

Sir *T. Gascoigne*. There is nothing of all this true: He might come there and talk with any body, for what I know, but I was not with him.

L. C. J. But ask him what he says to this, that he proffer'd him 1000 *l.* to kill the King.

[Which he did.]

Sir *T. Gascoigne*. Where should you be paid it?

Mr. *Bolton*. I would not undertake the Design.

Sir *T. Gascoigne*. Did you ever know I was Master of 200 *l.* together in my Life.

Mr. *Bolton*. Yes.

L. C. J. Tell him, he says he would not undertake it, and therefore it was in vain to appoint where.

Sir *T. Gascoigne*. I utterly deny it all, upon my Life; that's e'en just like the rest, I never heard it before.

L. C. J. He puts it to you, Whether ever you saw him have 200 *l.* together?

Mr. *Bolton*. I have seen 500 *l.* at a time in the House, and I have seen in *Phiswick's* Hand 700 *l.*

[Which was repeated to him.]

Sir *T. Gascoigne*. What *Phiswick* might have of other Mens Monies I do not know, he never had so much Money of mine.

Mr. *Bolton*. My Lord, Sir *T. Gascoigne* I believe had at that time at least 1200 *l.* a Year of his own Estate.

[Which was repeated to him.]

Sir *T. Gascoigne*. I wish he would make it good.

Mr. *Bolton*. My Lord, 'tis true enough: I believe he hath settled some Estate upon his Son, about 600 *l.* a Year.

L. C. J. I can't tell what becomes of the Papists Estates, nor how the Priests drain them, but there are Men of very great Estates among them, but they are greatly in Debt.

Mr. *Hobart*. Will you ask Mr. *Bolton* any Questions?

Mr. *Just. Jones*. You have not repeated to him one part of the Evidence; that in *September*, 78, he said to my Lady *Tempest*, he would send 150 *l.* to *Dolebank*, in hopes the Blow would be given shortly.

[Which was then repeated to him.]

Sir *T. Gascoigne*. I know no such thing at all; there is not one word of all this true.

Mr. *Hobart*. Will you ask him any Questions or no?

Sir *T. Gascoigne*. I know not what Questions to ask, but where the Money should be paid?

L. C. J. That can be no Question, for the Thing was never undertaken.

Mr. *At. Gen.* Then pray, Mr. *Mowbray*, tell your Knowledge.

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Mr. *Mowbray*. My Lord, and you Gentlemen of the Jury, I came to Sir *Thomas Gascoigne's* in the beginning of the Year 1674.

L. C. J. Were you his Servant?

Mr. *Mowbray*. Yes, my Lord, but never an hired Servant.

L. C. J. In what Quality did you serve him?

Mr. *Mowbray*. In his Chamber, my Lord, and continued with Sir *Thomas* until 76, in which time I did observe Mr. *Thomas Addison*, a Priest, *Fincham*, a Priest, *Stapleton*, a Priest, *Killingbeck*, a Priest, and *Thwing* the elder and the younger, several times to visit and confer with Mr. *William Rushton*, Sir *T. Gascoigne's* Confessor.

L. C. J. Were you a Papist then?

Mr. *Mowbray*. Yes, I was.

L. C. J. Are you one now?

Mr. *Mowbray*. No.

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

Mr. *Mowbray*. I being very diligent in attending Mr. *Rushton* at the Altar, I became in great Favour with him, and was permitted to be in the Chamber when the Priests were in private with him, and I heard them often talk and discourse of a Design laid for setting the Popish Religion uppermost in *England*, and how like the same was to take Effect in a short time.

L. C. J. Who did speak it?

Mr. *Mowbray*. The Priests in private with Mr. *Rushton*: I speak now, my Lord, of the Plot in general; I come to Sir *T. Gascoigne* anon.

L. C. J. When? In what Year was this Discourse?

Mr. *Mowbray*. In 1676.

L. C. J. Well, what said they?

Mr. *Mowbray*. Why, they discoursed concerning the setting up the Popish Religion in *England*, and how like the same was to take Effect, and succeed, in regard that most of the considerable Papists in *England* had engaged to act for it; and if it could not be done by fair Means, Force must be us'd; and particularly declar'd, that *London* and *York* were to be fir'd.

L. C. J. In 76?

Mr. *Mowbray*. Yes.

L. C. J. What? Would they fire it again?

Mr. *Mowbray*. And I heard them often say, That the King in Exile had promised them—

L. C. J. Did they say the City was to be fir'd a second time?

Mr. *Mowbray*. Yes, to further their Intention.

Mr. *Serj. Maynard*. It was effected in *Southwark*.

Mr. *Mowbray*. And they did also declare, That the King, when he was in his Exile, had promised the Jesuits beyond Sea to establish their Religion whenever he was restor'd; which they now despair'd of, and therefore he was adjudg'd an Heretick, and was to be kill'd.

L. C. J. Who did say this?

Mr. *Mowbray*. The Priests.

L. C. J. Who was the Heretick?

Mr. *Mowbray*. The King. Also I did hear Mr. *William Rushton* tell *Addison* and the rest of the Priests—

L. C. J. Do you know which of the Priests said the King was to be kill'd?

Mr. *Mowbray*. It was *Rushton*: *Rushton* and *Addison* were together, and he did declare to Mr. *Addison*, that according to Agreement, he had given the Oath of Secrecy and the Sacrament to



Sir *T. Gascoigne*, Esq; *Gascoigne* his Son, my Lady *Tempest* his Daughter, Mr. *Stephen Tempest*, and had communicated the whole Design to them.

*L. C. J.* Were you by when he said this?

Mr. *Mowbray*. Yes, in his Chamber.

*L. C. J.* How long after the Discourse of the Priests was this?

Mr. *Mowbray*. My Lord, he told them he had done it according to Agreement before; and they did approve of it, and had severally engaged to be active, faithful and secret, and would do to the utmost of their Powers, as far as their Estates would permit, to establish the *Roman* Catholick Religion in *England*: And about *Michaelmas*, 1676, there was another Meeting of these Priests, and others, where they declared, That the King was an Heretick, and that the Pope had excommunicated him, and all other Heretics in *England*, *Scotland* and *Ireland*, and that Force was to be made use of.

Mr. *Just. Dolben*. When was that, Sir?

Mr. *Mowbray*. About *Michaelmas* 1676.

Mr. *Just. Jones*. You were his Servant then?

Mr. *Mowbray*. Yes, my Lord: And then did *Rushton* produce a List of Names, of about 4 or 500, and he read them over, all of whom, he said, were engaged in the Design; and he did read the Names of Sir *T. Gascoigne*, *T. Gascoigne* Esq; my Lady *Tempest*, Mr. *Vavasor*, Sir *Francis Hungatt*, Sir *J. Savile*, the two *Townleys*, Mr. *Sherborne*, and others.

*L. C. J.* Did you see this List?

Mr. *Mowbray*. I saw several Subscriptions to it, and amongst the rest I saw Sir *T. Gascoigne*'s own Hand.

*L. C. J.* Do you know it?

Mr. *Mowbray*. Yes, very well.

*L. C. J.* And upon the Oath you have taken, do you believe that was his Hand to the List?

Mr. *Mowbray*. Yes, my Lord, I do believe it was his Hand.

*L. C. J.* Did you know any other Hands? Do not you know his Son's Hand?

Mr. *Mowbray*. No, nor any but Sir *Tho. Gascoigne*'s.

*L. C. J.* It was in several Hands, was it not?

Mr. *Mowbray*. Yes, it seem'd to me to be so.

*L. C. J.* What did they subscribe to do?

Mr. *Just. Pemberton*. This was in 77?

Mr. *Mowbray*. No, it was about *Michaelmas*, 1676.

*L. C. J.* What was it for?

Mr. *Mowbray*. The Title of it was, as I remember, *A List of them that are engag'd in the Design of killing the King, and promoting the Catholick Religion*.

*L. C. J.* Was that writ on the top?

Mr. *Just. Pemberton*. They were Words, I suppose, to that Effect.

Mr. *Mowbray*. Yes, it was to that Effect, my Lord.

*L. C. J.* Was it mentioned in the List, for killing the King?

Mr. *Mowbray*. Yes: And then they declar'd also, That the Pope had given Commission to put on the Design, and prosecute it as quick as they could; and that he had given a plenary Indulgence of 10000 Years for all those that should act, either in Person or Estate, for killing the King, and setting up the *Romish* Religion in *England*, besides a Pardon and other Gratifications. And so much as to the Plot in general.

Now, my Lord, I come to the Particulars as to the Prisoner at the Bar, Sir *T. Gascoigne*. About *Michaelmas*, 1676, much about that time, there was Sir *Tho. Gascoigne* and his Son, my Lady *Tempest*, and *Rushton* the Priest together; where I heard them hold several Discourses of this Design about killing the King, and firing the Cities of *London* and *York*; and Sir *T. Gascoigne* did declare and assure Mr. *Rushton*, that he would not swerve from what he had said, but would keep to the Oath of Secrecy he had given him, and that he would do to the uttermost of his Power for the killing of the King, and the Establishment of Popery.

*L. C. J.* Were you in the Room?

Mr. *Mowbray*. I stood close at the Door, where I heard very well, the Door was not quite shut.

*L. C. J.* They did not know you were there?

Mr. *Mowbray*. No.

*L. C. J.* They would not trust you with it then?

Mr. *Mowbray*. They did not know I was there. And they did unanimously conclude, That it was a meritorious Undertaking, and for the good of the Church, and they would all venture their Lives and Estates in it.

*L. C. J.* *Rushton* was there, was he not?

Mr. *Mowbray*. Yes, *Rushton* was there; and Dr. *Stapleton*, a Priest, coming from another Door, and finding me at the Door, went in and desired them to speak lower, for there was one at the Door: Whereupon my Lady *Tempest* call'd me in, and order'd me to go below and entertain some Strangers: So much for the Particulars concerning Sir *T. Gascoigne*.

Mr. *Just. Pemberton*. Was Sir *Miles Stapleton* there at that time?

Mr. *Mowbray*. Yes, he was there.

*L. C. J.* Where?

Mr. *Mowbray*. In an upper Room.

*L. C. J.* Who were by?

Mr. *Mowbray*. Mr. *Gascoigne*, and the Priest, and my Lady *Tempest*.

*L. C. J.* This is all you say?

Mr. *Mowbray*. Yes, so far as to the Particulars of this Matter.

Mr. Serj. *Maynard*. Have you any more to say?

Mr. *Mowbray*. No, no more but these Particulars, unless some Questions be ask'd.

*Then Hobart began to repeat this Evidence to Sir T. Gascoigne, how he came to be his Servant.*

Sir *T. Gascoigne*. He came as a Boy to me, without hiring.

*Then Mr. Hobart repeated the Priest's Discourse at Rushton's.*

Sir *T. Gascoigne*. I deny it all.

*L. C. J.* He was not present, this was a Discourse among themselves.

*Then Hobart told him about the Oath of Secrecy, and the Sacrament.*

Sir *T. Gascoigne*. No, there is no such thing, there is not a word of it true.

*L. C. J.* Then tell him of the List.

*[Which was done.]*

Sir *T. Gascoigne*. 'Tis a most impudent Lie.

Mr. *Hobart*.



Mr. *Hobart*. What say you to your Hand being to that List?

Sir *T. Gascoigne*. Not one Word of it.

Mr. *Hobart*. But he says 'twas your Name to it.

Sir *T. Gascoigne*. He had a pair of Spectacles on sure that could see any thing: Was it a printed List, or a Written one?

Mr. *Mowbray*. It was written, your Name was put to it, with your own Hand-writing.

[Which was told him.]

Sir *T. Gascoigne*. He makes what he will.

Then Mr. *Hobart* repeated *Rushton's* declaring that he had given him the Sacrament of Secrecy.

Sir *T. Gascoigne*. I'll warrant you he hath gotten this Oath of Secrecy out of the News-Books; for I never heard of it before: Let me ask thee: Didst thou ever hear of it before you came to London?

Mr. *Mowbray*. Yes, Sir *Thomas*, I did.

Mr. *Hobart*. But will you ask him any Question.

Sir *T. Gascoigne*. No; it is all false he speaks, not a word of Truth comes out of his Mouth.

Mr. *Serj. Maynard*. My Lord, We will now go on to another piece of our Evidence.

Sir *T. Gascoigne*. I must leave it to the Jury to take notice of their Conversations and mine.

Mr. *Serj. Maynard*. Whereas he says he was never Owner of 200 *l.* together, we will produce his own Almanack under his own Hand.

*L. C. J.* Do it, and we will shew it him, and see what he says to it.

Sir *T. Gascoigne*. Why did not he discover it before?

Mr. *Hobart*. If your Lordship please, Sir *Thomas* desires he may be ask'd, Why he did not discover it before?

Mr. *Mowbray*. Because the Papists did threaten me at such a Rate, and I being a single Person against them, durst not.

*L. C. J.* When did you first discover it?

Mr. *Mowbray*. It was about *Michaelmas* last: The Papists did threaten me, that if I did discover it, they would take my Life away.

*L. C. J.* When did you turn Protestant?

Mr. *Mowbray*. When the Plot broke out, then I took the Oaths of Allegiance and Supremacy.

*L. C. J.* Why did not you discover it as soon as you turn'd Protestant?

Mr. *Mowbray*. My Lord, I was not in a Condition to make any Friends, or come up to London upon such an Account: Besides, my Lord, they did threaten me, and particularly after the Plot was come out, *Addison* did threaten me.

*L. C. J.* But this was a great while before the Plot broke out.

Mr. *Just. Dolben*. So long he continued a Papist, and then he would not discover.

Mr. *Mowbray*. This *Addison* was often with me, and he flatter'd me, and made me continue a Papist, lest I should discover it.

*L. C. J.* Where is he now?

Mr. *Mowbray*. He is fled.

*L. C. J.* What said *Addison* when you did turn Protestant?

Mr. *Mowbray*. He said if I did discover, he would take away my Life.

*L. C. J.* I wonder they did not give you the Oath of Secrecy.

Mr. *Mowbray*. Yes, my Lord, I did receive it from *Rushton's* own Hand.

*L. C. J.* When?

Mr. *Mowbray*. In 76.

*L. C. J.* Who receiv'd it with you?

Mr. *Mowbray*. It was given to me after the Communicants were gone from the Chapel.

*L. C. J.* What was the Oath?

Mr. *Mowbray*. He reserved the Sacrament for me, and swore me by it, that I should be faithful and secret, and should not reveal any Discourse I was privy to.

*L. C. J.* Reveal no Discourse? What Discourse did they mean?

Mr. *Mowbray*. Those Discourses when the Priests were in private with him.

Then Sir *T. Gascoigne's* Almanack was produc'd.

Mr. *At. Gen.* Who proves Sir *Thomas's* Hand? Is this Sir *T. Gascoigne's* Hand?

*Bolton* and *Mowbray*. Yes, it is his Hand.

*L. C. J.* Shew it him himself. [Which was done.]

Mr. *Hobart*. Is that your Hand?

Sir *T. Gascoigne*. Yes, I think I saw it at the Council-Table; this is my Writing, and I will justify every word that is written there.

Mr. *At. Gen.* Read that one Place.

*Clerk.* The 15th to *Peter* for 100 *l.* to *Corker*.

Mr. *Att. Gen.* If your Lordship please, I desire he may be ask'd what that 100 *l.* was for.

Mr. *Hobart*. Look you here, Sir, did you order 100 *l.* to be paid to *Corker*?

Sir *T. Gascoigne*. It may be I did.

Mr. *Hobart*. What was it for?

Sir *T. Gascoigne*. For the Portion of a Child I had.

Mr. *Hobart*. What Child was that?

Sir *T. Gascoigne*. I know not who it was, *Mary Appleby*, I think.

Mr. *At. Gen.* Pray ask him how it came to *Corker's* Hands? Why it was return'd to *Corker*?

Sir *T. Gascoigne*. I know not that, because we did not know where she lived, she was beyond Sea.

Mr. *Hobart*. Where is she?

Sir *T. Gascoigne*. She is at *Paris*.

Mr. *At. Gen.* Here is another Book of his that does make mention of 900 *l.* to Mr. *Corker*, upon Agreement between them.

*L. C. J.* Ask him how much Money he might return to *Corker* from time to time.

[Which was done.]

Sir *T. Gascoigne*. My Lord, I don't know, we have been several Years returning of Money.

*L. C. J.* Hath he returned 8 or 900 *l.* in all?

Sir *T. Gascoigne*. No, I don't think so much.

Mr. *At. Gen.* Pray ask him how much was Mrs. *Appleby's* Portion?

Sir *T. Gascoigne*. Indeed I can't certainly say; but as the Rents came in I was to pay several Sums to several Persons; it was 100 *l.* a Year to that *Mary Appleby*, it may be 2000 *l.* in all from first to last, but I shall satisfy you about that.

Mr. *At. Gen.* Will you satisfy us anon why 900 *l.* was paid in one Year?

Then the Book was shewn to Sir *Thomas*, who own'd it to be his Hand.

*L. C. J.* Read it.

*Clerk. Q.* Of Mr. *Corker* what Bills, for how much, and to whom directed, he hath received of me since the 21st of July, 1677; to June 1678; vid. the Book,



14 95. *The Trial of Sir Tho. Gascoigne, Bar. Hil. 32 Car. II.*

*Book, p. 45. and the great Book, fol. 54. where you may find P. for 900 l. and agree in this Account, Corker, the 7th of August, 1678.*

Mr. *Att. Gen.* First he makes a *Quere*, how much he returned, and then, says he, the 7th of August I and *Corker* agreed.

*L. C. J.* Let him read it himself. [*Which he did.*]

Mr. *Hobart.* What say you to that, that you sent so much Money to *Corker*?

Mr. *Just. Pemberton.* You must understand he is one of the Priests, and *Bolton* swears, that he intended to send 2000 l. and by 300 l. apiece, he reckons up 900 l.

Sir *T. Gasco.* It was a great many Years, and several times.

*L. C. J.* Tell him it was between July 77, and June 78.

Sir *T. Gasco.* That does not appear.

Mr. *Att. Gen.* Yes, it does, by the Book.

Mr. *Just. Dolben.* Then how came you to return 900 l. in one Year to *Corker*?

Mr. *Serj. Maynard.* And never had 200 l. he says together.

Mr. *At. Gen.* Then here is another Passage in this Book, if it please your Lordship to have it read.

*Clerk.* Take Heworth of an easy Rent of the Widow—and purchase the Reversion of Craddock—and in the Interim Dawson.

Mr. *Just. Dolben.* Ask him what he did mean by taking of *Heworth*?

Sir *T. Gasco.* I took no House there.

Mr. *Just. Dolben.* But did he agree to buy the Reversion of it?

Sir *T. Gascoigne.* It was for my Niece *Thwing*. She was born in the House, and was very desirous to be in the House.

Mr. *Just. Dolben.* Ay: But why did he take the Lease of the Widow, during her Jointure, and why buy the Reversion?

Sir *Thomas Gascoigne.* I know no Reason but my Affection to her:

Mr. *At. Gen.* Ask him who he did intend should live in the House?

Sir *Thomas Gascoigne.* Nay, I don't know what they intended, my Niece *Thwing*.

Mr. *Just. Dolben.* Did you intend to buy it for your self?

Sir *Tho. Gascoigne.* No, I lent her the Money.

Mr. *Just. Dolben.* Did you intend it for her?

Sir *Tho. Gascoigne.* I might do with it what I would.

Mr. *At. Gen.* Ask him if his Niece *Thwing* was a single Woman, and was to have the whole House to her self?

Sir *Tho. Gascoigne.* She had her Brother with her.

Mr. *Hobart.* He says Mrs. *Ellen Thwing* was a Nun, Mrs. *Lassels* was to be Lady Abbess, Mrs. *Beckwith* was her Assistant, and Mrs. *Cornwallis* and others were Nuns.

*L. C. J.* Ask him if Mrs. *Lassels* was not to be Lady Abbess and live there?

Sir *Tho. Gascoigne.* I know nothing of it.

Mr. *At. Gen.* Ask him if there was not one Mrs. *Benningsfield* to be there?

Sir *Tho. Gascoigne.* No.

Mr. *Bolton.* Yes, she was to be there.

Mr. *Just. Jones.* Why, do you know any thing of her?

Mr. *At. Gen.* She is in *York Goal*.

Mr. *Bolton.* No, she is gone from thence. My

Lord, *Ellen Thwing* was a Nun, and was sent for from beyond Sea to instruct all them that should be made Nuns; and this Father *Cornwallis* was Father Confessor to the Nuns. He is now in *York Goal*, taken with two Women.

Mr. *Just. Jones.* Ask him what he meant by that Writing in the Almanack?

Sir *Tho. Gascoigne.* I did write things here for a Memorandum to help and assist my Niece, and the poor Children of my Brother; and so the Widow that was Sir *Walter Vavasor's* Sister, was to sell the House, and one *Craddock* meant to sell all the Lordship, and the Children were desirous to keep the House, and so they bought the House and one Close, and all the rest was sold; so I writ it only that they should have the Assistance of Sir *Walter Vavasor* to have the House.

Mr. *Just. Dolben.* Pray ask him what he means by the Words, *in the interim Dawson*.

Sir *Tho. Gascoigne.* Nay, what do I know?

*L. C. J.* Ask if Mrs. *Thwing* were not a Nun?

Sir *Tho. Gascoigne.* They did desire it: they could not get that House, that they might have another House.

Mr. *Just. Dolben.* And all this for Mrs. *Thwing*? Ask him if she was not beyond Sea, and kept in a Nunnery.

Sir *Tho. Gascoigne.* Nay, I can't tell what she was.

Mr. *At. Gen.* Here is another Note in this Almanack, pray read it. It was first shewed to Sir *Thomas Gascoigne*, who owned it to be his Hand.

*Clerk.* Mr. *Harcourt*, next House to the Arch within *Lincoln's-Inn-Fields*, Mr. *Parr's*.

*L. C. J.* No question but he was acquainted with all the Priests about the Town, and had Directions to write to them.

Mr. *Just. Pemberton.* He hath been Priest-ridden by them, that is plain.

Mr. *Recorder.* Ask him what he means by the last Mark there set under *London*?

Sir *Tho. Gascoigne.* I can't tell what it is, 'tis a Query.

Mr. *At. Gen.* In the Almanack there is a Memorandum to acquaint Mr. *Thwing* with the whole Design; what it was I can't tell.

*L. C. J.* Ay, pray let's see that.

Mr. *At. Gen.* This *Thwing* is a Priest in *Newgate* at this time.

*Clerk.* The 15th of April 1676. Memorandum. Acquaint Mr. *Thomas Thwing* with the whole Design.

*L. C. J.* Now shew him that.

Sir *Tho. Gascoigne.* Look you what is it you would have?

Mr. *Hobart.* What Design was that?

Sir *Tho. Gascoigne.* It was my providing Monies for him and his Sister, that they should tell how to purchase the House.

Mr. *At. Gen.* What, a Priest and a Nun?

Mr. *Just. Dolben.* They had vow'd contrary to that.

Mr. *Just. Pemberton.* Ask him whether *Thwing* be not a Priest?

Mr. *Hobart.* Is not this *Thwing* a Priest? *Thomas Thwing*?

Sir *Tho. Gascoigne.* No, it was *Ferdinando Thwing*, that is now dead.

Mr. *At. Gen.* No, but this is *Thomas Thwing*: Is he a Priest?

Sir *Tho.*



Sir Tho. Gascoigne. I do not know. What have I to do?

L. C. J. Then consider how likely it was; he was to purchase an House for a Priest and a Nun, for some such Business as is sworn.

Mr. Hobart. He says no, my Lord.

L. C. J. What is the Meaning of it then, that he should name the whole Design?

Mr. Hobart. He says it was the Brothers and Sisters that lived next Door to him.

L. C. J. Ay, but 'tis said, Acquaint Thomas Thwing with the whole Design.

Mr. Hobart. He might acquaint Thomas Thwing with such his Intention.

Mr. Att. Gen. We will now shew your Lordship a Letter, taken among the Papers of Sir Thomas Gascoigne, wherein is this Proviso, talking of the Settlement, *In the formal Settlement, let this Proviso be added, If England were converted, then to be disposed so and so.*

L. C. J. Mr. Bolron, How came you by that Paper?

Mr. Bolron. I took this Paper in Sir Thomas Gascoigne's Chamber, with several others: I remember some had his Hand to them, others had not, and some were signed Pracid, and some Cornwallis.

L. C. J. Is there any Mark of his Hand to that Paper?

Mr. At. Gen. Yes, there is a Mark in this of Sir Thomas's own Hand, the Word (*Yes*) in the Margin.

Clerk. Dolebank, June the 9th, 78.

Most Honoured Sir,

**A**fter most grateful Acknowledgments of all your charitable Favours, as to my own particular; I am also herewith to present most humble and heartiest Thanks on behalf of your Niece, and Mrs. Hastings here, who both would esteem it a great Happiness to see you here, as also my Lady, your honoured Daughter, to whom we beseech our humble Respects may be presented. I have sent the Paper safely to good Mrs. Beddingfield, from whom shortly you will have religious Acknowledgments. I told her that I suppos'd you would judge fitting to insert into the formal Writing the Proviso, viz. That if England be converted, then the whole 90*l.* per Annum is to be apply'd here in Yorkshire, about or at Heworth, &c. The which, doubtless, will be as acceptable unto her, and as much to God's Glory as possibly can be imagined. Now, dearest Sir, let me not be too much troublesome, save only to wish you from his Divine Majesty, for whose everlasting Glories greater Praise and Honour you do this most pious Action, the happy Enjoyment of that Glory everlasting. I would lastly advise you in God's holy Name, to compleat the Business by drawing the formal Writing as soon as possible; and without making any material T E S. Alteration from what you have already signed, save only the Proviso above written. I should be glad to know concerning the Receipt hereof; and when Sir Miles and your Son are likely to attend you to finish the Business: As also when Mr. Pierpoint shall be arriv'd. These good Religious are very desirous with your Approbation (and Mrs. Bed. at my coming from her wish'd the same) to try for a Removal to Mr. Dawson's; the Impediments here being essential, as the House incapable to receive more Scholars, with many other Inconveniencies also. Time permits no more, only we again express our earnest Desires to see your Honour here with my Lady, as

the greatest Satisfaction we can desire: I remember you hinted to Mrs. Bedding. not long since, that perhaps you might see her at Hammer-smith; and how much easier you may come hither, we earnestly beseech you to take into Consideration to the Purpose.

Most Honoured Sir,

Your Honour's most obliged

faithful Servant,

J. O. PRACID.

L. C. J. I think it is pretty plain there was a Design of erecting a Nunnery.

Mr. Serj. Maynard. If England is converted, then the whole 90*l.* a Year to be employed in Yorkshire about a rotten House, which would be much for God's Glory.

L. C. J. What other Evidence have you?

Mr. Recorder. If your Lordship please, we have another Letter dated from York Castle, and the backside of the Letter is indorsed by Sir Tho. Gascoigne's own Hand, the Time when he receiv'd it.

L. C. J. When was it?

Mr. Recorder. The last May, he dates it from York Castle, where he was in Prison, and therein gives Sir Thomas an Account of the Opinion of the Doctors of Sorbonne about the taking the Oath of Allegiance.

L. C. J. No doubt all of them do not approve of it.

Mr. Just. Dolben. As I believe this same Pracid was the Occasion of so many Gentlemen refusing the Oath of Allegiance; I convicted above forty of them in that Country for not taking of it.

Mr. Serj. Maynard. *Noscitur ex comite.* You see if this be the Effect of it, what Reason we have to rid our selves of these Priests: One that dares write such a Letter; and 'tis found in Sir Thomas's Study.

Mr. Just. Pemberton. And Sir Thomas's own Hand on the Back of it.

Mr. Serj. Maynard. My Lord, under Favour, I do take it, that the debauching of Men in Point of Conscience, that they may not take the Oath of Allegiance, is to set them loose from the Government, and loose from the King, and make them ready to arm when they have Opportunity.

Mr. Just. Pemberton. No doubt of it, Brother.

L. C. J. All the Jesuits say they may not take it, but some of the Sorbonnists say they may.

Mr. Just. Pemberton. But now you see they are against it.

L. C. J. Some will, and some will not allow it.

Mr. Just. Jones. They take or leave Oaths, as it is convenient for them.

Then the Letter being shewn to Mr. Mowbray, and the Indorsement acknowledged to be Sir Thomas's Hand, was read.

Clerk. York Castle, May the 24th.

Honoured and ever dearest Sir,

**L**onger Time having pass'd since your last writing, it is fit to inform you how God's holy Providence disposes concerning us. All the Out-prisoners being call'd into the Castle, (as you may have heard) Mrs.

Hastings's



Hastings's Room was needed, and so she went into Castlegate to reside at the former Lodging of one Mrs. Wait, (who is now in the Goal) where she remains with Mrs. Wait's two Children and their Maid-Servant, teaching the Children as formerly; also the Moor's Niece goes daily thither; and Mrs. Hastings lives without Charge as to Diet and Lodging, as I formerly told you; she spends all her Time well, God be praised, and comes every Morning about Seven a-Clock to serve God at the Castle: But I and two others are much abridg'd of that Happiness by her Room being left by her here. My Liberty of going abroad is restrain'd with the rest, none being as yet permitted the least since these last were forced to come in. Madam was here the other Day, and seem'd somewhat timorous about Mrs. Hastings's teaching: But most in the Castle persuaded her that it was most commendable and most secure, and so she rests satisfied: Mrs. Cornwallis is recovered of her Ague, God be blessed: She desires her dutiful Respects may be always presented unto you, and intends herself to write to you. Mrs. Wood and her Companion are well, but dare not as yet walk in their own Garden. All our now Prisoners are chearful, and each of us comforted, in hopes that God will make all Catholicks of one Mind: For I have

\* Mr. Record. That is Superior.

a Letter from our \* Sp<sup>r</sup>. at London (who was the same Day taken and carried to Prison) wherein he declares, acknowledging Authority, That the pretended Oath of Allegiance cannot be taken as it is worded; adding, that three Briefs have formerly been sent from the Pope expressly prohibiting it; and in the third it is declared damnable to take it. And yesterday we had a Letter communicated amongst us, sent by Mr. Middleton (now at Paris) to his Friends here, containing the Attestation of all the Sorbonne Doctors against it; adding, that whosoever here in England give Leave, they deceive People, and are contrary to the whole Catholick Church. There was also a Meeting some Years ago of all the Superiors both Secular and Regular, wherein it was unanimously declared, that it could not be taken. Mr. Hutchinson (alias Berry) who has lately printed a Pamphlet in Defence of the Oaths, has the other Day declared himself Protestant at St. Margaret's Westminster. And so I rest,

Honoured Sir,

Your ever obliged,

J. P.

Mr. Recorder. That is all, the other is private.

Mr. At. Gen. If your Lordship please, we shall now prove by some Witnesses, that he hath returned great Sums of Money, because he said, he never had 200*l.* together; and for this we call Mr. Phiswick; (Who was sworn.) Come Sir, were you a Servant to Sir Tho. Gascoigne?

Mr. Phiswick. Yes.

Mr. At. Gen. For how long Time?

Mr. Phiswick. For six Years and upwards.

Mr. At. Gen. In that six Years time what Sums of Money did you return to London?

Mr. Phiswick. 'Tis abstracted in a Note.

Mr. At. Gen. Did you return all the Sums in that Note?

Mr. Phiswick. I refer my self to my Almanack.

Mr. At. Gen. Did you set down this Account?

Mr. Phiswick. Yes, Sir.

Mr. At. Gen. Then thus, Sir, pray what comes it to?

Mr. Phiswick. Those Sums do come to 6128*l.* L. C. J. Whose Money was that?

Mr. Phiswick. Part of it was Sir Thomas's; part his Son's, and part my Lady Tempest's.

L. C. J. Can you tell how much in any one Year you return'd upon the Account of Sir Thomas?

Mr. Phiswick. Not unless I had my Almanack.

L. C. J. It will be endless to look over the Particulars.

Mr. Just. Pemberton. Can you make any Estimate in six Years how much you return'd for Sir Thomas himself?

Mr. Phiswick. No, not without my Almanack, because I return'd Money for them all.

Mr. At. Gen. My Lady Tempest and Mr. Gascoigne, it hath been proved, were in all the Discourses.

L. C. J. But that hath not any Influence upon Sir Thomas.

Mr. Phiswick. The Esquire liv'd much in London.

Mr. Just. Dolben. What Estate had he to live upon?

Mr. Phiswick. Betwixt 4 and 500*l.* a Year.

Mr. Just. Pemberton. What Estate had Sir Thomas besides?

Mr. Mowbray. My Lord, I believe it was 1600*l.* a-year, besides what Mr. Gascoigne had.

Mr. Just. Dolben. And what had my Lady Tempest?

Mr. Phiswick. Three hundred Pound a-year.

Mr. Just. Dolben. But she liv'd in Yorkshire.

Mr. Phiswick. Yes.

Mr. Just. Dolben. So she needed little Returns to London?

Mr. Just. Pemberton. But admit they had return'd all, yet there was 300*l.* a year to be return'd for Sir Thomas.

Mr. At. Gen. My Lord, here is Mr. Mawson, I think 2500*l.* was received by him.

Mr. Phiswick. I paid in the Country, at Leeds, Money, that he paid here in Town.

Mr. At. Gen. Here is the 25*l.* paid to Harcourt, I would ask him whether it were the same Harcourt that was executed?

Mr. Just. Pemberton. I think not that material.

Mr. At. Gen. My Lord, if you please, we will shew you the Examination taken before the Council, that Sir Thomas did own this Bolron had been his Servant, and never unfaithful, but always took him to be, as he now found him, a Fool.

Mr. Just. Dolben. If he object any Thing, it will come in properly by way of Reply.

Mr. At. Gen. Then now we have done till we hear what the Prisoner says to it.

L. C. J. Tell him they have done with their Evidence against him; if he will have any Witnesses examined, he must call them.

Mr. Hobart. The King's Evidence have been all heard, and said as much as they can; the Court asks you if you would call any Witnesses, or say any thing for yourself? Have you any Witnesses here?

Sir Thomas Gascoigne. Yes.

Mr. Hobart. Name them, Sir.

Mr. Just. Dolben. Ask what he will have done with them?

Mr. Just. Jones. Let him tell us to what purpose he will call them.



Sir Tho. Gascoigne. To examine them to the Credit and Demeanour of these Men; and that there is no Probability in their Suggestions.

Mr. Hobart. Name them, Sir.

Sir Thomas Gascoigne. They are all in that Note.

Mr. Babbington was first examined.

Mr. Just. Pemberton. Ask Sir Thomas what he would have him asked.

Sir T. Gascoigne. Look you, Sir; what do you know concerning the Difference between Mr Bolron and I?

L. C. J. Well, what say you to that Question?

Mr. Babbington. My Lord, I have not been employed in Sir Thomas Gascoigne's Business before the last Winter.

Mr. Just. Dolben. What do you know then?

Mr. Babbington. About Spring last Sir Thomas Gascoigne was consulting with me about Money Bolron owed him upon two Bonds, and gave me Directions to sue them. And likewise he was giving me Directions to deliver Declarations in Ejectment for gaining the Possession of his Farm, because he did not pay his Rent.—

L. C. J. How much were the Bonds for?

Mr. Babbington. I have them here, I think.

L. C. J. You need not look for them, you may tell us the Sums.

Mr. Babbington. The one is for twenty eight Pounds, the other twenty, to the best of my Remembrance. Mr. Bolron having Notice of this, did desire he would accept of a Conveyance of an House he had at Newcastle for Satisfaction of his Debt. Sir Thomas was unwilling to accept of it, but I did prevail with him to accept it, not in Satisfaction, but as an additional Security; and the Deeds I have here that I drew for that End.

Mr. Just. Pemberton. What time was this?

Mr. Babbington. This was a little before last Trinity-Term begun. I have taken a Memorandum within a Day or two, if your Lordship will give me leave to look upon it.

Mr. Just. Dolben. Have you not had all this time to get your Papers ready?

Mr. Babbington. My Memory is very short indeed. But now I see about the third or fourth of June, Sir Thomas gave me Orders to deliver Declarations in Ejectment.

Mr. Just. Dolben. When did he first bid you question him for Monies upon the Bonds?

Mr. Babbington. It was some time in May.

L. C. J. Did he tell you you must sue him?

Mr. Babbington. Yes.

L. C. J. What then did Bolron say?

Mr. Babbington. Bolron did then desire that Sir Thomas would accept of Security out of his House at Newcastle. Sir Thomas was very hard to be persuaded, but at length I did prevail with him, and I used this Argument, that it was not to lend so much Money upon that Security, but his Money was already out of his Hands, and else desperate, and this was a further Security, and that it would not lessen his other Security, and upon these Persuasions he did let me draw a Deed to that Purpose.

L. C. J. Was this some time in May?

Mr. Babbington. This Discourse was in May.

L. C. J. Are you sure of it?

Mr. Babbington. The Directions that I had for drawing the Deed was in June, but the Dis-

course with Sir Thomas was in May, and I do perfectly remember it by a Circumstance, which I shall tell your Lordship. After the Deeds were drawn, (for drawing of which I had a Letter under Bolron's own Hand, and if occasion be, I have the Letter here to produce) I came from York, having been there, and appointed a Day for the sealing of them. I came to the House where Bolron lived, and Sir Thomas met me, and there I produced the Deeds; and he of himself was very ready and willing to the sealing of them, but his Wife, who was joined in the Deeds with him, would not by any Means seal, unless Sir Thomas would deliver up the Bonds he had taken for the Money, but Sir Thomas did utterly refuse to deliver up the Bonds.

L. C. J. What time in June was this?

Mr. Babbington. A little before Whit'suntide.

L. C. J. What time was that?

Mr. Babbington. That was the 14th of June, as I remember, that I delivered the Declaration; and the Day before, which was the 13th, to the best of my Remembrance, I had this Communication and Discourse about sealing the Writings, which the Wife refused to join in; but Sir Thomas would only take it as an additional Security, refusing to deliver up the Bonds, but he would suspend further Prosecution, and Bolron did then desire no longer time than a Month for Payment of the Money. But his Wife, though she were urged to seal the Writings, would not be persuaded, but utterly denied it. After we had spent a great deal of Time there, Bolron comes to me, and desires me to come another Time, and he would persuade his Wife to seal the Deed; nay, said I, 'tis not fit for me to come up and down unless it be to some Purpose, and your Wife will seal; Will! nay, says he, I will force her to it. My Answer was this, if you take these Courses, Mr. Bolron, I must by no means be concerned in the Matter; for your Wife must pass a Fine, and we must examine her secretly, and if she tells me she does it by your Force, I will not pass it if you would give 1000*l.* After this, about a Fortnight, he sent for me to come and his Wife would seal.

L. C. J. By the way, are you a Protestant?

Mr. Babbington. Yes, I am, Sir.

L. C. J. And always was?

Mr. Babbington. Yes.

Mr. Att. Gen. Yes, he is an Attorney at large, I know him very well.

Mr. Babbington. This was a Fortnight or three Weeks after that, the latter End of June he sent for me to his House, and that his Wife would be contented to seal. And this he desired might be done on the Tuesday, which was Leeds Market-day, and I could not go. The next Day I called upon him at Shippen-Hall; he was then within, and desired me to go up to Barmbow to Sir Thomas Gascoigne's with him: He said he should go within two or three Days to Newcastle, for he had a Chapman that would lay down the Money, and take the Security of the House, and he desired he might have the Liberty to go thither to treat about it. I told him I did believe it would be no hard Matter to persuade Sir Thomas to that, for he would be very glad of it. I went up with him to Barmbow, and as we went along, he asked me if Sir Thomas did intend to sue him upon his Bond? I told him I had Directions so to do. He asked me like-



wife if he would turn him out of his Farm? I told him, Yes, if he would not pay his Rent; and the Truth of it is, he did then deny he had received the Declaration in Ejectment: But my Man afterwards made his Affidavit of Delivery, and had Judgment upon it. Afterwards I went up to Sir *Thomas*, and told him what *Bolron* desired, and he consented to it as readily as it could be asked; and in coming away he told *Bolron*, that in the Management of his Coal-pits he did neglect very much, and did go Abroad, staying away two or three Days together. To this *Bolron* made some Excuse, and said it was for collecting his Debts. Said Sir *Thomas*, I know not what you are about, but if you do well for your self, I am satisfied.

*L. C. J.* How long had he been from him, and left his Service then?

*Mr. Babbington.* I know not when he went, but this was in *June* last. After this we went back again, and in coming back he was very inquisitive to the same Purpose; he was asking me—

*L. C. J.* You say he chid him, and told him he was not a good Husband in his Colliery.

*Mr. Babbington.* Yes; and as we came back he was inquisitive whether Sir *Tho. Gascoigne* would sue him, and turn him out of his Farm. I did then enter into the same Expressions, and told him, if he did not pay, he must be sued.

*L. C. J.* You told me, Sir *Thomas* had agreed to stay so long, when was this?

*Mr. Babbington.* My Lord, this was after we had parted with Sir *Thomas*.

*L. C. J.* After Sir *Thomas* had promised him to stay so long Time, then, said he, as you were coming Home, do you think he will sue me, and turn me out of my Farm?

*Mr. Babbing.* Yes, said I: *Well*, said he, *then by God I will do that which I did not intend to do.* What he meant by it I cannot tell; but this was a little before he came to *London*, which I judge to be the latter End of *June*; and this is all I have to say.

*Then Obadiah Moor was called.*

*Mr. Just. Jones.* Did you tell Sir *Tho. Gascoigne* what he said, Then I will do what I never did intend to do?

*Mr. Babbing.* I did never tell him, my Lord, for I looked upon it as an idle Expression. And I will tell your Lordship why; because this Man that is now to be examined did tell me how that he was bound for him, and that *Bolron*, to encourage him to be bound, said, You need not fear, for if Sir *Thomas* sues me, I will inform against him for keeping Priests in his House; and I did look upon it as an idle Expression.

*Mr. Moor.* My Lord, in *September* last was Twelve-month, *Mr. Bolron* did desire me to be bound with him to Sir *Tho. Gascoigne*. Said I, I told him, *Mr. Bolron*, I have some small Acquaintance with you, but I have no reason to be bound with you. Said he, do not fear; there is my Brother *Baker*, and *Stephen Thompson* are to be bound as well as you. Said he, I will give you my Counter Security. That signifies nothing, said I. You need not fear any Suits, said he; for if Sir *Thomas* sues me, I will inform against him for keeping Priests. Said I, when must this Money be paid? Said he, at *Candlemas*

next. So we went and were bound; the one Bond was to be paid at *Candlemas* last, and the other in *August*. And after *Candlemas* he did not pay the Money; and said I, *Mr. Bolron*, I don't like these Bonds, you must make new Bonds for my Security. I was afraid of being sued, and I desired *Mr. Babbington* to bring a Writ against him, which he did; and upon *Holy-Thursday* I had two Bailiffs ready to arrest him, but he could not be found; and I had two likewise the *Saturday* before at his Pits. Presently after he came up to *London*, and made an Information; and on the 5th of *August* last I met him in *Ferry-Bridge*, and he came along with me; said he, *Mr. Moor*, you and I have often discoursed of Sir *Thomas Gascoigne*, you may do me Good, if you do not, pray do me no Harm. You have been often at his House. With that, I asked him if he was concerned in the Plot? For, said I, you have been often telling me, and sworn it, and denied it utterly, that he was no more concerned than any body else: But I did but equivocate then, for I was a Papist, and if I had told 1000 Lies, or killed 20 Protestants, our Priest would have forgiven me for it. And so coming to *Farnborn*, two Miles from *Ferry-Bridge*, he plucked out ten Shillings, and said, I have no more Money in my Pocket but this, but pray be kind, and do me no Harm, for you know I have denied it all along.

*Mr. Just. Jones.* Hath he done so?

*Mr. Moor.* Yes, several Times.

*L. C. J.* How came you to discourse with him, and question him about it?

*Mr. Moor.* Because there was a general Discourse in the Country, that there were few Papists but what were concerned, and guilty of the Plot.

*L. C. J.* When was that Discourse?

*Mr. Moor.* The latter end of *September* was Twelve-month, when the Plot was first discover'd. And he said, Sir *Thomas* was no more concerned than the Child that was to be born.

*L. C. J.* Had you any Discourse with him about *May* last?

*Mr. Moor.* No, my Lord; in *August*, as I told you, I had.

*L. C. J.* When was the last time that he told you, Sir *Thomas* had not an Hand in the Plot?

*Mr. Moor.* I can't certainly remember, but I think it was in *February*, when I told him I would sue the Bond, or have better Security. It was a small time after *Candlemas*.

*Mr. Just. Jones.* What are you, a Protestant or a Papist?

*Mr. Moor.* A Protestant, bred and born so.

*Mr. Just. Pemberton.* He would have sworn it no doubt at that Time, for he was under an Oath of Secrecy.

*L. C. J.* But you say *August* was the first Time that he discoursed to you that Sir *Thomas* was in the Plot?

*Mr. Moor.* Yes.

*Then Stephen Thompson was called.*

*Mr. Just. Dolben.* Well, what do you know of this Business?

*Mr. Thompson.* My Lord, if you will give me leave to speak, I know a great deal of the Unkindness betwixt Sir *Thomas* and *Mr. Bolron*. He came down to me, he was Sir *Thomas Gascoigne's* Stew-



Steward of his Colliery, and Sir *Thomas* liked not of his Accounts, and turned him forth. There was a great deal of Money owing to Sir *Thomas*, and he came to Sir *Thomas* to agree about it, and he desired me to be bound with him to Sir *Thomas*: Said I, Mr. *Bolron*, how shall I be secured? Said he, there is a great deal of Money, of which I never gave Sir *Thomas* any Account, I will gather it in, and secure all; and so Sir *Thomas Gascoigne* knew nothing of it. So Bonds for 60 *l.* were entred into to pay 28 *l.* at *Candlemas*. So, Sir, when *Candlemas* came, and he did not pay the Money, I went up to him, and asked him what he would do about this Money, what Course he would take to satisfy? Oh! never fear, said he; why, said I, hath he any Hand in the Plot? If he hath, let us know it; for he had made a great deal of his Goods away, and then I thought I should not be secured. Oh, said he, he is a Sinless of it.

L. C. J. Who did make away his Goods?

Mr. *Thompson*. *Bolron* did.

L. C. J. When was this?

Mr. *Thompson*. *Candlemas* last. For then I thought Sir *Thomas* might sue me for the Money, and I would fain have known if Sir *Thomas* had any Hand in the Plot, and I pressed him much to tell me. Then it passed on, and having a Writ out against me, I durst not stir out my self, but I did send my Man to him to know what he did intend to do about it: He told my Man, Brother, tell thy Master he need not to fear at all. Why, said my Man, do you know he hath any Hand in the Plot?—

Mr. Just. *Dolben*. That is but what your Man said.

Mr. Just. *Pemberton*. Is your Man here?

Mr. *Thompson*. No.

Mr. Just. *Dolben*. Therefore you must not urge that he said to you, 'tis no Evidreece.

Mr. *Thompson*. On *Thursday* after I went up to him my self, and got him to go up to Sir *Thomas*; and so when he came to Sir *Thomas*, he would give him no Time but a Fortnight to pay the Money; *Bolron* desired but three Weeks Time and he would procure him his Money; so away we came down. Said I, What do you intend to do in this Case? Said he, *If he do sue me, I will do him an ill turn*; and soon after he went to *London*, and said, he would go to sell his Land at *Newcastle*: And a while after I went out to see if he were come again; and meeting him, it was when he was going to *London* again to carry on his Design: Said I, *Robert Bolron*, what do you say in this Case? You are going now to leave the Country, and how shall I be secured against Sir *Thomas*? Do not question it, said he, for I am to receive on the King's Account 30 *l.*

L. C. J. Upon whose Account?

Mr. *Thompson*. Upon the King's; concerning the taking Sir *T. Gascoigne*.

Mr. *Bolron*. But I never had a Farthing of it.

Mr. *Thompson*. But, said he, I will not take it, for another bids me 60 *l.* and I know what *Oates* and *Bedloe* had, and I won't abate a Farthing of that.

L. C. J. When was this?

Mr. *Thompson*. It was after he had taken him; and on *Holy Thursday* he did say, *If he did sue him he would do him an ill turn*.

Then the Lord Chief Justice being to sit at Nisi prius at Guildhall, went off.

*William Backhouse* was next call'd.

Mr. Just. *Jones*. Let him ask *Backhouse* what he will.

Sir *T. Gascoigne*. I would ask him what Threats he gave to his Wife to swear against her Conscience, and promise of 500 *l.* he should gain by it.

*Backhouse*. I served the Warrant to carry the Witnesses before 'Squire *Lowther* and 'Squire *Tindall*: I was charg'd the 7th of *July* last to help fetch the Witnesses before the Justices, and to take Sir *Tho. Gascoigne*, I and two of my Sons, and he opened the Door his own self. When we had taken him, 'Squire *Lowther* directed us to bring the Witnesses before him, and we did so. When we came to *Bolron's* House, his Wife was sick on Bed, and I said that she must go before the Justice of Peace to swear against Sir *T. Gascoigne* for High-Treason: She said she knew nothing against Sir *Thomas*; but *Bolron* said she must go, or he would have her drawn at the Cart's Arse.

Then *Hamsworth* was called.

Mr. Just. *Jones*. What will he ask him?

Sir *T. Gascoigne*. I ask him about the threatenng of his Wife.

*Hamsworth*. May it please you, my Lord; the same Day that Sir *Tho. Gascoigne* was taken, *Robert Bolron* came to his Wife, and told her she must go to 'Squire *Lowther* to swear against Sir *Tho. Gascoigne*: She fell a weeping, and would not go by no means; he threatned if she would not go, he would tie her to the Horse's Tail.

Mr. Just. *Dolben*. Did he tell her what she should swear?

*Hamsworth*. I did not hear him, only to swear against Sir *Thomas*.

Mr. Just. *Dolben*. What she knew, was it?

*Hamsworth*. Yes; and she said, she did not know any thing of Misdemeanour of Sir *Thomas Gascoigne* touching his sacred Majesty, or the Church Government.

Mr. Just. *Jones*. Art thou sure she said those Words?

Mr. *Mowbray*. My Lord, he is a Papist.

*Hamsworth*. I am a Protestant.

Mr. Just. *Pemberton*. How long have you been a Protestant?

*Hamsworth*. I was born so.

Mr. Just. *Jones*. Well, thou hast added a few fine Words that I dare say she never said.

Mr. Just. *Pemberton*. Were you never a Papist?

*Hamsworth*. Yes, I was.

*Nicholas Shippon* was called.

Mr. *Mowbray*. This Man is a Papist too.

Mr. Just. *Dolben*. Do you think he is not a Witness for all that?

Sir *T. Gascoigne*. What Discourse he had *May* 30, the Day after the Race.

Mr. Just. *Pemberton*. Well, ask him what you will: What do you say?

*Shippon*. Mr. *Bolron* was with me the 30th Day of *May*.

Mr. Just. *Dolben*. What, *May* last?

*Shippon*. Yes, the Day after *Ascension-day*: He came to my House about two a Clock in the Afternoon, and staid at my House all that Afternoon while an Hour after Sun-set before he went



away ; he came and brought a Letter with him to carry to *Newcastle*, and it was sent away thither.

Mr. Just. *Dolben*. Are you sure it was the Day after *Ascension-day* ? How if it should fall out to be another Day ?

*Shippon*. Yes, *Ascension-day* was the 29th of *May* ; he came to me about two a Clock.

Mr. Serj. *Maynard*. Pray what reason had you to take Notice of this ?

*Shippon*. He came and brought a Letter to me that was to go to *Newcastle*, and desired me, that my little Boy might carry it to a Kinsman's House of mine ; for he said, he was afraid of the Bailiff, and did not care for stirring out ; my Wife brought him some Meat and Drink, and he said it was better than he had at Home ; and she said she was the more sorry Things were no better with him.

Mr. Just. *Dolben*. But how came you to take Notice that this fell out the 30th of *May* ?

*Shippon*. The Night before I met him coming from the Race, which was the 29th of *May*, and he asked me if I saw any Bailiffs waiting for him ? and I said, yes ; and he said, it was well if he missed 'em ; and he asked me, if I saw *Bennet Johnson* ?

Mr. Just. *Jones*. How long was it you say he staid ?

*Shippon*. He came about two a Clock, and staid till an Hour and half after Sun-set.

Mr. Serj. *Maynard*. What Religion are you of, Friend, let us know ?

Mr. Just. *Dolben*. What say you to the Truth of this, *Bolron* ?

Mr. *Bolron*. My Lord, there is not a Word of it true ; for I was about two a Clock at *Sir Tho. Gascoigne's* ; they were marking some Sheep, and I was there most of the Afternoon.

Mr. Just. *Jones*. Were you ever at his House at any other time to send any such Letter ?

Mr. *Bolron*. I never sent any such Letter : Indeed that Day I was a little of the Afternoon at his House, but I staid there but half an Hour ; but I was most part of the Afternoon at *Sir Tho. Gascoigne's* seeing them mark Sheep.

*Then Roger Gregson was called.*

Mr. Just. *Jones*. What do you say to him ?

Sir *T. Gasc*. Let him speak his Knowledge.

Mr. Serj. *Maynard*. I desire he may ask the Question, for he only generally refers to them what they know.

Sir *T. Gasc*. What did he say to you about *August* last ?

*Gregson*. My Lord, I will tell you : We met about *August* last, *Robert Bolron* and I, about a Week before *Bartholomew-day* : We had some Discourse ; he came from *London* a little before that, and I asked him how *Sir T. Gascoigne* did.

Mr. Just. *Dolben*. Was he apprehended in *August* last ?

*Gregson*. Yes, he was in the *Tower*. He said, Well. I asked him how he would come off about the Plot (as they call it) ? Said he, he may come off well enough, but it will cost him a great deal of Money. I then did ask, how they came to fall out ? And he said it was long of that Rogue *Addison*, Brother to the Priest, who had called him to Account, or else he had never done *Sir Thomas* that Injury ; and I suppose that was the

Cause of it. And then we had some more Discourse, and that Discourse was this : He rides a little from me (he was on Horseback) and came back again ; said he, I can tell you, the King was at *Windsor*, and one of the Privy-Council made an Attempt to stab the King, and the King made his Escape, and now they will believe my Informations the better.

Mr. Just. *Pemberton*. Go on.

*Gregson*. That is all I have to say.

Mr. Just. *Jones*. What are you, a Papist ?

*Gregson*. No, I am no Papist, I deny it.

Mr. Serj. *Maynard*. Nor never was ?

*Gregson*. Nor never was.

*Then James Barlowe was called.*

Mr. Serj. *Maynard*. My Lord, I conceive this Man ought not to be heard, for he is under an Accusation of the same Crime ; and we have had two Orders of Council to apprehend him.

Mr. *Att. Gen*. There was an Order of Council within this Fortnight to send for him up in Custody.

Mr. Just. *Dolben*. There is nothing upon Record against him, and you may discredit his Testimony, but you cannot refuse him ; he is not to come upon his Oath.

\* *Sir Francis* Mr. *Sol. Gen.* \* *Bolron* swears too *Wilmington*. that he was at the Consultation.

Mr. Just. *Dolben*. Let us hear him what he says ; we must leave it to the Jury what to believe.

Mr. Serj. *Maynard*. They would question him about *Mr. Bolron's* cozening, which ought not to be.

Mr. *Sol. Gen*. This Man hath sworn it against him.

Mr. *Hobart*. Why did you not indict him, Sir ?

Mr. Serj. *Maynard*. Sir, you ought not to prate here.

Mr. Just. *Dolben*. Come, I doubt you are a little too pragmatical.

Mr. Just. *Jones*. If you had any Record of the Indictment to shew against him, we would not examine him.

Mr. *Hobart*. Will you ask him any Questions, Sir ?

Sir *T. Gasc*. You know, Sir—

Mr. Serj. *Maynard*. That is not proper, he tells him what he knows.

Mr. Just. *Pemberton*. Look you, Sir, we did not intend that you should come here to manage all as a Council ; it was said, he could not hear well, and so you were only to tell him what was said.

Sir *Tho. Gasc*. I would ask him what he does know concerning taking of Money, and stealing from me ?

Mr. Just. *Dolben*. But that must not be asked.

[*Which Hobart told him.*

Sir *Tho. Gasc*. Then you must tell me what I must ask.

Mr. Just. *Pemberton*. Come, you have been pragmatical, Sir, and made him a Brief, and he cannot manage it without you.

Mr. Serj. *Maynard*. Did you write this Brief ?

[*Meaning a Brief in Sir Tho. Gascoigne's Hand.*

Mr. *Hobart*. No, an't please you, Sir.

*Then Mr. Ravenscroft offered to speak what this Witness had told him.*



Mr. Just. *Dolben*. Look you, Mr. *Ravencroft*, if what he says tend any thing to this Business, that Sir *Tho. Gascoigne* comes to know of his stealing, and then turn'd him out of his Service, it is material; but if you come to tell a Story here of another Man's Knowledge, we can't spend our Time so.

Mr. *Ravencroft*. It was not known but last Night to me; and if you will not let me tell you what it is, how should you know it?

Mrs. *Ravencroft*. He is a chief Witness for my Grandfather, and I desire he may be heard, for he discover'd it but last Night to my Husband.

Mr. Just. *Dolben*. If it tend any thing to this Business, that Sir *Thomas* turn'd him out of Doors, and therefore this Man bears him an ill Will.

Mr. Just. *Pemberton*. We had as good hear Mr. *Ravencroft* however; but pray, Sir, make your Story short.

Mr. *Ravencroft*. He came to me and said these Words, *I have kept a Secret a long while, in which I have done very ill.*—

Mr. Just. *Pemberton*. Then it does not tend at all to this Affair; for you must not come to tell a Story out of another Man's Mouth.

Mr. Just. *Dolben*. Pray sit still, Sir, and be quiet.

Mr. Just. *Jones*. Indeed you must be satisfy'd.

Mr. Just. *Pemberton*. If you have any other Witnesses, call them, and do not spend our time.

Mr. Just. *Jones*. For the Jury must be told, that 'tis no Evidence coming out of another Man's Mouth.

Mr. Just. *Dolben*. 'Tis as if a Man should come and say, I can say something to Sir *T. Gascoigne*, when I know nothing but what another Man told me.

Mr. Just. *Jones*. Ask Sir *Thomas* if he wou'd have this *Barlowe* examined?

Sir *T. Gascoigne*. Yes.

Mr. Just. *Pemberton*. Then what Questions will you ask him?

Sir *T. Gascoigne*. What Conspiracy was had to take away a great deal of Money from me; and how he conceal'd it because he would not do him a Mischief?

Mr. Just. *Dolben*. What is that to Sir *Thomas's* Life?

Mr. *Ravencroft*. I cannot tell you by bare Assertion, but if you will hear what I have to say, do. Last Night, late at Night, about nine a-Clock, *Barlowe* came to me; says he, Mr. *Ravencroft*—

Mr. Just. *Dolben*. Come, don't tell us the Preamble, but the Story.

Mr. *Ravencroft*. Said he, I have a thing that sticks upon my Thoughts, which I doubt may endanger Sir *Thomas's* Life.

Mr. Just. *Dolben*. Well, was it about taking Money?

Mr. *Ravencroft*. Said he, if I am silent I doubt it will cost Sir *Thomas's* Life. Then I asked him what it was? Says he, Mr. *Mowbray*, who is a Witness in this Court, and I, did just a little before his going away, combine, or rather he did seduce me—

Mr. Just. *Pemberton*. Was it about Money?

Mr. *Ravencroft*. Money is in the Case.

Mr. Just. *Dolben*. He did conspire what to do?

Mr. *Ravencroft*. If you will hear me, I will tell you.

Mr. Just. *Jones*. Pray do it quickly then.

Mr. *Ravencroft*. Did combine to rob Sir *Thomas* of a great Sum of Money; and whereas I held my Tongue, thinking not to spill his Blood, I see now if I do not tell the Truth, I shall make good his Credit, and so endanger Sir *Thomas's* Life.

Mr. Just. *Dolben*. Well, I'll ask you, or any Man alive now, two Men combine to rob Sir *Thomas*, whether one Man be a competent Witness against the Credit of the other Witness? He makes himself a Rogue by combining, and you have made him a Knave by his own Confession.

Mr. *Ravencroft*. I may perhaps err in that Word; he did not say combine, but the other seduced him.

Mr. Just. *Dolben*. You have told a Story to no purpose.

Mr. Just. *Pemberton*. You think it a fine thing to be a Catholick, and to appear brisk for them.

Mr. *Ravencroft*. Who says I am a Catholick?

Then George Dixon appear'd.

Sir *T. Gascoigne*. What do you know of any Conspiracy of these People against me?

Dixon. My Lord, I was at *William Batley's* in *August* last in the Morning at ten a-Clock, and Mr. *Bolton* and Mr. *Mowbray* came in, and called for a Flaggon of Drink, and when it was brought, they fell into a Discourse together concerning Sir *Thomas Gascoigne* and my Lady *Tempest*. Says Mr. *Mowbray*, I know nothing of Sir *Thomas* but that he is a very honest Man.

Mr. Serj. *Maynard*. He was not bound to tell you what he knew.

Mr. Just. *Jones*. When was this, in *August* last?

Dixon. Yes; but, said he, if I knew any thing against my Lady *Tempest*, I would discover it, for I would hang her if I could. And they sat down at Mr. *Batley's* House to consult what they should do.

Mr. Just. *Pemberton*. Before you?

Dixon. Yes; I heard every Word.

Mr. Just. *Jones*. And what did they say?

Dixon. They said they would meet at Mr. *Bolton's* House; and if they would compleat their Business, they should be very well gratified.

Mr. Just. *Dolben*. Against whom?

Dixon. Against my Lady and Sir *Thomas*.

Mr. Just. *Dolben*. But you say, *Mowbray* said he knew nothing against Sir *Thomas Gascoigne*?

Dixon. No; he said he knew no Hurt by them.

Mr. Just. *Dolben*. How came they to say they would contrive their Business?

Mr. *Mowbray*. What Man is that, Mr. *Bolton*?

Mr. *Bolton*. I know him not, nor ever held any such Discourse.

Mr. *Mowbray*. Nor I.

Mr. Just. *Jones*. How far do you live off one from another?

Dixon. I live at *Leeds*, Mr. *Mowbray* knows me.

Mr. *Mowbray*. I don't know that ever I saw you.

Dixon. He hath drunk with me.

Mr. *Mowbray*. I know him not, nor where he dwells.

Mr. Just. *Dolben*. What Trade are of?

Dixon. A Cloth-dresser by Trade, but I keep a Publick-House.

Mr. Just.



Mr. Just. *Dolben*. This Discourse was at *Leeds*, was it not?

*Dixon*. Yes.

Mr. Just. *Dolben*. They say both they do not know you, nay they swear it. And 'tis very like you were but very little acquainted, would they let you hear them talk thus?

*Dixon*. We were as well acquainted as can be, but that he will deny it.

Mr. Att. Gen. Pray what Religion are you of?

*Dixon*. A Protestant.

Mr. Att. Gen. How long have you been so?

*Dixon*. All the Days of my Life.

Mr. Att. Gen. I can't but wonder at the Strangeness of your Acquaintance.

Mr. *Mowbray*. My Lord, I have not drunk at that Place which is near the old Church at *Leeds*, not this two Years.

Then William Batley, was called.

*Batley*. And if it like your Honour, these two Gentlemen, Mr. *Bolton* and Mr. *Mowbray*, came to my House, and called for a Pot of Drink.

Mr. Att. Gen. Do you not know this Man neither?

Mr. *Mowbray*. Yes, I do, but I was never three times in his Company in my Life.

*Batley*. I filled them a Flaggon of Ale, and when I had done I left them. They began to discourse of the Plot, and Sir *Thomas Gascoigne*; and Mr. *Bolton*—

Mr. Just. *Dolben*. At your House; where is your House?

*Batley*. My House is near the old Church at *Leeds*.

Mr. Just. *Dolben*. Is that the same Place the other Man speaks of?

*Batley*. Yes. Says Mr. *Bolton* to him, Thou knowest that Sir *Tho. Gascoigne* hath been very severe against thee and me, and now here is an Opportunity offered us to take a Revenge upon Sir *Tho. Gascoigne*. *Mowbray* reply'd again, As for Sir *Thomas*, he is a very honest Man, and I know no Hurt by him; but as to my Lady *Tempest*, if I knew any thing against her I would hang her, for I would discover it. But thou knowest, says *Bolton*, that Sir *Thomas* sues and troubles me, and if I do not make somewhat out against him, he will ruin me, and it must be done by two Witnesses. To which Mr. *Mowbray* answered again, How shall we bring this Business about? If thou wilt but come to my House, said he, I will put thee in a Way to contrive it, and we shall have a considerable Reward. And *Mowbray* told him he would come to him such a Day.

Mr. Just. *Dolben*. Was that Man that went out last, with you all the time they spake?

*Dixon*. Yes.

Mr. Just. *Dolben*. He does not say half so much as you do.

Mr. Just. *Pemberton*. Were you in the Room?

*Batley*. No, I was at the Stairs-head.

Mr. Just. *Pemberton*. What did you stand there for?

*Batley*. I hearing them discoursing of Sir *Tho. Gascoigne*, hearken'd what they did say.

Mr. Just. *Dolben*. The other Man said he was in the Room with them; Were you in the Room?

*Batley*. I stood upon the Stairs.

Mr. Just. *Jones*. Were you in their Company at all that Day?

*Batley*. Yes, my Lord, I carry'd up a Flaggon of Ale.

Mr. Just. *Jones*. Was the Door left open?

*Batley*. Yes.

Mr. Just. *Dolben*. Would any Man talk in such a Place as this, that all the World may hear them, when they are contriving to take away a Man's Life?

Mr. Just. *Pemberton*. You were in the same Room, *Dixon*, were you not?

*Dixon*. They were at the *Grice Head*, and we at the Foot.

Mr. Just. *Jones*. But the other says he was at the Top of the Stairs, the Head of the Stairs.

*Dixon*. We were at the Stairs-foot, and they were in the Room.

*Batley*. The Table they sat at joined just upon the Head of the Stairs.

Mr. Just. *Jones*. Did you hear them down to the Stairs-foot?

*Dixon*. We did stand there to hear them discourse.

Mr. Just. *Dolben*. Could you see them where you were?

*Dixon*. Yes, as fair as I see you.

Mr. Just. *Dolben*. Could they see you?

*Batley*. No, they could not.

*Dixon*. Yes, if they had looked down.

Mr. Just. *Dolben*. Why then I ask you, Do you think, if you stood in so open a Place to be seen, and they had seen you, can you imagine that they would talk so about taking away Sir *Tho. Gascoigne's* Life?

*Batley*. I do imagine they did not know I was there, nor believe any one heard or saw.

Mr. Just. *Pemberton*. Do you know how they came there?

*Batley*. They said they came out of *Leeds*, and said one Mr. *Legat* was to come that Way, who they were to speak with.

Mr. Just. *Jones*. I ask you if you were in the Room under them?

*Batley*. And if it like your Lordship, I stood at the Stairs-foot.

Mr. Just. *Jones*. Just now you said it was the Stairs-head.

Mr. Just. *Pemberton*. Did you say any thing to them about this?

*Batley*. No; I did not open my Lips to them about it, but I told it to a Friend about three or four Weeks after.

Mr. Just. *Jones*. To whom?

*Batley*. To a Neighbour of mine: I suppose it was told Mr. *Babington*.

Mr. Just. *Dolben*. What say you, Mr. *Babington*? How came you to know of this?

Mr. *Babington*. When the Commissioners of Oyer and Terminer were sitting at *Leeds*, there was one came and told me *George Dixon* could afford me something that would be very advantageous for the Benefit of Sir *Tho. Gascoigne*.

Mr. Just. *Dolben*. Who was that Man?

Mr. *Babington*. *Bennet Johnson*, or *Francis Johnson*.

Mr. Just. *Dolben*. Was that the Man you spoke to?

*Batley*. No, I spoke it to a Smith, one *Richard Loftus*.

Mr. *Babington*. I'll tell you another Person I heard it from, that was Mr. *Bailiff* of *Leeds*.

Mr. Just. *Pemberton*. Well, was this the common Discourse of *Leeds*?



Mr. Just. *Dolben*. He says so. Was it then presently?

Mr. *Babbington*. The Bailiff did not tell me so suddenly.

Mr. Just. *Dolben*. Would it not have been to your purpose to have brought the Bailiff here?

Mr. *Babbington*. It was after the Commission of Oyer and Terminer that I had it from him, which was in *October*.

Mr. *Bolton*. In the time of *August* I was not at *Leeds*, I was in *Northumberland* searching for Priests, and in the Bishoprick of *Durham*, all but a little of the first of it.

Then Mrs. *Jefferson* was called.

Mr. Just. *Pemberton*. What do you ask her?

Sir *Tho. Gascoigne*. Pray be pleased to speak to the Conspirac; and Combination against me.

Mr. Just. *Jones*. Whose Combination? Come, Mistress, what do you know?

*Jefferson*. I asked Mr. *Mowbray* one time what he knew concerning Sir *Tho. Gascoigne*? And he said he knew nothing, but Sir *Thomas* was a very honest Gentleman for what he knew, and the best Friend he had.

Mr. Just. *Jones*. Is that all you know?

*Jefferson*. He thought he was wrongfully accused.

Mr. Just. *Pemberton*. When was this? Was this after the time he was accused by *Bolton*?

*Jefferson*. It may be it might be, I think it was in *August*.

Mr. Just. *Jones*. In *August* last?

*Jefferson*. Yes.

Mr. Just. *Dolben*. But you must needs know (it was the Talk of the Country) when Sir *Thomas Gascoigne* was sent for up to Town; was it after that time?

*Jefferson*. Yes, I think it was.

Mr. Just. *Jones*. Then you say, you heard *Mowbray* say that Sir *Tho. Gascoigne* was an honest Gentleman, and he could say nothing against him.

*Jefferson*. Yes, ask him else.

Then *Matthias Higgringil* was called.

Mr. Just. *Dolben*. Was he one at the Meeting?

Mr. *Bolton*. He was at the sealing the collusive Conveyance.

Mr. Just. *Jones*. This *Higgringil* is a Protestant, is he not?

Mr. *Bolton*. I know not, I think so.

Mr. Just. *Dolben*. Come, Sir, what say you in this Matter?

*Higgringil*. To whom?

Mr. Just. *Dolben*. What can you say to the Business about Sir *Tho. Gascoigne*?

Sir *T. Gasc*. Speak to the Threatnings to take away my Life.

*Higgringil*. I have nothing to say to *Bolton*; but *Mowbray* on the 25th of *September* last, being at an Alehouse, Mr. *Legat* and he were together, consulting how to disgrace Sir *Thomas*, and take away his Life; and he calls me out to speak with me: Now, said he, I shall match them, for they have done what they could to disgrace me.

Mr. Just. *Jones*. How did he mean that?

*Higgringil*. I suppose he had taken away some Money and Gold, and they spoke of it, and that was to disgrace him.

Mr. Just. *Dolben*. Was it charged upon him?

*Higgringil*. It was suspected always he had taken it away.

Mr. Just. *Dolben*. But was there any such thing talked of in the Country?

Mr. Just. *Jones*. What did he say to you?

*Higgringil*. He said, they did what they could to disgrace him, and take away his Life, and he would requite them.

Mr. Just. *Pemberton*. Who, they?

*Higgringil*. Sir *Thomas Gascoigne* and my Lady *Tempest*.

Mr. Just. *Pemberton*. Why? Did Sir *Thomas* indict him?

*Higgringil*. No; but the Noise was about the Country.

Mr. Just. *Dolben*. When was this? In *September* last?

*Higgringil*. Yes.

Mr. Just. *Dolben*. What Profession are you of; *Higgringil*?

*Higgringil*. An Husbandman; I graze, and I farm a Farm.

Mr. Just. *Dolben*. You know this Man, do you not, Mr. *Mowbray*?

Mr. *Mowbray*. Yes; Sir *Thomas* employs him, he is a kind of Collector to him.

Mr. *Rvenscroft*. He is no Papist.

Then *Francis Johnson* appeared.

Mr. Just. *Dolben*. Well, come, what do you know?

*Johnson*. He hath sustained great Losses by him.

Mr. Just. *Dolben*. He! Who?

*Johnson*. Sir *Thomas Gascoigne*.

Mr. Just. *Dolben*. By whom?

*Johnson*. By Mr. *Bolton*.

Mr. Just. *Dolben*. What Loss hath he received?

*Johnson*. The very first Month he entred, he wronged him of 3 *l*.

Mr. Just. *Jones*. How do you know that?

*Johnson*. I cast up the Accompt myself.

Mr. Just. *Jones*. But he kept him two Years after that?

*Johnson*. Yes, he did.

Mr. *Bolton*. My Lord, I lost 3 *l*. the first three Weeks, and Sir *Thomas* forgave me it, I don't deny it.

Mr. Just. *Dolben*. Do you know of any Malice between them, and that he said he would do him any Mischief?

*Johnson*. No.

Then Mr. *Pebles*, Clerk of the Peace in the County of *York*, was called.

Sir *T. Gasc*. I would desire you to speak of the Carriage of Mr. *Bolton* to you, Sir, what you know.

Mr. *Pebles*. My Lord, I was in *York* last Assizes, and Mr. *Bolton* came to me into a Room where I was with some Gentlemen, and asked me how I did? And asked me if I did not know him? I told him I did not remember him; said he, I am the prosecutor against Sir *Tho. Gascoigne*. So when he was sat down, after a little while he desired to discourse with me, and asked me, If a Man was indicted as a Traytor, whether it were fit to pay him Money? I owe, said he, Sir *Tho. Gascoigne* Money, and I would know whether it be fit to pay it to him? Said I, I think you may safely pay him



him his Money before he be convicted; but then 'tis the King's, in my Opinion. Nay, said *Bolron*, he is sure to be convicted: Then said I, I think it not safe to pay it, therefore I leave that to your own Discretion, whether you will or no. A little after he desired to have my Opinion concerning the two Judges that came our Circuit, for I am mightily abused by them, said he, they will not at all give me Audience; I came from the King and Council, and they slight me, and will not hear me speak: Said I, I believe if you will go to them, they will hear you. I went to speak with them, and they sent some of their Servants out to know what I would say to them; but I have writ a Letter to them to tell them my Mind; but said I, I can't believe that any one will presume to carry such a Letter; but for that I will leave it to you. So I came away from him, and after he follows me out, and desires to speak with me again: Said he, I have something against you concerning this Business in hand, I can do you a Prejudice if I will: Said I, God bless me, I know nothing of it, and I do not at all intend to court your Favour, I have no mind at all to that: Said he, I will not do it; and he spoke as if he had no Desire to do it: I would not court him, but came away and left him: He followed me to the Street again, and said, will you help to apprehend a Traytor? Who is it, said I? It is a Gentlewoman, said he; a Woman greatly concerned in the Plot; you may apprehend her in the Street, and 'tis the best time. Now the Street was full, and I thought it a little unseasonable; so he looked after me, but I never offered to go from him: But, said I, was she in the Plot? Yes, said he, she was to be the first Lady Mayorefs of York after the Plot took Effect, and the King was killed; but he did not lay hold upon her; so I parted with her; then, said he, I can have no Respect. Said I, I have nothing to do with you; I am Clerk of the Peace of the *West-Riding* in this County, and am always ready to do my Duty there; so away I went and left him. The next News I heard was, he had procured a Warrant of the Council against me; and he brings the Warrant to a Justice of Peace, and that Justice of Peace told him there wou'd be several Justices of Peace at *Leeds* within two or three Days after, and then they would examine the Business. I chanced to be in a Room with some Gentlemen, not knowing of the Warrant that was out against me; and this Gentleman that was the Justice of Peace called me into another Room, and told me of this Business: I admired at it, and told him I did know nothing of it, nor that I had disobliged him, unless it was because I did not give him the Compliment and Ceremony of my Hat, nor give him Money; neither did I know what Information he had procured that Warrant upon. He told me Mr. *Mowbray* and Mr. *Bolron* were in Town: So I desired him to send for the other Justices into the Room, where he acquainted them with the Matter, and said he, if you will we will examine it to-night; so they sent notice to Mr. *Mowbray* and Mr. *Bolron*, that they would examine the Business that Night at six a-clock, and they came; and he was asked what he had to say against me? He said I had taken Money for keeping a Man from taking the Oath of Allegiance, and they had Witnesses to prove it—

Mr. Serj. *Maynard*. Must he be here admitted to make his own defence?

Mr. Just. *Dolben*. Brother, let him go on.

Mr. *Pebles*. The Witness was called upon, and they asked him to that Point, and he denied absolutely upon his Oath that he gave me any Money, and also swore he had taken the Oath when it was tender'd to him. Then, my Lord, there was one Mr. *Dunford* an Attorney was spoken of, as if he could prove something, but he was fourteen Miles off, and they could not send for him, and so I begg'd they would appoint another Time for hearing when he could be there; they appointed *Monday* following, and ordered me to attend, and one of the Justices of the Peace undertook to give *Dunford* notice. Accordingly I came there, but there was no Mr. *Bolron* nor Mr. *Mowbray*; but I desired that Mr. *Dunford* might be examined upon his Oath, and they did take his Information in Writing, and he swore he knew nothing of it, neither did he ever give me Money upon any such Account.

Mr. Just. *Dolben*. You were not by when it was sworn?

Mr. *Pebles*. I saw the Examination taken in Writing.

Mr. Just. *Pemberton*. And you were discharged?

Mr. *Pebles*. Yes; for he could not make out any thing at all.

Mr. Just. *Pemberton*. It was well for you he could not make it out.

Mr. *Pebles*. They said they could prove it, and vouched these two Persons, but both denied it upon their Oaths,

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

Mr. *Pebles*. That is all I can say in particular, I have not a mind to speak against him in general, because he is the King's Evidence.

Mr. Just. *Dolben*. You can say nothing of his Repute?

Mr. Just. *Pemberton*. You were a Stranger to him, you did not know him.

Sir *T. Gasc*. I desire he may speak what Reputation he had among the Justices.

Mr. *Pebles*. I have no mind to reflect on the King's Evidence; and if I did, it would seem as if I should speak in Malice; he hath done me wrong, but I never did him any.

Mr. Just. *Jones*. But what is his Reputation generally?

Mr. *Pebles*. Truly, 'tis not very good in the Country?

Mr. Just. *Jones*. Among whom?

Mr. *Pebles*. The Grand-Jury and the Gentlemen of the Country?

Mr. Just. *Jones*. Is it a common Fame in the Country.

Mr. *Pebles*. Most People discourse ill of him.

Mr. Just. *Dolben*. Did he say he did not speak with the Judges?

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

Mr. Just. *Dolben*. You did speak with us; indeed you would have had us allowed you a Guard for your Safety, which we could not do.

Mr. *Bolron*. Whereas he says I gave in a wrong Information, this same *Hunt* when he came before them confessed he gave him 40s. but he would not swear for what it was.

Mr. Serj. *Maynard*. 'Tis nothing to the purpose one thing or other that he hath said.

Mr. Just. *Dolben*. 'Tis altogether uncertain; no body knows what to make of it.



*Then Hardwicke was called.*

*Sir Tho. Gasc.* Do you speak what Threats *Bolron* hath used to his Wife to swear against me.

*Hardwicke.* When the Pursuivants came up to *Burnbow*, the chief Constable ordered me to assist *Mr. Bolron* in Execution of the Warrant, and to carry the Witnesses before a Justice. We went to *Robert Bolron's* House to take the Witnesses, and there was his Wife, his Brother, and his Sister: We were to carry them before a Justice, and they refused to go; his Wife pretended to be sick and could not go, and they begg'd of us to excuse them.

*Mr. Just. Dolben.* Who do you call they?

*Hardwicke.* His Wife, his Brother and his Sister: *Bolron* told them they must go, and *William Backhouse* and I ordered them by all means to go along with us; I suppose it was to testify what he had sworn.

*Mr. Just. Jones.* What were they to do, did he tell them?

*Hardwicke.* They were to go to tell what his Testimony was above, as well as I understood the Discourse.

*Mr. Just. Dolben.* We have had two Persons to this purpose before. They say he would have his Wife go, and she refused to go, and cried; but they do neither of them say he pressed her to speak any thing more than she knew, or against her Knowledge.

*Mr. Just. Pemberton.* No, one of the Witnesses said, he told her it was to speak her Knowledge.

*Then William Clow was examined.*

*Mr. Just. Dolben.* Come, what say you?

*Clow.* The 22d of *May* last I had a Writ against *Bolron*, and my Man arrested him and brought him to my House.

*Mr. Just. Dolben.* At whose Suit?

*Clow.* At the Suit of one *Higgringil* that was Servant to *Sir Thomas*; and there I had him two Days, and would not carry him to the Goal, for he begg'd of me I would not; but then I told him I would keep him no longer there, for he had no Money for Lodging and Diet; but he begg'd so hard of me that I would but tarry till *Higgringil* came, and then he did not care what they did with him; for he would make *Sir Thomas* pay *Higgringil* his Debt that he owed him, or he would play him such a Trick as he little dreamt of.

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

*Clow.* The 21st or 22d of *May* last, or thereabouts.

*Mr. Just. Dolben.* *May* last?

*Clow.* Yes. And so *Higgringil* came over, and they did agree, and he gave him a Lease of an House he lived in, and *Higgringil* took the Charge of both the Debts upon him.

*Then Hobart stood up.*

*Sir Tho. Gasc.* Speak whether he pretended he writ a Letter to the Duke of *Monmouth* from *Leeds*.

*Mr. Hobart.* My Lord, I have nothing to say to that.

*Mr. Just. Jones.* What can you say then?

*Mr. Hobart.* All I can say is to the Sums of Money returned to Town.

*Mr. Just. Dolben.* He did not mention that.

*Mr. Hobart.* If you please to let me declare what I know about the returning of the Money.

*Mr. Just. Pemberton.* Pray speak what you know of your own Knowledge.

*Mr. Hobart.* For most part of it I know of the Payment of it, and to whom; 1800*l.* there was paid to *Mr. Trumbal* about the Purchase, it was paid at *Mr. Marston's*: I was a Witness to the Deed, and to the Receipt,

*Mr. A. Gen.* That is some, but what to the rest?

*Mr. Hobart.* 200*l.* was paid to a Client of mine, 80*l.* was paid to one *Widow Carwson* that was upon Bond.

*Mr. Just. Dolben.* How much was paid to *Mr. Corker*?

*Mr. Hobart.* Several Sums, above 300*l.* paid to *Corker* in six Years time.

*Mr. Just. Pemberton.* Nay in four Years time.

*Mr. Hobart.* This 300*l.* and 300*l.* before I drew the Receipt for; and commonly he ordered me when *Mr. Corker* came for it, that I should have a Receipt from *Mrs. Mary Appleby*; and it came back signed by her, to whom *Sir Thomas* was Guardian.

*Mr. Just. Dolben.* And was all this Money paid to *Corker* upon the Account of this *Appleby*?

*Mr. Hobart.* It was mentioned in the Receipt.

*Mr. Just. Dolben.* How much was she to have by the Year?

*Mr. Hobart.* 100*l.* by the Year, or 2 sometimes.

*Mr. Just. Dolben.* How came she to have 900*l.* in four Years?

*Mr. Hobart.* My Lord, I will tell you; for that there was a great Arrear upon a Suit between *Sir Thomas* and *Mr. Appleby*, this *Mrs. Appleby's* Father; and upon the hearing of the Cause, my Lord Keeper *Bridgman* was pleased to order, that this Money should be paid to *Sir Thomas* for the Use of the Daughters; 200*l.* a Year, that is 100*l.* a piece; and there was an Arrear for 3 or 4 Years during the Suit, about 2 or 300*l.* it was: I drew a Receipt for it, and *Sir Thomas* being pressed for the Money by *Mrs. Appleby*, who went beyond Sea, he sent to *Corker* to get the Money returned to her.

*Mr. Just. Dolben.* Ay, but you dance about the Bush; Was there an Arrear of 500*l.*

*Mr. Hobart.* For three or four Years, and *Mrs. Ravenscroft* was one of the Sisters, her Part was paid when she was married, but this Gentlewoman's was paid beyond Sea.

*Mr. Just. Dolben.* Were there Arrears from *Sir Thomas* to the Gentlewoman beyond Sea?

*Mr. Hobart.* Yes.

*Mr. Just. Dolben.* Are you sure there was?

*Mr. Hobart.* Yes, *Sir Thomas* told me so.

*Mr. Just. Pemberton.* Who was to pay this Money?

*Mr. Hobart.* *Mr. Appleby*, by Order of my Lord Keeper.

*Mr. Just. Jones.* *Sir Thomas* was Guardian, was the Estate in *Yorkshire*?

*Mr. Hobart.* It did arise out of Rents there.

*Then one Culliford was called.*

*Mr. Just. Dolben.* What say you? What do you know of this Matter?

*Culliford.* This Gentleman lodged at such a time at my House; the 4th of *June* 1677, he was



at my House 7 Weeks, and he was gone 3 Weeks, and returned again; he was 3 Weeks away.

Mr. Just. Jones. What Gentleman was this?

Culliford. Mr. Mowbray.

Mr. Just. Dolben. What is that to the purpose?

Mr. Just. Jones. How do you apply that?

Mr. Hobart. Mr. Mowbray hath said he sent a Letter to the Duke of Monmouth.

Mr. Just. Dolben. There hath been no mention made of any such thing: Have you any more Witnesses?

Mr. Hobart. No.

Mr. Just. Dolben. Then ask Sir Thomas what he hath to say for himself.

Mr. Hobart. Have you any thing to say to the Court for yourself?

Sir Tho. Gascoigne. No, I refer myself to the Judgment of the Court.

*Then a Woman Witness appeared.*

Sir Tho. Gascoigne. What do you know concerning Mowbray, whether he was suspected of stealing when he was at my House?

Witness. Yes, he was, my Lord; he would have given me 5*l.* to have gone away, and he did intend to have clapped me in Prison, and to have laid it all upon me.

Mr. Just. Dolben. How do you know that?

Witness. He told me so.

Mr. Mowbray. This is a common Woman, and not to be believed.

Mr. Serj. Maynard. My Lord, we will reply but one short thing in matter of Evidence. Much of this that hath been given by the Defendant hath been to take off the Credit of the Witnesses; and for Bolron they would suggest that he hath been dishonest to Sir Thomas; but when Sir Thomas himself was examined to that Point before the Council, he said he found him honest, but only accounted him a Fool.

Mr. Just. Dolben. That is proper for you to do now, Brother.

Mr. Serj. Maynard. And Sir Thomas being examined about Rushton, he said he did not know such an one, and then afterwards he did say he knew one of that Name. Here is Sir John Nicholas the Clerk of the Council. *[Who was sworn.]*

Mr. At. Gen. Pray, Sir, do you know what Sir Thomas Gascoigne said at the Council-Table?

Sir John Nicholas. He was asked whether he knew Bolron? He said he knew him very well, he had been his Servant till within this Twelve-month, or something more; but for his Honesty he had nothing to say to it; till of late that he had not behaved himself so well in giving Informations against him: But he did find him now, what he did always take him to be, a Fool.

Mr. Just. Dolben. What did he say about Rushton?

Sir John Nicholas. At first he did say, he did not know Rushton the Priest; but after it was brought to his memory, he said he knew one of that Name.

Mr. At. Gen. 'Tis taken down in the Minutes; Sir John look upon them.

Sir John Nicholas. He denied at first that he knew Rushton the Priest; and afterwards the next time he came to the Council, he said he did deny it, because he was afraid of an old Law against harbouring of Priests.

Mr. At. Gen. If your Lordship please, we will now trouble you with a Witness or two in answer

to what Backhouse and Hardwicke have said as to Bolron's threatening of his Wife. We will call the Wife to give you an Account of that.

Mr. Just. Dolben. They did not charge him that they pressed her to swear falsely.

Mr. Just. Pemberton. That does not at all touch upon the Witnesses.

Mr. At. Gen. If the Court be satisfied we will trouble you with that no farther.

Mr. Just. Jones. I believe Backhouse did say, That this Bolron would have his Wife go before the Justice of Peace; she said she knew nothing at all, yet he would have her go and testify her Knowledge; and if she would not, he would have her dragged at the Horse's Tail.

Mr. At. Gen. I think 'tis necessary to call a Witness or two to that. First to call her herself. *[Then Mrs. Bolron was sworn.]*

Mr. At. Gen. What did your Husband threaten you to make you swear against Sir Thomas Gascoigne?

Mr. Just. Dolben. Now you are upon your Oath speak the Truth.

Mrs. Bolron. No, never in his Life did he threaten me upon any such Account.

Mr. Just. Dolben. Do you remember when the Constable came down to have you go before Squire Lowther?

Mrs. Bolron. Yes, my Lord.

Mr. Just. Dolben. How chance you did not go with him?

Mrs. Bolron. I was unwilling to go then, because I could say little to the purpose.

Mr. Just. Dolben. Did he use any Threats to you to make you swear against Sir Thomas?

Mrs. Bolron. No, my Lord; but he would have me go, whether I said any thing or no.

Mr. Just. Dolben. Did he ever desire you to speak any thing you did not know?

Mrs. Bolron. No, my Lord, never in his Life.

Mr. At. Gen. My Lord, Mr. Bolron desires to have this Woman his Grandmother be asked whether he threatned his Wife? *[And she was sworn.]*

Mr. Sol. Gen. She was by at that time.

Mr. Just. Dolben. Were you by at that time when the Constable came to carry the Witnesses before Mr. Lowther?

Mrs. Bolron Sen. Yes.

Mr. Just. Dolben. Hark you, did not you see the Woman that went over there cry, and say she was unwilling to go?

Mrs. Bolron Sen. Her Husband said she should go, though she said nothing.

Mr. Just. Dolben. But her Husband did not press her to say any thing but what was Truth?

Mrs. Bolron Sen. No, indeed did he not.

Mr. Just. Pemberton. And did not seem to stick before.

Mr. At. Gen. What can you say to this honest Man here your Son?

Mr. Just. Dolben. I'll warrant she will say he is honest still.

Mr. At. Gen. But here are a Company of People would make him a dishonest Man.

Mrs. Bolron Sen. Sir Thomas Gascoigne said he was as truthful a Servant as ever he had in his Life.

Mr. Just. Dolben. Did you hear him say so?

Mrs. Bolron Sen. I heard him say so in his own Chamber.

Mr. Just. Dolben. When?

Mrs. Bolron Sen. After he was married: And besides Sir Thomas did say he would do any thing he



he could for him, in relation he had been a true Servant to him.

Mr. Just. *Dolben*. Call Mr. *Phiswick* again. (*Who appeared.*) Look ye, Sir, you are a Man that I see hath been trusted by all the Family of the *Gascoignes*, and you know in what Reputation he was.

Mr. *Phiswick*. Sir, while I was his Fellow-servant, I knew no Ill by him.

Mr. Just. *Dolben*. Was he accounted an honest Man?

Mr. *Phiswick*. I can say nothing to the contrary.

Mr. Serj. *Maynard*. Then my Lord to conclude, I desire to speak a word. On the one side here is an ancient Gentleman's Life in Question, and that or his Death are to be the Issue of this Cause; on the other Side here is the Discovery of a Plot upon which all our Lives, our Religion, and the Life of our King depend. It did require your Patience, and you have yielded it. Where lies the Question? If these Witnesses that have been examined be believed, there is no Question but he is highly guilty of the Plot: The Witnesses tell you, when there was no talk of the Plot, there was a Preparation of a false and fraudulent Conveyance to be drawn by Advice of Counsel, and why was this made? Lest he should forfeit his Estate. This is proved in the beginning. You find next a meeting of the Priests, and there what they did does not concern this Gentleman at the Bar, till he took Notice of it, and then joined in it, and approved of it, and did declare it was a worthy Plot, a meritorious Plot for the good of the Church, and at last particularly he would give 1000*l.* to *Bolton* to destroy the King and murder him. The other Witness agrees with him. And what is said against all this? They have call'd and examined I think nineteen or twenty Witnesses, three touching the threatening of his Wife, but that falls out to be nothing; two Ale-house-keepers that stood at the bottom of the Stairs, and overheard their Discourse; but you have all heard how they have contradicted one another, they had not agreed well enough together on their Story. All that the rest do is meant thus, and so far they make something of it, that there should be a Debt due from this *Bolton* to this Gentleman, and so it were some Contrivance as if he would do it by way of Revenge; it does fall out many times that Men do quarrel, but this is a Business of another Nature. They say that he should threaten he would serve him a Trick, or there were some such Words; but under Favour, the Question is of the Truth of his Testimony; now it is not likely, that they knew what his Testimony would be; and there is nothing against the other Witness that concurs with him, but the Fellows that were upon the Stairs, that talk one of one part of the Stairs, and the other of the other. The Matter is clearly whether the Witnesses be to be believed, or whether there be any thing sufficient offered to take off their Testimony. You will be pleased to observe as to what was spoken about the Money and the Nunnery, we brought you a Letter from the Priest who was mention'd to be one of them at the Meeting, *Pracid*, that writes and dates his Letter from the Place the Witness speaks of, and there you will observe that in one of the Letters 'tis express'd; *If England be converted*, (there is the main of the Plot) for all I suppose goes to

that Purpose. Pray who thought of *England's* Conversion at that Time? What led them into that but a Conscioufness of a Design to convert *England*? My Lord, another piece of a Letter there is concerning the Oath of Allegiance, you have heard it read, and every body knows what the Meaning of it is, it is the Engine of the Jesuits, that if they can but draw Men off from their Fidelity to the King, whereof there is no Testimony so great as the Oath of Allegiance, they need not use so much of Equivocation; but that is an abominable Thing, and not to be endured, to go take off the Strength of that Oath that hath been taken by Men more honest than the rest, and not suffering the rest to take it at all: And it is a damnable Thing that they should assert the King is an Heretick, and the Pope has deposed him, therefore it is meritorious to kill him: But you have heard the Evidence fully, and it needs no Aggravation.

Mr. *Sol. Gen.* My Lord, I think the Evidence hath been already repeated by Mr. Serj. *Maynard*; and my Lord, I think there is nothing in this Case, but only the Credit of the Witnesses, for if they be to be believed, there is an Evidence as full as can be. I know your Lordship observes how it is introduced; how they are fortify'd in some Circumstances, which Sir *Thomas* did at first deny. They tell you that he had a pious Intent to found a Nunnery, and did proceed so far as to make a Settlement; this was deny'd by Sir *Tho. Gascoigne*, but hath been verified, and made out by his own Books and Letters writ to him, which were found in his own Custody. This did Sir *Thomas Gascoigne* do with an Expectation of a sudden Change; for the Letters do declare, that *England* was to be converted, as they called it, and therefore they had settled their Matters in order, and they thought fit to insert that Proviso in the Settlement, That if *England* should be converted, then the Money was to be disposed so and so. But your Lordship likewise observes, and you, Gentlemen of the Jury, what other Correspondence Sir *Thomas Gascoigne* had with one *Cornwallis* or *Pracid* a Priest. He receives a Letter which shews you what the Principles of all the Catholics are, how far they have proceeded to take away even the Oath of Allegiance, and the Consequence of that how far it will go, when they think themselves obliged in Conscience to cast off Fidelity to their Prince, and what Mischiefs may ensue no Man knows, but we may in part imagine. You have already had sufficient Discovery to make out the Use of this instilled Principle, and that is the Design to kill the King, for this you hear what the Evidence say. Mr. *Bolton*, one of them, is sent to the Priest to be instructed by him; and by him was chid for offering to go against their Principles to take the Oath, and told him he was damned for so doing. And presently after he was examined by Sir *Thomas Gascoigne* upon some Discourse with him what *Rushton* had said, who had moved him likewise to kill the King, as he says. Sir *Tho. Gascoigne* knew to what Purpose he sent him thither, not only to renounce the Oath of Allegiance, but to carry on the Design which he had in hand, and did introduce, by laying aside the Oath, and tells him he must engage in the Design to kill the King. He examines him what the other had spoke to him of, and he said he



knew it was more than bare chiding of him for taking the Oath of Allegiance, and he told him for his better Encouragement to go on, that if he would undertake, he should have 1000 l. And this is the Sum of *Bolton's* Evidence, as to *Sir Thomas Gascoigne*. What then says *Mowbray*, the second Witness, he was so faithful a Servant, and so diligent, that he was employed by *Rushton* the Confessor to attend him at the Altar, and being in service immediate about him, and he being by that means so dear to him, waited upon him in his Chamber, and was privy to all the Consultations held there. And he gives you an Account how long this Plot hath been in Agitation, for they had been discoursing a good while of it; and resolved it should be done, if not by fair Means, by foul, and tells you plainly by killing the King. And that he heard *Sir Thomas Gascoigne* himself declare that it was a meritorious Act to kill the King; and that as before he had the Oath of Secrecy given him by *Rushton*, so he did declare (which *Mowbray* standing at the Door heard) that he would never swerve from the Oath, but he would assist to the utmost of his Power; and they that were with him said, they would stand by it with their Lives and Fortunes; and when my Lady *Tempest* understood he was there, and was jealous of him, she bid him go down, and entertain the Guests below Stairs. So here is an Evidence from two Witnesses as full as can be in any Case, that *Sir Tho. Gascoigne* was privy to the Conspiracy, and himself Partaker of it, to kill the King. All that hath been said against 'em, is to vilify their Reputation. As to *Mowbray* I hear but little, only there are two Witnesses that touch him; and indeed if these Witnesses were to be believed, they say a great deal; that is, they were in an Alehouse together, and heard them conspire to take away the Life of *Sir Thomas Gascoigne*. Indeed *Mowbray* said, for *Sir Thomas Gascoigne* I know nothing but that he is a very honest Gentleman, but for my Lady *Tempest* if I could hang her I would: That they should hear them contrive this together, and conspire how they should take away the Lives of this Gentleman, and the others. Indeed, if these Men say true, 'tis a great Matter to take off the Credit of their Testimony; but you heard, Gentlemen, how they did vary; for the one said, as I apprehended, at first he was in the Room, afterwards he was below Stairs. Ask the one, Could you hear them? Yes. Could you see them? No; said the other Yes. So that they were not well provided, as to that Matter, nor had they consulted that Point well, where they should agree to stand to overhear the Matter. Now if that be likely, they should in the Presence of two Persons whom they did not know, and one of them they never saw, but in the Court, declare and discourse of such a Matter as this for the taking away the Life of *Sir Thomas Gascoigne*, then we have nothing to say to them, we must leave the Credit of that to you, you will observe their Variety in the Story, and the Improbability of the Thing. But then for *Mr. Bolton*, the Evidence against him is, that he is a very dishonest Man, and that this is all out of Malice to *Sir Thomas Gascoigne*, because he would sue him upon his Bonds. You observe how he does behave himself under that Prosecution; all that he hath he is willing to part with for Payment of his Debt, he makes over

his Estate for Satisfaction and Security, and does as much as an honest Man can do, all he hath shall lie at stake: And as for *Sir Thomas Gascoigne* himself, he had no such Opinion of him in point of Dishonesty, for he declared he lived in his Service without Exception, and said before the Council, he knew nothing of Dishonesty by him, but only this Information, and now he found him to be (what he always thought) a great Fool. Now whether he thought him a Fool for telling this Story, or what else, you may explain the Meaning of his Expression; but as for any thing of Dishonesty, there is nothing against *Mr. Bolton*. He was in Debt 'tis true, but what he had lay at Stake for the Payment of it, and as far as it would go *Sir Thomas* might take it; but that for Malice he should come to swear against him, there is nothing clearly made out. One Witness says indeed, that he should say, Does *Sir Thomas Gascoigne* intend to sue me, then I will do what I did not intend to do; whether that be a speech of Malice or no, or rather does confirm the Truth of his Evidence, is left to your Consideration: It shews rather, there was something that he had in his Power to do before any Prosecution from *Sir Thomas Gascoigne*, or any occasion of his Malice against him; it hath not the necessary Import of a malicious Speech, that he did intend not to do such a Thing, and because he was sued did do it; that therefore is only Truth and no Malice. For the other Matter that is said against him, that he should endeavour to suborn his Wife to swear falsely, that was by no means fully proved, but rather that Matter hath been sufficiently clear'd; that though she said she knew nothing, yet he would have her go, though she said nothing; and you hear what the Evidence hath been for *Mr. Bolton*, that he never did press her to swear falsely, nor threaten her if she would not, but only desired her to declare her Knowledge if she knew any Thing, the Truth and nothing but the Truth. These are all the Objections made against the Credit of the Witnesses; and I think if their Credit do stand, you cannot have a clearer Evidence to convict any one than hath been given you to Day; but that we leave to you, and submit these Objections, whether they have any Weight in them, and whether they have not been fully answered.

*Mr. Serj. Maynard*. And our Evidence is given in all upon Oath, and theirs is not.

*Mr. Just. Jones*. Gentlemen, you of the Jury: The Prisoner at the Bar stands indicted for High-Treason, and for High-Treason of the highest Nature, for conspiring to take away the Life of the King, and for endeavouring to change the Religion, the Protestant Religion into Popery; that is, contriving to extirpate the Religion of Protestantism here, and introduce Popery instead of it; and certainly greater Crimes than these no Man can be accused of. There have been produced, on the Behalf of the King, two Witnesses, *Mr. Bolton* and *Mr. Mowbray*, both of them Servants to *Sir Thomas Gascoigne*, the Prisoner, and therefore might very possibly and probably enough be privy to all they have said and testified in this Case. It does appear by them both, that *Sir Thomas Gascoigne* was a very early Man in the Plot (if they say true.) We heard nothing of it till the Long-Vacation (7<sup>s</sup>) but it seems *Sir Thomas Gascoigne* was a Plotter and Conspirator



in the Year 75 or 76. And that he might be able to do this somewhat more safely, he contrives how he might convey away his Estate to prevent the Forfeiture; and he makes an Assurance of it to Sir *William Ingleby*, colourably, as the Witnesses swear, for 1000*l.* And it does appear likewise, as to the Introduction of the Popish Religion here, they began to settle a Nunnery, and it was fit to do so against *England* should be converted; first, in such a Place; but if it happened *England* were converted, then to be removed to another Place. There was at this Nunnery appointed an Abbess, an Assistant, and several Nuns; and Sir *Tho. Gascoigne* so well knew of this, that one of them that was appointed to be a Nun, at the time of her taking Horse, he said to her, *There goes an old Maid and a young Nun.* And there are Letters come from that very Nunnery, and from the Priest that was appointed to attend them as Confessor, which have been read to you. And there is another Preparation thought necessary to introduce this Plot, and that is, That all Papists might be seduced into an Opinion that it was a dangerous thing to take the Oath of Allegiance, and that it was a damnable Sin. For this Purpose Letters came from the Doctors at *Scrbonne*, and they determine it to be so, lest any Man of that Religion should be so good a Subject as to profess Obedience to the King in Temporals. Then the Plot goes on between Sir *Miles Stapleton*, Sir *Francis Hungatt*, Sir *Charles Vavesor*, Sir *Tho. Gascoigne*, Mr. *Gascoigne*, *Middleton*, *Rushton*, my Lady *Tempest*, and a great Company more; all met together and consulting in Sir *Tho. Gascoigne's* House, in his great Room, his old Dining-Room, to this Purpose, not only to bring in their Religion, but kill the King expressly (so says the Witness;) I think they had often talked of it before the Witness in the Priest's Chamber; for he being then a Papist was privy to his Master's Design, and the rest of the Confederates, for killing the King, which was the only thing they desired to effect, as the best way to bring in their Religion; and there was great Reason to do it they said too, for the King had not kept his Word with them when he was in his Exile; for they said, he had promised if he was restored to his Kingdoms, he would restore the Popish Religion, but now he was returned and had broke his Promise, and nothing more was to be done, the Pope having declared him an Heretick, but to destroy him; and this was that which was agreed among them. The 30th of *May* last, after divers other Consults had about it, the Priest *Rushton* being at Sir *Tho. Gascoigne's* House, *Bolton* is desired to go into the Gallery, and there presently comes in *Rushton*, Sir *Thomas's* Priest; *Bolton* acquaints him that he had been at the Sessions and taken the Oath of Allegiance. As soon as ever he heard it, he cries out, He had committed a damnable Sin, he must of necessity renounce it, and repent of it, and he could give him a Pardon, for he had an extraordinary Power, more Authority than others, he could give him Absolution if he did repent of it, and that no Catholick must by any means take the Oath. A while after they had a Discourse concerning killing the King; and the Witness says indeed he was not actually in the Room, for he says he stood at the Door, and heard all the Discourse, till at last the Lady *Tempest*, one of the

Conspirators, taking notice of his being there, sent him down Stairs,

Mr. Just. *Pemberton*. That is *Mowbray*.

Mr. *Mowbray*. I was called into the Room and then sent down.

Mr. Just. *Jones*. 'Tis true, Brother, that was *Mowbray*: But as to *Bolton's* Discourse with *Rushton*; when Sir *Tho. Gascoigne*, who was not in the House at the time *Bolton* was with *Rushton*, but had given a Charge he should not go before he spoke with him: When he did come home and spoke with him, he takes upon him to go on with the Discourse concerning the Plot, and he swears positively that he offered he would give him 1000*l.* and this he swears he should have paid him in *London*. This is expressly the Testimony of *Bolton*. Now what says *Mowbray*? He tells you (tho' that is but Introduction to make his Evidence more probable) that there was great Resort of Priests to the Prisoner's House. He tells you of the Discourse and Consultation the Priests had in the House, and that it was expressly and precisely for killing the King. He tells you that he did stand at the Door and heard it, as I observed before; and he tells you too, which hath not been observed, that at that time there was produced a List of four or five hundred Persons that had engaged in the Design of killing the King? he did see the List, he did see Sir *Tho. Gascoigne's* Hand, which he very well knew and was acquainted with, and which might very well be, being his Servant. So that here is not only a Discourse and Agreement by paroll, that he should be in the Conspiracy; but if you believe him, he says, that here is actually the Hand of Sir *Thomas* to the Engagement to do the Villainy; and truly they that were of that Persuasion at that time, might easily be induced to it. For it was agreed amongst them, that they should have a plenary Indulgence of 10000 Years, and it was a meritorious Act; and tho' Sir *Thomas* perhaps was not so ready to contribute in all Things, yet hearing of the Meritoriousness of the Act, and withal that he should be canonized for a Saint for this Piece of Piety, he certainly might readily consent to it. Mr. *Mowbray* indeed was ask'd, Why he did not discover it sooner? He tells you why, He was in fear of the Papists; he was threatned; and very like he might be possessed with Fear, and so might a Man of greater Constancy till the Business was discovered; and therefore he did not talk of it in the Country, but came up here, where it was more safe to discover it, and hath been here ever since. Besides this Testimony of these Witnesses, Gentlemen; there are some Papers produc'd, some that mention Money that hath been convey'd by Sir *Thomas Gascoigne*, in Confirmation of the Testimony of *Bolton* the first Witness, who does swear that he heard Sir *Thomas* say he would send 3000*l.* to the Jesuits to go on and prosecute this Plot; and afterwards he did hear him say, he had sent the 3000*l.* that he had promised. Now it does appear by Sir *Thomas's* Almanack that he had sent several Sums; his Receiver *Phiswick* did speak of 6000*l.* and he himself did give a Touch towards it. Indeed *Phiswick* was a Receiver for Sir *Thomas*, and likewise for his Son, and for the Lady *Tempest*; but it is impossible, if they had sent all the Money that ever they had; and considering too that the Lady *Tempest*, as appears by the Witnesses, lived in the Country, that it could have amounted to

near



near that Sum of Money; for she had but 300*l.* a-year, and the eldest Son had but 400*l.* a-year, how then could 6000*l.* be returned for them in four years time? 'Tis true, there is some Answer given as to that 900*l.* by that Witness *Hobart*, who says there was a Suit, and 100*l.* a-year decreed to be paid to Mrs. *Appleby* Sir *Thomas's* Niece, for so many Years, and he to take care of sending that to her; and tho' that was but 100*l.* a-year, yet there was a Decree, or some Order, to pay the Arrears with the other Money, which made it up 900*l.*

The Evidence for the King against the Prisoner is but two Witnesses, but they as positive and express as possibly can be. What then is said by the Prisoner, or the Witnesses, in his Defence? There is one, that is *Shippon*, that gives some Testimony against the very Evidence, and the Possibility of it to be true in one part of it: For *Bolton* he tells you, that the 30th of *May* was the time when there was that Consult held at Sir *Tho. Gascoigne's* in the Gallery with the Priest, that he staid there till Night, and that then Sir *Thomas* talked with him, and made this Proffer to him for the Murther and Destruction of the King. Here comes a Witness, *Shippon*, and tells you that that very 30th of *May*, *Bolton* was at his House at 2 a-clock, and staid an Hour or two after Sun-Set. If that were true that he were there all that time, it is not then true that he speaks of about Sir *Thomas Gascoigne*; and it was impossible that he should be at the Consult at that time when he says he was there, and afterwards spoke to Sir *Thomas Gascoigne*. Now, Gentlemen, you have the King's Witness upon his Oath; he that testifies against him is barely upon his Word, and he is a Papist too, for that he was ask'd, and he did confess himself so. I do not say that a Papist is no Witness, a Papist is a Witness, and he is a Witness in a Papist Cause, and for a Papist; but I must tell you, there is less Credit to be given to a Papist in a Cause of this Nature, who can easily believe they may have Indulgences and Pardons enough for saving one from the Gallows who is to be canonized for a Saint if the Plot take effect. He hath only affirmed it who is a Papist, the other who is a Protestant swears what his Evidence is.

Mr. *Babington* who was the first Witness examined for the Prisoner, he tells you there had been some Debates and Differences about Rent and Money that was owing by *Bolton* to the Prisoner. He laboured and interceded often on his Behalf, but at length not being able to prevail that he should not be sued, the Witness swears, I will then do that which I did not intend to do. What he meant by it is doubtful, and it is an ambiguous Speech, but to interpret it that he would swear falsely to take away a Man's Life, and so commit both Murder and Perjury, is hard to infer and conclude from such doubtful Words. There are some Witnesses that tell you, that is, *Moor* and others, that *Bolton* did say and swear that Sir *Tho. Gascoigne* was never concerned in the Plot: That might very well be, especially if you take the Time when he did say this, he was a Papist a great while after Sir *Thomas* had engaged himself in the Plot; and while he was so, it is not unlike he would venture an Oath to save any of the same Persuasion and Religion he himself was of. But whatsoever he said it was not judicially, he was not bound to discover to him he spoke to; he is now upon his Oath, and you have heard what an

express Testimony he gives. As to what is said concerning his Wife, that he should endeavour to persuade her, contrary to her Knowledge, to give Testimony against Sir *Tho. Gascoigne*, and therefore he is not to be belived here upon his own Oath, who would have his Wife forswear herself to fortify him; there is no such Thing; and it does appear by the Evidence of those that are sworn, that he was earnest, and would have his Wife go and testify her Knowledge; but did not infuse or intimate any thing to her she should say, whether she did know it or no: And to assure you that, you have the Oath of the Woman herself, who hath been present here, and tells you the same thing. *Dixon* he comes and says, in *August* last, *Mowbray* said he knew nothing of the Prisoner, which may be answered by his Fear; but concerning the two Witnesses that Mr. *Solicitor* did take notice, he did tell you, and 'tis plain, how very improbable it was two Persons should speak in the Presence of Strangers, and tell them they were about to take away the Life of another Person, the one of the Lady *Tempest* who had done him a Displeasure, the other of Sir *Tho. Gascoigne*; but *Mowbray* at that time said he knew nothing of Sir *Tho. Gascoigne*; but Gentlemen, besides what was said before, this is improbable any such thing should be, and you hear the Witnesses, at least one of them, that he never knew one of the two.

Mr. *Bolton*. I knew neither of them.

Mr. *Just. Jones*. I should be very loth to omit any thing on the Witnesses side, or that hath been materially testified against them on the Prisoner's. I did not conceive the Evidence given by Mr. *Pebles* to come to any thing at all. There was a Discourse between *Bolton* and him at last Assizes; after some Talk *Bolton* tells him he had something to say to him, and what was it? *Bolton* was told that he had discharged some Persons that he ought not to do, (excused them for Money that did not take the Oath of Allegiance as they ought to have done) and it seems he did it here, and so far he went as to bring Witnesses before the Justices of Peace to prove it. And although they did not give Evidence against Mr. *Pebles* in that very Particular, yet certainly he thought they would have said something; but that does not argue at all, that because he did accuse Mr. *Pebles* (as he thought justly in that Particular) therefore that now he should falsely accuse Sir *Thomas* in a Matter that concerns his Life so highly. There are some other Things that were said by the Witnesses that would tend towards the proving of some Malice in the Witnesses towards Sir *Tho. Gascoigne*, and therefore they give in this Evidence: One thing indeed was spoken by *Hickeringil*, that is, it was generally reported in the Country that *Mowbray* had taken away Money from Sir *Thomas Gascoigne*, and that *Mowbray* himself said, that as they had endeavoured to take away his Fame and Life, now he had found an Opportunity to requite them. So saith the Witness, but 'tis not very probable. I leave it with you upon the Credit of the Witnesses for the King, who have sworn it upon their Oaths, and the others that go upon their Words, and not their Oaths, whether they have taken away the Force and Strength of the King's Evidence, which is as full, express, and positive as can be by two Witnesses.

Gentlemen, here is on the one Side the Life of an ancient Gentleman before you, on the other



other side there is a Conspiracy against the Life of the King, who is the breath of our Nostrils, and whom God long preserve. I know you being upon your Oaths will take into your Considerations both, and give a Verdict according to the Evidence you have heard.

Mr. Just. *Dolben*. I will tell you, Gentlemen, I cannot forbear saying one thing to you. There is some Evidence that makes it a very improbable thing to be true what Mr. *Bolton* hath said, and yet Mr. *Bolton* having said it so positively, and *Mowbray* agreeing with it, Probabilities must give way to positive Proofs. I saw you did observe it when it was mentioned; and 'tis true, to me it seems improbable that at the very same time that Sir *Tho. Gascoigne* should sue him upon his Bond, and take a Course to turn him out of his House, that he should then be privy to such a Conspiracy; 'tis improbable either that Sir *Thomas* should offer him such a Sum of Money to kill the King, or if he had, that he should afterwards take that Course at Law against him. Now for that I say this to you, You are to give a Verdict according to your Evidence. They have such Secret Contrivances amongst themselves, (and he was a Papist at that time) that where there are two Men that positively tell you a thing that lies within their own Knowledge, and swear it is true, it is scarce any Improbability that should weigh against such an Evidence.

Mr. Just. *Pemberton*. And, Gentlemen, consider withal as to that; for truly my Brother *Dolben* hath rightly minded you of that Improbability, for it was no more: But then you must consider all the Circumstances. 'Tis indeed at the first Blush improbable that a Man would communicate so great a Secret to another, if he did intend to sue him for Money he owed him; but then 'tis likewise as improbable that he would provoke him by a Suit, if his Life were in his Hand; but consider the delivering of the Lease of Ejectment, and those things were the 13th of June.

Mr. *Babington*. But I had sued him before, my Lord.

Mr. Just. *Dolben*. The 2d of June he says.

Mr. *Babington*. I had Direction long before I did it.

Mr. Just. *Pemberton*. They threatned him the 2d, but they did not do it. But look you, Gentlemen, consider this; I do not doubt but Sir *Thomas Gascoigne* was sure that this Man durst not discover any Thing of this, for they had given him the Sacrament and an Oath of Secrecy, which they look upon as a Tie among themselves, as long as they continue in that Religion, not upon any Account whatsoever to be undone; and they have such confidence in it, that they will trust their Lives and every thing in a Man's Hand when they have given that Oath. Alas! how could these People have the Confidence to plot one with another as they do; when they know their Lives are in the Hands of any one of all the rest, but upon this Account? Do but swear them unto Secrecy, and give them the Sacrament of the Mass upon it, and then they think such a one is Proof enough against any Thing in the World, for that is Damnation if they break it, as their Priests tell them; but I doubt not but Sir *Thomas* thought he had them as fast as can be upon that Lock.

But as to Sir *Thomas's* Evidence of those two Men at *Leeds*, this is after the Accusation of Sir *Thomas* that they spake of; and can any Man alive believe that they would go and plot to contrive the Death of these two Persons in the Face of two Strangers, after he was accused? 'Tis so strange an Evidence, that no Man alive can believe it to be Truth. Look you, Gentlemen, Persons that go to contrive such things as these are, go in secret, and hope they should never be discovered, but by one of themselves. Who would contrive when two be by; and, if they say true, might see them as well as hear them, though they did contradict one another in their Evidence; the one said he was above, the other said he was below; the one said he might see them, the other not. Look you, Gentlemen, I do see that they do lay some Stress upon this, that he was his Debtor, for that they seem to prove by their Witnesses; but you must lay no great Stress upon that at all, for the Money were not quit if Sir *Thomas* were found guilty, the Money is due to the King then, he saves nothing by it, his Money must be paid let the Prisoner be found guilty or not guilty, 'tis all one to him. You must consider this Case, Gentlemen: If you believe these Men are perjured Men, and have gone and contriv'd a malicious Design against a Man's Life, then God forbid they should be believed any way: but it is a positive Evidence; and 'tis not an Evidence barely of itself, but introduced by a great many Circumstances that went before; they tell you the whole Affair, that it does seem they have been privy to the Affairs of these Jesuits all along, and Sir *Tho. Gascoigne's* House hath it seems abounded with them; he hath been very beneficial to that Sort of People, mighty charitable, as they call it, in Superstition; and you must consider that nothing can seem strange to them that will be ridden by Priests; they put them upon all the Immoralities and Villainies that can be found out for the Cause of Religion, as they call it; nothing can seem strange that is testified against them. Therefore I must leave it to you upon what you have heard, and upon their Credit, whether you believe the Witness or not.

Mr. Just. *Jones*. Ay, 'tis left upon their Credit that are your own Countrymen, better known to you than us.

Mr. Just. *Dolben*. Look you, Sir *Thomas Hodgson*, and the Gentlemen of the Jury, if you will come in again in any time we will stay in Court, otherwise you must lie by it all Night, for we can take no privy Verdict in this Case.

Mr. Just. *Pemberton*. Ay, we will stay and hear Motions a little while.

*Then the Jury withdrew from the Bar, and after half an Hour returned again, and being call'd over gave their Verdict thus:*

Cl. of Cr. Sir *Thomas Gascoigne*, hold up thy Hand. Look upon the Prisoner: How say you? Is he guilty of the High-Treason whereof he stands indicted, or not guilty?

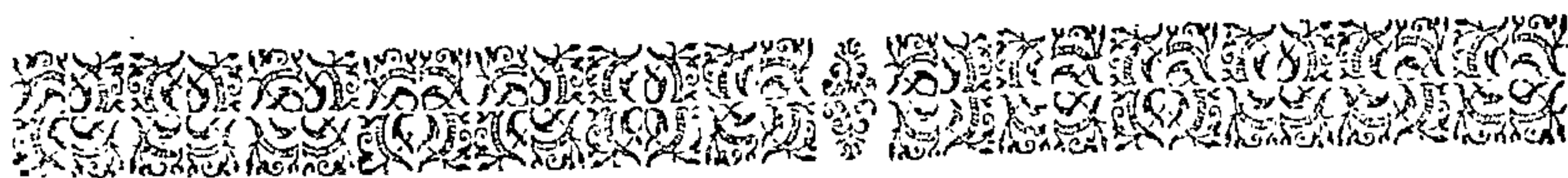
Foreman. Not guilty.

Cl. of Cr. Did he fly for it?

Foreman. Not that we know of.

*Then the Verdict was recorded, and the Court rose.*





XCVI. *The Trial of ELIZABETH CELLIER, at the King's Bench for High-Treason, June the 11th, 1680. Trin. 32 Car. II.*

*After the Jury were sworn, the Clerk of the Crown read the Indictment, viz.*

THE Jurors of our Lord the King do present, that *Elizabeth Cellier*, Wife of *Peter Cellier*, late of the Parish of *St Clement Danes* in the County of *Middlesex*, Gent. stands Indicted, for that she as a false Traitor against our most Illustrious and Excellent Prince, King *Charles II.* her natural Lord, not having God before her Eyes, not weighing the Duty of her Allegiance, but by the Instigation of the Devil moved and seduced, and the cordial Love and true due natural Obedience which all faithful Subjects of our said Lord the King towards him should bear, and of right are bound to bear, utterly withdrawing, and devising, and with all her Might intending the Peace and common Tranquillity of this Kingdom to disturb, and to bring and put our said Lord the King to Death and final Destruction, and the true Worship of God in this Realm by the Law establish'd and used, to alter to the Superstition of the Church of *Rome*, to move and stir up War against the King in this Kingdom, and to subvert the Government of this Realm, the first Day of *November*, in the thirty first Year of the said King's Reign, at the Parish of *St. Clement Danes*, aforesaid, with divers other false Traitors unknown, traiterously did compass, imagine, and intend the Killing, Death and final Destruction of our said Lord the King, and to change alter, and utterly to subvert the ancient Government of this Realm, and to depose, and wholly to deprive him the said King of his Crown and Government of this Kingdom, and to extirpate the true Religion within this Realm establish'd; and to fulfil and accomplish the same most wicked Treasons and traiterous Imaginations and Purposes, the same *Elizabeth Cellier*, and other false Traitors unknown, the said first Day of *November*, in the thirty first Year aforesaid, with Force and Arms, &c. at the Parish of *St. Clement Danes* aforesaid, advisedly devilishly, maliciously, and traiterously assembled, united, and gathered themselves together, and then, and there, devilishly, advisedly, maliciously, cunningly, and traiterously consulted and agreed to bring the said Lord the King to Death and final Destruction, and to depose and deprive him of his Crown and Government, and so introduce and establish the *Romish* Religion in this Kingdom; and the sooner to fulfil and effect the same most wicked Treasons and traiterous Imaginations and Purposes, the said *Elizabeth Cellier*, and other unknown Traitors then and there did contribute, pay and expend divers great Sums of Money to several unknown Persons, to procure them traiterously to kill the said

King, and introduce the *Romish* Religion in this Realm; and for the better concealing of the Treasons aforesaid, the said *Elizabeth Cellier* then and there did pay and expend to divers other Persons unknown, divers other Sums of Money, falsely to impose the said Treasons upon some other Persons unknown, against the Duty of her Allegiance, and against the Peace of our Lord the King, his Crown, and Dignity, and against the Form of the Statute in such Case made and provided, &c.

*John Gadbury* Sworn.

L. C. J. Mr *Gadbury*, What do you know concerning this Plot? *Sir William Serjeant.*

Mr. *Gadbury*. I know nothing of it, neither one way, nor another.

L. C. J. Do you know of any Contrivance of Mrs. *Cellier's* to kill the King?

Mr. *Gadbury*. No, rather the contrary.

L. C. J. Do you know of any Attempts to change the Government?

Mr. *Gadbury*. I well tell your Lordship what I do know, if these Gentlemen will not be too nimble for me. I have suffer'd a great deal of Prejudice of late in relation to a Plot, as if I had known of a Plot; but God is my Witness, I know of none, unless it were a Plot to bring *Sir Robert Peyton* over to the King's Interest. That Plot I had some concern in, and had some Knowledge of Mrs. *Cellier's* Concern in it; but she was so far from doing any Thing against the King's Interest, that she was willing to bring over with him the three Gentlemen turn'd out of Commission when *Sir Robert* was. So that how she could be acting for the King and against the King at the same Time, I do not understand.

L. C. J. Mr. *Gadbury*, you are a Man of Learning, pray will you give your Testimony of the Things that you know in relation to Mrs. *Cellier*.

Mr. *Gadbury*. Mrs. *Cellier* was not committed upon my Accusation, therefore, I hoped she might have been tried without my Testimony. But when I was in danger of my Life, when I lay in the *Gate-House*. Mrs. *Cellier* was reported to be a third Witness against me, and then I taked up every Trifle; but if I had thought it Treason, I would have discovered it before. And as to that particular Business concerning Mr. *Smith*, that *Smith* some time since did come to me, being my old Acquaintance, to ask my Advice in his Affairs, and he had then an Affair of so great Moment, that it was necessary to ask my Advice in it, which was to go to the Lords in the *Tower*. I asked him what to do? Saith he, I can say enough against *Dr. Oates* to serve them, and take off his Evidence, and asked me if he should do



do it. By no means, Mr. *Smith*; said I. Mrs. *Cellier* afterwards told me this *Smith* and one *Phillips* were willing to tell some Stories or other of Mr. *Oates* and Mr. *Bedloe*, and I told her this very Story; saith she, you being acquainted with him, it is possible you may do some good upon him; and saith she, I had as lieve as ten Guineas that you could do it.

L. C. J. That is, when that you advised Mr. *Smith* not to meddle with any thing against Dr. *Oates*.

Mr. *Gadbury*. She said, she did not care if she had been at the Charge of ten Guineas, if he would be honest and discover the Truth. And, my Lord, she did say she had heard Mr. *Dangerfield* talk of a *Nonconformists* Plot that would off the *Popish Plot*.

L. C. J. Did she say that she had heard *Dangerfield* say there was a *Nonconformists* Plot, and that he was to have a Commission among them? And did she say, that she had heard him say, that he hoped under the Colour of that the *Popish Plot* would go on? Or did she say it of her own accord, that she hoped that would carry on the *Popish Plot*?

Mr. *Gadbury*. My Lord, I cannot remember Particulars.

L. C. J. There is a great deal of difference between *Dangerfield's* saying it, and her saying it.

Mr. *Gadbury*. I have no reason to spare her: But I am unwilling to speak any thing that is contrary to Truth, though she hath done me the greatest Injury in the World.

L. C. J. How came you to talk of a *Nonconformists* Plot?

Mr. *Gadbury*. It was only common Discourse as it was at Coffee-Houses.

Mr. Just. *Raymond*. Had you heard of it before she spake of it, that you say it was common?

Mr. *Gadbury*. No, not till she spake of it.

L. C. J. Did Mrs. *Cellier* tell you of any *Popish Priests* or *Jesuits* coming hither from beyond the Seas?

Mr. *Gadbury*. Upon the going over of one *Clay*, I think she did say she heard there were some more coming over.

L. C. J. What to do?

Mr. *Gadbury*. God knows what.

L. C. J. Did she speak of any Plot or Contrivance to kill the King?

Mr. *Gadbury*. No, she was always an Enemy to Plots, or else I would not have kept her company.

L. C. J. Did she say there were, or that she heard there were several *Priests* and *Jesuits* coming over?

Mr. *Gadbury*. My Lord, I think she said she heard it. And I have said several times to her, the *Popish Plotters* would be destroyed: But she answered, she was afraid the Nation would be destroyed first.

L. C. J. Did she say she was afraid of it, or that the Nation would be destroyed first? I ask you once more, we must try People according to their Oaths. By the Oath you have taken, when you said you thought the *Popish Plotters* would be destroyed, what Answer did she make?

Mr. *Gadbury*. She said she was afraid the Nation would be so; because she said, abundance of the best of the Nation went into other Nations, to weaken our Nation, and spend their

Money, and therefore she was afraid the Nation would be destroyed before them.

L. C. J. What Discourse had you with Mrs. *Cellier* passing through *Westminster-Abbey*?

Mr. *Gadbury*. My Lord, my Memory hath been exceedingly bruised; but I remember, my Lord, as I was going through the *Abbey* in a rainy Afternoon, she said, this *Abbey* was formerly filled with *Benedictine Monks*, or something to that purpose; and, saith she, what if it should be so again?

L. C. J. A: you a Protestant or a Papist?

Mr. *Gadbury*. A Protestant, my Lord.

L. C. J. He talks as like a Papist as can be, was it, what if it should be filled?

Mr. *Gadbury*. She said, what if it should be again.

L. C. J. What did you say to that?

Mr. *Gadbury*. I only smiled to hear a Woman's Discourse, my Lord.

L. C. J. You make all the Company laugh; What did she say of the *Temple*?

Mr. *Gadbury*. That the *Temple* had been filled with *Friers* too.

L. C. J. And what then? Did she talk of filling it again?

Mr. *Gadbury*. Saith she, this Place was filled with *Benedictine Monks*, and the *Temple* with *Friers*.

L. C. J. This may do well enough: But what did she say else concerning the *Temple*?

Mr. *Gadbury*. Nothing, my Lord.

*Mr. Serjeant Maynard said something to him here, which was not heard, but Mr. Gadbury replied,*

Mr. *Gadbury*. Mr. *Serjeant*, I was none of the Tribe of Forty-one.

*Here Mr. Gadbury was going to read in his Paper; but the Court told him that would not be allowed; but he might refresh his Memory with it.*

L. C. J. Now tell me what she said: Mr. *Gadbury*, keep it in your Hand.

Mr. *Gadbury*. My Lord; she put it by way of Interrogation to feel my Pulse.

L. C. J. What did she else?

Mr. *Gadbury*. There was nothing but transient Discourse, my Lord.

L. C. J. We must ask you what the Truth is, and you have looked upon your Paper. Now consider what you say, and consider that you are upon a solemn Occasion, and are to testify it in the Presence of God Almighty. I would have you tell plainly what it is, and neither to make it more, nor stifle it.

Mr. *Gadbury*. It was only transient Discourse.

L. C. J. Say what it was. Was it, *This Place was once filled with Benedictine Monks*?

Mr. *Gadbury*. She said that the *Abbey* had been filled with *Benedictine Monks*, as the *Temple* had with *Friers*.

Mr. Just. *Jones*. Look upon your Paper.

L. C. J. You have looked upon the Paper, and pray tell us what she said. Did she say she hoped to see this Place filled with *Benedictines*?

Mr. *Gadbury*. My Lord, I do not remember that Word *Hope*.

L. C. J. How long have you been acquainted with Mrs. *Cellier*?



Mr. *Gadbury*. Ten or a dozen Years.

L. C. J. Did she never ask you any Questions about the Life of the King?

Mr. *Gadbury*. My Lord, when the King was very ill at *Windsor*, and all People were fearful that he would die, she did move the Question to me.

L. C. J. What Question?

Mr. *Gadbury*. To know, Whether I thought his Majesty would live or die? But it was her fear that he would die.

L. C. J. Had you seen the King?

Mr. *Gadbury*. No, my Lord.

L. C. J. How then did she expect you should give her an Answer; from your Art?

Mr. *Gadbury*. From my Art, my Lord!

L. C. J. Did she desire you to consult your Art, how long the King would live?

Mr. *Gadbury*. She did as I said.

L. C. J. What did you say to that?

Mr. *Gadbury*. I would not tell her, because he was my Sovereign.

L. C. J. What Answer did you make?

Mr. *Gadbury*. I told her I would not meddle with it.

L. C. J. She would have had you consult your Art or Scheme, or whatever it is, to know whether the King would live or die?

Mr. *Gadbury*. It was something of that.

L. C. J. And you said you would not meddle nor make with it?

Mr. *Gadbury*. Yes, my Lord.

L. C. J. She desired you to make a Scheme?

Mr. *Gadbury*. No, my Lord, I can't say she mentioned a Scheme, but she asked the Question.

Mr. *Just. Raymond*. What did she ask else?

Mr. *Gadbury*. Only that Question.

L. C. J. How often do you believe she spake of it?

Mr. *Gadbury*. Never, my Lord, but when he was ill. I will not baffle any thing that may conduce to the Safety of the King and Kingdom.

L. C. J. Indeed it is very conducive to the Safety of the King and Kingdom, if any go about to destroy him, and with evil Intentions to ask how long he will live, and you ought in Duty to God and your Sovereign to declare it. Did she ever make any Enquiries about the King's Death more than what you have said?

Mr. *Gadbury*. No more, my Lord; and then she was fearful he would die.

L. C. J. Did she say she would go to somebody else?

Mr. *Gadbury*. My Lord, when she perceived me shy, said she, I see you are afraid of me, I will go to some other Astrologer.

L. C. J. For what?

Mr. *Gadbury*. To satisfy her Curiosity, as a great many do.

L. C. J. What Curiosities did she ask besides this?

Mr. *Gadbury*. She would ask me sometimes about the Condition of Bodies, Whether they would be prosperous in the World, and several other Questions.

L. C. J. Were you nice in these Curiosities?

Mr. *Gadbury*. Truly, my Lord, I was shy of meddling with any thing, when I heard there was a Talk about Plots.

L. C. J. Was you nice to give her Satisfaction according to her Hopes concerning these Things you call Curiosities, questioning whether one shou'd

be well wed, how many Children she shou'd have, &c. were you scrupulous in that?

Mr. *Gadbury*. I think I might not be nice in that very particular.

L. C. J. How came it then that she would go to another Astrologer?

Mr. *Gadbury*. She asked me something about Mr. *Dangerfield*.

L. C. J. For what?

Mr. *Gadbury*. How to get him out of Prison.

L. C. J. Pray how came she to say she would go to another Astrologer? You were not shy to give her an Answer to these Questions?

Mr. *Gadbury*. It was something about Mr. *Dangerfield*, my Lord, she asked me something about some Deeds or Papers which he was to search for or seize, which concerned Mr. *Bedloe*.

L. C. J. She had better have gone to one of the Clerks than to a Conjuror for them. But why would she go to another Astrologer?

Mr. *Gadbury*. Because I was shy.

L. C. J. You were not shy in these Things about *Bedloe*. Did she not say, when you refused to meddle with the Death of the King, that she would go to another Astrologer?

Mr. *Gadbury*. Yes, my Lord.

L. C. J. Did you any thing for her at that time?

Mr. *Gadbury*. My Lord, I did calculate a Scheme, which since I found to be for Mr. *Dangerfield*, but I knew not for whom it was when I did it.

L. C. J. How! Can you apply one Scheme to any body?

Mr. *Gadbury*. My Lord, when Mrs. *Cellier* came to me, she gave me the time of a Person's Nativity, and I set the Figure of the Heavens to that Sign, to know whether he were a Person fit to be trusted, her Husband being a *French Merchant*, to get in Money.

L. C. J. For ought you know *Dangerfield* was a Woman, and the Question was, Whether *Dangerfield* was with Child, and he happens to be a Man——How did it fall out?

Mr. *Gadbury*. I have forgotten, my Lord.

L. C. J. When did you know it was for *Dangerfield*?

Mr. *Gadbury*. My Lord, never before I came before the King and Council; neither did I know his Name before, for he went by the Name of *Willoughby* before.

L. C. J. What other Discourse had you with her? Did she not at any time talk of Mr. *Dugdale*?

Mr. *Gadbury*. She did say she had heard of some People that were to discourse with Mr. *Dugdale*; she had heard such a thing, but I don't know whether she knew any thing of it or no.

L. C. J. What Discourse had you about that?

Mr. *Gadbury*. She told me there was a Woman to go down to *Windsor* to beg Mr. *Dugdale*'s Pardon; for he was penitent for what he had said in some Trial or other.

L. C. J. Call another Witness.

Mr. *At. Gen.* \* Mr. *Dangerfield*, pray give the Court an Account of what you know of Mrs. *Cellier*, the Prisoner at the Bar.

Mrs. *Cellier*. My Lord, I except against that Witness.

L. C. J. Why so? You must shew some Reason, and then we will do you Justice in God's Name.

Mrs. *Cellier*.



Mrs. *Cellier*. If I can prove he was whipp'd and transported, pilloried, perjured, &c. he is no Witness. The last time I was upon my Trial, he threatned some of my Witnessses, that if they would not swear as he would have them, he would kill them.

L. C. J. If you can shew any Record whereby he is convicted of any thing that can by Law take away his Testimony, do it.

Mrs. *Cellier*. He has been Indicted for Burglary.

L. C. J. (to Mr. *Dangerfield*) Was you indicted for Burglary?

Mr. *Dangerfield*. I will take it at their Proof.

Ralph *Briscoe*, a Witness for the Defendant, Sworn.

L. C. J. Do you know *Dangerfield*?

*Briscoe*. I remember one *Thomas Dangerfield*: I saw him burnt in the Hand at the *Old Bailey*.

L. C. J. Is this the same Man?

*Briscoe*. I do believe it is the same Man; but I have not seen him these several Years.

L. C. J. Let every body have their Right in God's Name. Have you any more?

Mrs. *Cellier*. My Lord, I can prove him perjured.

L. C. J. Have you any Records to shew he was perjured? Is he convicted?

Mrs. *Cellier*. No.

L. C. J. Then you can't do it.

Mrs. *Cellier*. My Lord, I can prove him guilty of Forgery.

L. C. J. If you don't produce the Record, you do nothing.

\* Sir George *Jefferies*. Mr. *Recorder*\*. That which she calls Forgery, is not that which the Law calls Forgery; it is counterfeiting Guineas.

L. C. J. Can you shew he forged any Deeds? If you can prove that he hath committed Forgery, and be not convicted, it is no Error.

L. C. J. Have you your Pardon? She hath proved the Conviction of Felony, prove your Pardon.

Mrs. *Cellier*. I have the Copies of several Records here in Court, which will be sworn to.

To which Mr. *Dangerfield* pleaded his Majesty's most gracious Pardon. To which Mrs. *Cellier* replied, That she had a Copy of the said Pardon in Court, but it did not extend to some of the Crimes for which he stood convicted; and then produced a Record, wherein it did appear he was outlawed upon a Felony. Upon which the Court commanded Mr. *Dangerfield* to go and fetch his Pardon; in the interim examining several of the King's Witnessses.

Thomas *Williamson* Sworn.

L. C. J. Did you ever see *Dangerfield* and Mrs. *Cellier* in Company?

*Williamson*. No, my Lord, but I have been employ'd for Mrs. *Cellier* in several Businessses of Charity to get Prisoners out. When Mr. *Dangerfield* was in *Newgate*, she employed me to get him out.

L. C. J. Why was she so kind to *Dangerfield*?

*Williamson*. My Lord, I don't know that; but she bid me get him out, whosoever staid behind.

Mr. *Just. Raymond*. Why should she get him out? Did she tell you what she would do with him when she had him out?

*Williamson*. No, my Lord.

Mr. *Recorder*. We bring him for a Witness, that she had a great Kindness for *Dangerfield*.

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Margaret *Jenkins* Sworn.

L. C. J. What Discourse have you heard between *Dangerfield* and *Cellier*?

*Jenkins*. I never saw them together but twice. It is a Year since I came from them.

L. C. J. When you saw them at Dinner or Supper together, what other Company was there?

*Jenkins*. Her Husband was with her one time.

L. C. J. What did they talk about?

*Jenkins*. They were talking about the Prisoners that were condemned.

L. C. J. Where was it, at her House?

*Jenkins*. No, at my Lady *Powis's* House.

L. C. J. How came you there?

*Jenkins*. I carried Notes backwards and forwards.

L. C. J. Did you never hear no Discourse about the Plot?

*Jenkins*. No.

Susan *Edwards* Sworn.

Mr. *Recorder*. What Intimacy have you known between *Dangerfield* and Mrs. *Cellier*?

L. C. J. Did you ever see them together?

*Edwards*. Yes, very often, my Lord. She said That the *Popish Plot* would turn to a *Presbyterian Plot*.

L. C. J. Who did she say that to? To *Dangerfield*?

*Edwards*. No, my Lord, but I have heard him say those Words, and that he would make it his Interest it should be so.

L. C. J. What did you say to him, when he said he must turn Rogue, and discover all their Plots?

*Edwards*. I said, he would be no greater Rogue than he was before.

L. C. J. You were pretty nimble with him.

*Edwards*. He thought he should be hanged.

L. C. J. For what?

*Edwards*. If he did not turn Rogue he thought he should be hanged.

(*Edwards* to Mrs. *Cellier*) You were very often together in your Chamber.

Mrs. *Cellier*. Who gave you your Clothes?

*Edwards*. Her Husband was gone to Church one Morning, and he was with her in her Chamber.

L. C. J. I can't see why you should prove this Matter too far.

Mr. *Recorder*. Susan is a civil young Woman.

*Edwards*. She said she would do my Business for me, and I go in danger of my Life.

Bennet *Dowdal* Sworn.

L. C. J. What do you know of any Intimacy between *Dangerfield* and Mrs. *Cellier*?

*Dowdal*. I have seen them together.

L. C. J. What did they talk about?

*Dowdal*. Mrs. *Cellier* proposed a Match between Mrs. *Mary Ayrey* and I, and they used to talk of that when I was with them.

L. C. J. Did they talk of the Plot at any time?

*Dowdal*. No.

L. C. J. Did you ever hear them talk of the King?

*Dowdal*. No.

L. C. J. Have you any more?

Mr. *Recorder*. Not till Mr. *Dangerfield* comes.

L. C. J. (to Mrs. *Cellier*) have you any Record to shew he was put in the Pillory?

Mrs. *Cellier*. Yes, my Lord.



*Upon which the Copy of a Record from Salisbury was read, of his standing on the Pillory for uttering counterfeit Guineas: As also a Copy of a Record of an Outlawry for Felony.*

L. C. J. What say you to this Outlawry?

Mr. Recorder. It is not the same Person.

L. C. J. We ought to be very careful in these Concerns, else we may do a Work this Day may make all the Kingdom rue it. It is a sad thing that People of a vicious profligate Life, both before they came to *Nevigate*, and all along in their Life-time, should be suffered to be Witnesses to take away the Life of a Woman. I question whether he will come again, or no, he hath been gone a great while. Such are fit to be employed to find out, but hard to be believed when they find out.

L. C. J. Captain *Richardson*, is this the Man that broke *Chelmsford Goal*?

Capt. *Richardson*. My Lord, I can say nothing to that, but he was brought by an *Habeas Corpus* from thence to me.

L. C. J. Was he burnt in the Hand for Felony?

Capt. *Richardson*. Yes, my Lord, I believe he was.

L. C. J. He made me believe as tho' he would fly, I believe he is. We will not hood-wink our selves against such a Fellow as this, that is guilty of so notorious Crimes. A Man of Modesty, after he hath been in the Pillory, would not look a Man in the Face. It appears that after he hath been burnt in the Hand, he hath been Outlaw'd for Felony, and so it doth appear by Record.

*After about half an hour's Stay, Mr. Dangerfield returned and brought his Pardon; which was read and the Word Felony omitted; and instead of Utlagaria qualiacunque pro Feloniis quibuscunque, there was only inserted; Omnia Maleficia & Utlagaria qualiacunque; which Omission had made the Pardon defective, it being my Lord Chief Justice his Opinion, that the Word Utlagaria did only reach to Outlawries between Party and Party; by which his Evidence was wholly laid aside.*

L. C. J. (to Mr. Dangerfield) Such Fellows as you are, Sirrah, shall know we are not afraid of you.

He produces us here a Pardon by the Name of *Thomas Dangerfield of Waltham*, and says, his Father and Kinsman are both of that Name and Place. Will you have him sworn, whether his Father or Cousin *Thomas* were ever convicted of Felony? It is notorious enough what a Fellow this is, he was in *Chelmsford Goal*. I will shake all such Fellows before I have done with them. Have you any more to say? Are there any *Waltham Men* here?

Mr. *Dangerfield*. My Lord, this is enough to discourage a Man from ever entering into an honest Principle.

L. C. J. What? Do you with all Mischief that Hell hath in you, think to brave it in a Court of Justice? I wonder at your Impudence, that you dare look a Court of Justice in the Face, after having been made appear so notorious a Villain.

Mr. Just. *Jones*. Indeed, if he be the same Man, he is not fit for a Witness.

L. C. J. And that he is the same Man is very notorious. Come, Mrs. *Cellier*, what have you more to say?

Mrs. *Cellier*. Enough, my Lord.

L. C. J. You have said enough already. Come Gentlemen of the Jury, this is a plain Case; here is but one Witness in a Case of Treason, and that not direct; therefore lay your Heads together.

*Which being done, they returned her Not Guilty: Upon which the Clerk of the Crown bid her bow on her Knees; which she did, and cried, God bless the King and the Duke of York.*

L. C. J. Where is *Dangerfield*? Is he gone? Call him.

*Who being come, the Court asked if he had Bail for his good Behaviour?*

Mr. *Dangerfield*. No, my Lord, but with the leave of the Court I will fetch some.

L. C. J. Let a Tipstaff go with him, and return before the Court rises.

Mr. *Dangerfield*. My Lord, that cannot be, for I can't return so soon.

L. C. J. Then let him be committed.

*Which was accordingly done.*



## XCVII. *The Trial of ROGER PALMER Esq; Earl of CASTLEMAINE in the Kingdom of Ireland, at the King's-Bench for High-Treason, June 23. 1680. Trin. 32 Car. II.*

*Roger Palmer Esq; having been arraign'd of High-Treason, and pleaded not guilty, was this Day brought to his Trial.*

Cl. of Cr. **C**RYER, make Proclamation.

*Proclamation for Silence.*

Cryer. O yes! Our Sovereign Lord the King doth strictly charge and command all manner of

Persons to keep Silence, upon pain of Imprisonment.

O yes! If any one can inform our Sovereign Lord the King, the King's *Serjeant at Law*, the King's *Attorney General*, or this *Inquest* now to be taken, of the High-Treason, whereof *Roger Palmer Esq; Earl of Castlemaine* in the Kingdom of *Ireland*, stands indicted, let them come forth and they shall be heard; for the Prisoner stands at the Bar upon his Deliverance.

Cl. of Cr.



Cl. of Cr. Cryer, Make an O yes.

Cryer. O yes! You good Men that are impan-  
nel'd to enquire between our Sovereign Lord the  
King, and Roger Palmer Esq; Earl of *Castlemaine*  
within the Kingdom of *Ireland*, answer to your  
Names.

Cl. of Cr. Roger Palmer Esq; Earl of *Castle-  
maine* in the Kingdom of *Ireland*, Hold up thy  
Hand; These good Men that were lately called;  
and now here appear, are to pass between our So-  
vereign Lord the King and you upon your Life  
or Death; if you challenge any of them, you are  
to speak as they come to the Book to be sworn,  
and before they are sworn.

Sir John Cutler Kt. Bar.  
Sir Regiland Foster Bar.  
Henry Herriot Esq;  
Richard Cheney Esq;  
Thomas Johnson Esq;  
John Roberts Esq

Jur

Fr. Dorrington Esq;  
Hugh Squire Esq;  
Charles Good Esq;  
John Pulford Esq;  
Edw. Claxton Esq;  
Fr. Maybew Gent.

Cryer. O Yes! Our Sovereign Lord the King  
doth strictly charge and command all manner of  
Persons to keep silence upon pain of Imprison-  
ment.

Cl. of Cr. Roger Palmer Esq; Earl of *Castle-  
maine* in the Kingdom of *Ireland*, hold up your  
Hand.

You Gentlemen of the Jury that are now  
sworn, look upon the Prisoner and hearken to his  
Charge.

You shall understand that he stands Indicted by  
the Name of Roger Palmer Esq; Earl of *Castle-  
maine* in the Kingdom of *Ireland*; For that he as  
a false Traitor against our most Illustrious and Ex-  
cellent Prince and Lord Charles the Second, by  
the Grace of God of *England, Scotland, France*  
and *Ireland*, King, Defender of the Faith, &c.  
and his Natural Lord; not having the Fear of  
God before his Eyes, nor weighing the Duty of  
his Allegiance, but being moved and seduced by  
the Insigation of the Devil, his Cordial Love,  
true, due and natural Obedience which true and  
faithful Subjects of our said Sovereign Lord the  
King ought to bear towards him, altogether with-  
drawing and contriving, and with all his Might  
intending to disturb the Peace and common Tran-  
quillity of this Kingdom, and to bring and put  
our Sovereign Lord the King to Death and final  
Destruction, and alter the true Worship of God  
within this Kingdom established, to the Super-  
stition of the *Romish* Church, and to stir up and  
move War against our said Sovereign Lord the  
King within this Realm of *England*, and to sub-  
vert the Government thereof, the Twentieth Day  
of *June*, in the Thirtieth Year of the Reign of  
our said Sovereign Lord Charles the Second, of  
*England, Scotland, France* and *Ireland* King, De-  
fender of the Faith, &c. at the Parish of *St. Giles*  
*in the Fields* in the County of *Middlesex*, with di-  
vers other false Traitors, to the Jurors unknown,  
did traiterously imagine and intend the Killing,  
Death and final Destruction of our said Lord the  
King, and to change and alter and utterly subvert  
the ancient Government of this Kingdom, and to  
depose and wholly to deprive our said Lord the  
King of his Crown and Government of this  
Realm of *England*, and to extirpate the true Pro-  
testant Religion: And to accomplish and fulfil  
the same most wicked Treasons and traiterous Ima-  
ginations and Purposes aforesaid, the said Roger

Palmer Esq; Earl of *Castlemaine* in the Kingdom  
of *Ireland*, and other false Traitors to the Jurors  
unknown, the same Twentieth Day of *June*, in  
the Thirtieth Year aforesaid, with Force and  
Arms, in the Parish of *St. Giles in the Fields* aforesaid,  
in the County aforesaid, advisedly, devilish-  
ly, maliciously and traiterously did assemble, unite,  
and gather themselves together, and then and  
there advisedly, devilishly, maliciously, subtilly,  
and traiterously did consult and agree to bring our  
said Sovereign Lord the King to Death and final  
Destruction, and to deprive him of his Crown  
and Government of *England*, and to introduce and  
establish the Religion of the Church of *Rome*, in  
this Kingdom; and the sooner to fulfil and ac-  
complish the same most wicked Treasons and trai-  
terous Imaginations and Purposes aforesaid, he  
then and there did falsly, maliciously and traite-  
rously promise divers great Rewards, and did pay  
divers Sums of Money to several Persons un-  
known; and then and there falsly and traiterously  
did write divers Notes, to incite several other  
Persons to accomplish the Treasons aforesaid, a-  
gainst the Life of our Sovereign Lord the King,  
his Crown and Dignity, and contrary to the Form  
of the Statute in such Case made and provided.

Cl. of Cr. Upon this Indictment he hath been  
Arraigned, and hath pleaded thereunto *Not*  
*Guilty*; and for his Trial he puts himself upon  
God and his Country, which Country you are.

Your charge is to enquire, Whether he be  
*Guilty* of the High-Treason whereof he stands in-  
dicted, or *Not Guilty*? If you find him *Guilty*,  
you are to enquire what Goods and Chattels,  
Lands and Tenements he had at the Time when  
the High-Treason was committed, or at any time  
since? If you find him *Not Guilty*, you are to  
say so, and no more; and hear your Evidence.

Cryer. O yes! If any one will give Evidence  
on the behalf of our Sovereign Lord the King,  
against Roger Palmer Esq; Earl of *Castlemaine* in  
the Kingdom of *Ireland*, let him come forth and  
he shall be heard; for the Prisoner now stands at  
the Bar upon his Deliverance.

Mr. *Bentley* May it please you my Lord, and  
you Gentlemen of the Jury, the Prisoner at the  
Bar stands indicted for High-Treason; for that he  
intended to disturb the Peace within this King-  
dom established, and to destroy and alter the Go-  
vernment, and to bring the King to Death and  
final Destruction, and to alter our Religion to the  
Superstition of the Church of *Rome*, did on the  
20th Day of *June*, in the 30th Year of the Reign  
of our Sovereign Lord the King, consult and  
treat with several other Persons, and that he with  
these Persons did agree to destroy the King, and  
alter the Religion, and cause Rebellion; and fur-  
ther to accomplish these Treasons, he did pro-  
mise and agree to pay several Accompts, and de-  
posit several Sums of Money, and did likewise  
write and publish several Books.

To this he hath pleaded *Not Guilty*; if we  
prove these things, you are to find him *Guilty*.

\* Sir *Cres-  
wel Lewins*. Mr. *At. Gen.*\* May it please your  
Lordship, My Lord *Castlemaine* here  
stands Indicted for High-Treason; that  
is, For designing to murder the King, and alter the  
Government and Law. And this is but a Parcel of  
the Plot, which hath been carrying on a great  
while, and many Persons tried for it, and some  
have suffered and been executed for it: And, my  
Lord, we will give your Lordship Evidence,  
That



That my Lord Castlemaine hath at several times conspired the Death of the King, and he hath reproved Persons for not doing it. And, my Lord, he hath been in Consults among Jesuits, where these Matters have been carried on, and this whole Design hath been negotiated; and my Lord Castlemaine hath been consenting and agreeing to all these Matters. And, my Lord, when the Trials were in hand, it did appear upon those Trials there were many Persons brought from St. Omers to be Witnesses against Dr. Oates, to prove he was not in *England* at that time when he said in his Depositions that he did consult with the Jesuits; and these Persons my Lord Castlemaine had the Management and Instruction of at that time: And all along at the *Old Bailey* my Lord Castlemaine was present there, and did countenance these Persons, and was an Intercessor for them. These are but Branches and Circumstances; what is material we will prove by Witnesses.

Mr. At. Gen. Come, Dr. Oates, pray tell what you know.

Prisoner. My Lord, I have a long time wish'd for this Day; and your Lordship may very well remember it. The Reason why I have so much desired a Trial is, because I thought it a Means, and the best Means, and the only Means to shew to the World my Innocency, and also to shew to the World how much I have been calumniated by this Charge.

L. C. J.\* What have you to say? Have you any thing to say against Dr. Oates?

Prisoner. No, my Lord: I only say this, Here I am a Prisoner at the Bar, and I have pleaded Not Guilty, and throw myself upon this Court; and therefore I am very willing to hear what this Man will say.

Dr. Oates. My Lord, I humbly move the Court, Whether or no I may use my own Method?

L. C. J. Give your Charge, we direct nothing.

Dr. Oates. My Lord, in the Year 1677, I was sent over into *Spain* by the Jesuits that were here in *England*; where I remained for several Months, and transacted business for them, and, my Lord, I returned from *Spain* in *November*, and brought several Letters from some *English* Fathers there; among which there was one directed for my Lord Castlemaine. My Lord, I did not deliver the Letter to him; but, my Lord, the Contents of the Letter was to this Effect——

L. C. J. How came you to see the Contents?

Dr. Oates. My Lord, I was at the writing of the Letter, and so I did see the Contents of it.

L. C. J. Did the Priests shew it you, or did you only see it yourself?

Dr. Oates. No, my Lord; it was shewn me by them: And the Contents of this Letter were, *That the Fathers in Spain were very zealous to concur with the Fathers here in England in the Design; which was the Subversion of the Government, altering the Religion, and the Destruction of the King.*

L. C. J. Was that in the Letter?

Dr. Oates. No, my Lord, not in Words at length.

L. C. J. What was, as far as you know, the very Expression of the Letter?

Dr. Oates. The word *Design*, my Lord.

L. C. J. Only that, to promote the Design?

Dr. Oates. Yes, my Lord; and under that word

we did comprehend all those things; that is, as we usually took it among one another.

L. C. J. Did you deliver this Letter to my Lord Castlemaine?

Dr. Oates. No, my Lord, I did not deliver this Letter; but when I went to St. Omers, we received an Account from my Lord Castlemaine of his Receipt of this Letter.

L. C. J. What did you do with it?

Dr. Oates. I left it with the Provincial, my Lord, who was then Mr. *Strange*.

L. C. J. Was it not given to you to give it to him?

Dr. Oates. It was given me to give the Lord Castlemaine; but being then a Stranger to him, I was willing to send one of his own Messengers with it.

L. C. J. Where was my Lord?

Dr. Oates. I can't tell, my Lord; I did not see him then; I went over to St. Omers in *December* 77, or the latter End of *November*.

L. C. J. Where were you when you gave this Letter to the Provincial?

Dr. Oates. I was in *London*, my Lord.

L. C. J. Where did you receive this Letter?

Dr. Oates. In *Spain*, my Lord, at *Valladolid*, of one *Armstrong*.

L. C. J. Who was it directed to?

Dr. Oates. To my Lord Castlemaine; but I did not then know him, and so I gave it the Provincial, my Lord: I went over to St. Omers in the latter End of *November*, or the Beginning of *December* 77. and after I had been there some few Days, there did arrive a Pacquet from *London* to St. Omers, in which there was a Letter from my Lord Castlemaine.

L. C. J. To whom?

Dr. Oates. To the Fathers of the Society of St. Omers; in which my Lord Castlemaine gave them an Account of a Letter that he had lately received from *Spain*,

L. C. J. How did you know the Contents of this Letter?

Dr. Oates. My Lord I was privy to their Letters.

L. C. J. Was you acquainted with my Lord Castlemaine's Hand?

Dr. Oates. My Lord, I will give you an Account of that; I did not know it then, but only as it was generally said amongst us.

L. C. J. How was it subscribed?

Dr. Oates. Castlemaine, my Lord; and sometimes, my Lord, he subscribed himself *Palmer*.

L. C. J. How many Letters have you seen?

Dr. Oates. Several Letters.

L. C. J. Was this the first?

Dr. Oates. This was the first, as near as I can remember. And, my Lord, he gave an account in that Letter, that he had received a Letter from *Spain*, and was glad the Fathers in *Spain* had so good an Opinion of his Integrity in the Cause.

L. C. J. Did he say from whom he had received it?

Dr. Oates. My Lord, I can't remember that; that he had received a Letter I am certain.

L. C. J. Do you know what the Purport of the Letter was?

Dr. Oates. Yes, my Lord, I will give you a plain Account. My Lord, he wrote he had received a Letter from *Spain*, and that he was glad the Fathers in *Spain* had so great Confidence in his



his Integrity. And, my Lord, in *March* there came another Letter from my Lord *Castlemaine*; for my Lord *Castlemaine* had left some things at *Liege*, wherein he did complain of the Fathers, that they made no more Haste for to send his Things to him; some odd Things he had left there; and, my Lord, he gave an Account of a certain Letter he received from the Rector of *Liege*, whose Advice he did not like; for the Rector of *Liege* and the Rector of *Gant* were mighty zealous that the secular Clergy should be personally present in this Affair.

*L. C. J.* Did he write so? I would have you say what he writ.

*Dr. Oates.* My Lord, I have told you, he gave an Account, that he was unwilling to have the secular Clergy engaged, because they were a loose sort of Men, and of no Principles, and therefore he thought them not fit to be trusted. My Lord, in *April* there was a Consult; I came over from *St. Omers* in *April*, some three, or four, or five Days before the Consult, I am not able to guess at the particular Time, but it was near upon the Consult. My Lord, this Consult was divided into several Companies, after they had met at the *White Horse* Tavern, wherein they did some Things that did relate to the Order, as to send Father *Cary* to *Rome*. And after they had divided themselves into several Companies, wherein they did agree in ordering the Death of the King.

*L. C. J.* You were by?

*Dr. Oates.* My Lord, I was employ'd by them to give an account of the Sense of one Company to another.

*L. C. J.* Were you by when they concluded the Death of the King?

*Dr. Oates.* Yes, my Lord, I was then present.

*L. C. J.* Did you sign among the rest?

*Dr. Oates.* My Lord, I don't come here to accuse my self.

*L. C. J.* You are pardon'd if it be so.

*Dr. Oates.* My Lord, I did consent. My Lord, in this Consult they met together, and an Oath of Secrecy was administered; my Lord *Castlemaine* was there too within some few Days after the Consult: That is, the Gentleman whom I accuse for Treason, I say, did come, and enquir'd about the Copies of some Letters for to be sent up into *Germany*, and did desire, that an Agreement between them and the Monks might be made up, there being a Difference between 'em, so that they might have the Assistance of that Order to carry on the Design.

*L. C. J.* What Gentleman was this?

*Dr. Oates.* It was the Prisoner, my Lord, at the Bar.

*L. C. J.* Would the Gentleman let you hear him say, that he desired Assistance to carry on the Design, and you a Stranger to him?

*Dr. Oates.* My Lord, I do not think I was a Stranger to him so much as he was a Stranger to me; he knew I was their Servant, and employ'd by them.

*L. C. J.* Would he say in your Hearing, that he desired their Assistance to carry on the Design, and you did not know him?

*Dr. Oates.* My Lord, I did not well know him at that Time; and I brought several Messages from the Fathers, and from Mr. *Langborn*, and gave them an Account before him.

*L. C. J.* How often had you seen him?

*Dr. Oates.* That time he was there; my Lord.

*L. C. J.* How many Messages had you?

*Dr. Oates.* I will tell your Lordship where I had been: I had been at Mr. *Simmonds's*, who was then Confessor to the Earl of *Arundel*, who is since turn'd Protestant; Confessor to him, as he pretended, and we looked upon him to be. And I had been at Father *Cain's*, who was in *Turnmill-street*; and I had been, my Lord, at Mr. *Langborn's* in the *Temple*; and some other Places which I do not now remember, it is so long since. So, my Lord, I gave them Account of my Business, and I did see that Gentleman, but didn't know his Name till, my Lord, in *June*.

*L. C. J.* When was this?

*Dr. Oates.* This was, my Lord, as near as I can remember in *May*.

*L. C. J.* So you did not know his Name till three Weeks or a Month after.

*Dr. Oates.* No, my Lord, it was in the latter part of *June*.

*Mr. Just. Jones.* You saw him first in *May*?

*Dr. Oates.* Yes, my Lord.

*Mr. Just. Jones.* And you did not see him till after the Consult; I don't ask you whether he was there or no? But whether you saw him before the Consult was sign'd?

*Dr. Oates.* No, my Lord.

*L. C. J.* How did you come to know his Name?

*Dr. Oates.* My Lord, in *June* Mr. *Langworth* and I were going over *Lincoln's-Inn-Fields*, intending to go to the *Fountain* in *Fuller's-Rents*, because there was a Sort of Drink that he loved, and we were to drink together, it was in the Evening; and so in our way as we went, we met with my Lord *Castlemaine*, whom Mr. *Langworth* did salute, and then we came back to Mr. *Fenwick's* Chamber.

*L. C. J.* With whom did you come back?

*Dr. Oates.* With my Lord *Castlemaine*.

*L. C. J.* Did you know his Name?

*Dr. Oates.* Mr. *Langworth* told me it was the Prisoner at the Bar, my Lord, and the Prisoner at the Bar was giving an Account of some Letters he had received out of the Country; and Mr. *Langworth* was giving him an Account how forward the Rector of *Liege*, and the Rector of *Gant* were in offering to have the secular Clergy engaged with them; and some other Discourse they had which I can't remember, but about the Design.

*L. C. J.* What did they talk of at that Time? You must as near as you can tell us what Discourse they had.

*Dr. Oates.* I will give your Lordship this, they were speaking of the Transactions of the Consult, and how unanimous the Fathers were in signing the Consult.

*L. C. J.* Who were speaking of it?

*Dr. Oates.* Mr. *Langworth* and Mr. *Fenwick*, and my Lord *Castlemaine* was present.

*L. C. J.* They did talk of it?

*Dr. Oates.* Yes.

*L. C. J.* Did they mention the Particulars of that Consult?

*Dr. Oates.* Yes.

*L. C. J.* What was that?

*Dr. Oates.* Laying aside the King.

*L. C. J.* And what else?

*Dr. Oates.* And bringing in the Popish Religion, the Catholick Religion, I speak their own Words.

*L. C. J.* And



L. C. J. And this Discourse they had in the hearing of my L. *Castlemaine*?

Dr. *Oates*. Yes; and my Lord *Castlemaine* said, *Now he should be revenged for the Injuries done to him.*

L. C. J. Go on.

Dr. *Oates*. I have nothing else to say of my L. *Castlemaine* that I can think of at present.

L. C. J. Now, my Lord, you may ask him what Questions you think fit.

*Prisoner*. Mr. *Oates*, repeat your Journey again.

Dr. *Oates*. My Lord, I say this; I went a Ship-board in *April*, I returned from *Valladolid* in *November*, I arrived in *London* in *November*, and staid in *London* some time, and then I went to *St. Omers* in *November* or *December*, new *Stile* or old *Stile*; I staid at *St. Omers*; from thence I went to *Watton*; then, my Lord, in the Month of *March* we went to *Liege*, and returned back again; in the Month of *April* we came hither, some time before the Consult, and staid here some time after.

*Pris.* What time were you at *Liege*, pray Sir?

Dr. *Oates*. In *March* 77.

Mr. *Just. Jones*. The end of 77?

Dr. *Oates*. No, my Lord, we were at *St. Omers* again in *March*.

L. C. J. You returned in *March* 77-8.

Dr. *Oates*. Yes, my Lord, the *Stile* does so alter.

*Pris.* That is before *Lady-Day*?

Dr. *Oates*. Yes, my Lord, it was before *Lady-day*, we arrived here in *London* in *May* or in *April*, and we staid here some few Days.

*Pris.* When did you come over again, pray Sir?

Dr. *Oates*. My Lord, it is now two years ago, or better, and I can't remember every particular time; my Lord, we were here in *May*.

*Pris.* I will ask him as many Questions as I think reasonable; and when, my Lord, I do desire Time, and he can't tell the Times, he must tell me so.

L. C. J. Mr. *Oates*, answer my Lord what Questions he asks you.

Dr. *Oates*. I will tell my Lord *Castlemaine* as near as I can remember, my Lord.

*Pris.* Mr. *Oates*, When was it you came over?

Dr. *Oates*. Really it was some few Days before the Consult.

*Pris.* How many Days do you think?

Dr. *Oates*. Really I can't remember.

L. C. J. I suppose you have your Memorials.

Dr. *Oates*. Really, my Lord, no.

L. C. J. Have you any thing more to ask?

*Pris.* Yes, my Lord, a great many Questions. Were you present, Mr. *Oates*, pray, at that Consult, when I consented to the King's Death? Was you by?

Dr. *Oates*. I was present at the Consult; but I do not charge you to be at the Consult.

L. C. J. He asks you were it was he agreed to it?

Dr. *Oates*. At Mr. *Fenwick's* Chamber, I remember it was about seven or eight a-Clock that we were going over *Lincoln's-Imm-Fields*.

L. C. J. How long might you be at *Fenwick's*?

Dr. *Oates*. It was about eleven or twelve a-clock I came away.

*Pris.* When you met me in *Lincoln's-Imm Fields*, was I in a Coach or on Foot, or was any body with me?

Dr. *Oates*. I can't say whether your Lordship had a Man with you or no.

L. C. J. Was there any body with him?

Dr. *Oates*. I did not take notice of that.

L. C. J. You were two Hours together, pray let me ask you this Question, What was your Discourse about?

Dr. *Oates*. That was part of the Discourse, my Lord.

L. C. J. What? You have given us a very short Account of it in four Lines: You were two Hours together, What was the Main of your Discourse about?

Dr. *Oates*. My Lord, I will give you, as plainly as I can, the Discourse at that time.

L. C. J. Pray let us know what the main of your Discourse was about.

Dr. *Oates*. One part of their Discourse was about the Revenues of their Colleges, and how they had suffer'd by the *French's* taking *St. Omers*, and what Losses they had sustain'd by reason of the Change of Government by the Conquest; for the Crown of *Spain* had entail'd on the College of *St. Omers* five or six hundred a year, for the maintaining the Foundation of their House, or Foundation Rent, and it was taken away by reason of the Conquest that *France* had made over the *Spanish* Dominions there; and they were consulting how they should write to *Father Le Chese* to be an Instrument to move the *French* King to restore this Annuity, that was a Settlement entail'd upon it.

L. C. J. How came you into this Discourse?

Dr. *Oates*. This was after the other Discourse.

L. C. J. How came you to discourse this Affair here in *England*?

Dr. *Oates*. I will tell your Lordship as near as I can remember: When we met in *Lincoln's-Imm-Fields*, Mr. *Langworth* recommended me to my Lord *Castlemaine*, and bad me take notice of him. I can't say this is my Lord *Castlemaine*, but this is that Man I saw.

L. C. J. Did he call him by his Name?

Dr. *Oates*. He told him that I was such a one, and that I was serviceable to them. And upon our way as we went to Mr. *Fenwick's* Chamber, he enquir'd into the Causes of my coming over so soon again, for he said I went over but last Month. Said he, *How came it to pass he came over so soon again?* Saith he, *We wanted him to do some Business for us.* And there were more Particulars of the Transactions of the Consult mention'd to my Lord *Castlemaine*.

L. C. J. How did they bring in the Particulars of that Design?

Dr. *Oates*. This is as near as I can remember.

L. C. J. How came they to talk of laying aside the King and bringing in the Catholick Religion?

Dr. *Oates*. My Lord, after they had given an Account of the Transactions of the Consult: This was one part of the Consult.

L. C. J. Pray how came they to bring it in, in Discourse?

Dr. *Oates*. My Lord, they spake of the Particulars of it.

L. C. J. I wonder what introduced the Particulars: Was it to acquaint him with those Particulars?

Dr. *Oates*. My Lord, I have nothing to say to that, they were Things so generally talked of by those of the Jesuitical Party, that whenever they



met, they scarce did talk of any Thing else but of that, and so they did at this Time.

*L. C. J.* Pray tell me the whole Discourse, as you can remember, that relates to this Time.

*Dr. Oates.* My Lord, I have told your Lordship we met with my Lord *Castlemaine* in *Lincoln's-Inn-Fields*. I have told you, my Lord, that we went to *Mr. Fenwick's*; I have told you, my Lord, that after some Discourse (how it was introduced I cannot be positive, but as I can remember) they were speaking of my going over and coming again so soon, my going from the Consult to *St. Omer's*, and returning again into *England* so soon, and so one word brought in another.

*L. C. J.* Did you know then that my Lord *Castlemaine* had ever heard of this Matter before?

*Dr. Oates.* My Lord, I don't know; but I am morally certain as to myself; but I can't swear he did.

*Mr. Att. Gen.* Did he speak of it to him as a Stranger to it?

*Dr. Oates.* No.

*Mr. Just. Jones.* By the Letter you speak of he knew before.

*L. C. J.* Answer my Brother's Question, Was the Letter you had seen, before or after that Discourse at *Fenwick's*?

*Dr. Oates.* My Lord, that was after the Consult.

*L. C. J.* Then you know he did know of the Design?

*Dr. Oates.* My Lord, I think not of the Particulars of the Design.

*L. C. J.* That is, he knew of this Design for the main. When you talk of the Design, you always mean the Consult.

*Dr. Oates.* No, my Lord, when we say the Consult, we mean what was agreed on at that Consult, not concerning these Matters that were done six Months before.

*L. C. J.* *Mr. Oates,* Tell me when you mention the Design and the Consult, do not you always mean the Death of the King and the bringing in Popery?

*Dr. Oates.* Yes, my Lord, but the Terms are not convertible: For, my Lord, when we say the Consult, there was something else done, my Lord, at that Consult which had not an absolute Relation to the Design, and of that I will give your Lordship one Instance, as the sending *Father Cary* to *Rome*, which they did in some three Years.

*L. C. J.* Some trivial Matters concerning their own Government, but the thing you talk of is the same Consult and Design.

*Dr. Oates.* When I speak of the Word Design, it was so taken among us, and so received by my Lord *Castlemaine*.

*L. C. J.* How can you say it was so receiv'd by him?

*Dr. Oates.* Because he used the same Word, and answer'd us according to our Interpretation.

*Mr. Just. Jones.* My Lord, he speaks of the Design thus, There was a Design for the killing of the King, there was a Design of the Priests and Fathers for it; but saith he, *Afterwards there was a general Consultation*, and this Design came to be formed by this general Consult, which my Lord *Castlemaine*, as he thinks, had no Knowledge of till the time they met together in *Lincoln's-Inn-Fields*, and afterward went and discoursed about it.

*L. C. J.* It is very fair, that he doth not know that my Lord *Castlemaine* had any Knowledge before the Consult of this Business; but, he says, *The Design upon which the Consult was, that he might know, which was to destroy the King, and bring in Popery.* And he says, my Lord *Castlemaine* did understand this Word Design in that Sense they did; because he answered their Letters according to their Interpretation of it. How do you know he understood the Word Design in its utmost Capacity as you understood it?

*Dr. Oates.* When we have our Words, we have our Keys whereby we understand them. But I will answer this Question to the Satisfaction of the Gentlemen of the Jury. My Lord, he hath many times spoken in his Letters of introducing the Popish Religion, and annex'd it to the Word Design of promoting the Catholick Religion here in *England*.

*L. C. J.* Now methinks you have brought the Word Design to something else than killing the King.

*Dr. Oates.* Yes, my Lord, the Subversion of Religion and the Government.

*L. C. J.* Did he put in Government? Did he talk of bringing in the Catholick Religion and altering the Government.

*Dr. Oates.* No, my Lord, I won't say that.

*L. C. J.* When we are examining concerning Mens Lives, we must be careful of their Words in such Matters.

*Dr. Oates.* One part of my Evidence I have omitted, Your Lordship did ask me how I came to know my Lord *Castlemaine's* Hand. My Lord, sometimes we received Letters from him subscribed *Palmer*, and sometimes subscribed *Castlemaine*, sometimes some other Name which I may not remember, and they were generally received as from him. And I have seen, my Lord, my Lord *Castlemaine* write for that Night, as near as I remember, it was Post-night.

*L. C. J.* At *Fenwick's* Chamber?

*Dr. Oates.* At *Fenwick's* Chamber, and my Lord *Castlemaine* did write a Letter, subscribed it and sealed it, and I was fain to go to the General Post-house, it was so late.

*Mr. Just. Jones.* What, did he subscribe then?

*Dr. Oates.* No, my Lord, I saw no more than the Superscription.

*L. C. J.* Then you did not see his Name to it?

*Dr. Oates.* No, my Lord. My Lord *Castlemaine* did ask, Why he had not Answers to such an I such Letters? For several Letters I had seen which were not of much Moment.

*L. C. J.* I wish you had one that was of Moment.

*Dr. Oates.* It cannot be expected, my Lord, that I should have them.

*L. C. J.* My Lord, ask him what you please.

*Pris.* You say, *Mr. Oates,* you received Letters from me in *Spain*.

*Dr. Oates.* I never said so.

*Pris.* You saw Letters in *Spain* from me?

*Dr. Oates.* Yes, I have seen Letters in *Spain* that were from you.

*Pris.* Look you, *Mr. Oates,* pray let me ask you a Question, you said this, That you did not know me when you met me at the Consult?

*Dr. Oates.* What Consult?

*Pris.* At *Fenwick's* Chamber.

*Dr. Oates.* I did not know you at *Wild-house*.

*Pris.* There you met me first?



Dr. Oates. There I met the Prisoner at the Bar.

L. C. J. He says he did not know you at *Wild-house*, but he came to know you by *Langworth* in *Lincoln's-Inn-Fields*, and then you went together to *Fenwick's Chamber*.

Pris. Mr. Oates, Did not you say, that at *Wild-house* you did not know me, nor I you?

L. C. J. He says he can't tell whether you knew him or no, but he did not know you.

Pris. Was I familiar with you?

Dr. Oates. No, my Lord.

Pris. Did I talk Treason at *Wild-house*?

Dr. Oates. It was the Discourse of the Day, but I do not remember every Particular of the Discourse, but I remember what your Opinion was concerning the Rector of *Liege* and the Rector of *Gant*.

Pris. Was there any thing about killing the King at *Wild-house*?

Dr. Oates. Really, my Lord, I can't remember, I won't charge it there because I am upon my Oath; though I morally believe, as to my self, that there was Discourse bad enough there.

Pris. Mr. Oates. Pray will you hear me; then the Acquaintance I had with you was by Mr. *Langworth*, and then we went that Night to *Fenwick's Chamber*, and there we staid very long, and there we had all this Discourse?

Dr. Oates. Yes.

Pris. Look, Mr. Oates, Was there any body by besides Mr. *Langworth* and Mr. *Fenwick*?

Dr. Oates. Really, my Lord, I don't remember any body was by, unless a Maid might come to fill a Cup of Drink or so.

Pris. Mr. Oates, Pray Mr. Oates, did you and I ever meet together after that time?

Dr. Oates, Really, my Lord, I can't be exact in that.

Pris. Did you never see me nor discourse with me after that time?

Dr. Oates. I cannot recollect my self as to that, I cannot remember.

L. C. J. He does not remember that ever he was with you afterwards.

Pris. You don't know whether ever I discoursed with you afterwards?

Dr. Oates. I don't remember.

Pris. Very well, Mr. Oates: Look you, Sir, you don't remember that I ever had any Discourse with you after that time; and no body was by but Mr. *Fenwick* and Mr. *Langworth*?

Dr. Oates. As I remember.

Pris. Was not there another Priest there?

Dr. Oates. There is no body occurs to my Memory.

Pris. Mr. Oates, you brought me Letters from *Spain*?

Dr. Oates. I brought a Letter from *Spain* directed to you in 77.

Pris. Was I in Town or out of Town?

Dr. Oates. I delivered it to the Provincial.

Pris. You went over to *Liege*; did not you see me there?

Dr. Oates. No, my Lord, I did not see you there, I only went to wait upon a Gentleman that was a Priest afterwards, that went to take Orders.

Pris. Did you not see me at *Liege*?

Dr. Oates. No, my Lord.

Pris. You were at *Liege*, did you stay there?

Dr. Oates. I lay there one Night.

Mr. Att. Gen. Have you any thing to ask, my Lord?

Pris. Presently, my Lord.

Mr. Just. Jones. It is very reasonable, my Lord should question you. You own him to be the Lord *Castlemaine*; When was it you did first discover this Business concerning my Lord *Castlemaine*?

Dr. Oates. My Lord, I did discover my Lord *Castlemaine* to be in the Plot the last Sessions of the Long Parliament, and I accused my Lord *Castlemaine* this *Trinity-Term* was twelve-months, and my Lord *Castlemaine* was committed: For when Mr. *Dangerfield* came in and accused my Lord *Castlemaine*, I brought a Charge a second Time against my Lord *Castlemaine*.

Mr. Just. Jones. Did you discover all this then?

Dr. Oates. I did charge him for having an Hand in the Design in general.

Mr. Just. Jones. To the Parliament?

Dr. Oates. Yes, to the Parliament.

Pris. You say when I assented to the King's Death in *Fenwick's Chamber*, that I said I should now find a Time to be revenged?

Dr. Oates. Pray, my Lord, don't put me to mention such reflecting Evidence.

Pris. When you were before the King, you did in Pursuance of this speak of a Divorce.

Dr. Oates. My Lord, I will give Evidence as to that, if that my Lord comes to be indicted for his Priesthood.

L. C. J. My Lord may ask what Questions he shall think fit.

Mr. Att. Gen. My Lord says he has said it, and what he said in another Place he is not to treat now of.

Pris. Suppose I can prove him an ill Man in any Place, is not that fit to be spoken of here? Since he hath brought the King upon the Stage, and since he hath accused me before the King and your Lordships of a Divorce, I ask him whether he saw it?

Dr. Oates. I will tell your Lordship what I said as to the Divorce, I heard it discoursed of generally among the Fathers beyond Sea, and this was some other Part of the Discourse at *Wild-house*; and I heard my Lord *Castlemaine* say that he had been at great Charge to carry on that Business of the Divorce.

Pris. At *Wild-house*?

Dr. Oates. At *Wild-house*. Now, my Lord, I took no Notice of it, because it was not my Business. But, my Lord, after that there was a Priest's Chamber that was searched, and there was the whole Case stated; now what is become of the State of that Case, my Lord, I cannot tell.

L. C. J. By whom was that Case stated?

Dr. Oates. There was a Letter found, whereby my Lord *Castlemaine* should have the Matter directed, in order to the carrying on the Divorce that was to be between him and his Wife *Barbara*.

Pris. Did not you tell the King that you saw the Divorce in *Strange's Hand*?

Dr. Oates. My Lord, I will tell you this, I gave an Account to the King, that I saw in *Strange's Hand* an Account of a Divorce that was between my Lord *Castlemaine* and *Barbara Dutchess of Cleveland*.

Mr. Recorder\*. My Lord, if he ask too many Questions that don't relate to this Matter, it is impossible to give an Account of every Particular.

\* Sir George Jeffries.



*Prif.* My Lords, I humbly submit this Cafe.

*Mr. Recorder.* Ask him what you said to such a Man upon the 9th of *August* was Twelve-month, must he give an Account?

*L. C. J.* He must say he does not know.

*Mr. Recorder.* Indeed it is reasonable that my Lord *Castlemaine* should ask him some Questions, and that *Mr. Oates* should give him an Account.

*Mr. Att. Gen.* My Lord, will you give me leave to speak? If he may ask Questions about such foreign Matters as this, no Man can justify himself.

*L. C. J.* This is not so mighty remote but Use may be made of it.

*Mr. Att. Gen.* If he should ask whether he were such a Day at such an House, and tell him yes, and mistake the Day; any Man may be caught thus.

*Prif.* How can a Man be caught in the Truth?

*Mr. Att. Gen.* My Lord *Castlemaine* may, if he can, catch him in any Thing he gives in Evidence here.

*Prif.* My Lord, if your Lordship over-rule me, I will say no more. *Mr. Attorney* says I come to catch him, I confess I do.

*Mr. Att. Gen.* You should not ask him foreign Questions.

*L. C. J.* He asks a plain Question; why do you labour so much that he should not ask, whether he had seen the Divorce? My Lord *Castlemaine*, I have asked the Question for you, Whether or no he said he had seen the Divorce? And he does not remember whether he said so or no.

*Mr. Att. Gen.* My Lord, I think, with your Lordship's leave, that he is not bound to answer Questions that are not to the Evidence.

*L. C. J.* If so be he would come to make Application, it may be well enough.

*Mr. Att. Gen.* I say it for the Method of the Evidence, my Lord, that I would not have these Excursions.

*Prif.* I desire your Lordship that I may say out what I have to say. I say this, That no Man in the World that speaks Truth can be caught, neither will *Mr. Attorney* suffer me to catch him.

*Mr. Att. Gen.* I say you have Liberty to catch him in any Thing that doth belong to the Evidence.

*Prif.* I come to shew you the Fitness of it to this Affair. He comes and tells you, among other Consults, of *Wild-houfe*, and my meeting him in *Lincoln's-Inn-Fields*, the Recommendations of *Mr. Langworth*, and going to *Fenwick's Chamber*, where we talked of altering the Government, and my assenting to kill the King: And since you have brought the King upon the Stage, I will refresh your Memory a little; since you talk of revenging my self, look you if you did not mention a Divorce to the King, and also to my Lord Chief Justice.

*Mr. Att. Gen.* My Lord, you are under a Mistake.

*Prif.* Pray give me leave, *Mr. Attorney*.

*Mr. Att. Gen.* You make such Excursions into foreign Matters.

*Prif.* *Mr. Oates*, you did say you saw a Divorce. I ask you whether you saw a Divorce, and where; or whether you said so?

*L. C. J.* He says, he does not remember he said so.

*Dr. Oates.* I do not remember whether I said so

or no, my Lord, I have it down, but indeed I did not set my Thoughts a-work.

*Mr. Att. Gen.* He hath given you an Answer that may satisfy you.

*Mr. Just. Raymond.* He hath Papers wherein he hath entered *Memorandums* to refresh his Memory, but these Papers he hath not by him.

*L. C. J.* Then he may say he hath not.

*Mr. Att. Gen.* That he hath already, my Lord.

*L. C. J.* Have you any more to say?

*Prif.* I have, my Lord, if you will give me leave to write down two Words.

*Prif.* *Mr. Oates*, you told my Lords the Judges that I did say I was at great Expence about a Divorce?

*Dr. Oates.* Yes.

*Prif.* That is very well, *Mr. Oates*.

*Mr. Att. Gen.* Call *Mr. Dangerfield*.

*Dr. Oates was going out of the Court.*

*Prif.* May *Mr. Oates* go out of the Court?

*Court.* Yes, yes.

*Dr. Oates.* I will be within Call, my Lord.

*Prif.* I only submit it to your Lordships, Whether or no a Witness may go out of the Court?

*Dr. Oates.* I will stay then.

*Mr. Att. Gen.* Swear *Mr. Dangerfield*.

*Prif.* Pray stay.

*L. C. J.* Why so?

*Prif.* Here I am a Prisoner, my Lords, and submit it to your Lordships, Whether or no *Mr. Dangerfield*, who hath had the Censure of this Court, may be a Witness? Whether or no Council shall shew Reasons to your Lordship, Whether he may speak or no?

*Mr. Just. Jones.* You must shew your Exceptions that you have against him.

*Prif.* My Exception is this: That he was convicted of Felony, that he broke Prison, and was outlawed upon it. Besides this, my Lord, he is a Stigmatick, hath stood in the Pillory, and was burnt in the Hand. Now I humbly beseech your Lordships, that you will be pleased to hear what my Council can say: And then, my Lords, if you over-rule, I shall give place with all my Heart.

*L. C. J.* I think it reasonable, if you desire Council, that they should be allowed to speak.

*Mr. Att. Gen.* If your Lordship please, when my Lord's Exceptions appear.

*Mr. Just. Jones.* What are your Exceptions, my Lord?

*Prif.* That I told you beforehand; he is an outlawed Person, he is convicted of Felony.

*Mr. Just. Jones.* When was he outlawed?

*Mr. Att. Gen.* In the 27th Year of the King, and we say he hath a Pardon in the 30th Year of the King.

*L. C. J.* How do you prove he was burnt in the Hand, my Lord?

*Mr. Att. Gen.* When was he burnt in the Hand?

*Prif.* Call *Briscoe*.

*Mr. Att. Gen.* We bring a Pardon unto that, and that will restore him.

[*A Record produced.*]

*Mr. Att. Gen.* That Record we confess; shew the Pardon, shew the Pardon.



L. C. J. Now go to that for which he was burnt in the Hand.

Mr. Att. Gen. Here is a Pardon that extends to them all.

[*The Pardon read: Decimo tertio die Januarii, Anno Regni, &c.*]

L. C. J. This does not do it.

Mr. Att. Gen. Yes, my Lord, it does.

L. C. J. Is that the *Newgate* Pardon?

Mr. Att. Gen. Yes, my Lord.

L. C. J. We have had it in the Court.

Mr. Att. Gen. Yes, my Lord.

L. C. J. And Felony and Outlawry is in it.

Mr. Att. Gen. Yes, my Lord.

L. C. J. Where is that for which he was burnt in the Hand?

Mr. Att. Gen. For that we give an Answer; he was received to the Benefit of his Clergy; and he was burnt in the Hand, and his Pardon is after that too.

L. C. J. So it is.

Mr. Att. Gen. Then his Pardon answers them all.

L. C. J. Now you see, my Lord, you think *Dangerfield* ought not to be a Witness, who hath gone through so many Punishments, outlawed for Felony, and burnt in the Hand for Felony: Mr. Attorney makes Answer, We have a Pardon, and by that he is restored, as he says, to be a Witness again. If you desire Council to speak to this Point, Whether or no a Man branded and burnt in the Hand for Felony, and afterwards is pardoned, is capable of being a Witness? I see no Reason to deny it you.

Mr. Att. Gen. If there be Matter for Council to speak, in that Case we must submit, if your Lordship make it a Doubt.

L. C. J. I do for my own Part: In this I am clear; if a Man were convicted of Perjury, that no Pardon will make him a Witness, because it is to do the Subject wrong. A Pardon does not make a Man an honest Man; it takes off Reproaches; and the Law is wise in that, the Law will not suffer endless Contumelies to be heaped upon Men, nor to be called perjured Rascals, and such Things; it is only to prevent upbraiding Language, which tends to the Breach of the Peace. But, in my Opinion, if a Man stands convicted in Court for Perjury, no Pardon can ever make him a Witness, and set him upright again. But that is a different Case from this; we are upon this single Case, Whether a Man that is burnt in the Hand for Felony, whether a Pardon can set him right or no? For this I make more doubtful than the other; for a Man may be, that hath committed a Robbery, would be afraid to forswear himself; for though one is a great, the other is a greater Sin, and that in the Subject Matter; which considered, I think it reasonable to allow my Lord Council to speak to that single Point, That a Person being burnt in the Hand for Felony, and afterwards pardoned, Whether he is capable of being a Witness?

Pris. Then I do name Mr. Jones, Mr. Saunders, and Mr. Darnal.

L. C. J. Very well.

[*Mr. Saunders was called, but was not in Court.*]

L. C. J. Are you prepared, Mr. Jones, to speak?

Mr. Jones. No, my Lord.

Mr. Just. Jones. My Lord, do you except against that one Particular?

Pris. I stand upon both, his being pilloried and burnt in the Hand.

L. C. J. Will you admit that he stood in the Pillory?

Mr. Att. Gen. I know nothing of it.

L. C. J. I will tell you, my Lord, you will see whether it be necessary to protract this or no; for your Council will hardly undertake to argue unprepared about this Point; and if the Trial should be adjourned, it would be very troublesome. I think it the Duty of my Place to discharge my Conscience for you and against you, as the Matter shall fall out; and if so be that you should insist upon it, and he be capable of being a Witness, supposing it so, yet I must say, you may give in the Evidence of every Record of the Conviction of any Sort of Crimes he hath been guilty of, and they shall be read. They say last Day there were sixteen; if there were an hundred they should be read against him, and they shall all go to invalidate any Credit that is to be given to any Thing he shall swear.

Pris. My Lord, I humbly submit myself to your Lordship; sixteen we have, I bring but six, you shall have them Mr. Attorney when you please.

L. C. J. My Lord, if you think it worth your while to put it to Council to argue, Whether he may be a Witness, or whether you think it may be as well for you, supposing he be a Witness, the producing those Things against him, or the Records of those Crimes that he hath been convicted of; whether that will be as well for you or no, I leave it to yourself to do as you think best.

Mr. Darnal. I conceive, with Submission to your Lordship, that he cannot be a Witness.

L. C. J. Are you prepared to speak to it now?

Mr. Darnal. My Lord, I am ready to offer somewhat to your Lordship, why I conceive he ought not to be sworn: But I desire first, that the Pardon may be read, because many Persons and Offences are comprized in it.

L. C. J. It is a Pardon for Felonies and Outlawries of Felony in general.

Mr. Darnal. If the Persons and their Offences are severally and sufficiently pardoned, then, my Lord, I will proceed unto the other Point.

Mr. Just. Jones. The whole is good.

Mr. Darnal. Then, my Lord, I conceive, notwithstanding this Pardon, Mr. *Dangerfield* ought not to be sworn; and that no Person attainted of Felony (though pardoned) can be a Witness. My Lord, it hath been adjudged in 11 Hen. IV. *quadragesimo*, That a Man attainted of Felony (as Mr. *Dangerfield* is) though he be afterwards pardoned, cannot be sworn of a Jury. My Lord, the same Question hath been resolved since, in *novo Jacobi*. It is reported in Mr. *Brownlow's* and *Goldborough's* Reports, *Folio tricesimo quarto*. And my Lord *Cook* in Mr. *Bullstrode's* second Reports, 154. in *Brown* and *Crasbaw's* Case, is of the same Opinion. He says, A Man attainted and pardoned cannot serve upon any Inquest; and that by the same Reason, the Testimony of such a Man for a Witness is in all Cases to be rejected.

L. C. J. Who says so?

Mr. Darnal. My Lord *Cook*.

L. C. J. Men do not slight my Lord *Cook*; where do you say that is?

Mr.



Mr. Darnal. It is in Mr. *Bulstrode's* 2d Reports, in *Brown and Crasbaw's Case*, fol. 154.

Mr. Just. Jones. But you should have brought these Books hither.

Mr. Darnal. I suppose, Sir, they may be had in the Hall. My Lord Cook gives this Reason for it in that Case; he saith, that notwithstanding his Pardon, he is not *probus & legalis homo*.

Mr. Just. Jones. That Pardon was before any Judgment; it was a Pardon of Felony before any Trial or Judgment; but here is a Conviction.

Mr. Darnal. My Lord Cook puts the Case there of a Man attainted. And, my Lord, in *duodecimo Jacobi*, it is reported in *Brownlow's Reports*, Fol. 47.

Mr. Just. Raymond. Which of his Reports?

Mr. Darnal. I know but of one set out in his Name alone, the other (which is call'd the first Part) is set out in his and *Goldborough's* Name. I have Mr. *Brownlow's Reports* here, and if your Lordship please you may see it.

L. C. J. What is the Page?

Mr. Darnal. 47, my Lord; the Case there reported is, the King pardon'd a Man attainted for giving a false Verdict; yet he shall not be at another time impannell'd upon any Jury; and the reason given there is, that though the Punishment was pardon'd, yet the Guilt remain'd.

Mr. Just. Jones. That is a very short Note, and not so much in the Book as you have mentioned.

Mr. Darnal. I writ it word for word out of the Book, Sir, and I am sure there is so much in my Book. My Lord, in Mr. Just. *Crooke's Elizabeth*, fol. 686, in *Shelborn's Case*, it is held, that though the King may pardon *Simony*, yet he cannot enable a *Simoniack* to retain a Living.

L. C. J. The Act doth make him not capable.

Mr. Darnal. I conceive, Sir, it is upon the same Reason, because the Pardon cannot take away the Guilt, though it may the Punishment of the Offence.

Mr. Just. Raymond. He can't dispense with *Simony*, he can't give a Dispensation to take a Living.

Mr. Darnal. My Lord, upon these Resolutions and the Reason of them, I humbly submit it to your Lordship, whether Mr. *Dangerfield* (having been attainted of Felony, though he be since pardon'd) can be a Witness.

Mr. Att. Gen. My Lord, with your Lordship's Favour, this is quite contrary to the constant and general Opinion, and contrary to the constant Practice: For, my Lord, with your Lordship's Favour, when a Man is pardon'd for any Crime, if a Man can't say he is a Felon, or he is perjured, then he can't be reckoned so to any Intent or Purpose whatsoever.

L. C. J. I told you before it is consonant to all the Reason and Law in the World, that a Pardon should stop Mens Mouths from reviling Speeches that signify nothing; but it is one thing to say Men shall not go reviling, that can have no consequent good, but which tends to the breach of the Peace, and another thing to say he shall be *Liber*.

Mr. Att. Gen. My Lord, when the King gives him a Pardon, it is as if he had never committed the Offence.

L. C. J. He may be Outlaw'd notwithstanding the King's Pardon, and then it is not as if he had never committed the Offence.

Mr. Just. Jones. It restores him to wage Battel,

and it makes him *liber & legalis homo*: For if a Man may wage Battel, he is *liber & legalis homo*.

Mr. Att. Gen. Then, my Lord, if he be so, he shall be a Witness: For, my Lord, in the point of *Perjury*, a Man that after a Conviction of *Perjury* had a Pardon, hath been admitted several times.

L. C. J. Was the Exception taken, Mr. Attorney?

Mr. Att. Gen. Yes, my Lord, and he rejected before he had a Pardon.

Mr. Just. Raymond. How many Men have been Witnesses that have been convicted of Felonies, after the Kings have pardon'd them?

Mr. Recorder. I will not adventure to say that there hath been a particular Objection made, and so that the Court hath had the Debate of it; but I will undertake to give your Lordship several Instances of Men that have been convicted, and the Judges sitting there knew them to be so convicted, and did not take Notice of it.

Mr. Just. Raymond. I speak of *Witberington* particularly.

Mr. Recorder. He was a Witness, tho' every Man did know that *Witberington* was convicted. I beg your Lordships leaves to speak it, that the Judges themselves did know that he was convicted and had received Sentence of Death.

\* Sir Francis Mr. Sol. Gen. \* The constant Practice of the Judges is a mighty Conclusion.

L. C. J. What think you, Mr. Attorney, if a Man be convicted of Felony, and afterwards hath a general Pardon, is he a Witness?

Mr. Att. Gen. Yes truly, my Lord, it signifies the same thing, my Lord, as to be a Freeman again.

Mr. Just. Jones. He cannot be of a Jury, if he be attainted of Felony; and the Reason is, because he is not *probus & legalis homo*; and why he should not as well be of a Jury as a Witness I cannot understand.

Mr. Att. Gen. There is a great deal of difference, my Lord; a great many Men may be admitted to be Witnesses, that cannot be admitted to be Jurymen.

Mr. Just. Jones. Shew me any Man that is excluded from a Jury and admitted to be a Witness, except in the case of kindred.

Mr. Att. Gen. An hundred.

L. C. J. Shew me any Man who being of a Jury was excluded, and yet made a Witness.

Mr. Att. Gen. A Villain was not admitted to be a Jurymen, but a Villain was always to be a Witness, and that was a point of Infamy.

L. C. J. What Infamy was contained in being a Villain?

Mr. Att. Gen. He was a Criminal, he was not *liber homo*.

L. C. J. But tho' he be not a Freeman, he may be an honest Man.

Mr. Recorder. My Lord *Hobart* says, A Pardon takes away the Guilt.

L. C. J. It takes away Guilt so far as he shall never be questioned; but it does not set a Man as if he had never offended. It cannot in reason be said, a Man guilty of *Perjury* is as innocent as if he had never been perjured.

Mr. Att. Gen. I say, if a Man be pardon'd, he is as if he were not guilty.

L. C. J. If I were in my Lord *Castlemaine's Case*, I would submit it; but when he hath given his



his Testimony, my Lord shall have liberty to give in the Records against him of what Crimes he hath committed.

Mr. Just. *Jones*. I do confess indeed, that my Lord *Hales*, in his little Book *Of the Pleas of the Crown*, saith, that a Man that hath had the Benefit of his Clergy is restored to his Credit.

Mr. Just. *Raymond*. If that Case be allowed, it is a plain Case; for there is no Man can wage Battel, but he that is *liber & legalis homo*.

Mr. Recorder. A Man broke Prison, and therefore he could not wage Battel; he replies, the King hath pardoned me that Felony, and thereupon he is admitted to wage Battel.

Mr. Just. *Jones*. Where there is no Judgment given in the Case, and the King doth pardon a Man, that doth make a very great difference.

Mr. Recorder. In the Case of *Witherington*, my Lord Chief Justice did look upon the Records, and afterwards said he was a good Witness, and was admitted.

*Pris*. If you have Law by you, I must consent.

*L. C. J.* Then you must consent.

Mr. Recorder. There are several Persons who have had Pardons after Robberies, and we are forced to make use of some of these Fellows.

*L. C. J.* Before Conviction.

Mr. Recorder. No, after Conviction, my Lord, I have known a Prisoner at the Bar, when my Lords the Judges have been there, to be a Witness; and if the Court had made any doubt, it would have been a Question before this time of Day.

Mr. *Att. Gen.* My Lord, if you please, Mr. *Dangerfield* may be sworn, if your Lordship pleases.

*L. C. J.* My Lord shall have the Benefit of excepting against his Credibility.

*Then Mr. Justice Raymond went down to the Court of Common Pleas, to know their Opinion.*

Mr. Just. *Jones*. Have you any other Witness in the mean time?

Mr. *Att. Gen.* No, my Lord, he is a principal Witness.

Mr. *Sol. Gen.* Besides the common Practice, here is a Book that says he shall wage Battel.

Mr. Just. *Jones*. That is, when there is a Pardon before Conviction.

Mr. *Sol. Gen.* But here, my Lord, he says the *Reatum* is taken away, and then it takes away his Disabilities too. The Difference can be nothing here before Conviction, and after; because before Conviction he is disabled from waging Battle: So that that makes no Difference before Conviction, and other Cases after Conviction; and the Disability is taken away by the Pardon, and he is restored to be a Freeman.

*L. C. J.* There is a Disability upon Presumption, though not upon Conviction.

Mr. *Sol. Gen.* There is the same legal Impediment in the one as in the other; but his Credit is left to the Breast of the Jury.

Mr. Recorder. When a Pardon comes, it takes away not only *Penam*, but *Reatum*; and the Reason my Lord *Hobart* gives is,

*L. C. J.* Nay, give your Reason.

Mr. Recorder. For Felony is *contra coronam & dignitatem*, is a Fault against the King; and when the King pardons it, it ceases. And in another

place it is said, It pardons all Disabilities incident to him.

Mr. Just. *Jones*. That is before Conviction still.

*L. C. J.* Don't my Lord *Coke* tell you expressly, that the taking a Pardon doth not prove any Offence? You take a Pardon, it ought not to be concluded that you are guilty; but the proper Conclusion of a wise Man is, that you would be safe. It can't be thought that every Man that hath a Pardon in *England* is guilty of all those Offences that are there pardoned.

Mr. Just. *Jones*. There is a Difference between a general Pardon, and a particular Pardon: When a Man doth accept of a special Pardon, it must be intended that he hath some consciousness of Guilt, or else he would not take it; but he that is included in a general Pardon may be clear, because all Men are included in it, unless some Persons particularly excepted; and the Difference is taken in that very point, from accepting a general and a special Pardon.

*L. C. J.* That the Acceptance of a general Pardon doth not barely of itself intend Men to be guilty of the Crimes, is plain, and the Reason is most apparent; for besides that Men be safe, so there be Times that give a Reason why Men should have a Pardon, because no Man knows when he is safe; Perjury so abounds that no Man can say he is safe, and that is a Reason why Men should be very willing to accept of Pardons.

*Cl. of Cr.* Here's my Lord *Hales's* Book about the Pleas of the Crown.

Mr. Recorder. He says, When the King hath discharged and pardoned him, he hath cleared the Person of the Crime and Infamy.

Mr. Just. *Jones*. It is so, no doubt.

Mr. *Sol. Gen.* May we pass upon these Authorities?

Mr. Just. *Jones*. Sir *Francis*, we are not willing to go about it till it be concluded; for that purpose we have desired my Brother *Raymond* to know the Judges Opinions of the *Common-Pleas*.

Mr. Recorder. He doth expressly say, It hath restored him to his Credit; and in *Witherington's* Case he did call for the very Records.

Mr. *Att. Gen.* If it restore him to his Credit, I hope it shall not blemish him so much when he is sworn, that he shall not be believed.

*L. C. J.* We won't have any Prepossession in that Case, his Crimes shall be all taken Notice of; is it fit to have Men guilty of all Sorts of Villainies, and not to observe it?

Mr. Just. *Jones*. In that very Case my Lord *Hobart* says, A Man may say of a pardoned Man, he was a Felon, though he cannot say now he is a Felon; and now what can be objected to this Case?

Mr. Recorder. Things may be objected against a Person, and his Credit left to the Jury; but the Question now is, Whether he shall be a Witness or no?

*L. C. J.* We have Men grown so insolent, they behave themselves with that vile Insolence, that now they take upon them to speak against whole Societies of Men; as if so be there were any thing in them that should render them better than their former Lives or Natures. Humility becomes Penitents, and no wicked Man is supposed to be a Penitent that hath not that; but these carry it with that Insolency, as if they were not concerned themselves, when God knows the best



best of them discover what they do, by being but Parties themselves.

[Mr. Justice Raymond returned from the Court of Common-Pleas.]

L. C. J. I will tell you what my Brethrens Opinions are; he hath put it to them on both Accounts, That he was convicted of Felony, and burnt in the Hand for it; that he was outlawed for Felony, and hath a general Pardon. They say they are of Opinion, That a general Pardon would not restore him to be a Witness after an Outlawry for Felony, because of the Interest that the King's Subjects have in him. But they say further, That where a Man comes to be burnt in the Hand, there they look upon that as a Kind of a more general Discharge than the Pardon alone would amount to, if he had not been burnt in the Hand. They say, If he had been convicted of Felony, and not burnt in the Hand, the Pardon would not have set him upright; but being convicted and burnt in the Hand, they suppose he is a Witness.

Mr. Sol. Gen. Swear Mr. Dangerfield.

L. C. J. The very Attainder is taken away, and so all is gone.

Mr. Att. Gen. Come, Mr. Dangerfield, are you sworn?

Mr. Dangerfield. Yes, Sir.

Mr. Att. Gen. Pray tell what you know of my Lord Castlemaine.

L. C. J. I perceive my Brethrens Opinion is, That if a Man were convicted of Perjury, if there be no burning in the Hand in the Case, that a Pardon could not set him upright, because of the Interest of the People in the Thing.

Mr. Att. Gen. Come, Mr. Dangerfield, are you sworn?

Mr. Dangerfield. Yes, Sir.

Mr. Att. Gen. Then pray say what do you know of my Lord Castlemaine?

Mr. Dangerfield. About this time Twelvemonth, my Lady Powis sent me with a Letter for the Prisoner at the Bar, my Lord Castlemaine.

L. C. J. Don't you know him?

Mr. Dangerfield. Yes, my Lord, this is the Person. And, my Lord, the Contents of that Letter I know not: But his Lordship made me stay till he wrote an Answer, and the Contents of the Answer, my Lord, were to this Effect: For I returned with the Answer to the Lady Powis, and she opened and read it while I was present.

L. C. J. Aloud?

Mr. Dangerfield. Aloud, my Lord.

L. C. J. To you?

Mr. Dangerfield. To me.

L. C. J. Who was there?

Mr. Dangerfield. Mrs. Cellier was there besides. And the Contents of this Letter were, *This Person I like well, and though he be no Scholar, he will serve to instruct the Youths as he shall be directed.* By the Youths were meant the St. Omer's Witnesses.

L. C. J. How do you know?

Mr. Dangerfield. Because I know my Lord was employed for that Purpose. I know his Lordship did use to instruct the Youths; and it was a common saying among them, when one of them was out of his Part, they used to say, I must go to my Lord Castlemaine.

L. C. J. What Part?

Mr. Dangerfield. That which they were to say; and one of them did say, I am out of my Lesson, I must go to my Lord Castlemaine.

L. C. J. When did he say so?

Mr. Dangerfield. Before the Trial, my Lord; and my Lord Castlemaine went along with them to the Trial, and his Lordship complained of some ill Usage that the Witnesses received there. His Lordship was one of the Persons that employed me to get Lane out of the Gate-house, my Lord, and his Lordship sent me to a Solicitor of his, whose Name was Mr. Lawson (the Person is now in Court) to take an Account how far he had proceeded in this Affair. I did take an Account, and I proceeded in it afterwards, and get him discharged.

L. C. J. How came you into my Lord's Acquaintance?

Mr. Dangerfield. That was the first Time, when my Lady Powis sent me with that Letter, my Lord. A pretty while after this, in the Month of July, I went to wait upon his Lordship at his House at Charing-Cross, the same Place where I found his Lordship before; and I was to take his Advice about some Letters that came from one Nevil alias Paine. Those Letters and List of Names I shewed his Lordship, and he gave his Approbation of them, and desired good Store of Copies might be writ: For it was of Consequence, and ought not to be neglected. And asked me, Are there working Persons employed in that Business? And said he, Encourage them, and I will pay my Part. So my Lord, after there were a great Number of Copies writ of these Letters, I writ a Letter to my Lord Castlemaine, to let his Lordship know that the People had finished their Work, and that there was something more to be done as a Gratuity; and then his Lordship in answer to this Messenger (who is here also in Court) with a Letter his Lordship sent forty Shillings for his Part. And Mrs. Cellier told me she received forty Shillings, and disposed of it to the Use intended; now, my Lord, the Contents of these Letters were to the same Effect with those Letters and loose Papers which I conveyed into Colonel Mansel's Chamber; and these all tended to the promoting the Sham plot, my Lord.

L. C. J. Pray tell me what was the Subject of these Letters; what was the Substance of them?

Mr. Dangerfield. To the promoting the Sham-plot, my Lord.

L. C. J. That is a General no body knows what to make of.

Mr. Dangerfield. I will give your Lordship an Account in particular: The Contents of many of them were to this Purpose.

L. C. J. Were they not all alike?

Mr. Dangerfield. The Copies were the same, and there were so many Originals to draw Copies from.

L. C. J. Were not the Originals all to the same Purpose?

Mr. Dangerfield. Agreeable in Point of Sense.

L. C. J. Pray tell us the Purpose of them?

Mr. Dangerfield. The Purpose was, that so many Letters should be conveyed into the Houses of several Persons of Quality in this Kingdom, that were called Presbyterians: For that was the Notion, that all Persons that were not the immediate Promoters of the Catholick Interest, lay under; because they looked upon that Notion to be most obnoxious.

L. C. J. Who