

greater Accidents) want Power to send a Messenger to ransom and compound for them? What Law therefore was there ever yet fram'd, or can be enacted (let the Commerce or Intercourse between Nations be never so much broken and prohibited) but that a Commander in Chief, a General, and much more a King, may beat a Parley, dispatch a Trumpet; nay, send and receive Letters as often as Occasion does require?

Now, Mr. Speaker, for Religion, I neither had any Commission concerning it, nor transacted with his Holiness about it; and as no body ever did, or could lay any thing of that Nature to my Charge, so for some Confirmation of it, I will appeal even to the *Aqua-Fresca* Houses of Rome, and to all the Protestant Gentlemen of our Nation there during my Embassy; for though what I tell you, Sir, be a Wonder, yet the honourable Persons who have resided in those Parts, know it to be true, that for a Dish of Chocolate, or a Dish of Limonade, one may know the Measures and Particulars of an Embassy in that City, as well as we do what passes within these Walls at our Coffee-Houses. I am sure my under Servants have often smil'd at the Grimaces and Mysteries which my Secretaries us'd in the Beginning to make before my Audiences; for they have told them, within few Hours after my Return, almost Word by Word what had pass'd. Give me also Leave, Sir, to add one Truth more, which will assure you that I had no dangerous Intrigue in Hand; and this is, that notwithstanding his Holiness never had the least Imagination or Thought, but that I was as real and sincere a Catholick as any Man living; and the same Thing also I can say of all the Cardinals; and in fine, of the whole Court in general; yet none of them (and every *Englishman* in Town knew it), but look'd upon me as one that if any Immunity of the Crown were in Question, or any Temporal Concern of the Kingdom touch'd, would stand as much in the Gap, and be in as Diametrical an Opposition as any Person of the Reform'd Religion whatsoever.

You see then, Sir, both how and why I went; nor have I done any thing certainly to merit any Man's Unkindness or Ill-will; nay, to lay yet further before you the Hardship I am under, I shall state you a Case not fetch'd out of old forgotten Records, or transacted in an Age distant from ours, but of a Man attainted in this very House, in the Memory of several now sitting, and even whilst I myself had the Honour to be a Member of it. The Case, Mr. Speaker, is *Axtel's* the Regicide; one whose Crime, I dare say, my greatest Enemies think I abhor in the highest Manner; nor do I mention the Thing in Favour of the Criminal, but in Honour of his grave and worthy Judges. *Axtel*, you know, Mr. Speaker, was indicted for the Murder of *Charles* the First; and to shew that he maliciously contrived and abetted it, the King's Council urged his commanding in the Hall at the Trial; his placing the Centinels all about; and in short, his performing there the whole Office of Captain of the Guard. The Prisoner answer'd, but pray, Mr. Speaker, let me beg Pardon, if the Interval of almost thirty Years has made me forget his Words, I am sure the Sense of them I have not. I say, Sir, the Prisoner answer'd; *My Lords, I am under great Oppression, I am hardly dealt with. Has Charles the Second been so gracious as to pass over the ordinary Transgressions of his strayed Subjects, and to look upon the Obedience*

of Soldiers to their then Superiors, as if the Authority had been more legal; And shall I now die (who was under Military Discipline) for that which I must have presently died for, had I not done it; to wit, had I not drawn up my Regiment, kept the Post order'd me, and perform'd the other Duties, the Concourse being great and troublesome? Upon this the Judge reply'd; I confess (considering the King's merciful Resolutions) that your Argument is strong; it has great Weight in it; but Mr. *Axtel*, did you no more? Did you only perform the Duty of a commanded Soldier? Who was it, I pray, that animated the Rabble? Who beat the Soldiers for not crying Justice? Who encourag'd spitting in the King's Face? And who barbarously revil'd and threaten'd a Noble Lady, that in the Transport of her Zeal (when she saw her Sovereign abus'd, when she heard such Blasphemy against him, and all this father'd upon the Nation) made a Noise or Stir in the Court? These Things therefore, Sir, being prov'd against him, he was convicted, condemn'd, and so paid a Debt to Justice, and to the sacred Ashes of that great and just Man.

Now, Mr. Speaker, to Application: And first (after a little Glance on the Tenderness of these Judges, when any Necessity could be pretended) let me, with your Pardon, ask you, shall I suffer as a Transgressor of the Law, were there any, when I must have suffer'd by the Law, had I refus'd his Majesty's Orders and Commands? But, Sir, if you demand, did I no more than carry a Letter, or go with a Ceremonious *How d'ye* from the King? I must answer yes, and a great deal more too. For my House was an *Aylum*, a Place of Refuge to all distress'd or oppress'd Fellow Subjects. If Seamen mutiny'd, or had any Contest with their Captains, here a Reconciliation was made, and here they return'd to their Obedience; if the Captains themselves, fraughted for the *Camera*, were delay'd their Money, or misus'd by under Officers, they quickly found Redress; and often, by my Interest, receiv'd more than they themselves expected. And if the Question happened about Quantity, or how Goods were condition'd at Delivery, the Verdict I am sure went still on their Side: Nor was my Care confin'd to Rome only, but reach'd to all the Factories of *Italy*: For the Consuls themselves, nay every private Person, found both an easy Access to me, and an indefatigable Zeal in their Concerns: So that the Merchants in general that had to do in those Parts, were far from being behind Hand in their thankful Acknowledgments. Nay, one of the greatest Companies of our Nation, I mean that for *Turkey*, not only return'd me their Thanks very heartily by Letter, but did it again by Word of Mouth after my Arrival Home.

I am sure, Mr. Speaker, if the Employment I submitted to were a Fault, I have already not a little suffer'd for it; for I never put Bounds (as our Travellers, as well as my own Officers, fully know) to any Expence that could be imagin'd for the Dignity of the Nation. And give me Leave to tell you also, Sir, that though the Name of Rome may be harsh and ungrateful to your Ears, yet what I did was with a good Intention, and like a true and faithful *Englishman*. For had I been sent with a Character to *Constantinople*, where they are *Mahometans*, or to *China*, where *Gentiles*, the *Eclat* or Figure which I should have endeavour'd to make, would never be consider'd by you as an Honour to their Religion, but our Country; therefore since

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

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

Your second Charge, Mr. Speaker, is my being a Privy Counsellor, without taking the appointed Oaths; to which I can truly say, they were never offer'd me; though I must also confess (for I shall be sincere with you in every thing) that I believe, nay, that I am certain, I should not have taken them, had they been offer'd: So that I do acknowledge the Omission a Fault against Law——

[*Here the Speaker, thinking that his Lordship had made an End, desir'd him to withdraw; but being inform'd that he had not done, he excus'd the Interruption, and then his Lordship went on.*]

I say, Mr. Speaker, I acknowledge this a Fault against Law, were there not several Things of Weight that will, I hope, justify me to you: And here, Sir, I must entreat you not to conceive that I come now to defend, or make good the Dispensing Power, but only to shew you how necessarily I was driven and induc'd to the aforesaid Omission; for, Mr. Speaker, in Controversies and Disputes, what can one do, but recur either to his own Observation, or to the Opinion of learned Men, and Professors in the Science?

In the first Place then, when I began to examine myself as to the Right the King claim'd and asserted, I saw *Non obstantes* deem'd Legal, which signified to me Dispensing: I found the Power of continuing Sheriffs own'd for many Ages to be undoubted Law, and yet I knew there was a positive Statute against it: Nay, I remember'd an Act which I myself had in this House given my Vote and Consent to, *viz.* That about *the Regulation of Carriages and Waggon*s; or if this be not the exact Title, I must beseech you to pardon my treacherous Memory, and 'tis, I'll assure you, the only Traitor I ever yet succoured or supported. I say, Sir, I remember'd this very Act, almost as soon as made, suspended by *Charles* the Second's Proclamation, without the least Question or Murmur; and I took so much Notice of it, as to make even then this Reflection (and I do assure you upon my Honour 'tis true) That though our Monarchs could not impose and abrogate Laws of themselves, yet they had the Power, I perceiv'd, to respite them.

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

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

And now, Sir, since I have been forc'd to mention my Religion, which I know is a legal Fault, and of a high Nature, I must not forget also to celebrate the Goodness of this House, which has pardon'd the Fault, even in the solemnest Way, and by the solemnest Act that ever pass'd since *Magna Charta*; to wit, *The great Act of Oblivion*. Give me Leave, Sir, to say this too, for I can justly do it, that being so faithful and so true an *Englishman*, I neither should, nor could, I am sure, have ever, during my Life, offended my Country, but in my Religion. Pardon also I humbly beseech you this Digression, and together with it the Incoherences and Disjunctions all along; nor shall I any ways doubt of it, since you so well know how uneasy and troublesome a long Discourse (which my Circumstances have now required) must needs be to one that wants both Eloquence and Practice.

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

Mr. Speaker, I am in great Disorder for imposing thus on your Patience; and especially seeing I must yet presume to do it, one thing more occurring to me, as I hope, for your further Service, or at least Satisfaction: And 'tis to let you know how I came to be a Prisoner, and why I continued so thus long. Be pleas'd then, Sir, that I tell you, that as soon as the King first left *Whitehall*, I thought it Decency to go out of Town; and therefore three Days after I took Coach for *Montgomeryshire*, where of late I us'd to reside in the Summer Time. On the Borders of that County, at a small Corporation called *Oswestree*, I was first stopp'd by the Rabble, and afterwards detain'd, with a strong Guard, at my Inn by the Mayor; though no body, as he confess'd, made any Oath against me; and though he had no Orders, as he said, from *London* for it; nay, after a Months Restraint, he denied me my Liberty upon Bail, notwithstanding two neighbouring Lawyers, whom I sent for, assur'd him he could not justify the Refusal by Law. I do not, Sir, complain of any Incivility, either from him or the People; for I was us'd with Respect enough; but I judge it extremely fit to let you see how the Liberty of a Subject was wilfully invaded by a Magistrate, and how little conscious I

was of any Guilt; since instead of Flying, I went to a Place where I was known by every body.

In fine, Mr. Speaker, after a Confinement of seven Weeks, I was sent for up, and brought hither by a Party of Horfe; nor was I ever question'd or examin'd by any body, but kept (upon the Suspension of the *Habeas Corpus* Act) at a Messenger's House for three Months; and when the said Act was suspended the last Time, I was committed by my Lord *Shrewsbury's* Warrant to the Tower, for Suspicion of treasonable Practices.

His Lordship having ended, retir'd with the Serjeant at Arms to his Room, where, after a little Stay, he was sent for in again; and then the Speaker told him, that since he said his Journey to *Rome* was with a Letter of Civility to a Temporal Prince, and not about Religion, the House (to be more fully satisfied of it) desir'd to see his Instructions. To which his Lordship thus answer'd.

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

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

My Lord, said the Speaker, I have another Question to ask you; to wit, who of the long Robe told you of the King's Power of Dispensing, and that there was no Necessity of taking the Oaths?

I am, Sir, answer'd his Lordship, infinitely troubled, if I have, through Want of Care, or by any improper Expression, given you Occasion to misapprehend me; for I never ask'd any particular Man of that Profession about this Affair: But my Meaning was (and I hope my Words are not con-

trary to my Meaning) that the said Power was manifestly and openly declar'd to be Law by Judges and Lawyers; so that I deem'd it no Solecism in Discourse to mention it as if they themselves had told it me.

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

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

Mr. Speaker, replied his Lordship, I have nothing more to say about the former Matters; but understanding your Pleasure, I thought it my Duty to let you know, how the Custom of the Tower, as to Prisoners, is changed; for in Course heretofore, unless there were a particular Order of State to the contrary, they had the Liberty of the Tower; that is to say, they could walk about at reasonable Hours with a Warder: But now as soon as one is committed, though it be upon bare Suspicion, as I was, he is confin'd to his Lodging, and hindred from the Consolation of seeing his Friends, till, after much Sollicitation and Trouble, Leave be granted by the Secretaries. Therefore, Sir, being morally certain that I shall be confin'd again as soon as I return, I humbly desire the Favour of this Freedom; it being also what I hitherto enjoy'd after I had been restrain'd for some Days in the aforementioned Manner.

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

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

On *Wednesday* the 5th of the following *February*, his Lordship mov'd for his *Habeas Corpus*, and was brought by the Lord *Lucas*, the present Governor of the Tower, to *Westminster*, on the 10th. So that appearing at the *King's-Bench*, his Commitments were read, and Mr. Attorney having nothing to object against his being bail'd, the Court awarded it upon the Security of Thirty thousand Pounds; that is to say, a Recognizance of Ten thousand for himself, and Five thousand a-piece from his four Sureties, which were, *John* Earl of *Bath*, *Thomas* Earl of *Ailesbury*, *Thomas* Earl of *Suffex*, *Charles* Lord *Lansdown*.



CXLVI. Proceedings against JOHN PRICE, Esq; late Receiver of Ireland, and One hundred other Protestants, at the Assizes at Wicklow in Ireland, for High Treason, against King James, March 6, 1688-9, I W. & M.

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

low not being able to contain them, several of them were admitted to Bail, until the following Assizes, which began March the fifth last past, and ended the eighth.

The Prisoners Names that were Indicted for this Treason, are as followeth; viz.

- 1 John Price, Esq;
- 2 Thomas King, Gent.
- 3 Richard Westland, Gent.
- 4 William Heatly, Gent.
- 5 James Lewis, Gent.
- 6 Edward Lewis, Gent.
- 7 John Burroughs, Gent.
James Bacon, Gent.
- 8 Thomas Burroughs, Gent.
- 9 Thomas Felberston, Gent.
- 10 Joseph Chrichley, Gent.
- 11 John Chrichley, Gent.
- 12 George Chrichley, Gent.
- 13 Thomas Williams.
- 14 James Williams.
- 15 J. Clark.
- 16 Caleb Chad.
- 17 Tho. Bathe.
- 18 Joseph Thompson.
- 19 Thomas Halson.
- 20 Henry Gibson.
- 21 John Cock.
- 22 Thomas Peterson.
- 23 John Ward.
- 24 William Turner.
- 25 Thomas Evans.
- 26 George Atkinson.
- 27 William Evans.
- 28 Robert Milton.
- 29 William Neale.
- 30 William Hill.
- 31 George Dizey.
- 32 Stephen Robinson.
- 33 Charles Evans.
- 34 Stephen Ratbborn, Jun.
- 35 Edward Philips.
- 36 John Colson.
- 37 William Wotton.
- 38 Henry Delauny,
- 39 Thomas Cross.
- 40 John Kempson.
- 41 Thomas Watts.
- 42 Edward Acton.
- 43 Robert Anthony.
- 44 Alexander Hill.
- 45 James Hill.
- 46 John Hill.
- 47 William Sevell.
- 48 Edward Jones.
- 49 Peter Bland.

- 50 *John Tomlinson.*
 51 *Daniel Boyce.*
 52 *John Jones.*
 53 *Thomas Howard.*
 54 *Charles Fryers.*
 55 *Andrew Wills.*
 56 *Michael Wills.*
 57 *Samuel Allen.*
 58 *Tristram Timesley.*
 59 *Robert Ashton.*
 60 *Henry Tuton.*
 61 *Ralph Kidd.*
 62 *William Fulham.*
 63 *William Erwin.*
 64 *Agabus Kidd.*
 65 *Thomas Page.*
 66 *Thomas Allen.*
 67 *Rice Bibbin.*
 68 *Nicholas Scot.*
 69 *Arnold Sutton.*
 70 *Alexander Rathborne.*
 71 *William Holson.*
 72 *Isaac Collison.*
 73 *Jacob Collison.*
 74 *William Edwards.*
 75 *Peter Barton.*
 76 *John James.*
 77 *John Jordan.*
 78 *Randle Burroughs.*
 79 *Richard Price.*
 80 *Agabus Bardin.*
 81 *Henry Moody.*
 82 *John Burroughs.*
 83 *Edward Hughs.*
 84 *Edward Jenson.*
 85 *James Uton.*
 86 *William Ryder.*
 87 *Luke Young.*
 88 *William Shorter.*
 89 *John Goodwin.*
 90 *James Tench.*
 91 *Thomas Manning.*
 92 *Edward Bowers.*
 93 *Thomas Adams.*
 94 *Robert Dunbar.*
 95 *Thomas Colston.*
 96 *John Bromwell.*
 97 *Samuel Price.*
 98 *James Tipping.*
 99 *Edward Graham.*
 100 *Christopher Cooper.*
 101 *William Philips.*

Grand-Jurors Names. Papists mark'd †.

- † *Christopher Wickham.*
 † *William Hoy.*
Cromwell Wingfield.
 † *William Wolverston.*
 † *Redmond Birne.*
 † *Thomas Birne.*
 † *William Birne.*
 † *Peirce Cromwell.*
 † *Toby Walsh.*
 † *Toby Tooll.*
Edward Burly.
Leonard Frost.
Peter Ayris.
William Baker.
 † *Lawrence Tooll.*
Richard Lamb.
 † *Daniel Birne.*

After they were sworn, as usual, they received the following Charge.

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

GENTLEMEN,
 YOU that are here returned to serve on this Grand-Jury, you have this Day before your Eyes the greatest Example, and the firmest Proof that a Gracious Prince can give to the best of Subjects. You see his sacred Majesty King *James the Second* (whom God long preserve for the Protection of all his good and dutiful Subjects, and for the Subversion and Irradicating of all those who desire the Subversion of his Government, either by Foreign Force or inbred Conspiracy) notwithstanding the great Troubles on his own Person, yet he is not wanting in his Care towards you; and I dare boldly say, it is the last thing he will relinquish in the World, after that of his own Conscience, the Care of his Subjects. He hath sent us with his Commission to enquire into all the Maladies, Diseases, and Sores within your County. He has likewise given us Command to apply the healing Balsam of the Laws, which will preserve the Subject most entirely in his Property. And I am sorry I must tell you, that there was never more need than now at this Time. I am glad at the same Time that I can say, that the Mischiefs fallen on a great part of this Kingdom, and on no part more than on this County, that is under the very Eye of the Government. I say, I am glad it can be said to have arisen, for the most part, from a Rabble of People, who have arm'd themselves without any Direction from the Government, and that with unusual Weapons: I mean Half-pikes and Skeans. Gentlemen, I must tell you plainly, it looks rather like a Design to massacre and murder, than any thing else. They do not belong to the Army, neither are they any part of them; but these are the Vultures, Kites, and Ravens that follow Armies. Soldiers that have travelled Abroad say, Such are not known among them there. I am told, and very well assured, that in Foreign Parts, where these Vultures and Birds of Prey are, it is hard for an Army to lie conceal'd, without being discovered by them; for it is Odds, but that a Horse or a Man drops where such Multitudes of People are. I am very far from laying this to the Charge of any that are under Command; though it is possible that some of them, under the Scarcity they are in, do give their Assistance, or at least Encouragement to these Robbers; otherwise it could not be, that whole Flocks and Drovers of Cattle are daily driven away, and yet no one taken or brought to Justice for it. The King is not wanting in his Care; he has given Directions to have the Laws put in Execution, that Criminals may be brought in and punished; and the Government has issued out many Proclamations, but they are grown too familiar with them. You are to enquire into this Matter, in order to bring to Punishment, not only them that steal, but those that receive. I am told that open Markets are set up in this County of *Wicklow*: A fat Bullock for Five Shillings, and a fat Sheep for One Shilling; but it will fall heavy on them at last. Divines say, that God Almighty oftentimes makes the very Crime to become their own Punishment; and I verily fear, that a few Months will produce

a Famine in this Kingdom; and what succeeds a Pestilence, and the worst of all Pestilences; for it is observed, that a starved Rot is the worst of all Rots; it falls out unhappily at this Season of the Year, when the Cattle are breeding. Under the old Law the *Jews* were not to seeth the Kid in the Mother's Milk; but these unmerciful Wretches go further than that, sparing none, but destroying old and young, the Increase and all. Pray, Gentlemen, consider of it, and search the Houses of such as you have Reason to suspect, that had not any thing to eat the last Year; go now into their Houses, and you will find whole Carcasses of Beef powdered up: Nay, it may be for Want of Salt, or Money to buy it, lying rotting and stinking. Let me tell you, it will be your Turn next, when they have robbed and spoiled your Protestant Neighbours, they will come to you, unless you take speedy Care to prevent it. The King has done what he can, and the Government what they can; in vain is the Law made, if Offenders be not brought to condign Punishment. You all know there has been an Invasion in *England* of a foreign Enemy, the Prince of *Orange*; and the same is designed on this Kingdom: The Effects of an Invasion is not known. Defence is natural to all Kingdoms and States, and therefore the Government has given Directions for raising a greater Army than at any Time heretofore this Kingdom ever had. It was so among the *Romans* of old, who in Cases of Necessity did Things clear contrary to the Fundamentals of their Laws. The same Necessity has put the King on arming here (in *France* they have their Ban, and with us our Commission of Array, from sixteen to sixty) but without any Design that the Effects should be to arm the Country with Half-pikes and Skeans. They are fit indeed for the Mountains, or to guard a Man's House, but not to go abroad with at Noon-day. Gentlemen, you that are Justices of the Peace, and Officers of the Army, wherever you meet, you ought to secure them, and bind them over, and know by what Authority they dare go abroad with such Weapons. I need not say any thing to you in Defence of the King, for it is really and truly your own Defence; and therefore I shall proceed into the Heads which are prepared for your Enquiry at this Time. Our Business here is like to be very great, and our Time short, and therefore I shall not trouble you with small Things; we have greater Matters than Assaults and Batteries. We have Desolations and Ruins to shew you, and set before you, and without your Care, we are like to fall into the Gulph of Misery and Destruction. The first Thing we have to speak of, is High Treason; we have no Petty Treason in *Ireland*. If any shall go about to conspire the Death of the King, Queen, or the Heir apparent, the Prince of *Wales*, this is High Treason at all Times; it was so at Common Law: You must look to this betimes, for if a Blow be once struck here, there can be no retrieving of it. If any one should go about to seize the King's Person, or imprison him, this, Gentlemen, is Treason; there is but few Steps between the Prisons and Graves of Kings; and by all the Observation that I can make out of the *English*, or *Scots*, or *Irish* Histories, where we have had Swarms of murdered Kings, that if once they went into Prison, they seldom ever esca-

ped with Life. Our King has more Reason than any to dread this: His Father, who now is a glorious Martyr in Heaven, lost his Life; and the King himself, ever since his Escape with Colonel *Bamfield* from *St. James's*, has had so many miraculous Deliverances both by Sea and Land, that we may conclude he is preserved for some mighty Matter, or else Providence had not done such great Things for him; and 'tis but of late that he himself is escaped out of Prison. I am told by Authority, and am ordered to tell you, that he is expected in this Kingdom very suddenly, as a Place of Refuge. He is the first King, I think, since *Henry* the Second, except *Richard*, that has been in this Kingdom. It is a great Misfortune that he should be forced to it, but we may look upon it as a great Blessing, that he should think himself safe here, when he cannot be so elsewhere.

To seize any of the King's Forts or Ships of War (for these are the Bulwarks to defend him against his Enemies) this, Gentlemen, is Treason.

To hold Correspondence with any of the King's Enemies, or with Rebels in actual Rebellion, or to join with them, this is Treason. You are not to enquire into the Punishment, but to open a Door for the petty Jury to enquire into the Matter of Fact, and what the Law is, shall by the Blessing of God be our Business.

To counterfeit the King's Coin, or clip it (and you have very little of it at this Time, therefore you had need be careful in a more especial Manner) this likewise is Treason.

It is likewise Treason to counterfeit the Great Seal of the King; for 'tis the common Security, by which many hold their Estates, and some their Lives.

The killing of the Chancellor, or any of the Judges or Justices of *Oyer* and *Terminer*, in the doing of their Duty, this likewise is Treason, not so much with Regard to their Persons, as to the Work that they are about, they representing the King's Person. The meanest Constable there, if he has his Staff in his Hand, and doing his Duty, he that kills him shall die the same Death as he that kills the best Man that wears Scarlet on the Bench. Gentlemen, I must tell you another Crime, and it looks like a Mark of Infamy on this Kingdom. Murder in *England* is but Felony, but it has been thought fit to make it Treason here, and they that go out on burning and robbing Houses, they shall be indicted for Treason: And Clerk of the Crown, if any such be here, now take Notice, I will have them indicted for Treason.

The next Thing for your Enquiry is Felony, that concerning the Life of the Subject. For a Man to kill his Fellow Subject, this is Felony, if he does it on a sudden Passion and Heat: A Man may kill another in his own Defence; for 'tis natural for a Man to kill rather than be killed, and therefore he shall have his Pardon of Course. But, Gentlemen, this is not in Favour of Duels, and only where there is a great Provocation: There is not a Man but has some Passion about him; but for a Man to go to Bed with Malice, and arise the next Morning and go meet his Fellow Subject and kill him, this is Murder and Treason in *Ireland*.

The next Thing that is Felony, is concerning the Goods of the Subject; for an honest labouring Man, that by the Industry of his whole Life has gotten a fair Stock for the Maintenance of him-

self, his Wife and Children, at Night goes to Bed, and next Morning when he arises, he is a Beggar, and wants Bread. Gentlemen, it would make every honest Man's Heart bleed to hear what I have heard since I came into this Country. It is ill in other Parts of the Country, but here they spare not even the wearing Cloaths and Habit of Women and Children, that they are forced to come abroad naked, without any thing to cover their Nakedness: So that besides the Oath you have taken, and the Obligation of Christianity that lies upon you as you are Christians, I conjure you by all that is sacred, and as ever you expect eternal Salvation, that you make diligent Enquiry. Let it never be said by any of you, that it was your Neighbour, or your Neighbour's Servant did it, and you are sorry for it, but will not trouble your selves: I tell you it is every Man's Business, and I beseech you look into it.

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

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

[*The Prisoners brought into Court.*]

Clerk of the Crown. Set *John Price* to the Bar, *Tho. King* to the Bar, *W. Lewis*, *James Beaton*, *William Heatly*, *Tho. Burroughs* to the Bar, &c.

Hold up your Right Hands.

Clerk. *John Price*, *Tho. King*, &c. You stand here indicted, for that you on the 25th Day of *February*, in the fifth Year of the Reign of our Sovereign Lord King *James* the Second, at *Ballindery* in the County of *Wicklow*, with divers other wicked Traitors and Rebels, in a warlike Man-

ner then and there did assemble your selves, and a cruel and open War and Rebellion against our Sovereign Lord the King, and his faithful Subjects of this his Majesty's Kingdom of *Ireland*, did raise and levy, and did intend our Sovereign Lord the King to Death and Destruction, to bring, and to depose him from his Kingly Authority and Government of this his Kingdom of *Ireland*: And to fulfil and accomplish these your said traitorous Intentions and Designs, you the said Persons, with others the said wicked Traitors and Rebels, the Day, Year, and Place aforesaid, did arm your selves with divers warlike Weapons, as well offensive as defensive; and did move and excite divers others the Subjects of our Sovereign Lord the King, to join themselves wickedly and traitorously, against the Peace of our Sovereign Lord the King, and the Duty of your Allegiance, and the Statute in that Case made and provided, &c.

Clerk. How sayest thou *John Price*, art thou guilty of the Treason that thou standest here indicted, &c. or not guilty?

Mr. Price. Not Guilty.

Clerk. *Culprit*, How wilt thou be tried?

Prisoner. By God and the Country:

Clerk. God send you a good Deliverance.

Note, *The Prisoners were brought into Court in several Parties, to be arraigned, as many as the Dock would hold at one Time.*

[*The second Time the Dock was filled.*]

Clerk Cr. Set *William Fulham* to the Bar, &c.

[*Thady Brine, the High-Sheriff, stood up and said, My Lord, Fulham was cleared.*]

Bar. Lynch. Pray, Sir, who cleared him?

High-Sheriff. The chief commissioned Officer that was here; *Colonel Sheldon* did acquit him.

Bar. Lynch. He acquit him! how could that be? If there be nothing against him, we shall acquit him.

J. Keating. *Clerk of the Crown*, is he indicted?

Clerk. Yes, my Lord, a Bill of Indictment is found against him.

Pendergrass, the Sub-Sheriff. My Lord, I will tell you, Mr. Sheriff is mistaken; there was some Boys discharged, and he thinks *Fulham* is one of those Boys.

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

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

Prisoner Lewis. My Lord, we are so crowded with a File of Musqueteers and a Serjeant, that they take up our Chairs, that we cannot sit down; and they come with their lighted Matches to our very Noses; and last Night a Piece went off in the Room among us: We have not the Conveniency of quiet Repose, nor our Friends the Liberty of seeing us. My Lord, we were not born Lawyers, therefore desire we may have our Friends come to us, and Council to advise with.

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

J. Keating. Mr. *Lewis*, you have been bred to the Law; but you shall have Council allowed you; and you, Mr. Sheriff, you are not to keep them with Fire-Arms, nor with your Soldiers. I saw a Centry at this Door Yesterday, and forbad it—I remember that when *Warren*, *Jephson*, and *Thompson*

Thompson were tried in 1663, for a Design to surprize *Dublin Castle*, because this was a great Matter, forsooth, they must be guarded with Soldiers ——— (They were tried at the King's Bench; and several Persons desirous to see or hear, being gotten up into the Arch in the Wall next the Court of Common Pleas) as they were going up Stairs, a Piece went off, and shot a Man through the Head. I tell you Mr. Sheriff, that brown Bill is your Guard [pointing at one in Court] the Law knows nothing of Fire Arms; [speaking to the Prisoners] Gentlemen, I must tell you plainly, that I received Directions from my Lord Deputy, by the Attorney General, that you should have all the Justice imaginable.

Bar. Lynch. Mr. Sheriff, you must command those Soldiers to be civil, they are your Guards when you employ them.

Seventy Prisoners were arraigned and returned back to Prison; 31 more that were indicted, and upon Bail, did not appear.

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

† *Thomas Cowdell.*
 † *Philip Cradock.*
 † *John Pew.*
 † *Alexander Higden.*
 † *Christopher Talbot.*
 † *Garret Birne.*
 † *Dudley Keogh.*
 † *John Keogh.*
 † *David Toole.*
 † *James White.*
 † *Darby Toole.*
 † *Gerrard Harold.*
 † *Daniel Birne.*
 † *Patrick Mac Donnell.*
 † *Patrick O Donnelly.*
 † *Christopher Birne.*
 † *Daniel Porvel.*
 † *Richard Jonston.*
 † *Theophilus Higgens.*
 † *Nicholas Wall.*
 † *Charles Toole.*
 † *Anthony Archer.*
 † *Charles Birne.*
 † *Cornelius Kenan.*
 † *Tho. Elliot.*
 † *Richard Baker.*
 † *Thady Birne.*
 † *Francis Tute.*
 † *James Moore.*
 † *Hugh Birne.*
 † *Bryan O-Neal.*
 † *Dennis Cullen.*

Jailor, fet the Prisoners to the Bar.

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

Clerk Cr. *Thomas Cowdell*, to the Book.

Prisoner Lewis. I challenge him.

Clerk. What is your Cause of Challenge?

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

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otherwise we must be forced to try them severally.

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

[*Coll. Toole on the Bench, speaking to the L. Chief Justice Keating.*]

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

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

Prisoner Lewis continued to challenge, until they had gone through the Pannel, and only two Gentlemen that were Protestants, Mr. Cradock and Mr. Pew, were sworn.

Clerk Cr. Mr. Sheriff, a new Pannel — The Sheriff gave in another of eleven in Number, which were all likewise challenged by Mr. *Lewis*. — Whilst both the High and Sub-Sheriff were looking about the Court, for to make up a third Pannel, says

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

Sheriff. Six or Seven, my Lord.

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

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

Counc. Fitz-Patrick. In Cases of Necessity, my Lord —

J. Keating. You know the Law is so.

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

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

Fitz-Patrick. Was ever a Judge hanged?

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

J. Keating. Mr. *Fitz-Patrick*, I will not be hanged with Justice *Belknap*, nor *Tressilian* neither.

Counc. Handcock. My Lord, they were hanged at *Tyburn*.

J. Keating. I think they were. — The greatest Part of this County is in the Hands of two or three Men, my Lord *Strafford* and *Rofs*.

J. Keating. Who is here that is concerned for my Lord *Strafford* and my Lord *Rofs*?

Court. Here is Dr. *Hall* on the Bench for the Lord *Strafford*, and the Sheriff is concerned for my Lord *Rofs*.

J. Keating. Dr. *Hall*, and you Mr. Sheriff, let me tell you, I do not know but that their Lordships have forfeited their Estates for this Day's Work. In the Act for Plantation, there was Provision made for Freeholds, and there were enough before the Wars. I fear these great Lords have swallowed up the Freeholds their Ancestors made. I only tell you this.

The Sheriff by this Time had drawn up a third Pannel, being eight in Number.

J. Keating. Mr. Sheriff, have you all your Freeholders here?

Sheriff. My Lord, we summoned all here.

J. Keating. On the first Pannel you might have returned forty, because you do not know how far peremptory Challenges will run; and you are obliged after to return a fewer Number when you

enlarge your Pannel; but you can never enlarge it farther than it was at first.

Clerk Cr. Birne, to the Book.

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

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

Birne. My Lord I have a Lease of Lives.

Pris. Westland. I Challenge him peremptorily.

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

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

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

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

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

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

[*Mr. Hancock Council for the Prisoners.*]

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

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

[*Sub-Sheriff calls* William Baker.]

Answ. My Lord, he has a Freehold.

Baker. My Lord, I have no Freehold.

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

[*High-Sheriff calls* Peter Ayris.]

Answ. He is on the Grand-Jury.

J. Keating. Mr. Sheriff, why do you call such?

Sheriff. I saw him in Court, and so I called him, my Lord.

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

Clerk Cr. Sheriff, see if you can get any more.

Sheriff. I see never a Freeholder in the Court.

Counc. Fitz-Patrick. My Lord, the Sheriff ought to be punished for his Neglect.

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

High Sheriff. My Lord, I have returned all the Freeholders there is in the County (I sent Yesterday above twenty Miles for one Gentleman here) they are all gone out of the Country. — I hope you do not expect I should go to the North, or *Isle of Man*, or *England*, or *Scotland*, among the Rebels, to summon them?

J. Keating. I do really believe you, Mr. Sheriff, you have done like an honest Man — Mr. *Fitz-Patrick*, what do you say in this Case?

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

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

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

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

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

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

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

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

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

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

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

C. There is a Case in *Hobart*, &c.

J. Keating. I would undeceive you in that Particular: As in the Case of *Austen* and Colonel *Garret Moor*. If in the County of *Galloway* it was *Austen's*; if in the King's County, it was Colonel *Moor's*. So that you see, in disputable Cases, the Law has Regard that it be tried by Juries in proper Counties: And truly I think it one of the most reasonable Laws in the World, that a Man shall be tried by his County, by the Neighbourhood; and it has given Ground to a good *English* Proverb, *He that has an ill Name, is half hanged*. A Man's Repute among his Neighbours goes a great Way in this Matter: When his Neighbours shall say they never knew ill by him. And this Man to be carried out of the County of *Wicklow*, to be tried at *Wexford*, you may by the same Rule bring a Jury from *Tyrone*, or the farthest Part of *Connaught*. There is nothing like what you say in the Law.

Hammond.

Hamond. I do not say that ever I met with such a Thing in the Law.

Bar. Lynch. And do you think that we will make the Precedent?

Hamond. That two or three Persons should have almost the whole County.

J. Keating. Before God, I believe they think they have little enough, whatever you may think of their having too much.

Bar. Lynch. What you say, Mr. *Hamond*, if there be any thing in it, we shall advise with all the Judges. The Judges declaring their Opinion, that the Prisoners after being arraigned, could not be admitted to Bail.

Coun. Suxborough to Bar. Lynch. My Lord, you took Bail for Captain *Ruth* at *Kilkenny*, after his Arraignment.

Bar. Lynch. What, Sir, do you reflect on me? There was no Evidence appeared, and my Brother bailed him as well as I.

Coun. Suxborough. I say he was bailed.

Mr. Hancock. My Lord, Mr. *Cooper* at *Galloway* was bailed by your Lordship likewise.

Lord Chief Justice *Keating* sent privately to *Dublin* to the Deputy, acquainting him, that if they were left in Prison until the next Assizes, they would certainly perish, they having lost all they had, and the County was not able to maintain them; upon which he received Orders to bail all but seven of the Principal; viz.

<i>John Price,</i> Esq.	<i>James Bacon,</i>
<i>Thomas King,</i>	<i>Joseph Cricbley,</i>
<i>Richard Westland,</i>	<i>George Cricbley.</i>
<i>William Lewis,</i>	

Who are kept close Prisoners, in order to their Trial the next Assizes, which will be in this Month of *July*. Upon the taking these Gentlemen Prisoners, the Soldiers and Rabble plundered and spoiled all the *English* Families in *Balinderry*, *Redrum*, *Balina-Class*, &c. and the *Irish* Women with their Skeans came afterwards and stripp'd the Women and Children naked, leaving them in a most miserable and deplorable Condition, having not left them either Bread, or any Food in several Towns, but carried all away with them. And as an *Irishman*, a Tanner, declared to several at the Assizes, in the Hearing of this Relator, that one Captain *Tool* had for his Share twenty-six Horse-Loads, or more, of Plunder; and the Lord of *Lowth's* Troop of Dragoons that were quarter'd in *Wicklow* Town, had great Quantities of Woollen and Linnen Cloth, Womens Cloaths, Pewter, and other Goods in Abundance. But the Lord Chief Justice *Keating* coming there to the Assizes, and having an Account of the extream Poverty and Misery the Protestants thereabouts were reduced to, did encourage their Petitioning, and where they could find their Cloaths, &c. he endeavoured to help them in the Recovery of them. And Mr. *Richard Lamb* having ten fat Bullocks taken away by Col. *Tool's* Men, and brought to *Wicklow*, and there killed and eaten by the Soldiers, he preferred a Petition to the Court, Colonel *Tool* being present on the Bench.

J. Keating. Colonel *Tool*, you heard the Petition read; do you know any thing of these Oxen Mr. *Lamb* had taken from him by your Soldiers?

C. Tool. My Lord, I will tell you how it was: Mr. *Lamb* had sold the Bullocks to Mr. *Price*, and as they were driving them to *Balinderry*, the Soldiers met them and took them away.

J. Keating. But Mr. *Lamb* was at home at his own House, and not at *Balinderry*; the Bullocks were to be paid for upon Mr. *Lamb's* delivering them to Mr. *Price* at *Balinderry*; your Soldiers took them away from his Servant several Miles from *Balinderry*: I see no Reason why Mr. *Lamb* should not be paid for them.

C. Tool. My Lord, Colonel *Sheldon* came down soon after with the King's Army, and I advised with him, and he ordered they should be killed for the Army, which was done accordingly.

J. Keating. Pray Colonel *Tool*, however, Mr. *Lamb* ought to be paid for them; he was not concerned with *Balinderry*, but kept his own House.

Coun. Fitz-patrick. My Lord, his House was a Garrison too.

Mr. Hancock. For Shame, Mr. *Fitz-patrick*, a Thatch'd Cabin a Garrison! I find you are for making all Protestants Rebels that live peaceably at home in their own Houses.

C. Tool. My Lord, I have no more to say to the Matter.

Clerk of the Crown. Calling over the Gentlemen of the County, called one — *Savil*, Gent.

Mr. Savil. Here I am, my Lord, God knows, a poor Gentleman, being robb'd of all, and not a Penny left me to buy a Pint of Drink.

J. Keating. Pray, Sir, when were you robb'd?

Mr. Savil. The last *Wednesday* they came and took away what little they had left untaken before, my Wife and Childrens Cloaths, robbing me of all.

J. Keating. Pray, Sir, what Value may your Loss be?

Mr. Savil. Truly, my Lord, I have not yet computed my Loss, but they have taken away all; I desire your Lordship will discharge me from attending the Court, for I have not wherewithal to subsist while I am here.

J. Keating. Sir, I am sorry for you, I discharge you.

J. Keating. Colonel *Tool*, let the Officers be sent for into Court, to hear this Proclamation read, that is sent down here by the Government.

C. Tool. My Lord, they are here most of them. Here is Captain *Archbold*, Captain *Tool*, &c.

Clerk of the Crown read the Proclamation, the Substance whereof was, That they should restore the Protestants such of their Horses again, as were not fit for the King's Service, &c.

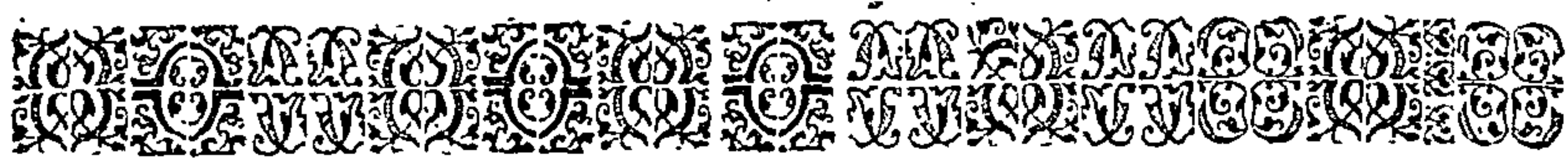
J. Keating. calls for it from the Clerk, and giving it into Colonel *Tool's* Hand, who stood next him on the Bench; Sir, Pray take this Proclamation, and I hope you will take Care that Obedience be given to it.

C. Tool. My Lord, we have received other Orders; Colonel *Sheldon*, who is our chief Commander, has given Directions to have them kept for Draught for Carriages.

J. Keating. Nay, Sir, if Colonel *Sheldon* must be obeyed before the Government, I have no more to say, I have done.

C. Tool. My Lord, I shall obey it.

J. Keating. Pray then, Colonel *Tool*, let the Horses be sent for while that I am here, that what Horses are not musterable may be return'd: I cannot in my Conscience go about to fine Men for not appearing at the Assizes, when they have not a Horse left them to ride on.



CXLVII. *The Trial of MAURICE CAVENAUGH, EDMUND POOR, and WILLIAM BOWLAND, in Ireland, for Felony, in stealing Cows, March 7. 1688-9. 1 W. & M.*



EVERAL were arraigned for stealing considerable Numbers of Cows, Sheep, &c. but the Evidence against most of them durst not appear to prosecute.

Leahlin Birne indicted for stealing nine Head of Black Cattle from one *Cobwell*; no Person appearing to prosecute, says

Justice Keating [to the Jury]. Gentlemen, you have nothing against this Man; he was born in the State of Innocency; but the Truth is, the Parties dare not appear against him.

[Witnesses came in against three Fellows; viz.

Maurice Cavenagh, Edmund Poor, William Bowland.]

[Clerk of the Crown calling them to come and prosecute, and they appearing.]

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

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

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

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

Two Protestant Evidences against Maurice Cavenagh, for stealing several Head of Black Cattle, bearing Judge Keating speak against Skeans, said.

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

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

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

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

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

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

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

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

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

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

Cavenagh. The Priest of the Parish.

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

Bar. Lynch. What Priest, Sir? What Priest? What is your Priest's Name?

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

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

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

Clancy, an Irish Gentleman. My Lord, he belies the Priest; he is a Rogue.

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

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

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

[The Jury withdrawing, and returning soon again, brought Poor and Bowland in guilty, Cavenagh not guilty.]

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

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

J. Keating. Sir, I expect as true a Return from you, as if I were there myself. The Times are so, that Men must forget Bowels of Mercy. Ordinary, do your Duty: What Place do you shew them?

Ordinary. My Lord, I shew them the fiftieth Psalm.

J. Keating. Let them read the fifth Verse.— This is an Act of Mercy, and I know not why it should not be in *Irish* rather, the Country Language.

guage. It was formerly in *Latin*, because the *Romish* Church hath their Worship in *Latin*.

[*The Ordinary return'd them both, Non legit.*]

J. Keating. You *William Bowland*, and you *Edmund Poor*, you have been arraigned for stealing of Cows, two several Thefts: It is a great Misfortune and Sin to be guilty of such Crimes at any Time; but yours is so much the worse, because it falls in a Time when there are such general and vast Depredations in the Country, that many honest Men go to Bed possess'd of considerable Stocks of black and white Cattle, gotten by great Labour and Pains, the Industry of their whole Lives, and in the Morning when they arise, not any thing left them, but turn'd out of all, to go a begging, all being taken away by Rebels, by Thieves and Robbers, the Sons of Violence, that make every thing they lay their Hands on their own. On this side the *Cape of Good Hope*, where are the most brutish and barbarous People we read of, there is none like the People of this Country; nor so great a Desolation as in this Kingdom, at this Day, any where to be found, and particularly in this County. It is come to that pass, that a Man that loses the better Part of his Substance, chooses rather to let that, and what he has besides go, than come to give Evidence: And why? Because he is certain to have his House burnt, and his Throat cut, if he appears against them. Good God! what a Pass are we come to! For what has any Man, if the stronger Hand can take it from him? It is better to live under no Law, than in such a Place. We have lived to see twenty-nine Years of Peace pass over our Heads, and I have sat on this Bench before now: I pray God, that my Lenity, and others, has not given Encouragement to these Thieves and Robbers. There may be a Rogue in the Court, or one that is evilly inclined (I know none) but take Notice of this, the Government is at length tir'd with Mercy; they see it does no good, and Examples and Punishments of this Kind are not intended so much in a great Part for the Punishment of the Offender, as for discouraging of others, to make them take Warning by their Example, that, seeing what evil Courses bring Men to, they may reform.

I will not take up Time to tell you how the Benefit of Clergy came; whether in the room of the Cities of Refuge that were in the old Times: I know that Restitution was under the *Jewish* Law sufficient Satisfaction; and if the Thief could not make Restitution, he was to be sold for a Slave, and the Money given to the Party. But as the World grows old it grows worse, and those Lenitives signify nothing for preventing Thieving and Robbery; for Thieves and Robbers are like a Gangreen in the Commonwealth; they are worse than Drones in the Hive. I cannot tell my self, that under the Circumstances we are in, I should advise to pardon any that are taken in this general Depredation that we are under; and therefore you *Bowland* and *Poor*, that might have lived as safely under the Laws as the biggest Man in the Kingdom, and none of your Fellow Subjects durst lay his Hand upon you, but he was liable to answer for it: And thus you might have lived to a fair old Age, and ended your Days in Peace; but you have chosen the quite contrary, for the Law provides likewise for the Punishment of wicked and offending Persons, among which Number you are found by a Jury of twelve able Men of your Country; and therefore the Sentence of the Law is

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

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

J. Keating. They did not cry thus when the Cows were brought Home to them, they were bu-
fied then in the killing and the powdring them up.

The Copy of a Protection or Pass, given by an *Irish* Officer to some notorious Robbers of the County of *Wicklow*.

I James Byrne, *Ensign* to Captain Charles Byrne, do hereby certify to you, *Terlagh Kelly*, *Patrick Byrne*, and *Patrick Mac-Teige*, and *William Doyle*, to save you harmless from any Misdemeanors whatsoever. As witness my Hand this 24th of April, 1689. JAMES BYRNE.

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

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

A F T E R Our hearty Commendations, We Greet you well. As his Majesty was graciously pleased to entrust us with the Government of this his Kingdom, so upon the invading of England, and upon receiving certain Information, that the Prince of Orange doth intend also to invade this Realm, We have, for the Defence thereof, raised a considerable Army, far above what could be maintained by the King's Revenue at the best of Times, and when the Trade of this Country was in the most flourishing Condition. This we have done by the King's Command, to support his Regal Authority, Crown and Dignity, and to preserve the Lives, Liberties and Properties of all his Lige People within this Kingdom. And since our Dangers are at Hand, and that we may daily expect the Landing of an Enemy, who intends the Subversion of his Majesty's Government, and the total Destruction of all his good Subjects, here we find our selves under an absolute Necessity to keep the King's Army still on foot, in order to our Preservation from the approaching Dangers. And tho' we have hitherto with all the Care and Industry imaginable, and by the generous Concurrence of the Officers, supported the new raised Forces, without being a Burthen to any of his Majesty's People: Yet considering the Decay of Trade, the great Fall of the Revenue in these distracted Times, the great Charges the Officers have been at in subsisting Men, it cannot be expected that the standing Forces can hereafter be maintained without Supplies; and since the same cannot be done by Parliament, We cannot think of a more effectual Expedient, than by voluntary Subscriptions, by way of Loan, from the People; which, if generously done, with what may be made of the Revenue, may support the Army, and will stop all the Disorders that may
be

be committed by the Soldiers; which we shall always endeavour to prevent with all the Care and Industry possible. By this, Husbandry may go on as formerly, and we shall be in a Capacity to form the Army so as that, with the Assistance of Almighty God, we do not doubt to put this Kingdom in a perfect Posture of Defence. We do therefore pray your Lordships to recommend this weighty Matter effectually at the open Assizes in every County when you sit, to all the Inhabitants of such Counties, and to appoint the respective Sheriffs of such Counties to procure voluntary Subscriptions, by way of Loan, from the Inhabitants of such Counties, of some certain Sum of Money from each, to be subscribed to their Names, to be afterwards satisfied by them respectively, in Money, Wheat, Oats or Oatmeal, towards the Maintenance of the Army, to be paid in, or delivered to the respective Sheriffs, or their Order, and in such Places as the said Sheriffs shall respectively appoint, from whom we expect an Account of their Proceedings herein, and a Copy of such Subscriptions as shall be made. We do not doubt but every true and loyal Subject will, according to his Ability, and the Excellency of the subject Matter, generously and cheerfully contribute towards the carrying on of so great, so necessary, and so glorious a Work.

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

From his Majesty's Castle of
Dublin, March 2, 1638. Your very loving Friend,

TYRCONNEL.

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



CXLVIII. *The Trials of Sir RICHARD GRAHME, Baronet, Viscount Preston in the Kingdom of Scotland, and JOHN ASHTON, at the Old-Bailey, for High Treason, Jan. 17. 1690. 2 W. & M.*

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



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

Clerk of Arraignments. " SIR *Richard Grabme*, hold up your Hand, [which he did, and so the other two.] You stand indicted by the Names of Sir *Richard Grabme*, late of the Parish of *St. Anne* within the Liberty of *Westminster*, in the County of *Middlesex*, Baronet; *John Ashton*, late of the Parish of *St. Paul Covent Garden*, in the County aforesaid, Gentleman, and *Edmund Elliot*, late of the Parish of *St. James* within the Liberty aforesaid, in the County aforesaid, Gent. for that you, as false Traitors against the most Illustrious and most

" Excellent Princes *William* and *Mary*, King and Queen of *England*, Defenders of the Faith, &c.
" your Sovereign Lord and Lady, not having the Fear of God in your Hearts, nor weighing the Duty of your Allegiance, but being moved and seduced by the Instigation of the Devil, the cordial Love, and true, due, and natural Obedience which every true and faithful Subject of our said Sovereign Lord and Lady the King and Queen that now are, towards them our said Sovereign Lord and Lady the King and Queen should, and of Right ought to bear, wholly withdrawing, and contriving, practising, and with all your Strength intending the Peace and common Tranquillity of this Kingdom of *England* to disquiet, molest, and disturb, and War and Rebellion against our said Sovereign Lord and Lady, the King and Queen that now are, within this Kingdom of *England* to stir up, move, and procure; and the Government of our said Lord and Lady, the King and Queen of this Kingdom of *England*, to subvert, change and alter; and our said Lord and Lady, the King and Queen, from the Title, Honour, and Royal Name of the Imperial Crown of this their Kingdom of *England* to depose and deprive; and our said Lord and Lady, the King and Queen, to Death and final Destruction to bring and put; you the said Sir *Richard Grabme*, *John Ashton*, and *Edmund Elliot*, the nine and twentieth Day of *December*, in the second Year of the Reign of our said Lord and Lady, the King and Queen that now are;
" and

“ and divers other Days and Times, as well before
 “ as after, at the Parish of *St. Clement Danes*, in
 “ the County aforesaid, falsely, maliciously, de-
 “ vilishly, and traiterously, with Force and Arms,
 “ &c. with divers false Rebels and Traitors, to
 “ the Jurors unknown, did conspire, treat of, com-
 “ pass, imagine, and intend our said Lord and La-
 “ dy the King and Queen that now are (your su-
 “ preme and natural Lord and Lady) from the
 “ Royal State, Crown, Title, Power, and Go-
 “ vernment of their Kingdom of *England*, to de-
 “ prive, depose, and cast down; and the same our
 “ Lord and Lady the King and Queen that now
 “ are, to kill, and bring and put to Death; and
 “ the Government of this Kingdom of *England*
 “ to change, alter, and wholly to subvert; and a
 “ miserable Slaughter among the Subjects of our
 “ said Lord and Lady, the King and Queen, with-
 “ in their Kingdom of *England*, to cause and pro-
 “ cure; and an Insurrection, War, and Rebel-
 “ lion, against our said Lord and Lady, the King
 “ and Queen that now are, within this Kingdom
 “ of *England* to move, procure, and aid; and
 “ the same your most evil, wicked, and devilish
 “ Treasons, and traiterous Compassings, Imagina-
 “ tions, and Purposes aforesaid, to fulfil, per-
 “ fect, and bring to Effect, you the said *Sir Richard*
 “ *Grabme*, *John Ashton*, and *Edmund Elliot*, as
 “ false Traitors, then and there, to wit, the said
 “ nine and twentieth Day of *December*, in the said
 “ second Year of the Reign of our said Lord and
 “ Lady, the King and Queen that now are, and
 “ divers other Days and Times, as well before, as
 “ after, at the Parish of *St. Clement Danes* afore-
 “ said, in the County aforesaid, with Force and
 “ Arms, &c. falsely, unlawfully, wickedly, and
 “ traiterously, did propose, consult, and agree
 “ to procure and prepare great Numbers of arm-
 “ ed Men, War and Rebellion against our said
 “ Lord and Lady the King and Queen, within
 “ this Kingdom of *England* to levy and make;
 “ and that you the said *Sir Richard Grabme*, *John*
 “ *Ashton*, and *Edmund Elliot*, afterwards, to wit,
 “ the same nine and twentieth Day of *December*,
 “ in the aforesaid second Year of the Reign of
 “ our said Lord and Lady, the King and Queen
 “ that now are, at the Parish of *St. Clement Danes*
 “ aforesaid, in the County aforesaid, falsely, ma-
 “ liciously, and traiterously, did prepare, and
 “ compose, and then and there did cause, and
 “ procure to be prepared, and composed, several
 “ traiterous Letters, Notes, Memorandums, and
 “ Instructions in Writing, to shew and inform
 “ *Lewis* then, and yet the *French King*, and his
 “ Subjects, then and yet Enemies of our said Lord
 “ and Lady, the King and Queen that now are,
 “ and very many other evil-disposed Persons, and
 “ false Traitors, to the Jurors unknown, of and
 “ concerning the Number, Force, and Condition
 “ of certain Ships, for, and on the Behalf of our
 “ said Lord and Lady, the King and Queen of
 “ *England*, then, and there designed and prepared
 “ for the Defence of their Kingdom of *England*,
 “ and their Enemies aforesaid to repel and resist;
 “ and how some of the same Ships were Manned,
 “ and of the Names of the Captains of several of
 “ the said Ships; and how the Castles and Fortresses
 “ of our said Lord and Lady, the King and Queen,
 “ called *Portsmouth*, *South-Sea*, and *Gosport*, with-
 “ in this Kingdom of *England*, were strengthened
 “ and fortified, and how the same Castles and
 “ Fortresses, into the Hands and Possession of

“ Enemies and false Traitors against our said Lord
 “ and Lady, the King and Queen, might be ta-
 “ ken and seized; as also of the Time, Places;
 “ Ways, Manners, and Means, by which, when,
 “ and where the same Enemies of our said Lord
 “ and Lady, the King and Queen, this Kingdom
 “ of *England* might invade and infest; and the
 “ same Enemies, and the Ships of the Enemies
 “ of this Kingdom of *England*, should fight
 “ against our said Lord and Lady, the King and
 “ Queen, and their faithful Subjects; as also to
 “ procure, provide, prepare, and obtain against
 “ our said Lord and Lady, the King and Queen
 “ that now are, Assistance and armed Men, our
 “ said Lord and Lady, the King and Queen that
 “ now are, from their Royal State and Govern-
 “ ment of this Kingdom of *England* to cast down
 “ and depose, and to stir up, promote, and pro-
 “ cure the aforesaid *Lewis* the *French King* (then,
 “ and yet an Enemy of our said Lord and Lady
 “ the King and Queen) this Kingdom of *England*
 “ to invade; and to send Ships within this King-
 “ dom of *England*, the City of *London*, of our
 “ said Lord and Lady the King and Queen that
 “ now are, to plague; as also to cause very ma-
 “ ny Subjects of our said Lord and Lady, the
 “ King and Queen that now are, to rise, and
 “ War and Rebellion against our said Lord and
 “ Lady the King and Queen, within this King-
 “ dom of *England*, to move, procure, make, and
 “ levy. And you the said *Sir Richard Grabme*,
 “ *John Ashton*, and *Edmund Elliot* afterwards, to
 “ wit, the same Day and Year, at the aforesaid
 “ Parish of *St. Clement Danes* in the County of
 “ *Middlesex*, of and for the same your Treasons
 “ and traiterous Compassings, Imaginations, and
 “ Purposes aforesaid, to execute, fulfil, perfect,
 “ and bring to Effect into your Hands, Custody,
 “ and Possession, then and there secretly, know-
 “ ingly, unlawfully, and traiterously did obtain,
 “ procure, detain, had, concealed, and kept two
 “ several Bills of Exchange then before made,
 “ for the Payment of several Sums of Money to
 “ the Enemies of our said Lord and Lady the
 “ King and Queen that now are; as also very
 “ many traiterous Letters, Notes, Memoran-
 “ dums, and Instructions in Writing, then and
 “ there composed and prepared with an Intent
 “ to shew and inform *Lewis* then and yet the
 “ *French King*, and his Subjects, then and yet
 “ Enemies of our said Lord and Lady the King
 “ and Queen that now are, and very many other
 “ evil-disposed Persons, and false Traitors to
 “ the Jurors unknown, of and concerning the
 “ Number, Force and Condition of the Ships,
 “ for and on Behalf of them our said Lord
 “ and Lady the King and Queen of *England*,
 “ then and there designed, and prepared for the
 “ Defence of their Kingdom of *England*, and to
 “ repel, and resist their Enemies, and how some
 “ of the same Ships were Manned, and of the
 “ Names of the Captains of divers of the same
 “ Ships, and how the Castles and Fortresses of
 “ our said Lord and Lady the King and Queen,
 “ called *Portsmouth*, *South-Sea* and *Gosport*, with-
 “ in this Kingdom of *England*, were strengthened,
 “ and fortified, and how the same Castles and
 “ Forts into the Hands and Possession of Enemies
 “ and false Traitors against our said Lord and
 “ Lady the King and Queen, might be taken
 “ and seized; as also the Times, Places, Ways,
 “ Manners, and Means, by which, when, and
 “ where

“ where the same Enemies of our said Lord and
 “ Lady the King and Queen, this Kingdom of
 “ *England* might invade and infest, and the Ene-
 “ mies, and Ships of the Enemies of this King-
 “ dom of *England*, should fight against the same,
 “ our Lord and Lady, the King and Queen of *Eng-
 “ land*, and their faithful Subjects; as also to
 “ procure, provide, prepare, and obtain against
 “ our said Lord and Lady the King and Queen,
 “ Assistance and armed Men, to invade this King-
 “ dom of *England*, and our said Lord and Lady,
 “ the King and Queen that now are, from their
 “ Royal State and Government of this Kingdom
 “ of *England*, to cast down and depose, and to stir
 “ up, promote, and procure the aforesaid *Lewis*
 “ the *French* King then, and yet an Enemy of our
 “ said Lord and Lady the King and Queen, to
 “ invade this Kingdom of *England*, and to send
 “ Ships within this Kingdom of *England*, the Ci-
 “ ty of *London*, of our said Lord and Lady, the
 “ King and Queen, to plague; as also to cause
 “ very many Subjects of our said Lord and Lady,
 “ the King and Queen, to raise, and War and
 “ Rebellion against our said Lord and Lady, the
 “ King and Queen, within this Kingdom of *Eng-
 “ land*, to move, procure, make, and levy. And
 “ you the said Sir *Richard Grahme*, *John Ashton*,
 “ and *Edmund Elliot*, afterwards, to wit, the
 “ thirtieth Day of *December*, now last past, at
 “ the aforesaid Parish of *St. Clement Danes*, in the
 “ County of *Middlesex*, concerning, and for the
 “ same your Treasons, and traiterous Compassings,
 “ Imaginations, and Purposes aforesaid, to exe-
 “ cute, fulfil, perfect, and bring to Effect, for
 “ one hundred Pounds in Moneys, numbred by
 “ you the said Sir *Richard Grahme*, *John Ashton*,
 “ and *Edmund Elliot*, then and there paid, and
 “ deposited, unlawfully and traiterously did hire
 “ and prepare, and then and there did cause and
 “ procure to be hired and prepared a certain Ship,
 “ and three Men; you, the said Sir *Richard*
 “ *Grahme*, *John Ashton*, and *Edmund Elliot*, with
 “ the said Bills of Exchange, and the aforesaid
 “ traiterous Letters, Notes, Memorandums, and
 “ Instructions in Writing, into the Hands, Cu-
 “ stody and Possession of you the said Sir *Richard*
 “ *Grahme*, *John Ashton*, and *Edmund Elliot*, se-
 “ cretly, unlawfully, and traiterously kept, con-
 “ cealed and detained, from this Kingdom of
 “ *England*, unto, and into *France*, in Parts be-
 “ yond the Seas, then and yet under the Rule
 “ and Government of the said *Lewis* the *French*
 “ King, then and yet an Enemy of our said Lord
 “ and Lady the King and Queen, secretly to car-
 “ ry and transport, with that Intent, the said Bills
 “ of Exchange, traiterous Letters, Notes and Me-
 “ morandums, and Instructions in Writing there
 “ in Parts beyond the Seas, to the Enemies of our
 “ said Lord and Lady the King and Queen, and
 “ other evil-disposed Persons to deliver and dis-
 “ perse. And the said most wicked Treasons, and
 “ traiterous Compassings and Imaginations aforesaid,
 “ to fulfil, perfect, and bring to Effect; as
 “ also to cause, promote and procure the aforesaid
 “ Enemies of our said Lord and Lady the
 “ King and Queen, to invade this Kingdom of
 “ *England* with Ships and armed Men. And you
 “ the said Sir *Richard Grahme*, *John Ashton*, and
 “ *Edmund Elliot*, afterwards, to wit, the thirtieth
 “ Day of *December* now last past, at the aforesaid
 “ Parish of *St. Clement Danes*, in the County aforesaid,
 “ concerning, and for the same your Treas-

“ sons, and traiterous Compassings, Imaginations
 “ and Purposes aforesaid, to execute and fulfil, mali-
 “ ciously, traiterously, and advisedly, then and
 “ there, and diverse other Days and Times, as
 “ well before as after, took upon yourselves to ve-
 “ ry many other Traitors to be aiding and assist-
 “ ing in the Execution of the Treasons, and trait-
 “ terous Compassings, Imaginations and Purposes
 “ aforesaid; and then and there, to wit, the same
 “ thirtieth Day of *December* now last past, at the
 “ Parish of *St. Clement Danes*, in the County
 “ aforesaid, maliciously, secretly and traiterously
 “ did hire, and prepare, and then and there did
 “ cause and procure to be hired and prepared a
 “ certain Boat, and one Man, to the Jurors aforesaid
 “ unknown; you the said Sir *Richard Grahme*,
 “ *John Ashton*, and *Edmund Elliot*, from thence
 “ to, and into the aforesaid Ship, so as aforesaid,
 “ hired and prepared to carry and convey. And
 “ you the said Sir *Richard Grahme*, *John Ashton*,
 “ and *Edmund Elliot*, maliciously and traiterously
 “ into the same Boat, then and there did enter;
 “ and yourselves from thence, in and by that
 “ same Boat, unto and into the Ship aforesaid,
 “ and there unlawfully and traiterously did cause,
 “ and procure to be carried with the Intention
 “ aforesaid. And you the said Sir *Richard Grahme*,
 “ *John Ashton*, and *Edmund Elliot*, with the same
 “ Bills of Exchange, and the aforesaid traiterous
 “ Letters, Notes, Memorandums and Instructi-
 “ ons in Writing, and in your Hands, Custody
 “ and Possession then and there, in and with the
 “ Ship aforesaid, did sail, and depart towards the
 “ aforesaid Kingdom of *France*, in Parts beyond
 “ the Seas; the same your most wicked, evil,
 “ and traiterous Intentions, Purposes, Compas-
 “ sings and Imaginations aforesaid to fulfil, per-
 “ fect and promote, against the Duty of your
 “ Allegiance, against the Peace of our said Lord
 “ and Lady, the King and Queen that now are,
 “ their Crown and Dignity, and against the
 “ Form of the Statute in that Case made and
 “ provided. *And the Indictment further sets forth,*
 “ that long before the aforesaid nine and twen-
 “ tieth Day of *December* now last past, open War
 “ between our said Lord and Lady, the King and
 “ Queen, and the aforesaid *Lewis* the *French*
 “ King was begun, declared, and waged, and
 “ yet is: Which said *Lewis* the *French* King, and
 “ his Subjects, and the Men of those Parts, then
 “ and yet, were, and are, Enemies to our said
 “ Lord and Lady, the King and Queen that now
 “ are, and to their Kingdom of *England*: And
 “ that in the Time of the aforesaid War between
 “ them our said Lord and Lady, the King and
 “ Queen, and the aforesaid *Lewis* the *French*
 “ King, you the said Sir *Richard Grahme*, *John*
 “ *Ashton*, and *Edmund Elliot*, being Subjects of
 “ our said Lord and Lady, the King and Queen
 “ that now are, as false Traitors against our said
 “ Lord and Lady, the King and Queen, during
 “ the War aforesaid, to wit, the nine and twen-
 “ tieth Day of *December*, in the second Year
 “ of the Reign of our said Lord and Lady, the
 “ King and Queen that now are, and diverse
 “ other Days and Times as well before as after, at
 “ the Parish of *St. Clement Danes* aforesaid, in the
 “ County aforesaid, with Force and Arms, &c.
 “ to the aforesaid Enemies of our said Lord and
 “ Lady, the King and Queen that now are, un-
 “ lawfully, and traiterously were adhering, and
 “ assisting, and in Execution, and Performance

“ of the same adhering, you the said Sir Richard
 “ Grabme, John Ashton, and Edmund Elliot, then,
 “ and there, to wit, the same nine and twentieth
 “ Day of December, in the second Year of the
 “ Reign of our said Lord and Lady the King and
 “ Queen that now are, abovesaid, at the afore-
 “ said Parish of St. Clement Danes in the County
 “ afore said, falsely, maliciously, and traiterously
 “ did prepare, and compose, and then and there
 “ did cause and procure to be prepared and com-
 “ posed, as also into your Custody and Posses-
 “ sion, then and there unlawfully, secretly, and
 “ traiterously, did obtain, detain, conceal, and
 “ keep, divers traiterous Letters, Notes, Memo-
 “ randums, and Instructions in Writing, to shew
 “ and inform the afore said Lewis, then, and yet
 “ the French King, and his Subjects, then and yet
 “ Enemies of our said Lord and Lady, the King
 “ and Queen that now are, of and concerning
 “ the Number, Force, and Condition of certain
 “ Ships, for and on the Behalf of our said Lord
 “ and Lady, the King and Queen of England, then
 “ and there designed, and preparing, for their
 “ Defence of their Kingdom of England, and
 “ their Enemies afore said to repel, and resist;
 “ and how some of the same Ships were Manned,
 “ and of the Names of several of the Captains
 “ of the said Ships; and how the Castles and
 “ Fortresses of our said Lord and Lady, the King
 “ and Queen, called Portsmouth, South-sea, and
 “ Gosport, within this Kingdom of England, were
 “ strengthened, and fortified, and how those same
 “ Castles and Fortresses into the Hands and Pos-
 “ session of the same Enemies of our said Lord
 “ and Lady, the King and Queen, might be taken,
 “ and seized; as also of the Time, Places, Ways,
 “ Manners, and Means, by which, when and
 “ where the same Enemies of our said Lord and
 “ Lady, the King and Queen that now are, this
 “ Kingdom of England might invade, and infest;
 “ and they the said Enemies, and the Ships of
 “ the said Enemies of this Kingdom of England
 “ should fight against our said Lord and Lady,
 “ the King and Queen, and their faithful Sub-
 “ jects. And that during the War afore said, to
 “ wit, the afore said thirtieth Day of December
 “ now last past, you the said Sir Richard Grabme,
 “ John Ashton, and Edmund Elliot, at the afore-
 “ said Parish of St. Clement Danes in the County
 “ afore said, unlawfully, and traiterously did hire,
 “ and prepare, and then and there did cause and
 “ procure to be hired and prepared a certain Ship,
 “ and three Men, you the said Sir Richard Grabme,
 “ John Ashton, and Edmund Elliot, with the same
 “ traiterous Letters, Notes, Memorandums, and
 “ Instructions in Writing, from this Kingdom of
 “ England, unto, and into France in Parts beyond
 “ the Seas, then and there under the Rule and
 “ Government of the afore said Lewis the French
 “ King, then and yet an Enemy of our said Lord
 “ and Lady, the King and Queen, secretly, during
 “ the War afore said, to carry, and transport, to
 “ the Intent the same traiterous Letters, Notes,
 “ Memorandums, and Instructions in Writing
 “ there, in Parts beyond the Seas, to the afore-
 “ said Enemies of our said Lord and Lady, the
 “ King and Queen that now are, to deliver, and
 “ disperse during the War afore said, in Aid of
 “ the said Enemies of our said Lord and Lady,
 “ the King and Queen, in the War afore said:
 “ And that you the said Sir Richard Grabme,
 “ John Ashton, and Edmund Elliot, during the

“ War afore said, to wit, the afore said thirtieth
 “ Day of December now past, at the Parish of
 “ St. Clement Danes, in the County afore said,
 “ concerning, and for the same your Treasons
 “ and traiterous Adherings and Purposes afore-
 “ said to execute and fulfil, maliciously, traite-
 “ rously, and advisedly, then and there did hire
 “ and prepare, and then and there did cause,
 “ and procure to be hired and prepared a certain
 “ Boat, and one Man to the Jurors unknown,
 “ you the said Sir Richard Grabme, John Ashton,
 “ and Edmund Elliot, from thence to and into the
 “ Ship afore said, by you as afore said, hired and
 “ prepared to carry and convey: And that you
 “ the said Sir Richard Grabme, John Ashton, and
 “ Edmund Elliot, maliciously and traiterously
 “ into the same Boat, then and there did enter,
 “ and yourselves from thence secretly in and by
 “ the same Boat, unto and into the same Ship,
 “ then and there did cause and procure to be
 “ carried in Prosecution of the Adhering afore-
 “ said. And you the said Sir Richard Grabme,
 “ John Ashton, and Edmund Elliot, then and there
 “ with the same traiterous Letters, Notes, Memo-
 “ randums, and Instructions in Writing, in your
 “ Custody and Possession being, during the War
 “ afore said, to wit, the same Day and Year, in
 “ and with the Ship afore said did sail, and de-
 “ part towards the afore said Kingdom of France,
 “ to the Intent the same traiterous Letters, Notes,
 “ Memorandums, and Instructions in Writing,
 “ in Parts beyond the Seas to the said Enemies
 “ of our said Lord and Lady, the King and Queen
 “ that now are, to deliver, concerning and for
 “ Aid, Intelligence, and Council, by you the
 “ said Sir Richard Grabme, John Ashton, and Ed-
 “ mund Elliot, to the same Enemies of our said
 “ Lord and Lady, the King and Queen that now
 “ are, to give and yield, during the War afore-
 “ said, against the Duty of you Allegiance,
 “ against the Peace of our said Sovereign Lord
 “ and Lady, the King and Queen that now are,
 “ their Crown and Dignity, and against the Form
 “ of the Statute in that Case made and provided.
 How say you Sir Richard Grabme, are you Guilty
 of this Felony and High Treason whereof you stand
 indicted, or Not Guilty?

L. Preston. My Lord, I have something hum-
 bly to offer to your Lordships.

L. C. J. Holt. What is it your Lordship would
 say?

L. Preston. My Lord, I find I stand indicted
 by the Name of Sir Richard Grabme, Baronet, but
 I do take myself to be entituled to another way
 of Trial, as being a Peer of England, by Virtue
 of a Patent before the Vote of Abdication was
 made; and it was in a Time when all your
 Proceses, and all your Writs went in the late
 King's Name, and all Officers acted by Virtue of
 his Commissions. My Lord, this is a Matter
 that concerns me in Point of Life, Estate, Pos-
 terity, and all that's dear to me; and therefore
 I desire to know whether your Lordships think
 fit to allow me my Peerage; I offer it, my
 Lord, with all the Respect and Modesty imagi-
 nable.

L. C. J. Holt. My Lord, I apprehend your
 Lordship to offer against your being tried here,
 that you are a Peer.

L. Preston. I take myself to be so, my Lord.

L. C. J. Holt. My Lord, you must make that
 out to the Court.

L. Preston. I told your Lordships the Ground of my Claim and Apprehension: It is from a Patent I received before the Vote of Abdication, when all Commissions, and all Process, and all the Courts of Judicature run in that Name.

L. C. J. Holt. Where is that Patent, my Lord?

L. Preston. It is in the Hands of the House of Lords.

L. C. J. Holt. My Lord *Preston*, we cannot take Notice of that Patent; If your Lordship plead that you were made a Peer by a Patent under the Great Seal of *England*, you must produce it under the Great Seal, that the Court may see what it is, and whether it be sufficient to justify your Plea.

L. Preston. I hope your Lordship and this Court will enable me to do that, by sending an Order to the Clerk of the House of Lords, to bring the Patent hither; for it is in his Hands.

L. C. J. Holt. My Lord, that is not in our Power: If your Lordship take yourself to be a Peer, and would thereby stop this Court from proceeding to try you, you must be ready to make it out.

L. Preston. I am ready to make it out: If I had my Patent here, that would make it out. Certainly there is some Authority now in being (I humbly offer it with all Submission and Respect) that may order the Clerk of the House of Lords to attend this Court, and produce this Patent.

L. C. J. Holt. My Lord *Preston*, we are not to enable you to plead to the Jurisdiction of the Court.

L. Preston. My Lord, I offer it with all Respect to the Court: I am concerned in it for my Life, and my All, and if that be over-ruled, this I hope you will do before you go on, you will hear me by my Council.

L. C. J. Holt. My Lord, it is nothing that you have said; for if your Lordship plead this Plea to the Jurisdiction of the Court, it ought not to be received without shewing your Patent.

L. Preston. My Lord, I desire my Council to be heard to this Matter.

L. C. J. Holt. I know your Lordship has had the Benefit of Council, and I know your Council must tell you, that what you say goes for nothing, unless you put in your Plea, and produce your Patent, that the Court may judge upon it.

* *Sir John Somers.* * *Mr. Soll. Gen.* My Lord, I have observed what my Lord *Preston* has mentioned——

L. Preston. Pray, Mr. Solicitor, will you speak out, that I may hear what you say?

Mr. Soll. Gen. My Lord, I say, I have taken Notice of what your Lordship has offered: It has been most truly observed by the Court, that it is your Lordship's Part to make good your Plea, and it ought not to be expected that any Court should help a Person to plead to its Jurisdiction: But because it should not be pretended that an Advantage was taken against the Prisoner for a Defect in Point of Form, or that any thing was insisted on which should have the least Appearance of a Hardship, and that we may proceed in the most clear and unexceptionable Manner that can be, I must beg leave to observe to your Lordship and the Court, how far this Matter which my Lord *Preston* has insisted on, has been debated and determined in another Place.

L. C. J. Holt. So; on Mr. Solicitor.

Mr. Soll. Gen. My Lord upon the eleventh of *November* 1689, my Lord *Preston* did make some Claim in the House of Lords that he was a Peer of the Realm; the House of Lords demanding of him upon what he founded his Pretence: He said he claimed by Letters Patents from the late King *James*, which passed the Great Seal before the Time of the Vote of Abdication. The Lords required that those Letters should be produced, which being done, and my Lord *Preston* insisting upon his Claim to be a Peer of *England*, the Lords thought fit that Day to commit my Lord *Preston* to the Custody of the Black Rod. The next Day being the twelfth of *November*, upon solemn Debate of the Validity of these Letters Patents, and consulting with the Judges then present, the Lords, *nemine contradicente*, did adjudge and declare those Letters Patents to be void and null; And by another Order of the same Date, they did order Mr. Attorney General to prosecute my Lord *Preston* in the *King's-Bench* for a High Misdemeanor, in presuming to claim Peerage by those Letters Patents. And by a Third, it was ordered, that the Letters Patents should remain in Custody of the Clerk of the Parliament. Thus you see, my Lord, this Matter hath had already a solemn Determination in a Court which had the most proper Comusance and Jurisdiction of Claims in this Nature. And they having pronounced their Judgment, I did not think it would have been urged again in this Place. I thought it proper to mention these Things, to shew how it comes to pass that my Lord *Preston* has not his Letters Patents to produce, and to satisfy every Man that there is no Hardship put upon my Lord *Preston*, by trying him here, when he ought to be tried by another Judicature. The Lords have given Judgment against these Letters Patents, and have ordered that they shall remain in Custody of the Clerk of the Parliament, and my Lord *Preston* is not a Stranger to these Transactions; and therefore if my Lord's Council had been of Opinion he could have made any use of them, they would have inform'd him he must have taken another Course to have got them, and could not expect this Court should make an Order for him, contrary to the Order of the House of Lords, to take the Letters Patents out of the Hands of the Clerk of the Parliament, and this, to help him to a Plea against their own Jurisdiction. I omitted one thing, that upon the 27th of the same Month of *November*, upon my Lord *Preston's* humble Submission and Petition, his Lordship was discharged of his Imprisonment, and the House of Lords were pleased to remit the Order given to Mr. Attorney, for prosecuting him in the *King's-Bench* for the Misdemeanor: So that I cannot but wonder to hear of this Claim of Peerage after that Submission. But there is nothing offered to the Court by my Lord that the Court can take any legal Notice of. If my Lord will plead any thing to the Jurisdiction of the Court, he ought to have his Plea in Form, and be ready with his Proofs to make it good.

Mr. Serj. Thompson. My Lord *Preston*, upon this last Order of the House of Lords, has disclaimed any Right of Peerage when he made his Petition, otherwise he had not been discharged.——

L. Preston. My Lord, I beg leave——

Mr. Serj. Thompson. Besides, my Lord, what my Lord *Preston* offers is a Matter of Record, as all Letters Patents are; and though out of his Hands he might have had Recourse to the Record of the Enrollment.

L. Preston. For that, my Lord, I must humbly beg of you Lordships a little Time to put my self in a Capacity to plead it in Form. If you will over-rule it, I can say nothing to it; I offer it with all the Modesty and Respect imaginable.

L. C. J. Holt. It shall do your Lordship no Prejudice, my Lord; God forbid but that you should make use of all Advantages that you can invent for your Defence. But, my Lord, we must tell you, what you have offered is nothing that we can take any Notice of, unless you had your Patent to produce, and we cannot give your Lordship Time to plead to the Jurisdiction of the Court.

L. Preston. Then if your Lordships are pleased to over-rule this Matter, I submit, but I hope you will give me leave to make all the just Defence I can make for myself. Does your Lordship over-rule me in it?

L. C. J. Holt. I suppose we are all of the same Opinion; if not, I suppose they will declare their Minds.

L. C. J. Pollexfen. That which has been said by Mr. Solicitor, was only that you and all the World may be satisfied that there is nothing of Hardship put upon you. But the Court, if this had not been said, yet could take no Notice of what you say, unless it were pleaded, and pleaded in legal Form. But if the Matter be as the King's Council have represented it, that this Patent you now pretend to have, hath already had its Determination in a proper Place, this Court, which is an inferior Court to that of the Lords in Parliament, cannot intermeddle with it. We cannot help you, nor can we set up what was condemned there. So that you can entertain no Hope or Expectation of our doing any thing for you in this Matter, or any Relief or Help by such a Plea.

* *L. C. Baron.* My Lord *Preston*, you may remember (I am sure some of us that were there present do) that you did decline further insisting upon this Matter in the House of Lords; and thereupon you had that great Favour from the House shewn you, as the King's Council have opened.

L. Preston. I did decline it, 'tis true, my Lord: When they had declared it a Misdemeanor, I made my Application to the Court, and therein declared I was sorry for having misdemeaned myself.

Mr. Serj. Thompson. If your Lordships please, we will read the very Orders of the House of Lords, to satisfy my Lord *Preston*, that we put no hardship upon him.

L. Preston. If there be any thing of Hardship upon me in this Case, it is because I think I have a Right to insist upon this Matter, and cannot have an Occasion or Power to have that which I would make my Defence by.

L. C. J. Holt. Your Lordship shall have a fair Trial, if you will please to put yourself in a Condition to be tried, by pleading to the Indictment.

Mr. Bar. Lechmere. The Lords in Parliament have disclaimed you for being a Peer, and we cannot make you one.

L. Preston. My Lord, I hope your Lordships will put no hard Thing upon me, but give me Leave and your Lordships Help to make my Defence.

L. C. J. Holt. You shall, by the Grace of God, have all the Liberty you can desire to make your Defence; but you must first plead.

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

L. C. J. Holt. As I told your Lordship before, so I assure you now again, it shall do you no Prejudice.

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

L. C. J. Holt. Read it in *Latin*.

L. Preston. I have one Thing to beg of your Lordship before it be read.

L. C. J. Holt. What is it you desire, my Lord?

L. Preston. My Lord, I humbly desire, because I cannot retain all the Contents in my Memory, that my Solicitor may have Leave to stand by me.

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

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

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

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

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

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

L. C. J. Pollexfen. Mr. *Ashton*, and Mr. *Elliot*, do you desire to have it read again?

Ashton, Elliot. We all join with my Lord, and desire it may be read in *Latin*.

L. C. J. Holt. Read it. [*Which was done.*]

Cl. of Arr. *Juratores pro Domino Rege & Domina Regina, super Sacramentum suum presentant quod—& contra formam Statuti in eo casu editi & provis.*

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

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

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

L. C. J. Holt. No, my Lord, it was denied in Colonel *Sidney's* Case.

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

L. C. J. Holt. Truly, my Lord, I do not know how that Matter stands: That Reversal of Mr. *Cornish's* Attainder is but a private Act of Parliament. I never saw it, nor heard it read, nor can we take Notice of it. But your Lordship is to be tried by the same Methods of Law that all Persons that have gone before you have always been. It has always been the Course, that the Prisoner should not have a Copy of his Indictment; Colonel *Sidney* had it not; and I remember, in the Case of Sir *Henry Vane*, in the Year 1662, he demanded a Copy of the Indictment, and it was denied him; and it has been constantly denied ever since in such Cases.

L. Preston. I humbly desire to know whether it was not granted in the Case of my Lord *Ruffel*.

L. C. J. Holt. No indeed, my Lord, my Lord *Ruffel* had it not; I can take it upon me to say that, for I know all the Proceedings in that Cause.

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

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

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

L. C. J. Holt. To what Point would you have your Council heard?

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

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

Mr. Jones. If your Lordship please to hear me for my Lord *Preston* —

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

L. Preston. My Lord, I desire none if it be not so.

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

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

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

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

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

L. C. J. Pollexfen. 'Twas always ruled that it did not extend to this Matter.

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

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

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

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

L. C. J. Pollexfen. My Lord, I am satisfied you have had Council with you, I have heard a great many. Does any one of them tell you that this has been done? If ever any one of them will come and shew us when it has been done, you say something, but I dare say none of them will, or can. Mr. *Jones* there, is as like as any body, but I believe he will not say it ever was done.

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

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

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

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

L. C. J. Holt. We must go in the Way of our Predecessors, we received the Law from them, and must not contradict the received Practice of the Judges in all Ages, nor alter the Determinations

tions that have been made in all Cafes of the like Nature.

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

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

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

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

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

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

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

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

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

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

Mr. Serj. Thompson. Swear him.

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

Mr. Whitaker. It is a true Copy.

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

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

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

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

Clerk reads. *Item pria les Commons que come recorde & queconque chose en la Court le Roy de reafon devoient demurrer illeques pur perpetual evidence & eide de tous parties a ycelly & de tous ceux a queux en nul manner illz atteignent quant, mestier leur fuit. Et ja de nouvel refusent en la Court nostre dit Seignior de serche ou evidence encounter le Roy ou disadvantage de luy. Que please os deiner per Estatute que Serche & Exemplification soit faitz as toutz Gentz de queconque Recorde que les touche en ascun manner auxy bien de ce que chiet encountre le Rey come autres Gentz. Le Roy le voet.*

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

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

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

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

L. Preston. It is always sworn unto.

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

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

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

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

L. Preston. My Lord, here is a Doubt in this Case.

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

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

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

L. Preston. And I am bound in Duty to myself, in such a Case, to insist upon all Advantages I can have by Law.

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

L. C. J.

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

L. Preston. The Act says, That it shall be all Records that shall be in Aid to any Person that shall desire it. Here is no Distinction made of what Kind the Records are to be. If it be for the Aid of any Person, it ought to be granted, and I may be aided by this Record, if I have a Copy of it; and I think it is hard, when I am so much concerned in this Record, that I cannot be help'd to it by this Law.

L. C. J. Pollexfen. Constant Experience has gone according to what we say.

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

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

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

Mr. Soll. Gen. If my Lord please to plead to the Indictment, that will be Time enough to move afterwards, and till Issue is joined, it cannot properly be moved for.

L. C. J. Holt. It is not proper to desire Time yet, till you have put your self upon your Trial, by pleading to the Indictment.

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

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

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

L. C. J. Pollexfen. We see the Nature of the Thing, and I am sorry that I must say, it is fit that we should take Notice of it. Perhaps the Thing that you are accused of is not true; but if it be true, you see what it is, that there are Letters and Papers preparing for a Design to set all the Kingdom in Confusion. Men that will venture upon such sort of Things, are not to condemn the Law, if it be a little hard upon them; for 'tis the common Preservation that is principally aimed at in Prosecutions of this Nature; and if this Accusation be true, 'tis but just and reasonable, that all Speed should be used to enquire into, and prevent it; and as it falls out in this Case, it is not in our Power to do it. This Sessions is set before this Business is known, and this is an Act done in this County, and therefore the Sessions is the proper Place for the Trial; and so you have the same sort of Proceedings that all other Criminals have, which are very many, though I hope not many of so high a Nature. Seven Days Notice you have had, you acknowledge; if my Lords please we will indulge you as far as we can, and give you Time for your Trial till to Morrow, but you must plead presently.

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

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

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

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

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

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

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

L. Preston. Then your Lordships are pleased to over-rule my Claim of Peerage.

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

Clerk of Arr. What says your Lordship, are you guilty of this High Treason, or not guilty?

L. Preston.

L. Preston. Not guilty.

Clerk of Arr. Culprit. How wilt thou be tried?

L. Preston. By God and my Country.

Clerk of Arr. God send you a good Deliverance.

John Ashton, What sayest thou? Art thou guilty of the same High Treason, or not guilty?

Mr. Ashton. My Lord, I have only this to observe, besides what my Lord *Preston* has offered: As to the Business of the Act of Parliament, your Lordships have been pleased to over-rule that Plea; but, my Lord, I am told, that if an Indictment be faulty, but even in a Letter, we cannot be found guilty upon that Indictment. Now, if we never have a Copy of that Indictment, how shall we know whether there be any such Fault in it? Your Lordships, who are our Council, I suppose have never seen the Indictment, and suppose there be twenty Faults, we have not the Advantage of them, by not having a Copy; and how shall we come to have any Advantage, if neither your Lordships, who are our Council, nor we our selves can see them. It may turn upon that.

L. C. J. Holt. But we will see it when you come upon your Trial.

L. C. J. Pollexfen. That is a Mis-information, for it may be such a Letter as is not material, and it may be such as is material; as I suppose your Name being *Ashton*, the *A* should be left out, it would then be a Question, what there would be to charge you.

Mr. Ashton. We know that it has been so in several Instances.

L. C. J. Pollexfen. It may be such an Omission that may make it no Crime, but we must not presently conclude that it is so; but you have heard it read, and so have we; if there had been any such Letter mistaken, it would have been taken Notice of.

Mr. Ashton. As to the reading, there may in the reading of the Indictment be many Words not nicely observed. I suppose the Indictment be right; I say it is possible it may, or it may not; but if your Lordships never see it, who are our Council by Law, nor you will allow us Council to look into it, if there be forty Faults in it, we have no Advantage of it.

L. C. J. Holt. We must not allow you Council to pick Holes in the Indictment, that never was done. If you assign any Reason, we may assign you Council to debate any Matter of Law that may arise, but never was Council allowed to find out Faults in an Indictment. When you come to your Trial we shall try you upon your Indictment, and if there be any thing considerable, you are to suppose we shall observe it for your Advantage.

Mr. Ashton. My Lord, we never had a Copy of the Pannel of our Jury; I pray we may have it.

L. C. J. Holt. That you cannot have till you have pleaded.

L. C. Baron. *Mr. Ashton*, we have over-ruled my Lord *Preston* about a Copy of the Indictment: Do you think we shall grant it you, when we have denied it him?

Mr. Ashton. My Lord, I desire we may have a Copy of the Pannel.

L. C. J. Holt. You must plead first.

Clerk of Arr. Are you guilty of the High Treason, or not guilty?

Mr. Ashton. Not guilty.

Clerk of Arr. How will you be tried?

Mr. Ashton. By God and my Country.

Clerk of Arr. God send you a good Deliverance. *Edmund Elliot*, How say you, Are you guilty of the same High Treason, or not guilty?

Mr. Elliot. Not guilty.

Clerk of Arr. How will you be tried?

Mr. Elliot. By God and my Country.

Clerk of Arr. God send you a good Deliverance.

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

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

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

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

Clerk of Arr. Here is one ready for you.

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

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

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

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

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

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

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

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

Mr. Soll. Gen. My Lord, there has been all the Care taken that the Nature of the Thing was capable of, to prevent any Complaint of this kind. Order was given, that my Lord and these Gentlemen should have Notice as early as was possible. As soon as ever Mr. Attorney-General had had an Opportunity of looking into the Evidence, Notice was given them, that they should be tried, and that this was the Day appointed for their Trial. But there shall be no contending in a Matter of this Nature for a Day. If it be desired, and the Court please to put it off till to Morrow, we are contented; but there can be no Reason to put it off for a longer Time. As there is always a Tenderness to be used, and I know will be,
and

and, as far as I am concerned, always shall be towards Persons in these Circumstances; so there is a Regard to be had towards the Government and the Publick. I am sure if the Accusation that is against these Gentlemen is true, the Government is highly concerned that this Matter should come to a speedy Examination, and that Persons that enter into such Designs be brought to Judgment. The Charge in the Indictment is of such a Nature as draws very great Consequences along with it; it concerns no less than the Life of the King and Queen, the Destruction of the Fleet of the Kingdom, and the Invasion of the Realm by the Forces of a Declared Enemy. These are the Things that the Prisoners are charged with, and certainly there ought to be no Delay in the searching into such Matters as these. They have had a Week's Notice of Trial already, and for many Days of that Week, at least they have had as many Council to assist them as they desired, and all the Solicitors that they had a Mind to, have had free Access to them; so that they have wanted no Opportunity to prepare for their Trial that Men in their Circumstances could have. As to what has been said with relation to the Jury, the Law indulges them in the Number of their peremptory Challenges, without being put to shew Cause, and the Court hath granted them at the very Instant of their Pleading, a Copy of the Pannel; and there is a reasonable Time between this and to Morrow for their making such Enquiry into the Jury as is justifiable, and fit to be made: But if by Time to look into the Jury, it be meant, that there may be a Time for tampering, that I am sure your Tenderness of the Government will not permit; you will take Care as much that no such thing be done, as you will that they should not be surprized. If your Lordships are pleased, that the Trial be put off till to Morrow, we will be ready to Morrow to attend it.

L. Preston. My Lord, 'tis a very hard Presumption that Mr. Solicitor makes of our asking a Copy of the Pannel, that it is with a Design to tamper with the Jury.

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

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

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

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

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

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

Mr. Serj. Thompson. To Morrow Morning.

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

E. C. J. Pollexfen. My Lord *Preston*, do but consider you have had seven Days Notice, and to Morrow makes eight.

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

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

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

Mr. Aylton. We did so that Night to my Lord *Sidney*; then *Sunday* interven'd, which was no Day for Business, and we could not have our Order. On *Monday* we could not have it till Night; so that it was *Tuesday* before we could get any body to us. My Lord, it is a weighty Concern, and all such hasty Proceedings were thought very hard in the late Times, and particularly the denying *Mr. Cornish* Time; and 'tis one of the Reasons given in this King's Declaration for his coming here into *England*, the Hardships that the Law laid upon Men in their Trials, which he came to prevent.

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

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

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

L. C. J. Holt. *Mr. Aylton*, we are to suppose you not guilty, 'till you are proved guilty.

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

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

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

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

L. C. J. Holt. I suppose they are all Protestants of the Church of *England*; but suppose they are all Strangers to you, and yet good and lawful

lawful Men of the County, and there be no Difference between you and them, then they are fit to try you.

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

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

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

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

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

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

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

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

Clerk of Arr. Here is a Copy of the Pannel for your Lordship.

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

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

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

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

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

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

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

Mr. Ashton. Pray, my Lord, Let no Suggestion against us prepossess the Opinion of the Court before we be tried.

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

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

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

Mr. Ashton. The Government cannot be prejudiced by putting it off till *Monday*, sure.

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

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

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

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

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

L. Preston. 'Twas I that desired Time for my Witnesses.

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

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

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

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

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

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

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

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

[Then the Prisoners were taken away by the Keeper of Newgate to the Goal.]

SABBATI, 17 January, 1690.

THIS Day, between the Hours of Eight and Nine in the Morning, the Court being sat, and those Persons who were return'd upon the Jury were called over twice, and their Appearances recorded; then the Prisoners were brought to the Bar.

Clerk of Arr. You the Prisoners at the Bar, these Men that you shall hear called and personally appear, are to pass between our Sovereign Lord and Lady, our King and Queen, and you, upon Trial of your several Lives and Deaths; if therefore you, or any of you, will challenge them, or any of them, your Time is to challenge them

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as they come to the Book to be sworn, and before they be sworn.

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

L. C. J. Holt. My Lord, I don't know what your Lordship has to offer; I think you have nothing to offer why the Jury should not be sworn, for now your Lordship has put yourself upon your Trial, and are going to proceed in that Trial, and the Jury are going to be sworn: If you have any thing to offer, as to them, you may challenge them.

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

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

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

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

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

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

Mr. Soll. Gen. My Lord, I would humbly offer your Lordship one Thing before the Jury be called and sworn. By the Law, these Gentlemen at the Bar have the Privilege to challenge peremptorily to the Number of Thirty-five; which is so

great a Number, that if each of them severally take Advantage of it (as they may do by Law, and God forbid they should be denied any Advantage the Law gives them) it will be next to impossible to have a sufficient Number of Jurors appear so as that we may proceed in the Trial.

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

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

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

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

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

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

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

Mr. Ashton. My Lord, I expect the same Advantage.

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

Mr. Soll. Gen. Then, my Lord, since they are pleased to declare they will sever in their Challenges, we must desire to sever them in their Trial, and to begin with the Trial of my Lord *Preston*.

Mr. Ashton. My Lord, I desire the Liberty to be by when my Lord is tried.

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

Mr. Serj. Thompson. If you had joined in your Challenges, then you had been tried all together.

L. C. J. Pollexfen. That Advantage you lose by severing in your Challenges; you lose the Assistance of each other at your Trial.

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

L. C. J. Pollexfen. It may be they do not so well weigh the Consequence, therefore call them

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

Mr. Elliot. My Lord, I desire to be tried alone.

Mr. Ashton. And so do I, my Lord.

L. C. J. Holt. Then, Captain Richardson, take them away.

[Afterwards the Court was informed that Mr. Elliot desired to be tried with my Lord Preston, and thereupon they were called again.]

L. C. J. Holt. Gentlemen, do you desire to be tried alone, or with my Lord Preston?

Mr. Elliot. My Lord, if you please, I desire to be tried with my Lord.

Mr. Soll. Gen. Then we will try my Lord Preston by himself.

Mr. Soll. Gen. Does Mr. Ashton desire it too?

Mr. Ashton. No, my Lord, I desire to be tried by myself.

Mr. Soll. Gen. Then we will try my Lord Preston by himself.

L. C. J. Holt. Mr. Elliot, the King's Council do not think fit to try you with my Lord Preston, without Mr. Ashton; and unless you will all join, you must all be tried severally.

Mr. Elliot. I can only answer for myself.

Mr. Ashton. I am for being tried alone.

L. C. J. Holt. Then my Lord Preston must be tried alone.

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

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

Sir Thomas Cooke, Knt. Challenged.

Sir William Hedges, Knt. Challenged.

James Boddington, Esq; Challenged.

Thomas Johnson, Esq; Challenged.

Ralph Bucknal, Esq; Challenged.

Craven Peyton, Esq;

L. Preston. I do not except against him. Sworn.

Clerk of Arr. Then swear Mr. Peyton, [Which was done.]

Lucy Knightley, Esq; Challenged.

Scory Barker, Esq; Challenged.

Thomas Cutbert, Esq; Challenged.

Alban Chaire, Esq; Challenged.

John Herbert, Esq; Challenged.

Hugh Squire, Esq;

L. Preston. I have nothing to say him. Sworn.

Clerk of Arr. John Tully, Esq. Challenged.

George Ford, Esq;

L. Preston. I do not challenge him. Sworn.

Clerk of Arr. Henry Whitbot, Esq; Challenged.

John Crosse, Esq; Not appeared.

Thomas Smith, Esq; Challenged.

William Withers, Esq; Challenged.

Richard Cradock, Esq;

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

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

Clerk of Arr. John Cane, Esq; Challenged.

William Jacomb, Esq;

Mr. Jacomb. My Lord, I am no Freeholder.

L. C. J. Holt. How long have you not been a Freeholder?

Mr. Jacomb. Nearte our Months.

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

Have you no Freehold in the County of Middlesex in your own Right, nor in the Right of your Wife?

Mr. Jacomb. No, my Lord.

L. C. J. Holt. Then you must go on to the next.

Clerk of Arr. Joseph Dawson, Esq;

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

L. C. J. Holt. Well, now you are here, for this Time serve; we will excuse you hereafter.

Mr. Soll. Gen. My Lord, we challenge him for the King.

L. Preston. My Lord, I desire to know when any one is challenged for the King, whether they must not shew Cause.

L. C. J. Holt. By and by, if there be not enough they shall shew Cause.

L. C. J. Pollexfen. You shall have all that the Law allows you certainly, my Lord.

Clerk of Arr. Thomas Austin, Esq; Not appeared.

Richard Paget, Esq;

L. Preston. Has this Gentleman any Freehold?

Mr. Paget. Yes, my Lord, I have in the County of Middlesex.

L. Preston. I do not except against him.

Mr. Serj. Tremain. My Lord, we challenge him for the King.

L. Preston. My Lord, I humbly desire they may shew their Cause.

L. C. J. Holt. My Lord, Cause is not to be shewn by the King's Council till all the Pannel be gone through; and then, if there be not twelve left to try, then they are bound to shew Cause; that is the Law.

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

L. C. J. Holt. My Lord, shall we assign Council to dispute Matters not disputable? There is not any more clear Case in all our Law than that: If your Lordship please, you shall have a Book to read, that the King is not bound to shew Cause till the Pannel is gone through.

L. Preston. Then I don't insist upon it.

Clerk of Arr. Walter Bridal, Esq; Challenged.

Samuel Hodgkins, Esq; Challenged.

Thomas Elton, Esq;

L. Preston. I do not challenge him.

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

Clerk of Arr. Arthur Bayly, Esq;

L. Preston. I have nothing to say against him. Sworn.

Clerk of Arr. John Milner, Esq; Not appeared.

Richard Page, Esq;

L. Preston. I do not except against him.

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

Clerk of Arr. Richard Marsb, Esq;

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

L. C. J. Holt. Why?

Mr. Marsb. I am thick of Hearing.

L. C. J. Holt. Methinks you hear me very well!

Mr. Marsh. Truly, my Lord, I do not hear well.

L. C. J. Holt. Well, you may spare him if there be enough.

L. Preston. My Lord, I do not challenge him; I desire he may be sworn.

Mr. Serj. Tremain. We challenge him for the King.

Clerk of Arr. Thomas Harriot, Esq; Challenged.
Nath. Wall, Esq;

L. Preston. I do not except against him.

Mr. Soll. Gen. We challenge him for the King.

Clerk of Arr. Matthew Browne, Gent.

L. Preston. I do not challenge him.

Mr. Serj. Tremain. We challenge him for the King.

Clerk of Arr. Thomas Crosse, Gent. Not appeared.

Robert Breedon, Gent.

L. Preston. I have nothing to say against him. Sworn.

Clerk of Arr. James Partberick, Gent. Challenged.

John Baily, Gent. Challenged.

William Bourne, Gent. Challenged.

Henry Gerrard, Gent. Challenged.

Richard Cooper, Gent.

L. Preston. I say nothing to him.

Mr. Serj. Thompson. I challenge him for the King.

Clerk of Arr. John Bignal.

L. Preston. I do not challenge him. Sworn.

Clerk of Arr. James Ferne, Gent.

L. Preston. I do not challenge him. Sworn.

Clerk of Arr. Robert Longland, Gent. Challenged.

Edmund Salter, Gent. Challenged.

John Howlet, Gent. Challenged.

Richard Fitz-Gerald.

L. Preston. I do not except against him.

Mr. Serj. Tremain. We challenge him for the King.

Clerk of Arr. John Owing, Gent.

L. Preston. I do not except against him. Sworn.

Clerk of Arr. Mark Lawne.

L. Preston. I do not challenge him. Sworn.

Clerk of Arr. Thomas Battle. Not appeared.

Francis Chapman, Gent. Challenged.

Gilbert Urwin, Gent. Challenged.

Richard Bealing, Gent. Challenged.

Edward Fuller, Gent.

L. Preston. I do not challenge him. Sworn.

Clerk of Arr. John Collins, Gent.

L. Preston. I do not challenge him. Sworn.

Clerk of Arr. Thomas Hollins.

L. Preston. I have nothing to say against him.

Mr. Serj. Tremain. We challenge him for the King.

Clerk of Arr. William Silcock, Gent.

L. Preston. I do not challenge him.

Mr. Serj. Tremain. We challenge him for the King.

Clerk of Arr. John Preston, Gent. Challenged.

Thomas Wright, Gent. Challenged.

Benjamin Boulby, Gent.

L. Preston. I do not challenge him. Sworn.

Then they were counted, and the twelve sworn were those whose Names follow.

J U R O R S.

Craven Peyton, Esq;

Hugh Squire, Esq;

George Ford, Esq;

Arthur Bailey, Esq;

Robert Breedon, Gent.

John Bignal, Gent.

James Ferne, Gent.

John Owing, Gent.

Mark Lawne, Gent.

Edward Fuller, Gent.

John Collins, Gent.

Benjamin Boulby, Gent.

Then Proclamation for Information and Evidence was made as usual.

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

Mr. Knapp. May it please your Lordship, and you Gentlemen of the Jury, This is an Indictment of High Treason against my Lord *Preston*, who is indicted by the Name of *Sir Richard Grahme*, Baronet, and stands now Prisoner before you at the Bar; and the Indictment sets forth, that the Prisoner, together with one *John Ashton* and *Edmund Elliot*, as false Traitors against our Sovereign Lord and Lady, King *William* and Queen *Mary*, not weighing the Duty of their Allegiance, the 29th of *December*, in the second Year of their now Majesties Reign, at the Parish of *St. Clement Danes*, in this County of *Middlesex*, did conspire, consult and imagine, to depose their Majesties from the Throne and Government of these Kingdoms, and to bring the King and Queen to final Death and Destruction, and levy War within this Kingdom, and procure an Invasion to be made here; and that to bring their Treasons to pass, they did prepare and compose, and cause to be prepared and composed divers treasonable Letters, Notes, Memorandums, and Instructions in Writing, which were to inform the *French King* and his Subjects, and other Enemies of the King and Queen, of the Number, Force and Condition of their Majesties Ships, and how some of them were Mann'd, and the Names of several of the Commanders of them, and how the Castles and Forts of *Portsmouth*, *South-Sea*, and *Gosport*, within this Kingdom were fortified, and how they might be seized and surprized by the King's Enemies; as also to inform them of the Time, Places, Ways and Means how they might invade this Kingdom, depose their Majesties, and fight with their

their Ships against their Majesties Ships, and cause and procure great Forces to be raised against the King and Queen, and send Ships to plague the City of *London*, and War and Rebellion within the Kingdom to procure; and that they did knowingly and secretly prepare and conceal two several Bills of Exchange for the Payment of Money to the King's Enemies, and got these Bills of Exchange, Letters, Notes and Memorandums, into their Custody; and afterwards, the 30th of *December*, for the Sum of one hundred Pounds, by them, or some of them paid, they did hire a Ship to carry them and the said Bills of Exchange, Letters, Notes, Memorandums, and Instructions, into Parts beyond the Seas, to, and among their Majesties Enemies; and did also prepare a Boat, which was to carry them to the Ship, and accordingly they went into the Boat, and went on Board the Ship with the Bills of Exchange, and Papers aforesaid; and being on Board they set Sail, and made away towards *France* with those Bills of Exchange and Papers, with Intention to disperse them, and to perfect their said Treasons. And the Indictment further sets forth, that there was, and is a War between our King and Queen and the *French* King, and the People of those Parts, under his Dominions, who are Enemies of the King and Queen. The Prisoner, together with those other two named before, as false Traitors, did adhere to the Enemies of the King and Queen; and to bring about this Treason, they did procure such Bills of Exchange, Letters, Notes, Memorandums and Instructions, and did hire such Ship and Boat to carry them and those Papers into *France*; and did go on Board the said Ship, and sailed away for *France*, with Intention to aid and assist the King's Enemies in Counsel and Intelligence, by those Papers, and Bills of Exchange, as I before opened unto you; and this is laid to be against the Duty of his Allegiance, against the Peace of their Majesties, their Crown and Dignity, and against the Form of the Statute in that Case made and provided. To this Indictment, Gentlemen, the Prisoner pleaded, he is not guilty; and for his Trial hath put himself upon his Country, which you are. If we prove him guilty, it is your Duty to find him so.

Mr. Soll. Gen. My Lords and Gentlemen of the Jury, the Indictment hath been opened to you at large, and I do not doubt but you have observed it: It consists of two Parts, which are formed upon two several Branches of the Statute of the 25th of *Edward III.* The one is for compassing and imagining the Deposing and Destruction of the King and Queen; the other for aiding and assisting the King and Queen's Enemies.

Treason, Gentlemen, consists in the Imagination of the Heart; but because that Imagination of the Heart can be discovered no other way but by some open Act, therefore the Law doth require, that some Overt-Act, manifesting that Intention and Imagination, be assigned and proved. I doubt not but you have observed that there are several Overt-Acts of both these kinds of Treason, assigned in this Indictment.

Gentlemen, the general Design of the Conspiracy (as will appear by the Evidence) was this: The King and Queen were to be deposed, and this was to be effected by a *French* Army, and a *French* Fleet.

It will be easily granted, that nothing more dreadful can enter into the Imagination of an

Englishman; than the Destruction of our Fleet, and the Conquest of the Kingdom by the Arms of *France*.

But yet it will be part of the Evidence that we shall offer to you, that the Prisoners, and others of the Conspirators seem to be of another Mind; for amongst the Papers which were taken with the Prisoners, you will see one, which is stiled, *The Result of a Conference*; wherein they pretend to shew the Possibility of Restoring King *James* by the Power of the *French* King, and yet to preserve the Protestant Religion, and the Laws and Liberties of the Kingdom. They themselves went no farther than to think it possible; and I believe it will be hard to persuade any other *Englishman*, that it is possible; unless one Instance could be given, that the *French* King ever employed his Arms for setting up any body but himself, his own Religion, and his own Government. I never heard that he did pretend to form any Part of his Glories upon the Virtue of Moderation, or Self-denial. And there can hardly be imagined a greater Instance of Self-denial, than for the *French* King; after he had destroyed the *Dutch* and *English* Fleets, and subdued our Forces at Land, not to make use of his Success, so as to add these three Kingdoms to his Conquests, and possess himself of the uncontested Dominion of the Sea for ever, but only to entitle him, at so great Hazard and Expence, to become a Mediator between King *James* and the People of *England*, and, by his Mediation, to establish the Protestant Religion, and the Liberties of the People: And yet, as absurd as this seems, you will find this to be the Result of one of their Conferences. I did never think it was the Part of any who were of Council for the King in Cases of this Nature, to endeavour to aggravate the Crime of the Prisoners, by going about to put false Colours upon Evidence, or to give it more than its due Weight; and therefore I shall be sure to forbear any thing of that Nature. But I think it my Duty to give some short Account of the Nature and Course of the Evidence to be produced to you; which consisting of several Sorts, it will be in some sort necessary to open it, that you may the more clearly apprehend it, and with more Ease make your Observations upon it.

Gentlemen, we shall produce in Evidence, as well living Witnesses, as Papers and Writings, which by a strange kind of Providence were taken upon my Lord *Preston*, and the other two Persons named in the Indictment; when they were apprehended; and therein this Design that I have opened to you, will be made evident beyond all Contradiction.

As to the living Witnesses, the Course of the Evidence will be this. One *Nicholas Pratt* is the Owner of a Smack, called the *Thomas* and *Elizabeth*, he does usually entrust his Wife, *Jane Pratt*, with the hiring out of this Smack; *William Pasely* is Master of the Vessel, and has of late been made a Part-Owner, to protect him from being press'd; for it is a Privilege that the Owners of the Vessels claim, not to be press'd.

Some Time since (the Witnesses will tell you the precise Time) this *Jane Pratt* was sent for to one *Mr. Burdet's* House in the City, where she met with *Mr. Ashton*, who desired to know, whether she could undertake to convey him

and

and some others, with Safety into *France*. She said, she did not doubt but she could do so; and thereupon Mr. *Ashton* told her, that he and his Friends were Merchants, and Traders, and that they should make great Advantage, to the Value of a Thousand Pounds at least, if they could be there quickly. Their Discourse went no farther at that Time; but Mrs. *Pratt* was appointed by Mr. *Ashton* to bring the Master of the Vessel along with her, for he had a Mind to discourse himself with the Master, and they were to meet at the *Wonder* Tavern in *Ludgate-street*; and because there should be no Mistake about the Meeting, Mr. *Ashton* gave the Woman a Note of Direction in Writing, ready to be produced.

Accordingly, by the 29th of *Decemb.* Mrs. *Pratt* and the Master, came to the *Wonder* Tavern, where Mr. *Ashton* met with them, and there they treated of the Price to be given for the hiring of this Vessel to carry them to *France*, and I think 150 Guineas was the Sum then insisted upon, but no Bargain was made at this Time; but there was a new Appointment to meet the next Day, which was the 30th of *December*, at Mr. *Burdet's* House.

The next Day, when she and the Master came thither, they found there together *Ashton* and *Elliot*, the two other Persons named in the Indictment, and there this Matter was treated of with great Secrecy in Mrs. *Burdet's* Bed-Chamber.

And they came to an Agreement that 100 *l.* should be the Sum to be paid to Mrs. *Pratt* for conveying into *France*, *Ashton* and *Elliot*, and two other Persons. So the Contract was originally made for others besides Mr. *Ashton* and *Elliot*, and the Money was actually deposited by Mr. *Ashton* and *Elliot* in Mrs. *Burdet's* Hands, and a Six-pence was broken; one Half of which was delivered to Mrs. *Burdet* to keep, the other Half Mr. *Ashton* was to take along with him, and when the Master had safely landed them in *France*, Mr. *Ashton* was to deliver his Half of the Six-pence to the Master; which being brought to Mrs. *Burdet*, either by him or Mrs. *Pratt*, upon the joining of the two Pieces together, the Master was entitled to receive the hundred Pounds.

The next Appointment was to meet at one Mr. *Rigby's* House in *Covent-Garden*, and that was to be on the one and thirtieth of *December*, when the Voyage was to be begun: And the Tide not serving to go through *Bridge* till late, the Appointment was to meet the later. When they, Mrs. *Pratt* and the Master, came there, they found only Mr. *Ashton* and Mr. *Elliot*; but before that Time Care was taken to provide a Sculler at *Surry-Stairs*, to be ready to carry them on Board the Smack, and the Waterman was appointed to stay in a little Ale-house thereabouts, to be ready when he should be called.

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

The Smack set Sail immediately after they were on Board, and their Haste made them carry away the Waterman's Coat, which he had lent them whilst they were in the Sculler, and that

Accident was the Occasion of discovering who the Waterman was that carried them from *Surry* Stairs.

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

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

Gentlemen, Captain *Billop*, by the Order of a noble Lord, now present, was directed to use his utmost Diligence to seize some dangerous Persons, of whose Design of going beyond Sea for some very ill Ends, an Intimation had been given. He got ready a Pinnance well Mann'd, and went in Pursuit of them down the River; and both as he went and return'd, he took Care to search suspected Vessels. When he came to this, he demanded of the Master what Number of Men he had on Board, pretending he came to press Men: The Master told him he had but three, and for those he had a Protection. But the Captain said he must be better satisfied, and must search the Vessel; and in the Search he found these four Persons lying concealed in this secret Place, under the Quarter-Hatches.

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

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

When they came on Board the *George* Frigate, all the three Gentlemen, and my Lord *Preston* in particular, were very earnest with Captain *Billop* to dispose of the Bundle of Papers, mixing extraordinary Promises with great Compliments.

Not prevailing there, when they were returned to the Pinnacle, they renewed their Sollicitations, and one of them told him, it would be easy to remove all Suspicion, by fixing the Lead to some other Papers of little Signification, which were found in my Lord *Preston's* Pocket, which he might produce, and they would without Difficulty pass for the Papers that were taken.

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

When they were brought to *Whiteball* Stairs, upon their Landing they gave Money to the Master and the Seamen, desiring them to say, they were hired to go for *Flanders*, and not for *France*.

Gentlemen, These Things which I have open'd, carry a strong Presumption of Guilt, for *Englishmen*, especially one of that Quality of my Lord *Preston*, to go into the Country of an Enemy, without any manner of Pass-port, and in such a Manner as they could not expect but to be seized for Spies, unless they were assured, that their Character was so well known there, that they should be look'd upon, not as Persons coming to get Intelligence, but to give it; unless they were well assured of a good Reception when they came there.

But there is no Occasion to leave any thing to conjecture in this Case; what is contained in these Papers makes the Design of the Voyage beyond Dispute. I think, Gentlemen, after you have heard the Evidence, you will be very well satisfied, that my Lord *Preston*, and the other two who stand indicted, were equally concerned in the Papers; they were all alike earnest to preserve them from being seen; they all solicited for the disposing of them, and promised Rewards if they might prevail.

Gentlemen, These Papers are of various Natures.

One I mentioned before, is entituled, *The Result of a Conference between several Lords and Gentlemen, both Tories and Whigs*; in which it was undertaken to prove the Possibility and Methods of Restoring King *James* by a *French* Power, without endangering the Protestant Religion, and the Civil Administration, according to the Laws of this Kingdom.

Another contains Heads for a Declaration to be prepared, in order to be published when the *French* have had Success at Sea, and are landing; and that is filled with such Pretences as they thought most specious, and most likely to amuse and delude the People.

There is another Sort of these Papers which consists of Letters. These Letters are directed in false Names, and are not subscribed; and it is not to be imagined it should be otherwise. Yet, Gentlemen, (though that is not the present Business) the Hands of the Writers of these Letters are very well known, and the Subject Matter of them will easily reveal to you for whom they were intended; for though these Letters are most of them written under divers Cants, some under the Colour of Trade, some of them under the Colour of a Law-suit for the Redeeming of a Mortgage, others under the Notion of a Match, and a Settlement to be made upon that Match, yet the real Business is so plain, that you need but hear them read, to see through the Disguise.

Though they begin generally in the Style of Merchants writing to one another, or the like, yet towards the End of the Letters you will observe Expressions of Duty and Reverence (Terms which do not usually pass in Correspondence between Persons of that Sort) sufficient to shew, that somewhat else was intended to be covered in what went before.

Gentlemen, It will appear to you, that some of the Writers of these Letters were of the Number of those who were secured the last Summer, when the *French* Fleet was upon our Coasts, and you will observe they complain, that by reason of that Restraint, the Design was very much hindered, though they have endeavoured to redeem that Loss of Time since their Discharge, and have carried on the Business with more Vigour than ever.

In short, the Design of these Letters is to importune the setting out of the *French* Fleet with all possible Expedition: They say they must not suffer such a fit Season to be spent unprofitably: That the best Time is between this and the first of *March* to come to a good Market; and if they come not before the tenth of *March*, all will be lost. In another of their Letters they say, If the Suit be well solicited and managed, it may come to a final Hearing before the End of *Easter* Term.

They complain, that there are several indiscreet Letters came from *St. Germain's*, that turn to the Prejudice of the Design. Those Letters are not enough disguised to deceive the People here, but speak too plainly what is to be expected from themselves, and from the *French*. You will take Notice, that the Letters which all you will hear, are all Bills with high Characters of the Bearer; for which Reason they write in such general Terms, because the Bearer was entrusted with the whole. Some of the Letters say, no Particulars are, or need be expressed, because he will inform them of every thing: Others, that they could not write so much as he could say; and that nothing was wanting, but to allow him a full and fit Season to give an Account of all the Business; and that they entirely depend upon his Account of them and their Condition.

And, Gentlemen, in one of the Letters the Bearer is stiled a Lord; and to whom can that be applied, unless to the Prisoner at the Bar?

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

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

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

Gentle-

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

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

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

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

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

There is an Account of *Portsmouth*, how fortified and garrison'd, that it had but five hundred Men; that *Gosport* had nothing but Pallisadoes about it, and *South-Sea-Castle* very weak.

There are *Memorandums* of other Heads proper for a Declaration.

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

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

Mr. Serj. Tremain. Pray swear *Mrs. Pratt*, *Jane Pratt*.

[*Who was sworn, with seven or eight more.*]

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

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

L. C. J. Holt. Mistress, pray begin again, and speak out.

Mrs. Pratt. *Mr. Burdet* sent for me to hire my Smack to go for *France*, and they asked me if I thought it would carry them secure. I told them yes, I thought it would; and I came several times about it to *Mr. Burdet's* House. The Smack was not then come to the *Tower*, as it did afterwards; and then after they sent for *Mr. Asshton*, and he

met me at *Mr. Burdet's*, and meeting at *Mr. Burdet's*, he gave me a Note, to meet at the *Dog Tavern* upon *Ludgate-Hill*, and there *Asshton* met, but *Mr. Burdet* did not come.

Mr. Serj. Tremain. Who was with *Asshton* when you met at the *Dog Tavern*?

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

Mr. Serj. Tremain. What Bargain?

Mrs. Pratt. I ask'd 150 *l.* and they told me that was too much. Says *Asshton*, I will give you Fourscore; says *Mr. Burdet*, pray encourage them, offer them 100 *l.* Thereupon he did offer 100 *l.* and we agreed for 100 *l.*

Mr. Serj. Tremain. What Day was that, can you remember?

Mrs. Pratt. We met on the *Monday*; and the *Tuesday* we agreed.

Mr. Serj. Thompson. What Money was paid?

Mrs. Pratt. Ninety-three Guineas and Six-pence.

Mr. Serj. Tremain. Who was by when the Bargain was made?

Mrs. Pratt. *Mr. Elliot* was along with them, *Mrs. Burdet*, and the Master of the Vessel, at the Agreement.

Mr. Serj. Tremain. What is the Master's Name?

Mrs. Pratt. His Name is *Pafely*; and there was Six-pence broken, and *Mr. Asshton* took one of the Six-pences, and *Mr. Burdet* ordered him to give his Wife the other, and so he did; and when the Money was paid, *Mr. Asshton* brought in a Paper wrapp'd up, and said, we should see it told out, and he told it out there, and it was ninety-three Guineas, and the Six-pence.

Mr. Serj. Thompson. Who did they tell you they were to carry into *France*?

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

Mr. Serj. Tremain. What followed then? Did they give you any Note where you were to come for them?

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

Mr. Serj. Thompson. Mistress, you speak of the breaking of a Six-pence, what was to be done with that?

Mrs. Pratt. My Master was to bring the half of the Six-pence that *Mr. Asshton* had, to *Mrs. Burdet*, and then we were to have the 100 *l.*

Mr. Serj. Tremain. Had *Mrs. Burdet* the other Piece?

Mrs. Pratt. Yes, *Mr. Asshton* had one half, and she had t'other.

Mr. Serj. Thompson. Was there any Provision carried on Board this Smack?

Mrs. Pratt. Yes, there was a Hamper and a Trunk, which were fetch'd from *Mr. Burdet's* House; my Man, *John Fisher*, carried the Trunk, and a Porter carried the Hamper, and I took Care to see it put in the Vessel.

Mr. Serj. Tremain. When you came to *Covent-Garden* that Night, what Discourse had you? and what Enquiries were there made, and by whom?

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

Mr. Serj. Tremain. What further Discourse had they?

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

Mr. Serj. Tremain. Was there any Discourse what Advantage they should get by going, or you by carrying of them?

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

Mr. Serj. Tremain. Pray Mistress recollect your self; were they to go to *Flanders*? or where?

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

Mr. Serj. Tremain. What Time of Night did you depart from Mr. *Rigby's*?

Mrs. Pratt. About Eleven o'Clock.

Mr. Serj. Thompson. How did they go away from Mr. *Rigby's*?

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

Mr. Serj. Tremain. Do you know any thing further?

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

Mr. Serj. Tremain. Were you hired for *France* or *Flanders*? I ask you once again.

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

Mr. Serj. Tremain. Was there any particular Port mentioned?

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

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

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

L. C. J. Pollexfen. But she says, when they were at *Rigby's*, there came in two Gentlemen with Mr. *Elliot* that Night.

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

Mr. Serj. Thompson. My Lord, she does not say your Lordship was one of them.

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

Mr. Serj. Thompson. Then set up *Pafeley*. *Pafeley*, what do you know about hiring of this Smack to go for *France*? I think you are Master of the Smack called the *Thomas* and *Elizabeth*, are you not?

Mr. Pafeley. Yes.

Mr. Serj. Thompson. Then pray give an Account of the whole Matter.

Mr. Pafeley. The Smack was hired of the Woman, and not of me; and when I came up to *London*, she told me she had got a Voyage over to *France*, if I was minded to go; I said, yes; and she appointed me to go along with

her to this Mistress what do ye call um's House; this Mrs. *Burdet*; and when she came to this House, there was no body within but Mr. *Ashton*: Presently after came in Mr. *Elliot*. After they came in they told us the Things were not ready yet, but they would be ready presently to carry on Board. When these Things were ready, *John Fisher* carried the Trunk down, and the Porter carried the Hamper, and I went along with them to *Billinggate*, and carried them on Board; and when I carried them on Board I went to *Billinggate* again, and so we went along to this Mr. *Burdet's* House; and so when we came up to *Burdet's* House, *Ashton* and *Elliot* were not there present; but we had been there but a little Time e'er they came in; and then they came and said to my Owner and me, You shall see the Money told: It was all in Gold but one Six-pence; there was Ninety-three Guineas: And, after the Money was told, there was a Six-pence that was broken in half, and the Guineas he rolled up in a Paper, and gave them to Mrs. *Burdet*, and bid her lay them up; and he gave her one half of the Six-pence, and kept the other half himself; and when I brought that other half that he had, or my Owner, then she was to give the Money to her or me.

Mr. Serj. Tremain. Pray what Room of the House was this in at Mr. *Burdet's*?

Pafeley. It was on the left Hand going in.

Mr. Serj. Tremain. Was it a Bed-Chamber?

Pafeley. Yes, 'twas.

Mr. Serj. Tremain. What Time of Night was it, pray?

Pafeley. About Eight o'Clock.

Mr. Serj. Tremain. What Discourse had you with them there, pray?

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

Mr. Serj. Thompson. Did they tell you what Part of *France* they were to go to?

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

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

Pafeley. So, Sir, they gave us Direction to meet them at the *Seven Stars* in the little Piazza's in *Covent-Garden*. When we came there it was Eleven o'Clock at Night, and they were not in the House when we came in, except 'twere Mr. *Ashton*; but presently after *Ashton* and *Elliot* came in, and they sat down; and so in came two Gentlemen more, but what they were, or who they were, I don't know; and they discoursed about Papers shaking in a Hat, and said they should have no good Luck, for the Cock crowed: And after this *Elliot* and *Ashton* came out of the House, and called me to go with them; and after we were gone out, Mr. *Ashton* leaves *Elliot*, and went away from him, and *Elliot* bid me go along with him; says he, come, Master, come along with me. He did not name any Place whither they were to go; but it happened to be *Surry-Stairs*, and going down, he calls in at the Corner House, which is an Ale-house, for the Waterman, and bid me go before to the Water-side; and when we came thither the Waterman steps into his Boat, and I after him; and when I was in the Boat I went into the Stern, and by that time I was seated in the Stern, there came down four Men; but I never saw my Lord and his Man before they came into the Wherry.

L. C. J. Holt. Who came into the Wherry?

Pafeley. There was all those four, Mr. *Afhton*, Mr. *Elliot*, my Lord, and his Man.

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

Pafeley. At *Surry-Stairs*, there the Boat was.

Mr. Serj. Tremain. Was the Prisoner at the Bar one of them?

Pafeley. Yes, he was.

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

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

Mr. Serj. Tremain. Who?

Pafeley. All of them, my Lord. There was *Afhton*, and *Elliot*, and my Lord *Preston*, and his Man.

Mr. Serj. Thompson. In what Place did they hide?

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

Mr. Serj. Thompson. Did they desire you to hide them?

Pafeley. Yes, they did.

Mr. Serj. Thompson. What did they say?

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

Mr. Serj. Tremain. How big is this Place that they hid in?

Pafeley. 'Tis in the Quarter under, near the Cabin-Hatches.

Mr. Serj. Tremain. I ask you what kind of Place it is?

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

Mr. Serj. Thompson. Well, go on, what happen'd afterwards?

Pafeley. After that we were pass'd the Man of War, they came up and sat in the Cabin, where we used to eat our Victuals; and when we came to *Gravesend*, over against the *Block-house*, they would go down again and hide, and did so till we pass'd the *Block-house*, and then they were for coming up again; and then I saw a Boat coming about *Tilbury*, which made towards us, and thereupon they duck'd down again, and the Hatches were laid down upon them, and there they remained till they were taken.

Mr. Serj. Tremain. Where were they taken?

Pafeley. They were taken between the North *Block-house* and the *Little* —

Mr. Serj. Tremain. But I mean in what Part of the Ship?

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

Mr. Serj. Tremain. Were the Hatches shut down upon them?

Pafeley. Yes, they were.

Mr. Serj. Tremain. How long had they been hid before they were taken?

Pafeley. A quarter of an Hour, or thereabouts.

Sir W. W. Did they desire to be hid there?

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

Mr. Serj. Thompson. Now tell us, after such Time as they were taken, what they said, and what you observed.

Pafeley. After they were taken they said nothing to me; my Lord, nor none of them did speak to me after the Boat had taken them.

Mr. Serj. Thompson. But what happened after they were taken?

Pafeley. After they were taken, Captain *Billop* ordered them to go into the Boat, and us with them; and when we came to *Whitehall-Stairs*, one of them said to me, Master, when you come upon your Examination, say you were bound for *Flanders*, and not for *France*.

Mr. Serj. Thompson. Which was that that said so?

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

Mr. Serj. Thompson. Did they give any Money to the Seamen?

Pafeley. Yes, *Afhton* gave one of my Men half a Crown, and bid him say he was bound for *Flanders*, and not for *France*; and my Lord's Man gave my other Man half a Crown.

L. C. J. Holt. Was my Lord *Preston* by when that Money was given?

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

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

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

L. C. J. Pollexfen. Was my Lord *Preston* by when the Direction was given you to say you were to go to *Flanders*, and not to *France*?

Pafeley. I say, he was upon the Bridge, but was not near me.

Mr. Serj. Tremain. What Discourse had you on Board with any of them?

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

Mr. Serj. Tremain. Clear of what?

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

Mr. Serj. Tremain. Was there a Note written whither you were to come?

Pafeley. Yes, there was a Note written to meet them at the *Seven Stars* in the *Little Piazza's*.

L. C. J. Pollexfen. Whereabouts is *Burdet's* House?

Pafeley. That is in *Queen-street* in the City.

Mr. Serj. Tremain. You, *Pafeley*, Did the Waterman that brought them on Board leave two Coats behind him?

Pafeley. Yes, the Waterman did leave two Coats;

Coats;

Coats; and I put them into my Chest, and afterwards they broke open my Chest, and took them out, and brought them to my Lord Chief Justice's.

Mr. Serj. Tremain. Then we will next produce that Waterman. Set up *Charles Betsworth*.

Mr. Serj. Thompson. Come, will you give us an Account who you carried on board a Smack, and what happened?

Betsworth. I was going over the Water from *Surry-Stairs* about seven or eight o'Clock, and a Gentleman at the Stairs called *Sculler*, and ask'd me if I would carry him down the River; said I, how far? Says he, to the Tower: Said I, 'tis against Tide, and I can't carry you down so low. He said he would stay till the Tide turn'd: Said I, if I be out of my Bed so long, I deserve to be well paid for it; if you will give me Half a Crown I'll carry you down. Says he, I'll give it you. So then I came ashore, and he ask'd me what my Name was; I told him, *Charles Betsworth*: Says he, will you be sure to stay for us? Yes; said I, if you will be sure to come. If I be not at the Stairs, I'll be at that Alehouse there in the Corner: So I staid, and carried a Fare or two over the Water; and about eleven o'Clock, as I was sitting in the House a Gentleman comes, and calls, *Charles*, and so out I went to my Boat, and took them in. There was one Man, as I suppose, in the Stern, and he that called me out, followed me down, and by and by came three more into my Boat; one of them had a whitish Cloak on; and the other a grey loose Coat, and a red Bag of the Quantity of a Peck, and so we put off, and row'd away; and just under the *Temple-Wall*, which was all the Words I heard from them that I can remember, says one Gentleman, When do you hear the King goes away? and another made Answer, and said, on *Tuesday*. So we rowed down through *Bridge*; and when we were through *Bridge*, they asked where the Vessel lay; and he that was in the Stern said, it was *Southwark-Side*, over against the *Tower*, and bid me row over thither. And when we came just below *Battle-Bridge*, that Man said, that is she that rides a-head of us. I looked, and she had a Pennant up: So they were put on board, and as soon as they were on board, she went off, and I rowed up to the *Bridge*, and went through *Bridge*, and came up as far as

and there I stayed, and took my Sculls and my Staff out of my Boat; and when I took them out, I missed my Cloaths. Says I, God blefs me, I have lost my Cloaths; but then I thought it was but a still Tide, and therefore I would try if I could overtake them; for I thought they could not be got far, there being little or no Wind; so I went down to the Place where the Vessel lay, and she was gone; and I enquired of several Smacks that lay there, but could hear nothing; and I rowed as low as *Limehouse-Reach*; and about *Black-Wall* and *Limehouse-Reach*, I came up to a Smack that I supposed was she, and cried out, Ho the Smack, and they answered me, So. I asked them if I did not bring a Fare a Board that Smack awhile ago? Then they said no. I told them I had brought a Fare a Board some Smack that lay about *Horsley-down* and *Pickle-berring-Stairs*, and they had got two Coats of mine, which I had forgotten, and it had a Pennant up when they went on Board, but this had none; so I rowed on further, till I came as far as

Barkin-Sherf; and I thought there being so little Wind, that none could be gone beyond me, and therefore waited to see a Smack with a Pennant coming down; but I could not meet with it, and there I lay all Night in my Waistcoat, and the next Day I came back to *Greenwich*, and as I came along, I went on Board several Vessels to enquire, because I took her for an Attendant upon a Man of War; but I could not hear of my Cloaths, till last *Friday* was Seven-night two Watermen came; and brought me the Cloaths I lost.

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

Betsworth. Yes, I have.

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

Betsworth. I can't tell that ever I saw him in my Life before.

Mr. Serj. Tremain. You *Pafeley*, I ask you, was my Lord *Preston* one of the Gentlemen the Waterman brought on Board your Smack?

Pafeley. Yes, he was.

Mr. Serj. Tremain. Is that the Waterman?

Pafeley. Truly, my Lord, I can't tell; but the Waterman's Coat was left on Board.

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

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

Mr. Serj. Tremain. Did you take in your Pennant?

Pafeley. Yes, I did afterwards.

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

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

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

Pafeley. *Elliot* did; so we took it down.

Mr. Serj. Thompson. Will my Lord ask *Betsworth* any Questions?

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

Mr. Serj. Tremain. What did they carry on Board with them, *Pafeley*?

Pafeley. They had nothing on Board but the Trunk and Hamper, that were brought down before from *Burdet's* House; and there was nothing brought in the Boat but only a Leather Bag.

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

Fisber. Yes, I was.

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

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

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

Fisber. About six or seven o'Clock at Night, on *Wednesday*, I think.

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

Fisber. My Lord, and *Mr. Ashton* and *Mr. Elliot*, and my Lord's Man, and the Master, came on Board between eleven and twelve: There was no more came on Board that I know of; but we were asleep when they came on

Board; and immediately our Master ordered us to hale up the Anchor. Now there was but little Wind stirring; and by that Time we were fallen down as low as the *Half-way Tree*, it being still Flood, we could go no farther: So there we were ordered to stop, and we lay by till Morning; and about eight in the Morning we weighed Anchor again, and about nine, when we came to the *George* Man of War, they hid; they desired to go down into the Quarters, and we laid the Hatches upon them.

Mr. Serj. Tremain. What kind of Place is it that they hid in?

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

Mr. Serj. Tremain. Were they all four there?

Fisher. Yes, all four.

Mr. Serj. Tremain. After they were taken, what said they?

Fisher. After such Time as they were taken, and come up to *White-hall* Stairs, Captain *Afhton* gave me a Half Crown Piece, and bid me say, they were going to *Flanders*, and not to *France*.

Mr. Serj. Tremain. But whither were you going?

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

Mr. Serj. Tremain. When did any body tell you you were to go to *France*?

Fisher. Since we came on Shoar.

Mr. Serj. Thompson. Will my Lord ask him any Questions?

L. Preston. No.

Mr. Serj. Tremain. Then the next Witness we call is one *Amonds*. Pray tell us what you know of this Matter.

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

L. C. J. Holt. What Gentlemen?

Amonds. My Lord *Preston*, Mr. *Afhton*, and Mr. *Elliot*, and the other Gentleman that was with them.

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

Amonds. Yes, that Gentleman was one.

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

Amonds. And so, Sir, after we were passed the Frigate, they came up again, and did not de-

sign to go down any more till they see some other Danger. When we came almost to *Gravesend*, they went down again: When we pass'd the *Block-House* I was at the Helm, and they were resolving to go to Dinner, and bid that Man, my Fellow; to reach them some Victuals out of the Hamper: And while he was reaching them some Victuals, I see the Pinnace coming towards us: Said I, here is a Pinnace coming a Board: Says my Lord, and they; we must go down again and hide; and so they did go down again. We apprehended that they were coming a Board to press us, and they had no Mind to be seen. When the Pinnace came near, they waved to us in this manner, as much as to bid us stay: So we laid the Sail by, and staid for them till they came up; and when the Captain came on Board, says he, this is worth our coming on Board, here are a Couple of brisk Seamen will do the King Service; I must have them, I think. Says I, I hope not so, noble Captain: Says he, have you any thing to keep your selves clear? Yes, says our Master. I am sorry for that, says the Captain. What is it? Says the Master, I have a Protection. Says the Captain, let us see your Protection: So the Master pulls out his Protection, and shews it. Well, says the Captain, I must look a little further, and away he goes into the Cabin, and takes up the Hatches, where these Gentlemen were. Says the Captain, Hye, hye, who is here? Turn out, says he: But I suppose they did not make so much Hast as the Captain expected; so he called some of his Men on Board; and when they came on Board, my Lord came out, and the rest of the Gentlemen; and says my Lord to the Captain, I hope you will be so kind as not to take any thing from us. Says he, I'll meddle with nothing but Papers; 'tis Papers I look for, and put his Hands in both his Pockets, and pulled out Papers, and put them into his own Pocket; but whether they were new or old I can't tell; and there was a Watch likewise, but that he gave my Lord again, and said, I'll meddle with nothing but Papers. Then he search'd Mr. *Elliot*, and Mr. *Afhton* was the last that came out, and there was one of my Lord's Watermen in the Cabin with him; and, says he, and please you, noble Captain, that Gentleman put something in his Bosom. Says the Captain, What did you put in your Bosom, Sir? Nothing, says he, but my Handkerchief.

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

Amonds. Mr. *Afhton*, and shews him his Handkerchief; and afterwards the Captain put his Hand in Mr. *Afhton*'s Bosom, and pulled it out.

Mr. Serj. Thompson. What did he pull out?

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

Mr. Serj. Thompson. Did you see the Lead fix'd to the Papers?

Amonds. I did see it fix'd to the Packthread that tied the Papers.

Mr. Serj. Tremain. What sort of Place is it in which they were taken?

Amonds. They could not sit, nor stand upright in it.

Mr. Serj. Tremain. Had you any Money given you?

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

L. C. J. Holt. Who was it gave you the Money?

Amonds.

Amonds. It was my Lord's Man; he that was on Board the Ship: He gave me Half a Crown in *Whitehall*, and said, I should say we were bound for *Flanders*, and not for *France*; but who the Half Crown came from I cannot tell, my Lord said nothing to me at all.

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

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

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

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

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

L. C. J. Holt. What say you, Did my Lord *Preston* say any thing to you at *Whitehall*?

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

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

L. Preston. No, my Lord.

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

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

Mr. Serj. Thompson. Come, *Captain Billop*, pray will you tell my Lord and the Jury, where you did apprehend my Lord *Preston*, and the Circumstances of what happened at their Taking.

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

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

Capt. Billop. About two o'Clock, or between one and two, upon the last of *December*, my Lord *Danby* came to me at one of the Doors of the Houſe of Lords, and told me his Father would speak with me; and he carried me to my Lord *Lindſey's* Chamber, where immediately my Lord *Preſident* came, and told me there were ſome Perſons going for *France* about Buſineſs of dangerous Conſequence, and he deſired me to uſe ſome Means to get them apprehended: I then propoſed what I ſhould have to enable me for the Undertaking. My Lord *Danby* ſaid, there was ſuch a Boat that he would procure me, and my Lord *Preſident* gave me a Letter to another Perſon, who was to inſtruct me further about this Matter. My Lord *Danby* got the Boat ready, and ſome Men and Arms in it: But I thought there were not Arms enough; ſo I borrowed ſome Arms of my Lord *Lucas*, and about eleven o'Clock, as near as I remember, we put off from *Tower-Wharf*. It being very calm, I thought we ſhould be ſwifter than any Veſſel, and ſhould have the Advantage of them all; and therefore run down as far as *Graveſend*, and I brought ſeveral Veſſels by the Lee, in which Time I preſſed ſome *Barkin* Men, two or three of them; and amongſt them one that knew the Veſſels that lay in the River, having been on Board ſeveral; and we did board divers, and took out ſome Men, having a Preſs-Warrant; and he that I had taken of the *Barkin* Men, after he had paſſed by ſeveral Veſſels, ſeeing this Veſſel ſailing, told me that was the *Thomas* and *Elizabeth*: Whereupon we made up to them, and waving

towards them, they ſtaid for us. When we came up, there was ſtanding by the Maſter two luſty Sailors, and I told him I would take but one of them: He ſaid he had a Protection; I bid him ſhew it me. When I was come on Board, and had looked upon his Protection, I told him I muſt look a little further, and went down into the Cabin, and took up the Hatches, and there I found them all four lying together.

Mr. Serj. Thompson. What four?

Capt. Billop. My Lord *Preston*. I did not know him then, nor till afterwards.

Mr. Serj. Tremain. Who elſe was there?

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

Mr. Serj. Thompson. Pray *Captain* tell us what happened in the Veſſel before you went out of it, after you found them there.

Capt. Billop. I handed my Lord *Preston* up firſt; and after he came out of that little Place, which he was forced to creep out of on his Knees, I turned my Lord about, and told him I muſt ſearch him. He ſaid, he hoped I would not meddle with any thing, I told him I would meddle with nothing but Papers: So I put my Hand in his Pocket, and took all the Papers I could find, and put them in my own Pocket; and taking out a Watch, I delivered it to my Lord again. The next was Mr. *Elliot*, and I ſearch'd him, and found nothing at all upon him. After that *Aſhton* came up, and one of my Men told me, that Gentleman had put ſomething in his Boſom: Whereupon I gave him a ſudden Turn, his Back being towards me, and ask'd him what was that he put in his Boſom? He told me nothing but his Handkerchief, and pluck'd his Handkerchief out; with that I clapp'd my Hand in, and got the Packet, and took it out, with the Lead fix'd to it. I have the Lead now in my Pocket.

Mr. Serj. Tremain. Pray will you produce it, Sir. [*Which he did.*]

Capt. Billop. This is the Lead, ſeveral of my Men ſaw it when 'twas fix'd to the Packet.

Mr. Serj. Thompson. What did you do with the Packet?

Capt. Billop. I put it immediately into my Pocket, as ſoon as I had ſearch'd Mr. *Aſhton* further, and then commanded theſe Gentlemen all into my Boat, and took all the People that belonged to the Smack with me, after I had brought her to an Anchor, and left two of my Men on Board of her, and there ſhe rid till next Day, when I ſent two more of my Men to bring her up; and thoſe two Men I order'd to ſearch all the Parts of the Veſſel, and take what they could find; and whatſoever they found, they ſhould carry it to the *Tower*, to my Lord *Lucas*; which, I ſuppoſed, they did.

Mr. Serj. Tremain. Well, *Capt. Billop*, after ſuch time as you had taken theſe Papers, and brought theſe Gentlemen into your Boat, pray what Diſcourſe had you with them? What ſaid they to you concerning the Papers?

Capt. Billop. It was a pretty while before we talked of any thing: The Beginning of our Talk was, I remember, they deſired to go Aſhore at *Graveſend* to reſreſh themſelves, for it was cold, and they had not eaten any thing. It was my

Lord that desired it; but I begg'd his Pardon for that, and told him there was a Man of War that lay at *Long-Reach*, where, as I believed, his Lordship would be very well accommodated with any thing he wanted.

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

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

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

Capt. Billop. My Lord *Preston* told me, if ever it lay in his Power to do me Service he would, and he did not doubt but he might; and he used a great many Words and Expressions of Kindness, and his Readiness to do me Service; and amongst the rest, my Lord said once to me, if I would dispose of the Packet.——

Mr. Serj. Thompson. Pray speak that again.

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

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

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

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

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

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

Capt. Billop. *Mun Elliot* whisper'd me several times, Dear *Billop* throw the Packet over-Board; what Good would it do you to injure so many honest Gentlemen? And *Mr. Ashton* and *Mr. Elliot* said, I had it now in my Power to make my self as great and as rich as I would be.

Mr. Serj. Tremain. What did any of them say about the Tide turning?

Capt. Billop. *Mun Elliot* also said, it was impossible the Current, or the Tide could run long this Way, or always this Way.

Mr. Serj. Thompson. When you had refused this that they desired of you, notwithstanding their Promises, pray tell us how they turned their Discourse into Threatnings.

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

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

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

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

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

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

Capt. Billop. Yes.

Mr. Serj. Tremain. Who was it?

Capt. Billop. It was *Ashton*.

L. Preston. I desire I may ask Captain *Billop* a Question.

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

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

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

L. Preston. Was it aboard the Boat that I desired you to dispose of the Packet?

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

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

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

Mr. Serj. Thompson. But *Ashton* and *Elliot* did desire of you a great many times to throw it over Board?

L. Preston. I desire he may be asked this Question. You said you carried these to my Lord *Nottingham*: Did you see them opened?

Capt. Billop. Yes, I did see them opened, and I saw my Lord as he opened them, lay them one by one, and read them over, and put them up again. And I looked upon several of them, while my Lord *Nottingham* was reading others; and

and I stood by the Fire, and I see my Lord make them up, and he tied them with a Piece of Twine, and he clapp'd his Seal upon them, and delivered them to me; and I went immediately and delivered them to my Lord President.

L. Preston. Were you all the while by, while my Lord Nottingham was reading the Papers?

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

L. Preston. Are you sure, or can you swear that these are the same Papers which were taken on Board the Smack, that you carried from my Lord Nottingham to my Lord Danby?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Capt. Billop. No, indeed.

Mr. Serj. Tremain. Then set up Johnson. [Which was done.] Pray tell us what you know of this Matter.

Johnson. I was in my Lord Dunblain's Barge, and I went down with this Captain Billop, and

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

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

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

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

Mr. Soll. Gen. Your Lordship observes, the Packet was not at first in Mr. Ashton's Bosom.

L. C. J. Holt. No, it was not.

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

Johnson. Upon the Ballast, for they had shov'd away the Board.

Mr. Soll. Gen. Was my Lord Preston upon the Ballast?

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

Mr. Soll. Gen. Who lay next my Lord Preston?

Johnson. My Lord's Footman; Mr. Ashton lay next, and Mr. Elliot lay next.

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

Johnson. My Lord was the first that I see come up.

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

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

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

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

Johnson. I took them from off the Ballast.

Mr. Serj. Thompson. Did my Lord own these to be his Seals?

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

Mr. Serj. Thompson. Well, *Johnson*, go on, tell what you know further.

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

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

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

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

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

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

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

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

Johnson. They had a great deal of Discourse while we rowed. I was at the next Oar to them, but I cannot tell what 'twas.

Mr. Serj. Thompson. Who did discourse?

Johnson. *Ashton*, *Elliot*, and the Captain.

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

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

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

Johnson. *Elliot* wished that a Thunderbolt might drop into the Boat several times, and sink it; and when we went through Bridge against Tide, he wished that *London-Bridge* might have fallen upon our Heads.

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

Johnson. Yes, I did, as it lay by the Seals.

L. Preston. I perceive there seems to be some Strefs laid upon my lying next to *Mr. Ashton*, and Seals lying by the Packet.

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

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

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

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

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

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

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

Juryman. With Submission, my Lord, I desire this Witness may be asked this Question, Whether he saw *Captain Billop* take the Packet out of *Ashton's* Bosom?

Johnson. Yes, I did.

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

Johnson. No, I did not.

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

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

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

[*The Earl of Nottingham sworn.*]

Mr. Serj. Tremain. Where are the Papers?

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

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

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

Mr. Serj. Thompson. Pray shew my Lord the Seals. [Which was done.]

Earl of Nottingham. This is the Signet I presume which he brought to me; I am sure he brought just such a one, if not the same. Those Papers, when he delivered them to me, I opened in his Presence, and when I had so done, I read them, and put them up together again, and sealed them with my own Seal, and delivered them to him

him back again. What the Papers are, and what he did with them, I suppose he will give you an Account.

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

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

Mr. Serj. Thompson. Pray, my Lord, were they ever out of Captain *Billop's* Sight while your Lordship had them?

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

Mr. Serj. Thompson. Pray, my Lord, were the Letters in the Packet sealed?

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

L. C. J. Holt. The Gentlemen of the Jury hear what my Lord says.

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

Mr. Serj. Thompson. Captain *Billop*, when you had them back from my Lord of *Nottingham*, pray to whom did you deliver them?

Capt. Billop. To my Lord President.

Mr. Serj. Tremain. Then we must desire my Lord President would be pleased to be sworn.

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

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

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

Mr. Soll. Gen. Then we desire my Lord *Sidney* would please to be sworn.

[*The Lord Sidney sworn.*]

Mr. Serj. Thompson. Will your Lordship please to acquaint the Court and the Jury, what Papers were delivered to you, and by whom, and where those Papers are?

L. Sidney. The Papers that were delivered by my Lord President, I have kept them, my Lord, ever since. As soon as I had them, I read them,

and mark'd them with a Letter of my own Name, the Letter *H*. I have kept them ever since; only one Morning I gave them to Mr. *Bridgman* to be copied out as soon as he could, and he delivered them me back again, and they have not been out of my Custody since; only the Night before last Night they were sent to Mr. *Sollicitor* to read, and brought immediately to me again.

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

L. Sidney. To Mr. *Bridgman*, I tell you.

Mr. Soll. Gen. So that they were never out of your Lordship's Hands till now, but only in Mr. *Bridgman's* Hands?

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

Mr. Soll. Gen. Did your Lordship mark them before they were delivered to Mr. *Bridgman* to copy?

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

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

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

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

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

L. Preston. From that Time they came out of my Lord President's Hands, I know not what may be put in, nor what taken out. These Papers were not sealed, as I hear of, afterwards; and passing through so many Hands, no body knows what may be done to them. Truly, I think it very hard to swear, after all this, that these are the Papers that were on Board the Smack.

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

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

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

L. C. J. Holt. Your Lordship hears what Captain *Billop* says. He says, he brought them as he took them out of *Afhton's* Bosom, to my Lord *Nottingham*: My Lord *Nottingham* opened them before him, and did deliver them to him again, having made them up: My Lord *Nottingham* says, the same Papers Captain *Billop* delivered him, he delivered back again, all, and no more; and *Billop* says, he carried them to my Lord President; my Lord President shewed them to the King, and afterwards carried them

to the Cabinet-Council; there the same Papers were opened, and there they were marked, some by my Lord *Marlborough*, and all by my Lord *Sidney*.

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

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

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

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

Mr. Soll. Gen. Pray swear Mr. *Bridgman*.
[Which was done.]

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

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

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

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

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

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

Mr. Serj. Thompson. Did you observe my Lord *Sidney* had mark'd them before you had them?

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

L. Preston. My Lord, I desire to ask Mr. *Bridgman* this Question: Pray, Sir, were they sealed up when you sent them to my Lord *Sidney*?

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

L. C. J. Holt. The Question is ask'd you, whether you carried them back sealed or no?

Mr. Bridgman. No, they were not sealed when they were delivered to me; but I can safely swear they were never out of my Custody till I delivered them back again; for what I did not copy my self, were copied in my Sight.

Mr. Serj. Thompson. But your Lordship is pleased to observe they were all mark'd by my Lord *Sidney* before they were delivered unto him.

Mr. Soll. Gen. Then, my Lord, we have done with our living Witnesses for the present, and will read the Papers.

Mr. Bridgman. One thing, my Lord, I do remember; as soon as my Lord *Sidney* received the Papers back again, he looked over every one of them, and read them, and looked upon the Marks.

L. Preston. If your Lordship please, I would beg the Favour to ask one Question of my Lord *Sidney*: Pray, my Lord, did your Lordship number the Papers?

L. Sidney. No, my Lord, I did not number them.

L. Preston. But your Lordship says upon your Oath and Honour, that those are the very Marks upon them that your Lordship set there?

Mr. Soll. Gen. We are indeed to produce them, and then we shall ask that particular Question.

L. C. J. Holt. My Lord *Sidney* will see them, and then he will answer your Lordship's Question.

L. C. J. Pollexfen. My Lord *Preston*, my Lord *Nottingham* is here a Witness, and his Occasions call him away, have you a Mind to ask him any more Questions?

L. Preston. No, my Lord.

L. C. J. Pollexfen. What say you, Gentlemen, have you any farther Occasion for my Lord *Nottingham*?

Mr. Soll. Gen. My Lord, we must beg his Lordship's Patience, we do not know what Occasion there may be: I desire this Paper may be shewn to my Lord *Sidney*. [Which was done.]

L. Sidney. That is my Mark; that Paper I know is one of the Papers.

Mr. Serj. Tremain. Here are two of them; one of these is the Copy of the other: Both were taken in the same Packet; the one is fairer written than the other.

Mr. Soll. Gen. Gentlemen, the Paper we are now offering to you is that which I mentioned before; it is the Result of a Conference: There were two of them taken in this Bundle; the one of them seems to be the first Draught, the other is a Copy more fairly written; but I think they are both in Effect the same: However, they were both taken in the same Packet, and you shall hear them read.

L. Preston. My Lord, I desire that before it be read it may be shewn to Captain *Billop*, to know whether it be the very Paper that he took.

L. C. J. Holt. Ay, let Captain *Billop* look upon it.

Capt. Billop. My Lord, I do not remember that Paper.

L. Preston. Your Lordship observes that Captain *Billop* cannot swear that this was one of the Papers that he took.

Capt. Billop. All the Papers that I looked into I marked, and all the Papers that I mark'd I can swear to, and no others.

L. C. J. Pollexfen. Did you look into all the Papers.

Capt. Billop. No, I did not.

L. C. J. Holt. But he swears all that he brought to my Lord *Nottingham* were sealed up by my Lord *Nottingham*, and carried by him from my Lord *Nottingham* to my Lord President; and my Lord President swears he delivered them all to my Lord *Sidney*; and my Lord *Sidney* swears this is one of those Papers.

L. Preston. Certainly, my Lord's swearing to a Paper in this manner cannot be a good Proof. My Circumstances, my Lord, are very hard, and your Lordship, I have heard, ought to be of Council for me in any Point of Law; and, my Lord, I humbly desire to know, whether this can be a Proof of a Paper, that he says was taken in a Packet, and yet he can't swear it?

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

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

Mr. Serj. Thompson. My Lord *Preston*, you are not to sum up the Evidence to the Jury till we have done, nor to make your Observations.

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

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

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

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

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

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

L. C. J. Pollexfen. Pray, my Lord, see how the Evidence stands about this Matter. First, it is sworn by *Billop*, that he took a Bundle of Papers, though 'tis true, the Particulars he does not undertake to swear to. Well, what is next? Why, says he, all that was in that Bundle I carried to my Lord *Nottingham*, and I received from my

Lord *Nottingham* all that I carried to him. What says my Lord *Nottingham*? He swears I delivered back again to Captain *Billop* the same Papers he delivered to me, and all, and no more, sealed up with my Seal. When he has it sealed up, what does he do with it? why, he carries it to my Lord President. Is there any Possibility of creeping out of this Evidence? Well, he delivers them to my Lord *Sidney*, and my Lord *Sidney* says this is one of those Papers. Can there be a plainer Evidence than this? when he says, all he had he carried to my Lord *Nottingham*, and my Lord *Nottingham* swears, all he did receive he sent back, sealed by him, to my Lord President; and my Lord President swears, all he received, so sealed, he gave to my Lord *Sidney*; and my Lord *Sidney* swears this is one of those Papers.

L. Preston. But your Lordship will please to observe they were carried to the King, and they were in the Hands of my Lord *Marlborough*.

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

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

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

L. C. J. Holt. No, they were shewn to the King, but my Lord President was by all the while that the King did read them.

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

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

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

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

L. Preston. Pray, my Lord, was your Lordship by when his Majesty read those Letters?

L. President. Yes, my Lord, I was.

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

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

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

L. C. J. Holt. Read it:

Clerk of the Peace reads.

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

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

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

“ 3. If he incline to this sort of Sense, he must over-rule the Bigotry of *St. G.* and dispose their Minds to think of those Methods that are more likely to gain the Nation; for there is one silly Thing or other daily done there, that comes to our Notice here, which prolongs what they so passionately desire. The Methods thought upon are these:

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

“ *Secondly*, Since there is a great Body of Protestants that never deserted, and that many Thousands are returning, and that they are the natural Weight and Power of these Kingdoms, by having the Heads, Hands and Wealth of their Side, to the Odds and Advantage of at least two hundred Protestants to one Catholick; the *K.* may think of nothing short of a Protestant Administration, nor of nothing more for the Catholicks than a legal Liberty of Conscience; for much *e mutt* is against all other Notions, to which all private Passions, and artificial Frames in Government, must yield or break. He may reign a Catholick in Devotion, but he must reign a Protestant in Government. *Cromwel* could not, yet on a broader Bottom, with a victorious Army, subsist or keep what he had got.

“ *Thirdly*, He must give us a Model of this at *St. G.* by preferring the Protestants that are with him above the Catholicks; one being Loyal upon less Ties of Interest; and to tell the Nation here what they are to hope for when he comes.

“ *Fourthly*, He must give Encouragement to Lords and Gentlemen here to come to him, at least Seven or Nine for a standing Council,

“ which will make us here think he is in some Degree ours again, and that we have a Relation to him, and some Interest and Share in him, by the Men of Quality of our own Religion that are with him. This will incomparably facilitate the Matter here, nor will they, when they come, come empty, and in their own Names, which is still better, and will be more satisfactory there.

“ *Fifthly*, To induce this, *English* Protestants should be encourag'd by an Edict of Liberty from the *K. of F.* to have Chapels at their own Costs, in which to worship God after their respective Ways; by which that *K.* will make us reflect upon his Conduct towards his *Hugonots*, rather to flow from the Hazard he thought himself in by their Antimon. and resisting Principles, than a Desire of Persecution.

“ *Lastly*, All other requisite Measures depending upon the Acceptance this finds, an Answer hereunto is impatiently desired by those that have discourst the *King's* Business to this Maturity. So ended with an unanimous Consent, both *Tories* and *Whigs* upon this Occasion, that are in a Way of closing in his Interest.

L. Preston. I can very safely swear, my Lord, that I never saw that Paper in my Life.

L. C. J. Holt. Come go on with your Evidence.

Mr. Soll. Gen. This is another Paper of the same, but the Words that are written short in that, are written at Length in this.

[*The Paper was read accordingly, and in the first Blank there was written K. J. in the first Paragraph (France) twice, in the third Paragraph (St. Germain) in the fifth (Mathemat. for Much e mutt) the rest are obvious, and need not be supplied.*]

Mr. Soll. Gen. Pray shew my Lord *Sidney* that Paper. What says your Lordship to it?

L. Sidney. This is one of the Papers that I marked, and that I received from my Lord President.

Mr. Soll. Gen. Pray will my Lord President be pleased to give himself the Trouble to cast his Eye upon that, and see if that be one of the Papers.

L. President. My Lord, I remember it well, it is one of the Papers I received from Capt. *Billop*.

Mr. Serj. Tremain. This Paper is what *Mr. Solicitor* mention'd as Heads of a Declaration.

L. Preston. My Lord, I think it necessary to offer one Thing to your Lordships before it be read. I desire Captain *Billop* should swear it to be one of his Papers.

Mr. Soll. Gen. If your Lordship pleases, you observe what has been done already. My Lord President says 'tis one of those Papers that was sent him by my Lord *Nottingham*; and my Lord *Sidney* has sworn it is one of the Papers he had from my Lord President.

L. Preston. I shall not give your Lordship any more trouble than needs; I only offer it to your Lordship: I wave it.

L. C. J. Holt. There is Evidence enough to have the Paper read.

Clerk of the Peace reads.

“ That the *King* will return with a Design of making an entire Conquest of his People, is so

“ so ridiculous as well as difficult, that it needs
“ not be spoken to.

“ That the King’s Declaration be worded in
“ general Terms, That he will govern by the
“ Laws; that they shall be the Rule of his Acti-
“ ons; that he will endeavour to settle Liberty
“ of Conscience by Law; that whatsoever things
“ were formerly done by him, which occasioned
“ Jealousies in the Minds of his People, shall be
“ left to the Determination of a Parliament, to
“ be formally and regularly called as soon as is
“ possible.

“ That he has given sufficient Evidence of his
“ Unwillingness to bring an Army of Strangers
“ into his Kingdom, by refusing the Succours of
“ the King of France offered him, and which
“ were even ready to be embarked upon the first
“ Notice of the P. of Orange’s intended Invasion.

“ That he brings with him such an Army only
“ as is necessary for his own Defence, and for the
“ Security of such of his loyal Subjects as shall
“ resort to him; that he will dismiss them as soon
“ as he shall have rid the Nation of those Foreign-
“ ers who have invaded it, and trampled upon the
“ Laws and Liberties of his People.

“ The King’s large exercising his Dispensing
“ Power gave the great Alarm to the People,
“ and contributed most of all toward the general
“ Defection. Yet when that Power came to be
“ debated in the last Convention, there appeared
“ so many Difficulties in the limiting of it (every
“ body, even the present Judges believing it ne-
“ cessary, that a dispensing Power should be in
“ the K.) that it was let fall, and that Point re-
“ mains as it was. And without mentioning
“ that, or any other Particular, the K. can be in
“ no Danger by leaving all things which have
“ been the Occasion of Jealousies, to the Deter-
“ mination of Parliament, where, besides the
“ King’s professed Friends and Servants, there will
“ not want others who will be glad of Opportu-
“ nity to ingratiate themselves.

L. C. J. Pollexfen. Gentlemen of the Jury, if
you desire any thing to be read again, or any thing
doubtful in it should be explained, tell us, and it
shall be done.

Juryman. No, my Lord, there is no Occasion
for that. I believe we apprehend these three
Papers that have been read.

L. Preston. My Lord, it is necessary the Gen-
tlemen of the Jury should be satisfied in this
Point.

L. C. J. Pollexfen. Ay, in any Point; and if
they desire any Scruple should be cleared, the
Court will do it for them.

Juryman. My Lord, I desire to know whether
Captain Billop signed that Paper or no.

L. C. J. Holt. No, he did not sign half of
them; but unless it be proved, you ought to take
it for granted that it is not signed by him.

L. Preston. My Lord, I think it fit the Jury
should be satisfied in any Scruple they raise.

L. C. J. Holt. They asked this Question, Whe-
ther Captain Billop did sign the Paper? And I
told them Captain Billop did not say so; and
therefore they are to take it for granted, that he
did not.

Juryman. My Lord, we take this last Paper that
was read, to be a Paper that was delivered in the
Bundle taken from Mr. Ashton to my Lord Not-
tingham, but not signed by Captain Billop.

L. C. J. Pollexfen. Then you take it right.

Mr. Sol. Gen. Then the next Paper that we pro-
duce is a List of the English Fleet, that these Gen-
tlemen were carrying over into France.

L. Preston. That is printed, and to be found in
every Coffee-house.

Mr. Serj. Tremain. Shew that Paper to Captain
Billop. [Which was done.] Can you take it up-
on your Oath, Captain, that that Paper was in the
Packet that was taken in Mr. Ashton’s Bosom?

Capt. Billop. That Paper I have marked, and
that Paper I swear was in the Packet I took away
from Mr. Ashton on board the Smack.

L. C. J. Holt. You are sure of it.

Capt. Billop. Yes, my Lord.

L. C. J. Holt. Then read it.

Clerk of the Peace reads,

S H I P S.

Rates.	Ships.	In Repair.	Not.	Building.
1	8	5	3	—
2	12	11	1	—
3	35	34	1	—
4	38	34	4	4
5	14	14	—	1
6	9	9	—	—
Fireships	25	25	—	8
Bomb-Vessels	1	1	—	8
Ketches	1	1	—	—
—		—	—	—
	143	134	9	21

Brought in by Admiral Ruffel to the House of
Commons, December the 24th, 90. the Fleet,
whereof 60 Dutch.

Memorandum, The new Ships building, are ex-
pected will be ready to be launched by the End
of March.

Mr. Serj. Tremain. Pray shew this Paper to Cap-
tain Billop. [Which was done.] Pray, Was that
Paper there among the others that were taken with
these Gentlemen?

Capt. Billop. Yes, it was.

Mr. Sol. Gen. Can you take it upon your Oath,
that that Paper was in the Packet that was in Mr.
Ashton’s Bosom?

Capt. Billop. Yes, my Lord, I can.

Mr. Serj. Tremain. Pray shew him that Paper
too. [Which was done.]

Mr. Sol. Gen. And can you take upon you to
say, that that was one of the Papers in the
Packet?

Capt. Billop. Yes, it was.

Mr. Sol. Gen. My Lord, we desire these may
be read.

Clerk of the Peace reads. New-Year’s Eve, and it
is directed for Mr. Redding.

S I R,

“ T H O U G H the Bearer of this will do us
“ the Justice to assure you, we are as full of
“ Duty, as unfeignedly and unconcernedly yours;
“ as your self could wish; yet this Gentleman
“ has undertaken.—You will forgive the Pre-
“ sumption, if I do myself the Honour to give
“ you this fresh Assurance in a few Words, which
“ I hope we do by our Accounts. I shall omit no
“ Occasions, not neglecting the least, and making
“ zealous Wishes for the greatest; to shew our
“ selves such as we ought to be.

Sir,

“ Sir, I speak in the Plural, because I write
 “ my elder Brother’s Sentiments as well as my
 “ own, and the rest of the Family, though less-
 “ ened in Number; yet if we are not mightily
 “ out in our Accounts, we are growing in our
 “ Interest, that is in yours. He that delivers
 “ this, will, I hope, entirely to your Satisfaction,
 “ represent us, and me in particular, as with all
 “ the Devotion imaginable, and unchangeable
 “ Affection.

Yours, God grant the happiest New-Year.

Mr. Serj. Tremain. Read the other Paper.

Clerk of the Peace. This is dated *Decemb. 31. 1690.* “ I must not let this Bearer depart, Ma-
 “ dam, without assuring you——

Mr. Sol. Gen. Hold, Sir, don’t read that yet. Here, shew this Paper to Captain *Billop*. [*Which was done.*] What say you, Captain *Billop*? Is that one of the Papers taken from Mr. *Ashton*?

Capt. Billop. Yes, this is one that I read, and marked.

Mr. Sol. Gen. Then read it.

Clerk of the Peace reads. This is directed for Mrs. *Redding*.

“ **A**S ’tis impossible for me to express that
 “ extraordinary great Satisfaction it gave
 “ me this Time Twelve-month, when I had the
 “ Honour to receive that Mark of your Favour
 “ and Goodness under your own Hand; so I
 “ have lived in some Pain for an Opportunity to
 “ write you my humblest Acknowledgements and
 “ truest Duty, from which, by the Grace of
 “ God, I am no more capable of swerving, than
 “ of renouncing my Hopes of Heaven: I say,
 “ this in Behalf of my elder Brother, and the
 “ rest of my nearest Relations, as well as for
 “ my self: You may entirely depend upon us,
 “ not only for a constant Adherence to so well
 “ chosen a Principle, but for our utmost Activity
 “ to promote your Interest, which are insepara-
 “ ble from our own. I need come to no par-
 “ ticulars by this Bearer, who can, and will tell,
 “ our whole Heart; and I wish you could see
 “ them, how sincerely they are devoted to your
 “ Service. God grant you a most happy New-
 “ Year, and many, very many, and very happy.
 “ Our young Master hath all our best Wishes;
 “ he daily gains more Friends, and we get Ground
 “ of his Adversaries.

New-Years Eve.

Mr. Sol. Gen. Now read your other Paper of the 31st of *December. 1690.*

Clerk of the Peace reads, December 31. 1690:

“ **I** Must not let this Bearer depart, Madam,
 “ without assuring you of my best Respects.
 “ I have written by him to a Friend of yours,
 “ but depend upon you to give my Note Credit.
 “ Though my Creditors were no Friends to
 “ the Match which has been so long in Treaty;
 “ for your Relations have been very hard upon
 “ me this last Summer; yet as soon as I could go
 “ safely Abroad, I pursued the Business, and do
 “ beg you to believe, that no Endeavours of mine
 “ shall be wanting to perfect the Settlement.
 “ You once put me in Hopes of seeing you be-
 “ fore this *Christmas*: Your Friends are sorry for
 “ the Disappointment, pray lose no more Time
 “ than is of absolute Necessity. The Bearer will

“ tell you all Things may be now easily settled,
 “ if the right Way be taken. I long to hear
 “ how your young Daughter does; she will find
 “ many Friends, and I hope her Portion will be
 “ well secured. God send you a happy New-
 “ Year, and that I may be merry with you before
 “ it be far spent; and I beseech you keep me in
 “ the good Opinion of your Friend. I will al-
 “ ways make good what I promised to you. [*It is directed for Mrs. Charlton.*]

Juryman. My Lord, I desire to know who that is directed to.

Clerk of the Peace. ’Tis directed to Mrs. *Charlton*.

Mr. Serj. Tremain. Shew Captain *Billop* those two Papers. [*Which was done*] What say you to them, Captain?

Capt. Billop. My Mark is on the Outside, but there is nothing written in that, I believe it is taken off from the inner Paper.

L. Preston. Pray my Lord is this any Proof? I beseech you for God’s Sake to have Regard to a Man’s Life.

Mr. Sol. Gen. Pray shew the Paper to my Lord *Sidney*. [*Which was done.*]

L. Sidney. This was one of the Papers I received from my Lord President.

Mr. Sol. Gen. Then we must beg my Lord President would be pleased to look on it. [*Which was done.*]

L. President. This was one of the Papers brought me by Captain *Billop* from my Lord *Nottingham*, in that Bundle.

L. Preston. Captain *Billop* does not know the Paper, though his Mark be to it.

L. C. J. Pollexfen. It is not indeed very material whether he does or no, because he did not read all; but I would observe, that ’tis sworn by Lord *Sidney*, that this was delivered to him by my Lord President, and sworn by my Lord President, that he had it in that Bundle from Captain *Billop*.

L. Preston. But, my Lord, it does shew that there may be some Alteration in the Papers; because he having marked it, and marking none but what he read, he does not now own that to be the Paper.

Mr. Sol. Gen. Pray, will your Lordship be pleased to take it as it is. These are two Papers; the one is only the Cover, the other is the Writing: Captain *Billop* has only marked the Cover, and not the Writing; but my Lord *Sidney* he has marked the Paper itself, as delivered him by my Lord President, and my Lord President has given you an Account, that it is one of the Papers he received in that Bundle from Captain *Billop*.

L. Preston. I only mark, that there may be Alterations made in these Papers since they were taken.

Mr. Serj. Tremain. Pray read it.

Clerk of the Peace reads, December 31. 1690. It is directed to Mr. *Jackson*.

“ **T**HE Bearer can give you so full an Account
 “ of all things relating to your Estate here,
 “ that I need not have troubled you at this Time,
 “ but that I am desirous to lay hold of any Op-
 “ portunity I think safe to assure you of my Ser-
 “ vice, and that I will never quit your Interest,
 “ whatever the rest of the Freeholders do. Your
 “ Adversary has been so hard to his Neighbours,
 “ that he has extremely disobliged all the old
 “ Tenants, and a little Matter would redeem the
 “ whole Estate, if you would appear in *Westmin-*
 “ *ster*

“ *ster Hall* your self; the best Council have a good
 “ Opinion of your Title, and will zealously pur-
 “ sue your Instructions: I only beg you would
 “ hasten them to us, and that you will appear your
 “ self as soon as is possible: No Time should be lost,
 “ and the Cause may be brought to a final Hearing
 “ before the End of *Easter Term*, if it be well
 “ solicited. I heartily wish you a happy New
 “ Year, and beg you to tell *Mr. Charlton*, that I
 “ long to know wherein I may serve him; and
 “ that I will follow his Directions to the utmost,
 “ while I live. God keep you and yours.

L. Preston. Pray, Sir, to whom is that Letter directed?

Clerk of the Peace. To *Mr. Jackson*, my Lord.

Mr. Serj. Tremain. Pray shew that Paper to my Lord *Sidney*. [*Which was done.*]

L. Sidney. This is one of the Papers I received from my Lord President.

[*Then it was shewn to my Lord President.*]

L. President. This is one of the same Papers that I received in the Bundle from *Captain Billop*.

L. C. J. Holt. Read it.

Clerk of the Peace reads. December the 31st.

“ THE Interruption of the former Corres-
 “ pondency had a very ill Effect many ways;
 “ but for that Reason, no Opportunity ought now
 “ to be lost, and I hope this will prove a happy
 “ one.

“ In Trade, as well as in Government, Schemes
 “ must be laid; for there is no living from Hand
 “ to Mouth any more in Commerce than in Poli-
 “ ticks: Lay therefore your Designs probably,
 “ and pursue them diligently, and with Vigour;
 “ though it be a hazardous Time, yet by ventu-
 “ ring boldly, where venturing is advisable, it
 “ often returns great Profit.

“ There is nothing more to be said, but to give
 “ the Bearer fit and full Seasons to tell what he
 “ knows, both as to Goods fit for our Market, and
 “ when and where to be sent. The Sea will quick-
 “ ly grow so troublesome, that unless you dispatch
 “ what you intend for us, you will loose a great
 “ Opportunity of Advantage. I hope the Ac-
 “ count he has to give of our Negotiations here
 “ with the Merchants that deal with us, especi-
 “ ally those that have lately brought us their Cu-
 “ stom, will both encourage a larger Trade, and
 “ excite the utmost Diligence. I will say nothing
 “ of my self, it shall be enough that I can live in
 “ the good Opinion of one I bear so great a Re-
 “ verence and Affection for; but for this honest
 “ Factor I must own, I can hardly say enough.
 “ Truth and Boldness are excellent Qualities in a
 “ Servant, and he has shewn both, as Occasion
 “ has required him to shew them.

“ I have but one Word to add, and pray take
 “ it as the truest Mark of unalterable Respect:
 “ Choose well, but have to do but with a few;
 “ for a Multitude may give, but can never keep
 “ Council.

“ I shall, with more Impatience than becomes
 “ me, wait the Result of this, and it will be a
 “ great Mark of Goodness to let us have it the
 “ best and safest Way.

“ Once more; let not the Season spend unprof-
 “ itably, for a more likely one can hardly come
 “ than between this and the 1st of *March*. In-
 “ terpret this, I pray, as no private Interest of my
 “ own, or partial Motion of any other Person.
 “ It is my Sense, my Duty, and my Friendship,

“ which will not let me prevaricate, nor suffer
 “ those I love and honour to loose so happy and
 “ pressing an Occasion of Advantage. With the
 “ best Wishes I close up this, and am, &c.

L. Preston. Pray, my Lord, who is that Paper directed to?

L. C. J. Pollexfen. This is directed to no Body at all.

Mr. Soll. Gen. Shew that Paper to my Lord *Sidney*. [*Which was done.*]

L. Sidney. This was one of the Papers I had from my Lord President.

[*Then it was shewn to my Lord President.*]

L. President. This is one of the Papers I had from *Captain Billop*.

L. C. J. Holt. Read it.

Clerk of the Peace reads. This is dated *December 31*, but is not directed to any Body at all.

“ IT is a Presumption incident to those that
 “ are any where upon the Spot, to think that
 “ they know better than those that are not, what
 “ is fittest to be done in any Occurrence. This
 “ makes me say, that now is the Time to make
 “ large Advantages by Trading, the Sea being
 “ freer than two Months past, or we can hope
 “ it will be two Months hence. This Gentleman
 “ is well instructed in our Markets, and what
 “ the Goods are we want, and when and where
 “ they should be sent. It is most earnestly desired
 “ that this happy Opportunity may not be lost,
 “ especially by the late Undertakers, and I would
 “ not for much, they should receive the least Dis-
 “ gust. They are somewhat positive in their
 “ Terms; but they also say, they will be good and
 “ constant Customers; and I have more than once
 “ seen the Mischief of over-rating and over-staying
 “ the Market. Opportunities are to be used, they
 “ cannot be given by Men.

“ The Bearer needs nothing from me to re-
 “ commend him, but he is deserving in our Opi-
 “ nion here, and many will take their Measures by
 “ the Usage he finds there; and indeed the pres-
 “ sing Posture of our Trading Affairs will not
 “ permit more Experiments. If the several Par-
 “ cels arrive not, that have been promised, be-
 “ fore the 10th of *March* at farthest (especially
 “ the *Copper* and *Linnen*, of which the Bearer
 “ will be more particular) I am satisfied we shall
 “ loose this Summer's Profit. I am the more pres-
 “ sing, because I am well assured of what I
 “ write; and if ever I judged right, it is upon
 “ this Occasion.

“ I have said nothing of another Gentleman
 “ that takes this Opportunity to see those Parts;
 “ but he has shewn a Zeal and a Sincerity in this
 “ Affair equal to most. *Yo.* is not yet gone, by a
 “ Misfortune, but he will follow with a good
 “ Postscript in this Affair. Of my self I will say
 “ nothing; I hope I need not, for no body with-
 “ out Vanity can be more sincerely and affection-
 “ ately a Friend and Servant to the Company
 “ than my self. I writ at large Yesterday, and
 “ cannot write what the Hand that gives this can
 “ say; and therefore will write no more, but that
 “ with the greatest Respect, I am, &c.

Mr. Serj. Tremain. Pray shew this Paper to my Lord *Sidney*. [*Which was done.*]

L. Sidney. This is one of those Papers I received from my Lord President.

[*Then it was shewn to the Lord President.*]

L. President.

L. President. This was one of the Papers in the Bundle I received from Captain *Billop*.

L. C. J. Holt. Then read it.

Clerk of the Peace reads.

S I R;

I Vow to you, I do not repine at having lost all for your Sake, which I got by your Favour; but it grieves me extremely that there is not that left which can secure me from being troublesome to you; for that is the thing in the World I would not be. I have told my Lord my Condition. What I desire of you he thinks very moderate, I hope you will. Pray, Sir, be not backward in settling my little Affair, for I have deserved your Care. Your Daughter and I must starve, if this Government can make us. I hope our Interests are not divided, that is, you have an equal Tenderness at least for both. If you think fit to speak what I would have you to this Bearer, he will give me a just Account of it. You know he is obliged to be my Friend, and I believe him grateful, since he ventures so boldly for you. He brings with him some merry Papers. Adieu, for I dare write no more; but pray send a Messenger on purpose to me, that I may know exactly what you will do, and would have me do. If you send upon no other Business, there will be no Danger. Pray, Sir, ask my Lord, and he will tell you how I have been used, and upon what Account. I believe you know it not.

December 29.

Your Daughter is very well, very tall, and very pretty, as I am told.

L. C. J. Pollexfen. That is not directed to any body neither.

Mr. Serj. Tremain. Pray then shew these Papers to my Lord *Sidney*, and my Lord President. [*Which was done.*] They were two.

L. C. J. Pollexfen. These Papers my Lord *Sidney* swears he received from my Lord President, and my Lord President swears he received them in the Bundle from *Billop*.

Mr. Serj. Thompson. We pray they may be read.
Clerk of the Peace. December 31. 90.

WAS my Condition more desperate and uneasy than it is, I desire no greater Satisfaction than to have done my Duty to so good a Master: I wish it was of more use to him; that is not my Fault, nor of those I have acted with. Let it be look'd into what has been foretold both as to *Engl. Scot.* and *Irel.* and see if most of it is not come to pass already, and the rest will follow, if not prevented. I wish it may also be considered what Usage we have met with from Men employ'd, and how they have left your Business and Friends; how they managed it, you will know from all Hands: Things they could not do, nor durst not undertake, were better undone than not done by them. Men in this Place, and in these Times, must have some Courage as well as Sense to do any thing with People here. It is not my own ill Usage makes me lay this, but my Concern for one I wish the best to in the World, and will give my Proofs of this upon all Occasions. I need not enlarge, since all our Grievances are known to him that brings this. For my own part, I will stay here, so long as I can be safe, if with ne'er so great Trouble; but it would be some Comfort to know Men (when driven from hence) may be so; there-

fore the Reports of People's Usage are terrible, as well as of the Indiscretions of *St. Germ.* Family: We feel the Smart of it by ridiculous Letters falling daily into the Hands of the Government. Their Master and Mistress are little oblig'd by it no more than we: If there is any thing, Sir, you do particularly command me, or depend upon me for, let me know it. I cannot undertake much, nor furnish more. I have still help'd every body, and paid to every thing I could; and if a Twelvemonth ago my Condition was what I then represented, you best know if it has been mended. Use, and considering that of others, makes me grow more contented; and if the Prospect of Misery to us all was any Satisfaction, that is now plainly seen.

Pray God bless us all, by restoring every Man his own, and you with long Life.

He that gives you this, hath furnish'd for your Use to me, &c. two hundred Pounds, which I desire may be repaid.

Mr. Soll. Gen. Read t'other; it is in the same Hand, and was enclosed in the former.

Clerk of the Peace reads. "I only beg, Madam, no ill malicious Report may take any Place in your Thoughts, in regard to me. I value your good Opinion, and will endeavour to deserve it. I can do little towards, but wish most heartily for your Happiness. I know no Interest, Madam, but my Master's and yours, nor do I think they are to be made two: If you command me any thing, I will faithfully obey you, as I have ever done him."

We all depend upon this Bearer's Accounts of us, and our Condition. His Faith and Courage hath been enough experienced.

Mr. Serj. Tremain. Here is another Paper, shew that to Captain *Billop*. [*Which was done.*]

Capt. Billop. This Paper I did mark, and this was one that was in the Bundle.

L. C. J. Pollexfen. What is it Brother? pray open it.

Mr. Serj. Tremain. 'Tis a Draught of a Cypher, with an Alphabet of Names, for carrying on the Correspondence.

Mr. Serj. Thompson. Your Lordship observes these Matters were designed to be carried on under several Sorts of Cants.

L. C. J. Holt. What says Captain *Billop* to that Paper?

Capt. Billop. That was one of the Papers that I read at my Lord *Nottingham's*, and mark'd it there.

L. C. J. Holt. Then read it.

Clerk of the Peace reads. For Mrs. *Anne Russell*, to be left with Mrs. *Richeson* at the *Blue Boar* in *Ryder-street*, near *St. James's*.

A — the King.

B — the Queen.

C — the Prince of Wales.

D — the Prince of Orange.

E — Canon and the Scotch Officer.

F — the Duke of Berwick.

G — Duke Tyrconnel.

H — Major General Sarsfield.

I — Lieutenant General Shelden.

L — King of France.

M — Marshal Luxemburgh.

N — Marshal Belford.

O — Duke Powis.

P — Dutchess Powis.

Amsterdam ——— Breast.
 Rotterdam ——— Deipe.
 Hague ——— Havre de Grace.
 Brill ——— Dunkirk.
 Harlam ——— Callis.
 Italy ——— England.
 Germany ——— Scotland.
 Spain ——— Ireland.

Mr. Serj. *Tremain*. Then the next Papers we produce are the Bills of Exchange; Pray shew them to Capt. *Billop*. What say you, Capt. *Billop*, were those among the other Papers?

Capt. *Billop*. Yes, they were I remember very well.

Mr. Serj. *Tremain*. My Lord, they are in French, and therefore we must swear a Gentleman that we have here, to interpret: Call Mr. *Humphry Levermere*.

Mr. *Levermere*. Here I am.
 (He was sworn.)

A Londres, le 29 Decembre.

Monsieur,

LE presante vous sera rendu par Monsieur Orbinet, qui est un de mes bons amis, & qui se fera cognoistre par quelque Personne de vostre Cognoissance. Vous m'obligerez tresensiblement en de luy rendre service en tout ce que vous pourriez. Il pourra vous communiquer quelque Affaire en Commission; vous pouvez avoir Confiance en luy de toutes les manieres, je vous prie doncque l'obliger en tout ce que vous pourriez. Je suis, Monsieur,

Vostre tres humble & tres obeissant
 Serviteur,

A Mon. Mon. Jo. du Livier, Paris. P. du Livier.

A Londres le 29 Decembre } 1690.
 8 Janvier }

Monsieur,

AUN jour de veue il vous plaira payer par cette premiere d'Eschange, a l'Ordre de Mr. Michel Orbinet, Trois mille trois cents trente trois Livres valeur, du dit Sieur suivant l'avis de

Vostre tres humble & tres obeissant Serviteur,
 A Mon. Mon. Jo. du Livier, Paris. P. du Livier.

Londres le 29 Decembre } 1690. Pour Liv. 3333.
 8 Janvier }

Monsieur,

AUN jour de veue, plaira payer par cette me premiere d'Eschange, a l'Ordre de Mr. Michel Orbinet, Trois mille trois cents trente trois Livres Tournois, valeur du dit Sieur & suis

Vostre tres humble Serviteur,

A Mon. Mon. Anthoine
 Pelletyer, Merchand, a Paris. J. Berionde.

London, the 29th December.

S I R,

THIS Present will be delivered you by Mr. *Orbinet*, who is one of my good Friends, and who will make himself known by some Person of your Acquaintance. You will very sensibly oblige me in doing him Service in all that you can. He will be able to communicate some Affair in Commission; you may have Confidence in him about all Points: I pray you then to oblige him in all that you can. I am, Sir,

To Mr. Joseph
 Du Livier, Paris.

Your most humble, most
 obedient Servant,

V O L. IV.

P. du Livier.

London, the 29th December } 1690.
 8 January }

S I R,

AT one Day's Sight be pleased to pay by this First of Exchange to the Order of Mr. *Michael Orbinet*, Three thousand Three hundred Thirty-three Livres, Value of the said Gent. according to the Advice of

Your most humble, and most
 To Mr. Joseph
 Du Livier, Paris. obedient Servant,

P. du Livier.

London, 29 December } 1690. For 3333
 8 January } Livres.

S I R,

AT one Day's Sight be pleased to pay by this my First Exchange, to the Order of Mr. *Michael Orbinet*, Three thousand Three hundred Thirty-three Livres Tournois, Value of the said Gent. And I am

Your most humble

To Mr. Anthony Pelletier,
 Merchant, at Paris. Servant,

J. Berionde.

Mr. Serj. *Tremain*. Pray how much do they all come to?

Mr. *Levermere*. They come to 500 l. wanting but Twelve-pence.

Mr. Serj. *Tremain*. My Lord, we have shewn your Lordship part of the Papers that were taken in this Pacquet, but we have reserved three of the Papers till the last Place; and these three Papers, if we had no other, were sufficient to maintain this Indictment, for they are written all with my Lord *Preston's* own Hand, wherein he gives an Account how the French should Invade us, how the Forts may be taken, how London should be plagued, and what a sort of Rascals the Clergy of London are; these are the Contents of the Papers, among other Things. Pray shew them to Captain *Billop*.

(Which was done.)

Captain *Billop*. These were two Papers that were in the Pacquet, and the other little one with them.

L. *Preston*. My Lord, I would desire your Lordship to observe one Thing, to the best of my Remembrance, Captain *Billop* said, he only mark'd six of the Papers.

L. C. J. *Holt*. How many has he sworn to?

L. *Preston*. I believe he has proved more.

Capt. *Billop*. I never said so; I mark'd a great many, tho' not all, but I did not say how many.

Mr. Serj. *Tremain*. Were these Papers taken in the Pacquet?

Capt. *Billop*. Yes, all three.

L. *Preston*. Just now he said but two.

Mr. *Sol. Gen.* Have you look'd upon them all, Sir?

Capt. *Billop*. Yes, I marked but two of them, but the other little Paper was with them; I read them myself, I remember it very well.

Mr. Serj. *Thompson*. Then we pray the Clerk may read them.

(Cl. of Peace reads.) Lady D. 2000 l.

And 200 l. for Shop Debts.

Mr. Serj. *Thompson*. My Lord, we would open this Piece of Evidence before we read it,

that it may be understood, and we shall prove it to be my Lord's Hand afterwards. It consists of many Heads and Particulars, without Order or Method, and seems to be no more than *Memo-randums* made by my Lord *Preston*, to put him in Mind what he was to enlarge upon when he came thither.

(*Cl. of the Peace reads.*) Lady D. 2000 *l.*
And 200 *l.* for Shop Debts.

Pension upon the

14—3 Deckt Ships.—*Britania*, Ad.

Sovereign out and R—*James*.

33 3d Rates, make the 14 and 30 67.

Sundry Hospitals and Fire-Ships, some built on purpose proportionable.

Of Third Rates most mann'd: 14 not mann'd, great ones.

Rest in some proportion mann'd, not well mann'd, nor will be.

— *Britania* not out till *March*, the rest, perhaps, in *April*.

— The *French* must be out in *April*, and in the *Downs*: Look in at *Spithead* to secure them.

The *Dutch* Fleet cannot then join them.

Carter and others at *Portsmouth*, the likeliest Men to come to him — *Dutch* Fleet 36 Sail, 9 from 70, to 60 Guns; — 12 from 50 to 60 — the rest betwixt 60 and 70 — Get to it before the Conjunction, otherways nothing. To fight in the Chops of the Channel; not to come so high as *Beachy* — *Portsmouth* not mann'd above 500 — One *Gibson*, a *Scotch* Pedlar — Lands behind *Soub-Sea* Castle. — Nothing but *Pallifado's* about *Gosport* — *Jennings*, or *Strickland*, or *Trevannion* comes from *St. Maloes* in one Night — most of the Gentlemen have done him most Mischief, the *Tarpaulins* his best Friends, which dispirited — *Danby* desires to be in the *Monk*, keeps and fortifies *Hull* — King not to be on Board the Fleet — Foolish Letters from *St. G's* taken every Day in the *D. Post*, and read in Council — about *June* — *England* 67 great Ships. *Dutch* 60 — commanded 36 to us, 24 to act by themselves — *Ruffel* in the *Britania* Admiral — *Killigrew* the *Blue* — the *Duke* — *Ashby* the *Royal James* — *Dalaval* the *Sovereign*, Vice-Admiral *Blue* — *Carter* the *Vanguard* — Those who shall not oppose or resist him to be pardoned — Not 21 Days coming in, or shall not help the P. of O. 600000 *l.* to the States of *Holland* — No Taxes in his Time — and the K. of *Fr.* will require nothing — Chimney-Money to be taken away — not excepting *Outlaws* — *Scotland* — let know whether the King will come or not soon, and acquaint him with the Weakness of the Pr. Council — 3 *Dashes* — or the like F. of — That some kind Answer — Mr. *East* Merchant of *Bristol* to be kept till called for *William St.* — from *Amsterdam* — *Alexander* — *England* — *George* — *Scotland* — *Dorset*, *Cornwallis*, *Montague*, *Stamford*, *Shrewsbury*, *Macclesfield*, *Monmouth*, *Devonshire* — In *Feb.* the K. come to *Scotland* — endeavour to unite the *Episc.* and *Presbyt.* Parties. — A less Sum not interfere with the *Fr.* K. from *Highlanders* — Campaigns — land at *Leith* — the *Scotch* Army not a *French* one, 5000 good *Suedish* Foot, the Reputation of a *Protestant* Ally, two Months to settle *Scotland* — a Commission given to me from Mr. P. — For *Fl.* hinder *Eng.* and *D.* from joining — two Vessels of 150 *l.* Price for *Pensylvania*, for 13 or 14 Months

— *Ormond* and *Brandon* disobliged about the *Guards*.

To have 1200 Seamen from *Denmark* and *Holland* — To save *Cambell*. — To be left at the Ship in *Sheets Westminster* — *Flanders* — R — *Scotch* Ships in *Newcastle* Harbour to plague *London* — The *Modest Inquiry*, the *Bishops* Answer. — Not the Chilling of them. — But satisfying of Friends. — To tell him that to protect Friends, and as soon as *Foreigners* are gone, he will dismiss his — The *Woman* that was with the K. in *Ireland*, and sent Commission to *Stafford*, and failing, not to be sent again; her Friends live in *Covent-Garden* — Private Letters not — *Protesting* Lords against the *Usurper*, Three of Five against the Vacancy of the *Crown*, *Beauford*, *Newcastle*, *Thanet*, *Sawyer*, *Lutwick*, *Pemberton*, *Levintz*, *Winnington*, *Montague*, *Shore* — *London* Clergy the worst, we have their Wishes and they their Oaths — K. betrayed by *J. Porter*, *Scymour* said it — Lord *Nottingham* says there will be a Peace with *Fr.* and the K. left out. — Bring *Foreigners* to drive out *Foreigners*, then dismiss them, leave all to *Free* Parliament. — No *Justices of Peace*, &c. actually in Commission to be criminal.

L. C. J. Holt. Well, Gentlemen, have you any more Evidence?

Mr. Serj. Tremain. My Lord, We shall now prove these Papers to be my Lord *Preston's* own Hand. Pray call Mr. *Warr*, Mr. *Townsend*, Sir *Henry Johnson*, and Mr. *Bland*.

Mr. Townsend sworn.

Mr. Serj. Thompson. Pray shew Mr. *Townsend* that Paper. (*Which was done*) Pray, Sir, whose Hand-writing is that?

Mr. Townsend. I believe this to be my Lord *Preston's* Hand: I did not see him write it.

L. C. J. Pollexfen. Are you well acquainted with my Lord *Preston's* Hand?

Mr. Townsend. I have seen his Lordship's Hand sometimes.

L. C. J. Pollexfen. How often?

Mr. Townsend. Not very often, but I have seen it sometimes.

Mr. Serj. Thompson. Pray were you Clerk in any Office?

Mr. Townsend. Yes, I am in the Office of the *Great Wardrobe*, where I have had occasion to see his Lordship's Hand sometimes, and I believe this to be his Hand.

Mr. Serj. Thompson. Look upon the t'other two.

Mr. Townsend. I do believe these three Papers are my Lord *Preston's* Hand.

Mr. Serj. Tremain. Those are the three Papers that have been read last, which he says are my Lord's Hand.

Mr. Townsend. I do believe it, Sir.

Mr. Serj. Tremain. Pray look upon that Paper, with the little one within it; do you know whose Hand that is?

Mr. Townsend. I did not see it written, Sir.

Mr. Serj. Tremain. Do you believe you know who writ it by the Hand?

Mr. Townsend. The latter Part looks like my Lord *Preston's* Hand; but I cannot well say any thing to the other, it is written so small.

Mr. Serj. Tremain. Then swear Mr. *Bland*.

(*Which was done.*)

Mr. Serj. Thompson. Give him the Papers. We ask you, Mr. *Bland*, Whether you were well acquainted with my Lord *Preston's* Hand?

Mr. Bland.

Mr. Bland. I have seen my Lord's Hand sometimes.

Mr. Serj. Thompson. Have you looked upon those Papers, Sir?

Mr. Bland. Yes, I have.

Mr. Serj. Thompson. Pray whose Hand are they?

Mr. Bland. I do believe these three Papers are my Lord Preston's Hand-writing?

Mr. Serj. Tremain. Then we pray Mr. Warr may be sworn. (*Which was done.*)

Mr. Serj. Thompson. Do you know my Lord Preston's Hand?

Mr. Warr. I have seen my Lord Preston write, but not very often; most commonly it was only his Name: But I have seen him write some Letters too.

Mr. Serj. Tremain. Pray, Sir, look upon those Papers; whose Hand are they do you believe?

Mr. Warr. This Paper seems to be like my Lord Preston's Hand; the other I cannot say much of, because that which I commonly saw him write was a large fair Hand, and this is a little Hand.

Mr. Serj. Tremain. Pray, Mr. Warr, look upon these Seals; whose Seals were they?

Mr. Warr. I believe the Seals to be my Lord Preston's; one of them was his Seal when Secretary of State.

Mr. Serj. Thompson. You were under him in that Office, were you not?

Mr. Warr. Yes, my Lord, I was.

Mr. Serj. Tremain. Now, my Lord, we have done with our Evidence, and shall rest here till we hear what my Lord Preston says to it.

L. C. J. Holt. My Lord Preston, you have heard what has been said concerning the Matter you have been indicted for: What has your Lordship to say for yourself?

L. C. J. Pollexfen. If the Gentlemen of the Jury desire to see the Seals, they may have them.

(*The Seals were shewn to the Jury.*)

Mr. Sol. Gen. My Lord, we have done for the present.

L. C. J. Holt. Then if your Lordship please, you may make your Defence.

L. Preston. My Lord, In the first Place I must refer myself again to my Indictment, for I find, my Lord, that the Treasons of which I am accused, were none of them done in the County of *Middlesex*, and they are laid to be done within this County; I find nothing of that kind proved upon me to be done here; for any Memorandums that they say may be in that Hand, I hope the Gentlemen of the Jury will consider, that there was nothing followed upon any of these Things, that may be found in those Papers: And in the next Place, I desire to know, whether they are sufficiently proved to be mine; that is, whether Similitude of Hands is Proof or not against me in such a Case? I humbly offer these Things to your Lordship, and hope your Lordship and the Jury will consider of it.

L. C. J. Holt. Is this your Lordship's Defence, my Lord?

L. Preston. My Lord, I leave these Things to the Consideration of the Court and the Jury.

L. C. J. Holt. Your Lordship insists upon it first, that there is no Act of Treason proved in the County of *Middlesex*; and then, whether Similitude of Hands be a good Proof to prove

these three Papers, or any of them, to be your Hand?

L. Preston. Nobody saying they see me write them, if I did write them.

L. C. J. Pollexfen. My Lord, have you no Witnesses, nor nothing that you would use of Evidence for yourself?

L. C. J. Holt. Would your Lordship disprove any Thing of the Matter that has been proved against you?

L. Preston. I must deny the whole Fact; but I have no Witnesses or Evidence to offer you.

L. C. J. Holt. Then your Lordship has no more to say?

L. Preston. I have not, I must leave it so with your Lordship and the Gentlemen of the Jury.

Mr. Sol. Gen. We shall offer nothing farther, but leave it wholly to your Lordship.

L. C. J. Holt. Your Lordship has done then?

L. Preston. Your Lordship observes none of the Witnesses have declared that I was going into *France*, nor knew any thing of it. I did not hire the Ship, nor any thing of that kind; tho' I suppose if they had, it is not Treason; but your Lordship observes there is no such Thing has been sworn.

L. C. J. Holt. My Lord, as to the first Matter that your Lordship makes a Question upon, Whether there be any Act of Treason proved in *Middlesex*, that does depend upon the Proof of your Lordship's being concerned in the Papers; for if your Lordship had an Intention in carrying these Papers into *France*, which speaks a Design to invade this Realm, your Lordship took Boat in *Middlesex* at *Surrey-Stairs*, in Prosecution of that Intention, there is an Overt-act in this County of *Middlesex*.

L. Preston. Your Lordship, and the Gentlemen of the Jury observe, these Papers were not found upon me.

L. C. J. Holt. No, my Lord; but if it be proved that your Lordship had an Intention to carry these Papers into *France*, and took Boat in order to go with them into *France*, in the County of *Middlesex*, where-ever your Lordship acted in order to that Design, that is Treason, and there you are guilty. It is a Treason complicated of several Facts, done in several Places.

L. Preston. My Lord, I humbly desire to know, whether they have been proved to be my Papers?

L. C. J. Holt. That is a Question that must be left to the Jury upon the Evidence.

L. Preston. Nobody swears they are mine, nor were they found upon me.

L. C. J. Holt. But what I am speaking to your Lordship, is in Answer to your Question about the Place; for you say, that there is nothing proved done in the County of *Middlesex*: Now the Question is, Whether your Lordship had a Design to go to *France* with these Papers? if you had, and if your Lordship did go on Ship-board in order to it, your taking Boat in *Middlesex* in order to go on Ship-board, is a Fact done in the County of *Middlesex*.

L. Preston. It is not proved by any Witnesses that I designed to go into *France*.

L. C. J. Holt. That is before the Jury upon the Evidence.

L. Preston. I hope your Lordship, and the Jury will observe 'tis not proved, and in the next Place, there are no Papers taken upon me; with humble Submission, there is no Proof of any such Thing.