

*Mr. J. Rokeby.* That will be a sufficient Cause, if when they come to the Book, you object that, and be ready to prove it.

*Cook.* Which is Sir *John Sweetapple*? [*He was shewn to him.*]

*Cl. of Arr.* There he is.

*Cook.* I challenge him.

*Cl. of Arr.* *William Walker.*

*Cook.* Sir, have you said any such Thing that you believe me guilty?

*Mr. Walker.* No, Sir.

*Mr. Baker.* My Lord, he is asking of the Juryman the Question.

*Mr. J. Rokeby.* That's a Fact the Prisoner should prove upon him.

*Mr. Att. Gen.* My Lord, he must not ask the Jury that Question, Whether they have declared before, that they will find him guilty; that is to make them guilty of a Misdemeanor.

*Mr. Serj. Darnell.* Is it any Misdemeanor for me to say, I think or believe such a Man is guilty.

*Mr. Att. Gen.* If he be summon'd to be of a Jury, and declare his Opinion before-hand, it is a Misdemeanor.

*Mr. Serj. Darnell.* But suppose it be before he was summon'd?

*Mr. Att. Gen.* If you make any such Objection, you must prove it, and not out of the Juryman's own Mouth.

*Mr. Serj. Darnell.* I think any Man, my Lord, that comes to serve upon the Jury, may be ask'd any Question that does not make him guilty of any Offence or Crime, or liable to any Punishment: Now if any of these Gentlemen that are return'd upon this Pannel, before the Summons have declared their Opinion, that the Prisoner is guilty, or ought to suffer, with Submission, the Prisoner may ask such a Question, Whether he have said so, yea or no?

*Mr. J. Powell.* He cannot upon a *Voyer Dire* be ask'd any such Question.

*Mr. J. Rokeby.* It is not denied to be a material Objection; but it must be made out by Proof.

*L. C. J. Treby.* You put it too large, Brother *Darnell*, you may ask upon a *Voyer Dire*, whether he have any Interest in the Cause; nor shall we deny you Liberty to ask whether he be fitly qualified, according to Law, by having a Freehold of sufficient Value; but that you can ask a Juror or a Witness every Question that will not make him criminous, that's too large: Men have been ask'd, Whether they have been convicted and pardon'd for Felony, or whether they have been whip'd for Petty Larceny; but they have not been obliged to answer; for, tho' their Answer in the affirmative will not make them Criminal, or subject them to Punishment, yet they are Matters of Infamy; and if it be an infamous Thing, that's enough to preserve a Man from being bound to answer. A pardon'd Man is not guilty, his Crime is purged; but merely for the Reproach of it, it shall not be put upon him to answer a Question whereon he will be forced to forswear or disgrace himself. So Persons have been excused from answering whether they have been committed to *Bridewell* as Pilferers or Vagrants, or to *Newgate* for Clipping or Coining, &c. Yet to be suspected or committed is only a Misfortune and Shame, no Crime. The like has been observed in other Cases of odious and infamous Matters which were not Crimes indictable. But to keep to our Case, 'tis true, a Juror may be challenged being

an *Alien*, or being a *Villain*; but where the Matter apparently carries Crime or Shame, it should be proved; the Outlawry should be proved, and so should the *being a Villain*. Yet that is no Crime, tho' it be an Ignominy.

*Mr. Serj. Darnell.* But, my Lord, I take this to be no manner of Infamy at all, there is nothing of Crime, nor nothing of Reproach, but only a declaring of a Man's Opinion.

*L. C. J. Treby.* Truly, I think otherwise; I take it to be at least a scandalous Misbehaviour, and deservedly ill-spoken of, for any Man to prejudge, especially in such a heinous Matter. I think it is a very shameful Discovery of a Man's Weakness and Rashness, if not Malice, to judge before he hears the Cause, and before the Party that is accused could be tried. But, it seems, by what the Prisoner says, that he would ask all the Jurors, whether they have not said, that he was *guilty*, or that they would *find* him guilty, or that he should be *hanged*, or the like: Which (presuming him innocent) is to ask whether they have not defamed and slandered him in the highest Degree; and to force them to discover that they have a mortal Hatred to him, and come with a malicious Resolution to convict him: Which, admitting they are not punishable by our Law, yet are Things so detestably wicked and so scandalous, as are not fit to be required to be disclosed by and against themselves.

*Mr. Serj. Darnell.* Pray, my Lord, what is more common than for a Man to say, before he is summoned to be upon a Jury, when he hears a Fact reported concerning such a one, to say I believe he is guilty, or I am of Opinion he is, and I am sure he will be hanged, and yet there is no Crime in this.

*L. C. J. Treby.* Truly, Brother *Darnell*, I know not how you may approve of such a Man, but I'll assure you I do not. I take the Question *not* to be concerning a Man's discoursing *suppositively*; as, if upon hearing News, or a Report of clear Evidence, a Man should say, *Supposing this to be true, such a Man is guilty, and I should find him so if I were of his Jury.* This might not be sufficient to set aside a Juror: For this has been a general Discourse among the Subjects upon Occasion of this Conspiracy; and it imports that if Evidence should not be *true* and *clear*, he would acquit him. And so he is, as he should be, indifferent. But if a Man, qualified for a Juror, affirm *positively* that such a Prisoner is guilty, and that he will find him so whatever Evidence or Proof be given or made to the contrary, I think that may be a Misdemeanor punishable as an owning and encouraging of Falshood, Perjury, and Injustice, and a Contempt and Scandal to the Justice of the Kingdom. Tho' I hope and believe that no Man hath so demeaned himself.

*Mr. J. Powell.* In a Civil Case it would be a good Cause of Challenge. If a Man have given his Opinion about the Right one way or other, may you not upon a *Voyre dire* ask him whether he hath given his Opinion one way or other? I believe it may be ask'd in a Civil Cause, because he may have been a Referee; but if you make it Criminal it cannot be ask'd, because a Man is not bound to accuse himself; now the Difference lies in the Nature of the Cause, it is not Criminal in a Civil Case for a Man to say he was an Arbitrator in such a Case, and, upon what appeared before him, he was of such an Opinion.

*Mr. Att. Gen.* But, my Lord, it is a different Case to give an Opinion about the Right between Party and Party, where a Man has been an Arbitrator and so in the Nature of a Judge, and where a Man is to go upon a Jury in the Case of Life and Death, and before the Evidence given, he declares his Opinion without hearing the Cause.

*Sir. B. Shower.* My Lord, we know several of the Trials have been printed, and the Names of several Persons mentioned, and upon reading of the Trials or conversing about them, Men are apt to give their Opinions one way or other.

*Mr. Serj. Darnal.* It is only an Objection in Case he has done it.

*Mr. J. Rokeby.* But, Brother, how can you ask him the Question?

*Mr. Serj. Darnal.* If the Court are of Opinion that it is such a Crime that it cannot be ask'd, as tending to make a Man accuse himself of an infamous Crime, then we submit it to you, and I confess we must not ask it; but we cannot apprehend that there is either Crime or Infamy in it, tho' we think it is an Objection and a good Cause of Challenge.

*Mr. B. Powys.* I think, tho' it be not such a Crime as infamous upon which a Man is not to be credited, for that is Infamy in the Eye of the Law, whereby a Man is prejudiced in his Credit; yet however it is a shameful Thing for a Man to give his Judgment before he hath heard the Evidence, and therefore I think you ought not to ask him it, to make him accuse himself, if it be an opprobrious Matter upon him.

*Mr. Serj. Darnal.* Truly, my Lord, I always took it to be the Rule, if the Thing asked to the Person returned be not criminal nor infamous, the Party that is ask'd ought to answer to it.

*L. C. J. Treby.* I would fain know if you should ask any of the Jury-men this Question, whether he be guilty of all the Crimes that are pardoned by the last Act of Grace, he be bound to answer it?

*Mr. Serj. Darnal.* Undoubtedly we cannot ask any such Question; no, not to any one of the Things therein mentioned.

*L. C. J. Treby.* But yet you will force him to discover a Crime (if it be one) that is unpardoned.

*Mr. J. Powell.* Certainly you go too far, Brother, for no Man is obliged to charge himself with what is Criminal, but whether this be Criminal to say, *I believe such a one will be hanged*, is of another Consideration.

*Mr. J. Rokeby.* But I think it must be proved upon him if any Objection be made.

*Sir B. Shower.* My Lord, it will be no easy Thing to bring Witnesses to prove this matter, and therefore we would have it from his own Mouth.

*Mr. J. Rokeby.* And it is a very hard matter for a Man to be put upon proving every Discourse that he has had about the publick Affairs of the Time.

*Mr. Recorder.* The Reason of your Exception is, that he has declar'd his Opinion before-hand, that the Party would be hanged or would suffer, that's a Reproach and a Reflection upon a Wise Man so to do; and if they can prove it upon him, let them do it: But whether you should ask him such a Question, Whether he be a Fool or a

Knave for the giving an Opinion one way or other, that's the Question before us.

*Mr. Serj. Darnal.* My Lord, we do not offer it to the Court as an Objection that he is not a wise Man.

*Mr. Att. Gen.* But what a Man does utter imprudently, may occasion a Prejudice against him, and therefore ought to be proved, and not he to prove it himself.

*L. C. J. Treby.* Especially being a Freeholder of London, and taking notice of what is done in London; and if he does take notice of the Fact, and does previously give his Opinion of a Matter which he may be called upon a Jury to try, this is an Indiscretion and a Reproach to him, and I think a Misdemeanour.

*Mr. Serj. Darnal.* My Lord, I acknowledge it is ill done of him, that is, indiscreetly and not wisely, and we would have discreet and wise Men upon our Jury.

*Mr. Cowper.* My Lord, Mr. Serj. Darnal will make it so little a Thing at last, that it will amount to no Cause of Challenge, if it were even prov'd against him, which we insist it ought to be, it being their Objection, and the Party not being bound to prove it against himself; but truly we think there is more in it than so, because it is an unjust prejudging of a Man before he is tried and heard, and if so, it is a Thing that he ought not to accuse himself of, and therefore we oppose the asking any such Question.

*Mr. Serj. Darnal.* Our Objection is not because it is an Offence to declare a Man's Opinion upon a Fact reported, but because it shews he has a settled Opinion against the Person of his Guilt, and so he is not so equal a Man to try him.

*L. C. J. Treby.* And is that like an honest Man and a Freeholder of London; (who ought to be indifferent) to come with a settled Opinion against a Man, when he is to be one of his Jury?

*Mr. Serj. Darnal.* Well, my Lord, we have been heard, and submit it to the Judgment of the Court.

*L. C. J. Treby.* Truly, I think it reflects both Dishonesty and Dishonour upon him, and therefore these Questions ought not to be ask'd. The Question is *not* whether a Man (if ever such a Man there were) that hath so resolved and declared shall be sworn? No; he is not fit to serve upon a Jury. But the Question is, How this shall be discovered, by his own Oath or by other Proof? I think it ought to be made appear by other Proof, if true. A Man attainted of Felony, Forgery, false Verdict, or Perjury, ought not to serve on a Jury, yet he shall not be examined concerning the same on a *Voire dire*. And if there be in Court a Copy of such Judgment carefully examin'd and kept by himself, he shall not be forced to answer whether it be a true Copy; tho' his Answer could not subject him to any further Penalty.

*Mr. Serj. Darnal.* My Lord, I hope no Gentleman of the Jury has done it.

*L. C. J. Treby.* I hope no Freeholder of London is so indiscreet or so unjust. But if any Man in this Pannel have any particular Displeasure to the Prisoner, or be unindifferent, or have declared himself so, I do admonish and desire him to discover so much in general; for it is not fit, nor for the Honour of the King's Justice, that such a Man should serve on the Jury.

*Mr. Serj. Darnal.* We hope so too. We hope that all that are returned upon the Jury are discreet and impartial Men.

*Cl. of Arr.* Well, Sir, what say you to this Gentleman *Mr. Walker*?

*Cook.* I challenge you, Sir.

*Cl. of Arr. Nathanael Long.*

*Sir B. Shower.* My Lord, we think he may ask if they have a Freehold or no; because the Law requires that Qualification, and the Prisoner not being able to prove the Negative, it puts the Proof of the Affirmative upon the Person himself.

*Mr. Att. Gen.* What does *Sir Bartholomew* mean? would he have the Jury-men bring their Evidences with them to prove their Freehold?

*L. C. J. Treby.* No sure, *Mr. Attorney*; but to ask the Question was allowed him the last Time, and we will not deny him the same just Favour now.

*Cook.* Are you a Freeholder, Sir, in *London* of the Value of 10 *l.* a Year?

*Mr. Long.* Yes, Sir.

*Cook.* Were you of the Grand-Jury when the Bill was found against me?

*Mr. Long.* No, Sir.

*Cook.* I challenge you, Sir.

*Cl. of Arr. William Carbonell.*

*Mr. Carbonell.* My Lord, I am no Freeholder.

*L. C. J. Treby.* What, does he say he has no Freehold?

*Cl. of Arr.* Yes, my Lord.

*L. C. J. Treby.* Then he must be set aside.

*Cl. of Arr. Joshua Foster.*

*Mr. Foster.* My Lord, I am no Freeholder in *London* neither.

*Mr. Att. Gen.* My Lord, we desire they may be sworn whether they have a Freehold or not.

*Cl. of Arr.* Hold *Mr. Carbonell* and *Mr. Foster* the Book. [*Which was done severally.*] You shall true Answer make to all such Questions as shall be asked you by the Court. So help you God.

*Mr. Att. Gen.* Ask him if he hath not a Freehold in *London*?

*Mr. Carbonell.* No, I have not.

*Cl. of Arr.* Have you or any Body in Trust for you a Freehold in *London* of the Value of 10 *l.* a Year?

*Mr. Carbonell.* No, Sir.

*Cl. of Arr. Joshua Foster,* have you or any in Trust for you any Estate of Freehold in *London* of the Value of 10 *l.* a Year?

*Mr. Foster.* No, Sir.

*Cl. of Arr. Joseph Billers.*

*Cook.* I desire they may be called in the Order as they are in the Pannel; you have not called *John Ewen*, who is next.

*Cl. of Arr.* I do call them in Order; As for *Mr. Ewen*, one hath made Oath that he is sick, and is not able to come hither. What say you to *Mr. Billers*? There he stands.

*Cook.* Sir, are you a Freeholder of 10 *l.* a Year within the City of *London*?

*Mr. Billers.* Yes, Sir.

*Cook.* Was you of the Grand-Jury, Sir, when the Bill was found against me?

*Mr. Billers.* No, Sir.

*Cook.* I challenge you.

*Cl. of Arr. John Child.*

*Cook.* Sir, are you a Freeholder within the City of *London*?

*Mr. Child.* Yes, Sir.

*Cook.* Of 10 *l.* a Year?

*Mr. Child.* Yes, Sir.

*Cook.* Were you of the Grand-Jury when the Bill was found against me?

*Mr. Child.* No, Sir.

*Cook.* I challenge you.

*Cl. of Arr. Edward Leeds.*

*Cook.* Sir, are you a Freeholder within the City of *London* of 10 *l.* a Year?

*Mr. Leeds.* Yes, Sir.

*Cook.* Were you of the Grand-Jury that found the Bill against me?

*Mr. Leeds.* No, Sir.

*Cook.* I challenge you.

*L. C. J. Treby.* What Question was that he asked him?

*Cl. of Arr.* Whether he were one of the Grand-Jury that found the Bill.

*L. C. J. Treby.* A very proper Question: For an Indicter ought not to be a Trier.

*Cl. of Arr. Thomas Clark.*

*Cook,* Sir, are you a Freeholder within the City of *London* of 10 *l.* a Year.

*Mr. Clark.* Yes, Sir.

*Cook.* Were you of the Grand-Jury that found the Bill against me?

*Mr. Clark.* No, Sir.

*Cook.* I challenge you.

*Cl. of Arr. Nathan Green.*

*Cook.* Are you a Freeholder, Sir, within the City of *London* of the Value of 10 *l.* a Year?

*Mr. Green.* Yes, Sir.

*Cook.* Were you of the Grand-Jury that found the Bill against me?

*Mr. Green.* No, Sir.

*Cook.* I challenge you.

*Cl. of Arr. Henry Sherbroke.*

*Cook.* I have nothing to say against him.

*Cl. of Arr.* Then hold *Mr. Sherbroke* the Book. [*Which was done.*] Look upon the Prisoner. You shall well and truly try, and true Deliverance make between our Sovereign Lord the King and the Prisoner at the Bar, (whom you shall have in Charge) according to your Evidence. So help you God.

Then *Mr. Sherbroke* was put into the Place appointed for the Jury.

*Cl. of Arr. Henry Dry.*

*Cook.* Sir, are you a Freeholder in the City of *London* of the Value of 10 *l.* a Year?

*Mr. Dry.* Yes, Sir.

*Cook.* Were you of the Grand-Jury that found the Bill against me?

*Mr. Dry.* No, Sir.

*Cook.* Sir, I challenge you.

*Cl. of Arr. Joseph Morewood.*

*Cook.* Sir, Have you a Freehold in *London* of the Value of 10 *l.* a Year?

*Mr. Morewood.* -Yes, Sir.

*Cook.* Were you of the Grand-Jury that found the Bill against me?

*Mr. Morewood.* No, Sir.

*Cook.* Sir, I challenge you.

*Cl. of Arr. Richard Greenway.*

*Cook.* Are you a Freeholder of 10 *l.* a Year in *London*?

*Mr. Greenway.* Yes, Sir.

*Cook.* Were you of the Grand-Jury that found the Bill against me?

*Mr. Greenway.* No, Sir.

*Cook.*

Cook. Sir, I challenge you.  
 Cl. of Arr. *John Sherbrook*.  
 Cook. Sir, Are you a Freeholder in the City of London, of 10 l. a Year?  
 Mr. *Sherbrook*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Sherbrook*. No, Sir.  
 Cook. Sir, I challenge you.  
 Cl. of Arr. *Thomas Emmes*.  
 Cook. Are you a Freeholder, Sir, within the City of London of 10 l. a Year?  
 Mr. *Emmes*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Emmes*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *Samuel Jackson*.  
 Cook. Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
 Mr. *Jackson*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Jackson*. No, Sir.  
 Cook. Sir, I challenge you.  
 Cl. of Arr. *Henry Hunter*.  
 Cook. Are you a Freeholder, Sir, in London, of the Value of 10 l. a Year?  
 Mr. *Hunter*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Hunter*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *John Deacle*.  
 Cook. Sir, Are you a Freeholder within the City of London of the Value of 10 l. a Year?  
 Mr. *Deacle*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Deacle*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *John Cullum*.  
 Cook. I accept of him. [He was sworn.]  
 Cl. of Arr. *Thomas Shaw*.  
 Cook. I accept of him. [He was sworn.]  
 Cl. of Arr. *George Juyce*.  
 Cook. Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
 Mr. *Juyce*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Juyce*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *Richard Young*.  
 Cook. I have nothing to say against him. [He was sworn.]  
 Cl. of Arr. *John Hedges*.  
 Cook. Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
 Mr. *Hedges*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Hedges*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *John James*.  
 Cook. Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
 Mr. *James*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *James*. No, Sir.

Cook. I challenge you.  
 Cl. of Arr. *Thomas Poole*.  
 Cook. Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
 Mr. *Poole*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Poole*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *Peter Parker*.  
 Cook. Sir, Are you a Freeholder in the City of London of 10 l. a Year?  
 Mr. *Parker*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Parker*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *William Wilkinson*.  
 Mr. *Wilkinson*. My Lord, I am no Freeholder in London.

[To which he was sworn.]

Cl. of Arr. *Henry Mitchel*.  
 Cook. Hold, Sir, here *Thomas Man* in my Pannel is next.  
 Cl. of Arr. There is Oath made that he is sick in Bed. What say you to Mr. *Mitchel*?  
 Cook. Sir, have you a Freehold of 10 l. a Year in the City of London?  
 Mr. *Mitchel*. No, Sir. [To which he was sworn.]  
 Cl. of Arr. *Richard Ryder*.  
 Cook. Sir, Have you a Freehold of 10 l. a Year in the City of London?  
 Mr. *Ryder*. Yes, I have, Sir; but I live in a Parish that never serve upon any Juries, nor ever did in the Memory of any Man.  
 Cl. of Arr. But have you a Freehold of 10 l. a Year?  
 Mr. *Ryder*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Ryder*. No, Sir.  
 Cook. Sir, I challenge you.  
 Cl. of Arr. *Richard Temple*.  
 Mr. *Temple*. My Lord, I am no Freeholder. [To which he was sworn.]  
 Cl. of Arr. *Peter Walker*.  
 Cook. Sir, are you a Freeholder of the City of London of 10 l. a Year?  
 Mr. *Walker*. Yes, Sir.  
 Cook. Were you of the Grand-Jury that found the Bill against me?  
 Mr. *Walker*. No, Sir.  
 Cook. I challenge you.  
 Cl. of Arr. *Thomas Pistol*.  
 Mr. *Pistol*. I am no Freeholder. [To which he was sworn.]  
 Cl. of Arr. *John Hunt*.  
 Mr. *Hunt*. My Lord, my Name is mistaken; my Name is *William Hunt*.  
 L. C. J. *Treby*. Then you must go on to another.  
 Cl. of Arr. *John Hardret*.  
 Mr. *Hardret*. I am no Freeholder of 10 l. a Year. [To which he was sworn.]  
 Cl. of Arr. *John Hammond*.  
 Cook. Are you a Freeholder, Sir, of 10 l. a Year in London?  
 Mr. *Hammond*. Yes, Sir.

- Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Hammond.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *John Cooper.*  
*Cook.* I accept of him. [*He was sworn.*]  
 Cl. of Arr. *Josselin Roberts.*  
*Cook.* Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
*Mr. Roberts.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Roberts.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *Jonathan Micklethwait.*  
*Cook.* I have nothing to say against him. [*He was sworn.*]  
 Cl. of Arr. *Richard Chiswell.*  
*Cook.* Sir, Are you a Freeholder within the City of London of 10 l. a Year?  
*Mr. Chiswell.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Chiswell.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *Joseph Thompson.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Thompson.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Thompson.* I was returned upon the Grand-Jury, but did not serve.  
*Cook.* I challenge you.  
 Cl. of Arr. *Edward Brewster.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Brewster.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Brewster.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *George Gooday.*  
*Mr. Gooday.* My Lord, I am no Freeholder. [*To which he was sworn.*]  
 Cl. of Arr. *Abraham Hickman.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Hickman.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Hickman.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *George Grove.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Grove.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Grove.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *Nathanael Wyersden.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Wyersden.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Wyersden.* No, Sir.  
*Cook.* I challenge you. My Lord, I desire to know how many I have excepted against.  
 Cl. of Arr. One and Thirty.
- Mr. Burleigh.* Write, write.  
 Cl. of Arr. *Samuel Blewitt.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Blewitt.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Blewitt.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *John Wolfe.*  
*Cook.* I accept of him. [*He was sworn.*]  
 Cl. of Arr. *William Smith.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Smith.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Smith.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *John Bickley.*  
*Mr. Bickley.* My Lord, I don't look upon myself as a Freeholder.  
*L. C. J. Treby.* Why so, Sir?  
*Mr. Bickley.* I have a Lease for one and Fifty Years, my Lord, of my House, and there is a very little Piece of Ground adjoining to it that was very convenient for me to lay to my Lease; there is no way to it but through my House; it is a Thing that never was let for any Thing, and it is not worth the Building.  
*L. C. J. Treby.* What Estate have you in it? Do you pay a Ground-Rent for it?  
*Mr. Bickley.* My Lord, I bought that little Piece of Ground for the Conveniency of my Lease.  
*L. C. J. Treby.* But did you purchase it for Term of Years, or to you, and to your Heirs?  
*Mr. Bickley.* Nay, I bought it for ever, my Lord.  
*L. C. J. Treby.* Then you have a Freehold in it. What's the Value of it?  
*Mr. Bickley.* Truly very little, my Lord.  
*L. C. J. Treby.* I don't know any Body can judge of the Value of it but your self. Is it worth 10 l. a Year?  
*Mr. Bickley.* My Lord, I can't value it at Ten Pound a Year, it never cost me Forty Pound.  
*L. C. J. Treby.* Then for Estate you are well enough, but for Value you are a little under.  
 Cl. of Arr. *Thomas Collins.*  
*Cook.* I accept of him. [*He was sworn.*]  
 Cl. of Arr. *John Watson.*  
*Cook.* I do not challenge him. [*He was sworn.*]  
 Cl. of Arr. *Benjamin Hooper.*  
*Cook.* I accept of him. [*He was sworn.*]  
 Cl. of Arr. *John Wells.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Wells.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Wells.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *John Hibbart.*  
*Cook.* Sir, Are you a Freeholder of the City of London of 10 l. a Year?  
*Mr. Hibbart.* Yes, Sir.  
*Cook.* Were you of the Grand-Jury that found the Bill against me?  
*Mr. Hibbart.* No, Sir.  
*Cook.* I challenge you.  
 Cl. of Arr. *Mr. Cook,* you have challenged your full Number. Call *Daniel Wray.* [*He was sworn.*]  
 Cl.

Cl. of Arr. *John Pettit*. [He was sworn.] Crier Countez.

*Henry Sherbrook*.

Crier. One, &c.

Cl. of Arr. *John Pettit*.

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

The Names of the Twelve sworn are as follows:

<p><i>Henry Sherbrook,</i> <i>John Cullum,</i> <i>Thomas Shaw,</i> <i>Richard Young,</i> <i>John Cooper,</i> <i>Jonath. Micklethwait,</i></p>	}	<p><i>John Wolfe,</i> <i>Thomas Collins,</i> <i>John Watson,</i> <i>Benjamin Hooper,</i> <i>Daniel Wray,</i> and <i>John Pettit.</i></p>
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Cl. of Arr. Crier, Make Proclamation.

Crier. O Yes, If any one can inform my Lord, the King's Justices, the King's Serjeant, the King's Attorney-General, or this Inquest now to be taken of the High-Treason whereof *Peter Cook*, the Prisoner at the Bar, stands indicted, let them come forth and they shall be heard, for the Prisoner now stands at the Bar upon his Deliverence, and all others that are bound by Recognizance to give Evidence against the Prisoner at the Bar, let them come forth, and give their Evidence, or they forfeit their Recognizance.

L. C. J. *Treby*. You must make room for those Twelve Gentlemen that are sworn, that they may be at ease; and for those that are not sworn, their Attendance may be spared.

Cl. of Arr. *Peter Cook*. Hold up thy Hand. [Which he did.] Gentlemen, you that are sworn, look upon the Prisoner, and hearken to his Cause. He stands indicted in *London*, by the Name of *Peter Cook*, late of *London*, Gentleman; For that whereas an open and notoriously publick and most sharp and cruel War, for a great while hath been, and it is by Land and by Sea carried on, and prosecuted, by *Lewis* the *French* King, against the most Serene, most Illustrious and most Excellent Prince, our Sovereign Lord *William* the Third, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, &c. All which time, the said *Lewis* the *French* King, and his Subjects, were, and yet are Foes, and Enemies of our said Lord the King that now is, *William* the Third, and his Subjects, he the said *Peter Cook*, a Subject of the said Lord the King that now is, of this his Kingdom of *England*, well knowing the Premises, not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved, and seduced by the Instigation of the Devil, as a false Traitor against the said most Serene, most Mild, and most Excellent Prince, our Sovereign Lord, *William* the Third, now King of *England*, his Supreme, True, Rightful, Lawful, and undoubted Lord, the Cordial Love, and true, and due Obedience, Fidelity, and Allegiance, which every Subject of the said Lord the King that now is, towards him our said Lord the King, should bear, and of Right is bound to bear, withdrawing, and utterly to extinguish, Intending, and Contriving, and with all his Strength, purposing, and designing the Government of this Kingdom of *England*, under him our said Lord the King that now is of Right duly, happily, and very well established altogether to subvert, change, and alter, and his Faithful Subjects,

and the Freemen of this Kingdom of *England*, into intolerable, and miserable Servitude to the aforesaid *French* King to subdue, and enthral; the First Day of *July*, in the Seventh Year of the Reign of our said Lord the King that now is, and divers Days, and Times, as well before as after, at *London*, in the Parish of *St. Peter Cornhil*, in the Ward of *Lime-street*, Falsly, Maliciously, Devilishly, and Traiterously did Compass, Imagine, and Contrive, Purpose, and Intend, our said Sovereign Lord the King that now is, then his Supreme, True, Rightful, and Lawful Lord; of and from the Regal State, Title, Honour, Power, Crown, Empire, and Government of this Kingdom of *England*, to depose, cast down, and utterly deprive, and the same our Lord the King to Death, and final Destruction to bring, and the aforesaid *Lewis* the *French* King, by Armies, Soldiers, Legions, and his Subjects, this Kingdom of *England* to invade, fight with, conquer and subdue, to move, incite, procure and assist, and a miserable Slaughter among the Faithful Subjects of our said Lord King *William*, throughout this whole Kingdom of *England*, to Make, and Cause. And further, That the said *Peter Cook*, during the War aforesaid, to wit, the aforesaid First Day of *July*, in the seventh Year aforesaid, and divers other Days and Times, before and after, at *London* aforesaid, in the Parish and Ward aforesaid, to the said Foes, and Enemies of the same our Lord the King, did adhere, and was assisting: And his aforesaid most wicked, and devilish Treasons, and Traiterous Compassings, Contrivances, Intentions, and Purposes aforesaid, to fulfil, perfect, and bring to Effect, and in Prosecution, Performance, and Execution of that traiterous adhering, he the said *Peter Cook*, as such a false Traitor, during the War aforesaid, to wit, the same First Day of *July*, in the Year aforesaid, at *London* aforesaid, in the Parish and Ward aforesaid, and divers other Days, and Times, as well before as after, there and elsewhere in *London* aforesaid, falsly, maliciously, advisedly, secretly, and traiterously, and by Force, and Arms, with one *Robert Charnock*, Sir *John Friend*, and Sir *William Perkins*, Knights, (which said *Robert Charnock*, Sir *John Friend*, and Sir *William Perkins*, were lately severally duly Convicted, and Attainted of High-Treason, in Contriving and Conspiring the Death of our said Lord the King that now is) and with divers other false Traitors to the Jurors unknown, did meet, propose, treat, consult, consent, and agree to procure from the aforesaid *Lewis* the *French* King, of his Subjects, Forces, and Soldiers, then, and yet Foes, and Enemies of our said Sovereign Lord *William*, now King of *England*, &c. great Numbers of Soldiers and Armed Men, this Kingdom of *England* to Invade and Fight with, and to Levy, Procure, and Prepare great Numbers of Armed Men, and Troops, and Legions against our said Lord the King that now is, to rise up and be formed, and with those Foes and Enemies, at and upon such their Invasion and Entry within this Kingdom of *England*, to join and unite, Rebellion and War against our said Lord the King that now is, within this Kingdom of *England*, to make, levy, and carry on; the same our Lord the King so, as aforesaid, to Depose, and him to Kill and Murder: And further, with the said false Traitors, the same First Day of *July*, in the Year aforesaid, at *London* aforesaid, in the Parish and Ward aforesaid, traiterously

traiterously did consult, consent, and agree to send the aforesaid *Robert Charnock* as a Messenger from him the said *Peter Cook*, and the same other Traitors, as far as, and into the Kingdom of *France*, in Parts beyond the Seas, unto *James* the Second, late King of *England*, to propose to him, and to request him to obtain from the aforesaid *French* King, the aforesaid Soldiers and Armed Men for the Invasion aforesaid to be made, and Intelligence and Notice of such their traiterous Intentions and Adherings to the said late King *James* the Second, and the said other Foes and Enemies, and their Adherents, to give and shew, and them to inform of other things, Particulars and Circumstances thereunto referring, for the Assistance, Animating, Comforting, and Aid of the said Foes and Enemies of the said Lord the King that now is, in the War aforesaid: And to stir up and procure those Foes and Enemies the readier, and more boldly this Kingdom of *England* to invade; the Treasons, and traiterous Contrivances, Compassings, Imaginings, and Purposes of the said *Peter Cooke* aforesaid, to perfect and fulfil; also the same first Day of *July*, in the Seventh Year aforesaid, at *London* aforesaid, in the Parish and Ward aforesaid, He the said *Peter Cook*, divers Horses, and very many Arms, Guns, Muskets, Pistols, Rapiers, and Swords, and other Weapons, Ammunition, and Warlike Matters, and Military Instruments, falsely, maliciously, secretly, and traiterously, did obtain, buy, gather together, and procure; and to be bought, gathered together, obtained and procured, did cause and in his Custody had and detained to that Intent to use the same in the said Invasion, War, and Rebellion against our said Lord the King that now is, him our said Lord the King, of and from the Regal State, Crown and Government of this Kingdom of *England*, to depose, cast down, and deprive, and him to Kill and Murder; and the Designs, Intentions, and all the Purposes of him the said *Peter Cook* aforesaid, to fulfil, perfect, and fully to bring to effect, against the Duty of his Allegiance, and against the Peace of our said Sovereign Lord that now is, his Crown and Dignity, as also against the Form of the Statute in such Case made and provided.

Upon this Indictment he has been arraigned, and thereunto has pleaded not Guilty, and for his Trial hath put himself upon God and his Country, which Country you are, your Charge is to inquire whether he be guilty of the High-Treason whereof he stands Indicted, or not Guilty; if you find him Guilty, you are to inquire what Goods or Chattels, Lands or Tenements, he had at the Time of the High-Treason committed, or at any Time since; if you find him not Guilty, you are to inquire whether he fled for it; if you find that he fled for it, you are to inquire 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. Mompesson.* May it please your Lordship, and you Gentlemen that are sworn, this is an Indictment for High-Treason against *Peter Cook*, the Prisoner at the Bar, and the Indictment sets forth, That whereas there has been an open and cruel War for a long Time, and still is between his Majesty King *William*, and the *French* King, the Prisoner at the Bar not weighing the Duty of his

Allegiance, the first of *July* in the Seventh Year of the King's Reign, did compass and intend to depose and deprive the King of the Title, Honour, and Dignity of the Imperial Crown of this Realm, and likewise to put the King to Death, and did adhere to the King's Enemies; and to fulfil these Treasons, he did consult with *Charnock*, and several other Traitors who were mentioned there, and some of whom have been found guilty of Treason, and executed for it, to send over to the late King *James*, to persuade the *French* King to send over Soldiers and Arms to invade this Kingdom, and to raise an Insurrection and Rebellion in it, and to deprive and put the King to Death, and to compleat these Treasons, it further sets forth, That the Prisoner at the Bar did provide several Arms and Horses, and this is laid to be against the Duty of his Allegiance, against the King's Peace, Crown and Dignity, and against the Form of the Statute in that Case made and provided; to this he has pleaded not Guilty, and for Trial put himself upon the Country, and, Gentlemen, if we prove these Facts laid in the Indictment, it's your duty to find him Guilty.

*Mr. Att. Gen.* May it please your Lordship, and you, Gentlemen of the Jury, the Prisoner at the Bar stands indicted for High-Treason.

*Cook.* My Lord Chief Justice, if your Lordship pleases, before the Witnesses are examined against me, I intreat you that they may not be both in Court together, that one may not hear what the other swears, tho' I suppose it is the same thing; for they have been together both now and the last Day.

*L. C. J. Treby.* *Mr. Cook.* I must tell you it is not necessary to be granted for asking; for we are not to discourage, or cast any Suspicion upon the Witnesses, when there is nothing made out against them; but it is a Favour that the Court may grant, and does grant sometimes, and now does it to you; though it be not of necessity: They shall be examined apart, but at present this is not the Time of Examination; for the King's Counsel are now to open the Evidence before they examine the Witnesses; but when the Time comes for the Witnesses to be call'd and examined, the Court will, in favour to you, take care that your Request be complied with.

*Mr. Att. Gen.* May it please your Lordship, the Prisoner stands indicted for High-Treason, in compassing and imagining the Death and Destruction of his Majesty, and likewise in adhering to his Majesty's Enemies, these are the Treasons specified in the Indictment: The Overt-Acts that are laid to prove these Treasons are, That he with several other Traitors, named in the Indictment, did meet and consult, and agree to send over *Charnock* into *France*, to invite the *French* King to make an Invasion upon the Kingdom, and did provide Arms for that Purpose.

Gentlemen, the Nature of the Evidence that you will have produced to prove the Prisoner guilty of these Treasons lies thus: It will appear to you that there has been for some Time a Conspiracy carried on by several Traitors, and wicked Persons, to subvert the established Government of this Kingdom, and destroy the Constitution of *England*, by a foreign Invasion of the *French*. You will hear that this Conspiracy was laid wide, and consisted of several Parts, one Part was that of *Assassinating* his Majesty's Royal Person,

son, and that was to be done first, as a Preparation and Encouragement to the *French* to invade the Kingdom: The other Part was the inviting the *French* King to invade us, and the Prisoner at the Bar is accused of being concerned in that Part that relates to the Invasion of this Kingdom, by a *French* Power; and though it may be the other Part, that of Assassinating the King, be the blackest Part of the Conspiracy, yet if the Prisoner at the Bar has been engaged in the inviting a foreign Power to invade the Kingdom, my Lords, the Judges, will tell you, in Point of Law, that is as much an Overt-Act of the compassing the Destruction of the King and the People of *England*, and the Subversion of our ancient good Constitution, as if he had been concerned immediately in the other Part, the Assassination.

But now, Gentlemen, that the Prisoner was engaged in inviting the *French* to invade us, you will hear proved by several Witnesses, that there having been a Design last Year, just before his Majesty went to *Flanders*, to expose his own Person for our Protection, and the Protection of the Liberties of *Europe*, there was a Conspiracy to murder him before he went to *Flanders*, which, it seems, they were not ripe for them; but immediately after he was gone to *Flanders*, you will hear there were formal Meetings of several Gentlemen and Persons of Quality, among whom the Prisoner at the Bar was one: There was a Meeting in *May*, last Year, after the King was gone to *Flanders*; and this was at the *Old King's-Head* in *Leaden-ball-street*; and there were present, my Lord of *Aylesbury*, my Lord *Montgomery*, Sir *William Perkins*, Sir *John Friend*, Mr. *Charnock*, (all which three last have suffered the Punishment of the Law for their Treason already) and there were also Mr. *Cook*, the Prisoner at the Bar, Mr. *Porter* and Mr. *Goodman*; these Men did meet together, to consider of the best Ways and Means of encouraging and inviting the *French* King with an Armed Force to invade this Kingdom; they considered that that was a proper Opportunity, and did treat of several Arguments that might persuade to it: First, that the King was gone to *Flanders*, and so was not in Person here to defend us; and that the Troops, to make good such Defence, were in a great measure drawn thither, to assist the Allies against the *French* Power; they did think likewise, that at that Time there was a great Discontent and Dissatisfaction in the Nation, though I think in that they were greatly mistaken; and I believe and hope they will always find themselves so, to think that the People of *England* are so little sensible of that which is the Means of their Preservation, as to hearken to any Discontents to encourage a *French* Power to come into *England* to destroy our Religion and Liberties; that indeed they did apprehend, though they were mistaken, and I believe they always will, when they go upon that Ground.

Gentlemen, These Persons thinking this a proper Opportunity, did agree to send a Messenger into *France* upon this Message, To go to the late King *James*, and persuade him to desire and prevail with the *French* King to assist him with Ten Thousand Men, 8000 Foot, 1000 Horse, and 1000 Dragoons; and to encourage him, they promised their Assistance here, as soon as he came over; and undertook, that between them, they could furnish, and would raise 2000 Horse to meet him at his Landing, and join upon such an Invasion.

Gentlemen, At this Meeting this was agreed upon by all that were there, whereof the Prisoner was one; and they did agree to send Mr. *Charnock*, (who has since been executed, and a principal Encourager of the Design, and Actor in it) he was the Messenger that was appointed to go upon this Errand, and Mr. *Charnock* was resolved to go, but desired another Meeting of these Gentlemen, to know if they continued in their former Resolution, that he might have all the Assurance that was reasonable to give the *French* King Encouragement to make the Invasion: Accordingly another Meeting was had of most of the same Persons that were at the Meeting before; particularly the Prisoner at the Bar was at that Second Meeting, which was in *Covent-Garden* at one Mrs. *Mountjoy's*, who keeps a Tavern next Door to Sir *John Fenwick's* Lodgings; there they met upon the same Design, and upon Consultation had, and the Question ask'd, they did agree to continue in the former Resolution, and upon that, immediately Mr. *Charnock* went into *France*, to solicit Forces from thence to invade us; but it happened, as it seems, that the *French* King's Forces were otherwise employed, so that he cou'd not spare so many at that time; and this Return was brought by *Charnock* to the Gentlemen that employed him; that he had spoke with the late King, who gave him that Answer, That the *French* King cou'd not spare so many Men at that time; but he thank'd them for their Kindness.

Gentlemen, This will be the Nature of our Evidence, to shew, that the Prisoner at the Bar was concerned in that Part of the Conspiracy which relates to the *French* Invasion; and if he be guilty of that, in point of Law, he is as much guilty of the Conspiracy; to depose and murder the King, as if he had been concerned in the other Part of Assassinating his Royal Person; and I believe no Body can think that those that were to act in the Assassination; wou'd have attempted to engage in such a desperate Design, if it had not been for the Encouragement of the *French* Invasion that was to second them afterwards if they succeeded; so that no Body can extenuate the Crime of the Invasion, because as to the Horridness of the Attempt, it is less black than the other; they are both Crimes of a very high Nature, and equally High-Treason; and if we prove the Prisoner guilty of this Part, we hope you will find him guilty.

Mr. *Soll. Gen.* My Lord, we will call our Witnesses and prove the Matter, as it has been opened. Call Captain *Porter* and Mr. *Goodman*.

Mr. *Serj. Darnel.* Now, my Lord, we must desire that that may be done which our Client desired before, and which your Lordship was favourably pleased to promise, that the Witnesses may be examined apart.

L. C. *J. Treby.* Let it be so: Who do you begin with?

Mr. *Soll. Gen.* We begin with Captain *Porter*, my Lord.

L. C. *J. Treby.* Then let Mr. *Goodman* withdraw.

Mr. *Baker.* Let Mr. *Goodman* go up Stairs, and we will call him presently.

Mr. *Soll. Gen.* Swear Captain *Porter*: [*Which was done.*] Captain *Porter*, Do you know Mr. *Cook*, the Prisoner at the Bar?

Capt. *Porter.* Yes, my Lord.

Mr.



*Mr. Soll. Gen.* Do you remember a Meeting of some Gentlemen at the *King's-Head-Tavern* in *Leaden-ball-street*.

*Capt. Porter.* Yes, I do, Sir.

*Mr. Soll. Gen.* Then pray give an Account of the Company that were there, the Time when, and what pass'd.

*Capt. Porter.* My Lord, the last Year we had two Meetings; the First was in *May*, the other was the latter End of *May*, or the Beginning of *June*; the First was at the *King's-Head* in *Leaden-ball-street*; there were my Lord of *Aylesbury*, my Lord *Montgomery*, Sir *John Fenwick*, Sir *John Friend*, Sir *William Perkins*, Mr. *Charnock*, Mr. *Cook* and my self; Mr. *Goodman* came in after Dinner; at this Meeting it was consulted which was the best Way and the quickest to restore King *James*, and hasten his Return into *England*; several Discourses and Proposals there were; at last it was agreed to send Mr. *Charnock* to the late King to borrow of the *French King* Ten Thousand Men, 8000 Foot, 1000 Horse, and 1000 Dragoons, to be sent over into *England* to assist the King's Restoration. Says Mr. *Charnock* thereupon, this the King can do without your sending, and I would not go upon a foolish Errand. What will you do to assist in this Matter? The Company desired him to promise King *James*, that if he would send Word when he Landed, and where, they wou'd be sure to meet him at his Landing with a Body of 2000 Horse.

*Mr. Att. Gen.* Was the Prisoner at the Bar in the Company, and present at this Resolution?

*Capt. Porter.* Yes, he was.

*Mr. Att. Gen.* Did all the Company agree to it?

*Capt. Porter.* Yes, they did.

*Mr. Att. Gen.* What Signs were there of their Agreement? Did they stand up severally and declare their Agreement, or how?

*Capt. Porter.* My Lord of *Aylesbury* and Sir *John Fenwick* did rise up, and desired Captain *Charnock*, that he would go upon this Errand: And when the Question was ask'd severally of all there present by Mr. *Charnock*, whether he might assure the King of what they had told him? Every one said yes, you may; and Mr. *Cook* kneel'd indeed upon a Chair, and said, Yes, you may.

*Mr. Att. Gen.* Did he give his Consent to it?

*Capt. Porter.* Yes, he answered in those very Words.

*Mr. Soll. Gen.* Do you remember any Meeting of any Company at Mrs. *Mountjoy's*?

*Capt. Porter.* Yes, that was a second Meeting.

*Mr. Soll. Gen.* Pray tell my Lord and the Jury how you came to meet there then, what Company were there, and what pass'd.

*Capt. Porter.* Mr. *Charnock* desired another Meeting, to see if the Gentlemen kept to their former Resolution; and we met at Mrs. *Mountjoy's* eight or ten Days after, and there were most of the Company that was at the first Meeting, and there all that were present did assure Mr. *Charnock* that they kept to their first Resolution, and wou'd abide to what was agreed upon at the former Meeting.

*Mr. Att. Gen.* Who were present at the second Meeting?

*Capt. Porter.* The Prisoner at the Bar was there at that second Meeting.

*Mr. Att. Gen.* What was that second Meeting for, do you say?

*Capt. Porter.* It was to give Mr. *Charnock* Assurance, that we were agreed to stand by the Resolution taken at the first Meeting.

*Mr. Att. Gen.* What did Mr. *Charnock* do afterwards?

*Capt. Porter.* I went away from them; there was Sir *William Perkins*, Sir *John Friend* and Captain *Charnock* went to the *Queen's-Head Tavern* in *Fleet-street*, and Captain *Charnock* told me he would go in two or three Days, and I believe did so.

*Mr. Att. Gen.* When did you see him afterwards?

*Capt. Porter.* When I was a Prisoner upon the Account of the Riot in *Drury-Lane*; about two or three Days after I came to *Newgate* he came to see me, and said he had been in *France*; and that King *James* thank'd us for our kind Offer, but the *French King* could not spare so many Men that Year; and he told me he had been with my Lord of *Aylesbury*, and the rest of the Gentlemen that had employ'd him to go over, and had delivered them the several Messages that he was ordered to from the King.

*L. C. J. Treby.* Captain *Porter*, who were present at the second Meeting, do you say?

*Capt. Porter.* My Lord of *Aylesbury*, Sir *John Friend*, Sir *William Perkins*, Captain *Charnock*, Mr. *Cook* and my self; I cannot tell whether my Lord *Montgomery* or Mr. *Goodman* were at that second Meeting or no.

*Mr. Att. Gen.* *Capt. Porter*, I would ask you another Question: You were concerned in the Assassination with those other Persons that engaged in it; Pray what Safety did you propose to your selves after the Assassination was over?

*Capt. Porter.* My Lord, I asked Sir *George Barclay* what we should do after the Fact was committed: Says he, you need fear nothing, I will go away that Night, I have a Ship ready, and the King will be Landed in five or six Days afterwards; if you'll but keep yourselves close for so many Days, all will do well.

*Mr. Soll. Gen.* If the Prisoner or the Council will ask him any Questions, my Lord, they may do it.

*Sir B. Shower.* Pray, Sir, can you recollect what Time of Day this was that this Debate and Resolution were had at the *Old King's-Head* in *Leaden-ball-street*.

*Capt. Porter.* Truly Sir *Bartholomew*, I can't tell.

*Sir B. Shower.* Pray, by what means do you recollect that this was in the Month of *May*?

*Capt. Porter.* Because Capt. *Charnock* was absent at the *Dog-Tavern* Riot, which was the Tenth of *June*.

*Sir B. Shower.* Was it not in *April*?

*Capt. Porter.* No, Sir; to the best of my Remembrance it was in *May*.

*Sir B. Shower.* What makes you think it was in *May* rather than *April*?

*Capt. Porter.* I have told you, Sir, because both Meetings were before the *Dog-Tavern* Riot, the Tenth of *June*, and Mr. *Charnock* was not there at that Time; but he told me afterwards he had been in *France*, and there were eight or ten Days Difference between the two Meetings.

Mr.

Mr. *Att. Gen.* My Lord, if they have done with him, I would ask him one Question, to settle this Matter in point of Time. Capt. *Porter*, Was the King gone to *Flanders* when you had these Meetings?

Capt. *Porter*. The King was gone, Sir, before the first Meeting.

Mr. *Att. Gen.* The King did not go till several Days in *May*; was Mr. *Goodman* there?

Capt. *Porter*. He was at the first Meeting, but I can't tell whether he was at the Second or no.

Mr. *Serj. Darnal*. Pray what Time was Mr. *Goodman* there at the first Meeting?

Capt. *Porter*. He came up after Dinner at the first Meeting.

Mr. *Baker*. Then call down Mr. *Goodman*, who came in, and was sworn.

Mr. *Sol. Gen.* Mr. *Goodman*, Pray will you give my Lord and the Jury an Account what you know of an intended Invasion upon this Kingdom; what were the Circumstances of it, and who were concerned in it.

Mr. *Goodman*. My Lord, about the Middle of *May* last, or thereabouts, Captain *Porter* sent to me, and told me there was a Meeting of some Gentlemen of our Acquaintance at the *King's-Head* in *Leaden-hall-street*; and he desired me that I would be there, because it was about Business: I told him I did not know whether I cou'd be there at Dinner; but however, I wou'd not fail of coming thither after Dinner; and accordingly I came. When I came into the House, I sent up my Name to Capt. *Porter*, and he came down and brought me up Stairs, and there I saw my Lord *Montgomery*, my Lord of *Aylesbury*, Sir *John Fenwick*, Sir *William Perkins*, Sir *John Friend*, Mr. *Charnock*, and that Gentleman at the Bar, Mr. *Cook*: When we were there, the Discourse was, that we did think King *James's* coming was retarded, and we wou'd do any thing to facilitate his Restoration.

*Cook*. My Lord Chief Justice.

*L. C. J. Treby*. What say you, Mr. *Cook*?

*Cook*. My Lord, If your Lordship pleases, I desire the Jury may not be talk'd to by any Body; and I understand there are some talking with the Jury.

*L. C. J. Treby*. Fy upon it, we will lay any Body by the Heels that do so, they must neither be disturbed, nor instructed by any Body.

*Cook*. My Lord, I am informed there was somebody talking to them, and telling them this was the same Case with Sir *John Friend*.

*L. C. J. Treby*. Do you but shew us the Man, and we will find another Place for him; we will send him to the Gaol, I'll assure you.

Mr. *Burleigh*. This Gentleman, my Lord, did hear such a Discourse to the Jury (pointing to a Gentleman there) who stood up.

My Lord, I cannot positively swear to the Man, but I did hear some Discourse that it was the same Evidence as in the former Trial.

*L. C. J. Treby*. If you can shew us who it was, we will take care to punish him: I suppose he stands Corrected; and if we knew who he was, he shou'd stand Committed.

Mr. *Att. Gen.* Pray, Mr. *Goodman*, begin again, and tell what pass'd at that Meeting, because the Jury were interrupted from hearing by People's buzzing about them.

Mr. *Goodman*. My Lord, When Captain *Porter* brought me up into the Room, I told you what Gentlemen I found there; after we were set down, there was a Consultation, that considering the *French King's* Wars retarded the Affair of sending back King *James*, and the Means of restoring him to the Crown, it was fit we shou'd find out some Way or Method to facilitate his Restoration, and it was thought convenient to have a Messenger to send over to King *James* with Proposals for that Purpose; to this effect, as near as I remember, That if King *James* cou'd prevail with the *French King* to furnish Ten Thousand Men, whereof 8000 to be Foot, 1000 Horse, and 1000 Dragoons, we wou'd endeavour to meet him at the Head of as many Horse as we cou'd raise, to sustain those Forces at their Landing: This was debated in order to come to a Resolution; and much Difficulty there was how many the Number should be; the Man pitched upon to be sent, was Mr. *Charnock*; and after some Debate, how many Thousand Horse could be raised: Says Mr. *Charnock*, don't let me go over upon a foolish Errand, but let me know what I have to say exactly: Thereupon it was concluded by all, that Two Thousand Horse should be the Number we cou'd promise, and the King might depend upon them; and if we brought more, so much the better; and Sir *John Friend* said, I believe he has so many Friends here, that if he came himself, he might be welcome; but that we did not think fit to trust to; and no Body wou'd advise any such thing; when the Resolution of the Thing and the Number was thus fixed, Mr. *Charnock* ask'd whether it were with all our Consents? and that he might assure the King, that this was our Resolution thereupon? We all rose up, and said to him, *Yes, you may, yes, you may*, every one particularly; and I remember one Thing particularly concerning the Prisoner Mr. *Cook*, That he kneel'd upon the Chair when he said, *Yes, you may*; and his Elbows were upon the Table: This is all that I know of that Meeting. There was to be another Meeting, as Captain *Porter* told me; but I had Business in the City; but whatsoever he promised on my Behalf, as to the Quota of Men, I wou'd be sure to make it good; and I was not at the second Meeting.

Mr. *Att. Gen.* Did you see Mr. *Charnock* afterwards?

Mr. *Goodman*. Yes, I did, when he came back; and he told me the Thing was not accepted, for the *French King* cou'd not spare Men, and that he had been with the several Gentlemen to carry them the Compliments that he had in Charge from King *James*, who returned them Thanks for their good Affection; and among the rest, he did me the Honour to return me Thanks too.

Sir *B. Shower*. Pray, Mr. *Goodman*, let me ask you a Question: When was it that you saw Mr. *Charnock* after this?

Mr. *Goodman*. It was in *Arundel-street*, at his Lodgings.

Sir *B. Shower*. But I ask you, Sir, when it was? Was it before or after the Tenth of *June*?

Mr. *Goodman*. It was after the Tenth of *June*, Sir.

Sir *B. Shower*. How long after, pray?

Mr. *Goodman*. I believe it was a Month after the Tenth of *June*.

*Sir B. Shower.* Did you see him here in *England* before *Mr. Porter* was discharged from the Riot, and came out of *Newgate*?

*Mr. Goodman.* I believe I did see him before *Captain Porter* was discharged, long.

*Mr. Serj. Darnal.* Who were the Persons that were present at that Meeting?

*Mr. Goodman.* My Lord *Montgomery*, my Lord of *Aylesbury*, *Sir John Fenwick*, *Sir John Friend*, *Sir William Perkins*, *Mr. Charnock*, *Captain Porter*, and the Prisoner at the Bar, *Mr. Cook*.

*Mr. Serj. Darnal.* Were you at Dinner with them, Sir?

*Mr. Goodman.* No, I came in after Dinner.

*Mr. Serj. Darnal.* Pray what House was it, do you say, this Meeting was at?

*Mr. Goodman.* It was at the *King's-Head* in *Leaden-hall-street*.

*Sir B. Shower.* Can you tell what Day of the Week it was?

*Mr. Goodman.* No, nor the Day of the Month.

*Sir B. Shower.* Was you ever in the Company of these Gentlemen at any other Time?

*Mr. Goodman.* No, this was the only Time that I heard of this Consultation; I was not at the second Meeting.

*Cook.* If your Lordship pleases, may I ask *Mr. Goodman* any Questions?

*L. C. J. Treby.* Yes, by all Means ask him what you will.

*Cook.* *Mr. Goodman*, You are upon your Oath: but did you ever hear me speak ten Words in your Life? Was you ever in my Company in any House, before or since?

*Mr. Goodman.* Yes, Sir; I was in your Company at the *Cock* in *Bow-street*, where you came in accidentally.

*Cook.* Did you ever hear me talk of the Government, or any Thing of that Nature?

*Mr. Goodman.* What the Discourse was of, I cannot particularly say, but I am certain you was there: And as to the Consultation that I now speak of, I remember very well you gave your Consent in that Manner as I have told the Court.

*Mr. Att. Gen.* My Lord, we have done at the present.

*L. C. J. Treby.* Then, Brother *Darnal*, what say you for the Prisoner?

*Mr. Serj. Darnal.* May it please your Lordship, and you Gentlemen of the Jury: I am of Counsel, in this Case, for the Prisoner at the Bar, *Mr. Cook*, who stands indicted of a very great Offence, no less, Gentlemen, than High-Treason; and if he be Guilty, his Punishment will be as great: But because the Punishment and the Offence are both very great, the Law requires exact positive Proof, and that by two credible Witnesses. There have been two indeed that have been produced to you; and if you believe both of them; after what we shall offer to you against them, and if what they swear be true, the Prisoner is Guilty: But if we satisfy you that either of them is not to be credited, so that you do not believe both of them, he must be acquitted.

There is no doubt, Gentlemen, but there has been a Villainous Horrid Plot; there is no question of it; and it was, as it has been opened, bately to Assassinate one of the bravest Men living; and to make the happiest People in the World, if they know when they are so, the most

miserable People upon Earth, by bringing them under *French Tyranny* and Slavery. Many of the Traitors have been brought to just Punishment for this Treason; nay, they have own'd the Fact at their Deaths, so that there is no question of the Truth of it; and therefore, Gentlemen, every honest Man will endeavour to bring such as are plainly guilty, of such an abominable Conspiracy, to just Punishment; but yet they will be as careful not to let an innocent Man suffer; that, Gentlemen, every honest Man will take care of, and especially such as are upon their Oaths: It concerns a Jury highly to be satisfied, that he is not innocent, whom they bring in guilty; for it is better that Twenty guilty Men should escape, than one innocent Man suffer.

But, Gentlemen, if my Brief be true, we shall give you such an Account of one of these Witnesses; first, as to the Man himself; that he is not a Man to be credited as a Witness; and then besides that, as to the Evidence he gives in this Case; (I say, if my Brief be true) it is false, and we shall prove it so; and when you have heard our Evidence, if you are satisfied that one of these Witnesses is not to be credited, or that what he swears is not true, you are to acquit the Prisoner.

Gentlemen, Here has been one *Mr. Goodman* produced as a Witness, one that never was produced before at the Trial of any of those that have suffered, so that the Truth of their Guilt does not at all depend upon his Evidence, nor does it give any Credit to it. This is this Gentleman's first Entry upon this Stage; and yet (if my Brief be true) this is not the first bloody or cruel Part that he has acted; for we have a Record of Conviction against him, whereby it will appear to you, that he was indicted (for Endeavouring to poison two great Dukes) for giving forty Guineas to an *Italian Empirick*, one *Amydei*, and promising two Hundred Pounds more when it was effected, to poison the late Duke of *Grafton*, and the present Duke of *Northumberland*; and we shall shew you, that he was convicted of it, and fined a Thousand Pound for the Offence; which, considering the Meanness of his Circumstances at that Time, was as much as Twenty Thousand Pounds; for he could as well have paid Twenty as One then; and it appears too, that *Mr. Goodman* (nay, it will not be denied by him himself) was in this horrid Plot; and he that wou'd be concern'd to poison two Dukes in a Family, to which he had so many Obligations——

*Mr. Goodman.* My Lord, I desire leave to speak to this Matter that the Serjeant mentions.

*Mr. Serj. Darnal.* Pray, Sir, let me go on; you may talk anon; I have seen the Copy of the Record of Conviction, and have it ready to produce.

*Mr. Att. Gen.* *Mr. Goodman*, be quiet, and stay till by and by; you will be defended, no Doubt on it; but in the mean time let them go on, and don't interrupt them.

*Mr. Serj. Darnal.* I say, my Lord, he that wou'd be concerned in so vile an Act, as a Contrivance to take away the Lives of two great Dukes, (who were, in effect, his young Masters) that he shou'd go to poison them in a Family to which he had been so much obliged; and then, he that wou'd be concerned in so horrid a Plot as this was, to destroy his Country, and take away the

the Life of the King; sure it will be no difficult Thing to think that this Man will not stick at the little Prisoner's Life at the Bar, especially when he has so great a Temptation to it, as to save his own Life by it.

But perhaps some of you may doubt whether it is to save his own Life or no: But I believe there are none of you would give any Credit to him, if you thought so: Therefore, to satisfy you of that Fact, we shall produce you Evidence of his own Opinion of that Matter, beside the general known Circumstances he lay under; As, That he was long in Prison before he charged the Prisoner with any Thing, and the Prisoner was at Liberty, went every Day abroad for a Week after Mr. *Charnock's* Trial, and never absconded one Minute, but lived publickly, openly and visibly to all his Friends, and all Strangers: But besides, Gentlemen, that Mr. *Goodman* knew he must die, and justly and deservedly for this horrid Plot and Treason himself; and had no other Way left to save his Life, but to come in thus as an Evidence and Accuser, which we think will shake his Credit with you.

I say, besides all this, (if my Brief be true) we shall prove that he has said himself, That either he must hang *Peter Cook*, or he must be hanged himself. Thus, Gentlemen, he swears to save his own Life, by taking away another's.

This, Gentlemen, is as to the Man himself, that he is not to be credited. But now further, as to the Evidence that he has given; He tells you that he came into the Tavern in *Leaden-hall-street*, and that there he found such Company; he owns he came in after Dinner; and that the other Gentleman, Mr. *Porter*, owns too; he says there were present at this Meeting, my Lord *Montgomery*, my Lord of *Aylesbury*, Mr. *Cook*, and several other Gentlemen; but (if my Brief be true) we shall prove by three Witnesses, that he was not there till they were gone; and that will make an End of all the Pretence of his Evidence.

Mr. *Att. Gen.* Nay, then we shall never have done.

Mr. *Serj. Darnal.* I'll assure you, Sir, I have the Names of three Witnesses in my Brief, to prove that my Lord of *Aylesbury*, my Lord *Montgomery*, and Mr. *Cook*, were gone before he came in, tho' if any, or either of them were gone, it destroys his Testimony; and if we prove this to you, I would be loth to be one of the Jury that should take away the Prisoner's Life upon this Evidence; no, if he were the vilest Man alive, and much less the Life of the Prisoner at the Bar; for we shall prove (if my Brief be true) he is a Man of Morals, a Man of Virtue, one that has a great Love for his Country; and this we shall prove by Evidence undeniable, Persons of Quality in their Country, such as serve their Country in Parliament, as their Representatives; we shall shew it by such Evidence, that there will be no Room to doubt of it: He is a Man without any Stain or Blot upon him, 'till this Accusation; he is the eldest Son of his Father, and Heir to a great Estate; his Father is a great Officer, and a great Getter under this Government, and can it be imagin'd, or believ'd, that such a Man would be guilty of the worst of Treasons, to destroy the Religion he professes, to overturn the State, to ruin his own Estate, himself and his Posterity, which must be the Consequence of it? Nay, if

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two good Witnesses cou'd be produc'd to testify it, and if we had not had so much to take off the Credit of *Goodman*, I cou'd hardly believe it of any Man that was in his right Senses; he must have been a Mad-man if he had done it, one that stood so well with the present Government, and of a Family never tainted with Disloyalty.

Certainly, Gentlemen, when we make out this to you against Mr. *Goodman*, the Prisoner can be in no Danger of his Life, from Mr. *Goodman's* Evidence, tho' he is an unfortunate Man to come under such an Accusation; but I cannot believe that any Jury, upon such a Man's Evidence, will brand an honest Family with the foulest, vilest, blackest Treason that ever was hatch'd; no, Gentlemen, you are Men of Ability and Understanding, and that is it we rely upon; we doubt not but that you will consider the Evidence, and consider your Oaths, and not let the Prisoner's Blood lie at your Doors; therefore we shall go on and call our Witnesses to make out what I have open'd.

Sir *B. Shower.* My Lord; we desire to call our Witnesses, and I shall reserve my self to make some Observations after we have given our Evidence: Mr. *Serj.* has open'd as much as we can prove, and we will now produce our Evidence; First we will shew the Conviction of *Goodman*: Mr. *Burleigh*, where is the Conviction?

Mr. *Burleigh.* Here it is, Sir.

Sir *B. Shower.* Where had you it, Sir?

Mr. *Burleigh.* Out of the Treasury at *Westminster*.

Sir *B. Shower.* Is it a true Copy, did you examine it there?

Mr. *Burleigh.* Yes, it is a true Copy, I did examine it with the Record.

Sir *B. Shower.* Then read it, Mr. *Tanner*.

Cl. of *Arr.* Reads—*Michaelmas Term: Tricesimo secundo Caroli Secundi.*

L. C. *J. Treby.* Read the Record in *English* to the Jury.

Cl. of *Arr.* [Reads.] Be it rememb'r'd, that Sir *Robert Sawyer*, Knight, Attorney-General of our Lord the King that now is, who for the same our Lord the King in this part sueth, came here in the Court of our said Lord the King, before the King himself at *Westminster*, on *Thursday* next after three Weeks of *St. Michael*, the same Term; and for the same our Lord the King, brought here into the Court of our said Lord the King, before the said King, then and there, a certain Information against *Cardell Goodman*, late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Gentleman, which Information follows in these Words, *Scilicet, Middlesex scilicet*, Be it rememb'r'd that Sir *Robert Sawyer*, Knight, Attorney-General of our said Lord the King that now is, who for the same our Lord the King, in this Behalf sueth, in his own proper Person came here into the Court of our said Lord the King, before the King himself at *Westminster*, on *Thursday* next after three Weeks of *St. Michael* that same Term, and for the same our Lord the King, gives the Court here to understand and be inform'd, That *Cardell Goodman*, late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Gentleman, being a Person of a wicked Mind, and of an ungodly and devilish Disposition, and Conversation, and contriving, practising, and falsely, maliciously and devilishly intending,

intending Death, and Poisoning and final Destruction unto the Right Noble *Henry, Duke of Grafton,* and *George, Duke of Northumberland,* and that the aforesaid *Cardell Goodman,* his most wicked, most impious, and devilish Intentions, Contrivances and Practices aforesaid, to fulfil, perfect, and bring to Effect, the Thirtieth Day of *September,* in the six and Thirtieth Year of the Reign of our Lord *Charles the Second,* now King of *England, &c.* and diverse other Days, and Times, as well before as after, at the Parish of *St. Martin in the Fields,* in the County of *Middlesex,* with Force and Arms, &c. falsely, unlawfully, unjustly, wickedly, and devilishly, by unlawful Ways and Means, did solicit, persuade, and endeavour to procure one *Alexander Amydei,* to prepare and procure two Flasks of *Florence Wine,* to be mix'd with deadly Poison, for the Poisoning of the aforesaid Right Noble *Henry, Duke of Grafton,* and *George, Duke of Northumberland,* and his most wicked, most impious, and devilish Contrivances, Practices and Intentions aforesaid, to fulfil, perfect, and the more to bring to Effect, the aforesaid *Cardell Goodman,* the Day and Year aforesaid, at the Parish aforesaid, in the County aforesaid, falsely, unlawfully, unjustly, maliciously and devilishly, did promise and agree, to give unto the aforesaid *Alexander Amydei,* forty Pieces of Guinea-Gold, of the Value of forty Pound, of lawful Money of *England,* if he the said *Alexander Amydei* wou'd prepare, procure and provide two Flasks of *Florence Wine,* to be mix'd with deadly Poison, for the Poisoning of the aforesaid Right Noble *Henry, Duke of Grafton,* and *George, Duke of Northumberland;* and if the aforesaid Poison with the Wine aforesaid to be mix'd, shou'd effect the Death of the aforesaid *Henry, Duke of Grafton,* and *George Duke of Northumberland:* that then he the said *Cardell Goodman,* wou'd give unto the said *Alexander Amydei,* the Sum of one Hundred Pounds, and that beyond Sea he wou'd maintain the said *Alexander* all the Days of him the said *Alexander,* to the evil and most pernicious Example of all others in the like Case offending, and against the Peace of our said Lord the King that now is, his Crown and Dignity, &c. — Then here is Process pray'd by the Attorney-General against Mr. *Goodman,* who comes, and by his Attorney pleads not Guilty, and here is Issue join'd.

*Sir B. Shower.* Well, see for the Verdict.

*Cl. of Arr.* There was a Trial at *Nisi Prius,* and the Jury find that the said *Cardell Goodman* is guilty of the Premises in the Information specify'd as by the Information is supposed against him.

*Sir B. Shower.* Now read the Judgment.

*Cl. of Arr.* Thereupon it is consider'd, that the said *Cardell Goodman* do pay to the King, the Sum of One Thousand Pounds, for his Fine, impos'd upon him for the Occasion aforesaid, and that the aforesaid *Cardell Goodman* be committed to the *Marshalsea* of this Court, in Execution for his Fine aforesaid, that he be safely kept there, till he pay his Fine aforesaid; and before that the said *Cardell Goodman* is deliver'd out of the Prison aforesaid, he shall give Security to behave himself well, during his Life, and also shall give Security for the Peace to be kept towards the said Lord the King, and all his People, and particularly towards the Right Noble *Henry, Duke of Grafton,* and *George, Duke of Northumberland.*

*Mr. Serj. Darnal.* So, you hear the Record of the Information, Conviction and Judgment, for a very horrid, abominable Crime.

*Mr. Att. Gen.* But I desire they may now go on, and read the whole of the Record.

*Cl. of Arr.* [Reads.] And afterwards, to wit, on *Friday* next after eight Days of *St. Hilary,* in the thirty sixth, and thirty seventh Years of the Reign of our said Lord the King that now is, before our said Lord the King at *Westminster* came the aforesaid *Sir Robert Sawyer,* Knight, Attorney-General of our said Lord the King that now is, and acknowledged that the said *Cardell Goodman* has satisfy'd to our said Lord the King that now is, of the Judgment aforesaid against him, in Form aforesaid given, therefore the said *Cardell Goodman* is thereof acquitted; And so forth.

*Mr. Serj. Darnal.* Call Mr. *Charles Edwards,* *William Cock,* *Christopher Crawford,* *Mary Crawford,* and Mr. *Huntley.*

*Edwards* appear'd upon a Habeas Corpus, directed to the Keeper of *Newgate,* where he was a Prisoner.

*Mr. Baker.* Where is the Warrant of his Commitment? What is he committed for?

*Takefield.* He is committed for Suspicion of Treason, and treasonable Practices.

*Mr. Baker.* Is he not committed for High-Treason?

*Takefield.* No, Sir, he is not.

*Mr. Serj. Darnal.* What Discourse had you with Mr. *Goodman,* concerning the Prisoner at the Bar, what did you hear him say?

*Mr. Baker.* He is not sworn yet, it seems this Gentleman was *Dundee's* Chaplain in *Scotland.*

*Mr. Att. Gen.* If he be not sworn, he can give no Evidence.

*Mr. Serj. Darnal.* My Lord, we desire he may be sworn.

*L. C. J. Treby.* Swear him. [Which was done.]

*Mr. Serj. Darnal.* Pray Sir, will you tell the Court, and the Jury, what you know of any Discourse of Mr. *Goodman's* concerning the Prisoner at the Bar.

*Edwards.* My Lord, I desire to know, being ignorant of the Law, whether I am brought here by the common Course of Justice or not?

*Mr. Serj. Darnal.* Sir, we have Subpœna'd you for the Prisoner at the Bar, to give Evidence of the Truth of your Knowledge here upon Oath.

*L. C. J. Treby.* Would you have us tell you how you came here? We suppose you came by due Process of Law, as a Witness.

*Edwards.* Then, my Lord, I desire to speak but one Word; that 'tis a strange Thing to me to consider, how Words should be carried away that were privately spoken; as if it were to expose me to the Reproaches of all my Friends; it is a Thing that I did never expect to hear of again: However, seeing I am called here, and obliged upon my Oath to declare what I know, I by God's Grace will, to the uttermost of my Power, tell what has pass'd in this Matter.

*L. C. J. Treby.* Don't make any Apology for telling the Truth: You are obliged by your Oath to do it, and the Court expects it from you.

*Edwards.* Among other Discourses that pass'd betwixt Mr. *Goodman* and me, I ask'd him when Mr. *Cook* was to be arraigned, and when he was

to be tried: Says he, he is to be arraigned upon *Monday*, and he is to be tried upon *Thursday*. I ask'd him whether it was for the Assassination-Plot, and he told me no. For what then? Said I: As being concerned in sending Mr. *Charnock* into *France*? Who are the Evidences against him, said I? Said he, Captain *Porter* and my Self. Said I, I believe two Witnesses will be found Good, or by Way of Demonstration in Law; and I pity the poor Gentleman's Case. Says he, he swore against me. How comes it then, said I, that he is not come off, and has not a Pardon, and would divulge no Body else?

*L. C. J. Treby*. Who had not a Pardon do you mean?

*Edwards*. Mr. *Cook*. I ask'd how he had not a Pardon? Says he, he would give an Account of no Body else but me, and that was the Reason he had no Pardon. Said I to him, Who are the Evidences against him? Says he, Captain *Porter* and my Self. And after this, says he, he or I must perish; or, he or I must suffer; I believe the Word was suffer: But, says he, 'tis a foolish Thing to be hang'd. All that's said of a Man that is hang'd, is, That he hang'd handsomely, or he dy'd bravely. That's all the Discourse that I can remember.

*Mr. Serjeant Darnal*. He said it was a foolish Thing to be hang'd; and Mr. *Goodman*, it seems, had no Mind to be hang'd; and I believe so too: But he must not hang my Client, to save his own Life.

*Edwards*. Now, by the same Oath that I have Sworn, I knew nothing of being brought hither, till my Words were carry'd away privately from me, and has been consulted of, and returned to me back again; and I was far from suborning or carrying away a Discourse privately to make any Advantage of it.

*Mr. Serjeant Darnal*. Now we will call *Crawford*, and *Huntley*, and *Cock*.

*Mr. Att. Gen.* I desire that Gentleman that was last examin'd, may not go away.

[*Crawford*, *Huntley*, and *Cock* were Sworn.]

*Sir B. Shower*. Set up Mr. *Crawford* (which was done.) Pray, Sir, will you recollect your self: Do you remember when my Lord of *Aylesbury* and Captain *Porter* din'd at the *King's-Head*?

*Crawford*. Yes: It was about a Twelve-month ago.

*Mr. Serjeant Darnal*. What Company was there?

*Crawford*. My Lord of *Aylesbury*, Sir *John Friend*, Sir *John Fenwick*, Sir *William Perkins*, Captain *Porter*, and Two or Three more, I did not know their Names.

*Sir B. Shower*. How many were there that din'd there?

*Crawford*. I think about Eight in all.

*Sir B. Shower*. Was the Room shut while they were there, or did the Servants and Drawers go up and down commonly?

*Crawford*. Yes they did go up and down commonly.

*Sir B. Shower*. After Dinner, did any Body come to them while they were there?

*Crawford*. No, not during my Lord of *Aylesbury*'s Stay, and my Lord *Montgomery* went away with him.

*Sir B. Shower*. About what Time did my Lord of *Aylesbury* go away?

*Crawford*. I think it was about Four o'Clock.

*Sir B. Shower*. How can you tell it?

*Crawford*. I did attend upon them the most Part of the Time.

*Sir B. Shower*. Did you see him go away?

*Crawford*. Yes, I did.

*Sir B. Shower*. Was that Gentleman, Mr. *Goodman* there, when they went away?

*Crawford*. I did not see him there, to my Remembrance: No Body came in there before they went away, saving their own Servants.

*Mr. Serj. Darnal*. Do you know Mr. *Cook*, the Prisoner at the Bar? Was he one of the Gentlemen that were at your House?

*Crawford*. Yes: I did not well remember or recollect, till I saw him on *Saturday* last.

*Mr. Att. Gen.* Was he one that went away?

*Crawford*. I do not remember truly, Sir.

*Mr. Att. Gen.* Pray, how long was it after Dinner that they went away?

*Crawford*. I think it was not an Hour.

*Mr. Att. Gen.* Was you there all the Time, from the Time of the Dinner?

*Crawford*. No, not all the while I was not in the Room, but going too and fro.

*Mr. Serj. Darnal*. You say Mr. *Goodman* did not come up till after they were gone?

*Crawford*. No, I did not see him.

*Mr. Att. Gen.* Did you see him at all?

*Crawford*. No, I did not see him at all.

*Mr. Att. Gen.* Just now it was said he did not come till they were gone, and now it seems he did not see him at all.

*Crawford*. I do not know that he was there at all.

*L. C. J. Treby*. But, Brother *Darnal*, you open'd it, that Mr. *Goodman* came after my Lord of *Aylesbury* was gone, and now you will prove it that he came not at all.

*Sir B. Shower*. My Lord, we do not pretend to falsify his Evidence for any thing more than is material for the Prisoner: We say Mr. *Goodman* was not in the Room where they din'd till those Persons went away; if in any Particular we disprove him, it is sufficient for us: If we can shew that he was not there till three of those that he has nam'd were gone away, that answers our End. We are not concern'd if he came at four, five, or six o'Clock, and discours'd with *Charnock* till twelve o'Clock at Night.

*Mr. Att. Gen.* Pray reserve your Remarks, but only observe now what he says, that Mr. *Goodman* came not at all thither, and that is more than you pretended to open.

*Mr. Conyers*. How many were there that were there at Dinner?

*Crawford*. About Eight.

*Mr. Conyers*. How many do you name that you know?

*Crawford*. My Lord of *Aylesbury*, Sir *John Friend*, Sir *John Fenwick*, Sir *William Perkins*, and Captain *Porter*, there were several others; two or three more, but I did not know their Names.

*Mr. Conyers*. Did you see Mr. *Goodman* come in at any Part of the Day afterwards?

*Crawford*. I do not know that Mr. *Goodman*.

*Mr. Cowper*. Mr. *Crawford*, you say, that for an Hour after Dinner you were sometimes in the Room

Room

Room and sometimes out; when you were out of the Room, were you always in the Passage up to the Room?

*Crawford.* No, I was not.

*Mr. Cowper.* Could any Man come in or out without your seeing?

*Crawford.* I should have known him above Stairs when I came in again.

*Mr. Cowper.* Why, you say, there are two or three above that you did not know.

*Crawford.* I knew them by Sight, if not their Names.

*Mr. Cowper.* Were you always in Sight then?

*Crawford.* No, Sir, I tell you I was up and down.

*Sir B. Shower.* Was there any Body came in before my Lord of *Aylesbury* went out, that is, any Body besides those that din'd there?

*Crawford.* No.

*Sir B. Shower.* My Lord, we are not contending now about a Man's coming up without his Knowledge; but whether any such Man as *Mr. Goodman* came up and staid there, during the Consultation, and we insist upon it; there was no Body there till my Lord of *Aylesbury*, my Lord *Montgomery*, and *Mr. Cook* were gone, but those that din'd there: Now I would ask a Question again of him, Was there any Body but who din'd there, till my Lord of *Aylesbury* went away?

*Crawford.* No, there was not.

*Mr. Att. Gen.* Why do you say so? How do you know that?

*Crawford.* I did not see any Body.

*Mr. Soll. Gen.* Did you attend upon other Rooms, as well as that, at the same Time?

*Crawford.* Yes, I did.

*Mr. Soll. Gen.* Then how is it possible that he can swear that *Mr. Goodman* was not there?

*Sir B. Shower.* Do you remember when my Lord of *Aylesbury* and they went away?

*Crawford.* It was about Four o'Clock.

*Sir B. Shower.* Were you there in the Room when they went away?

*Crawford.* I went out with my Lord to the Coach.

*Sir B. Shower.* Did you see him come down Stairs; or did you go up Stairs then?

*Crawford.* I went up Stairs when the Coach was called.

*Sir B. Shower.* Was then any Body there but such as din'd there?

*Crawford.* I did not see any Body there but those that din'd there.

*Mr. Cowper.* But, my Lord, he does not know all that din'd there neither.

*L. C. J. Treby.* *Mr. Crawford*, you say my Lord of *Aylesbury* and others went away about Four o'Clock: Pray how long did the Rest of the Company stay there?

*Crawford.* I cannot remember. They staid there pretty late: It is a pretty while ago.

*L. C. J. Treby.* About what Hour did they part?

*Crawford.* I cannot remember what Time the Rest went away: Our House is fuller at Night than at Noon; and I waited upon other Companies. It was pretty late before they went away, that I am sure.

*L. C. J. Treby.* But he cannot remember whether it were Five, or Six, or Twelve, that they went away, only he can remember the Hour

of Four, that my Lord of *Aylesbury* and they went away.

*Mr. J. Rokeby.* Was it Light, or was it Dark when they went away?

*Crawford.* It was Dark.

*L. C. J. Treby.* Did you attend the Company after my Lord of *Aylesbury* was gone?

*Crawford.* I went up and down into that Company as I did into others.

*L. C. J. Treby.* Was you there several Times after my Lord of *Aylesbury* was gone?

*Crawford.* Yes, I was there once or twice after my Lord of *Aylesbury* was gone, I am sure.

*L. C. J. Treby.* And did you never see *Mr. Goodman* there?

*Crawford.* No, I never saw *Mr. Goodman* in my Life, before I saw him on *Saturday* last.

*Sir B. Shower.* Which is *Mr. Huntley*?

*Huntley.* Here I am, Sir.

*Sir B. Shower.* Pray recollect your self, and tell my Lord and the Jury what you remember of any Company that were with *Mr. Porter*, at the *King's Head*, and who din'd there.

*Huntley.* My Lord of *Aylesbury*, my Lord *Montgomery*, *Sir John Fenwick*, *Sir William Perkins*, *Sir John Friend*, *Mr. Porter* and *Mr. Charnock*.

*Sir B. Shower.* That was the Company, you say, that din'd there: Did *Mr. Goodman* dine there?

*Huntley.* No, *Mr. Goodman* did not dine there.

*Sir B. Shower.* Pray, Sir, recollect your self: When did any of this Company part, or go away?

*Huntley.* My Lord of *Aylesbury*, and my Lord *Montgomery* went away about Four o'Clock.

*Sir B. Shower.* Sir, how do you know that?

*Huntley.* I went down Stairs after them; I was above Stairs when they parted from the Rest of the Company.

*Mr. Serj. Darnal.* Pray mind, Sir: Was *Mr. Goodman* there at that Time before they went away?

*Huntley.* No, he was not.

*Sir B. Shower.* Are you sure of that, upon the Oath you have taken?

*Huntley.* Yes, I take it upon my Oath, he was not there.

*Sir B. Shower.* Did you attend them at Dinner?

*Huntley.* Yes, I did attend them at Dinner.

*Sir B. Shower.* Did you attend them all the While they were there?

*Huntley.* I was call'd frequently, and was in and out of the Room very much after Dinner.

*Sir B. Shower.* Do you think if a fresh Man had come in after Dinner, you should not have known him?

*Huntley.* Yes, I should have known him.

*Mr. Att. Gen.* Pray, Friend, let me ask you one Question. Was *Mr. Goodman* there at all that Day?

*Huntley.* That I don't know; I did not see him at all.

*Mr. Soll. Gen.* Did you attend upon any other Rooms that Day?

*Huntley.* No, I attended only upon that Company.

*Mr. Soll. Gen.* Were you in the Room all the Time?

*Huntley.* No, I went up and down.

Mr.

Mr. *Soll. Gen.* What Time did the last of the Company go away?

*Huntley.* It was about Darkish; it was pretty late to the best of my remembrance.

Mr. *Att. Gen.* Pray, did any Body come to those Gentlemen after Dinner?

*Huntley.* No, Sir.

Mr. *Att. Gen.* Did you ever see *Goodman* before now?

*Huntley.* Never in my Life to my Knowledge.

Mr. *J. Rokeby.* Did all the Company, but my Earl of *Aylesbury*, and my Lord *Montgomery*, stay 'till it was Duskish?

*Huntley.* That I don't know.

Mr. *J. Rokeby.* Did you know all the Company that was that Day at Dinner?

*Huntley.* I knew all but One.

Mr. *J. Rokeby.* And who was that?

*Huntley.* That was Mr. *Charnock*.

Mr. *J. Rokeby.* And yet you can't tell whether there was any Body else that you did not know, how then can you tell that *Goodman* was not there?

Sir *B. Shower.* He did not know him at that Time, but he might remember him afterwards.

Mr. *Conyers.* Did not the same Company use to meet at other Times, at your House?

*Huntley.* Not to my Remembrance.

Mr. *Conyers.* How then came you, if they never had us'd to meet there, to know all these People's Names?

*Huntley.* I have seen Sir *John Friend* there, and Sir *William Perkins*.

Mr. *Conyers.* Was Sir *John Friend* there, or no?

*Huntley.* Yes, he was

Mr. *Conyers.* My Lord, he was the only Man that was not nam'd before: You did not name Sir *John Friend* before, as I heard: But pray, did you ever see Mr. *Charnock* there, but at that Time?

*Huntley.* No, I did not.

Mr. *Conyers.* How came you to know it was Mr. *Charnock*?

*Huntley.* I knew very few of them before that Time; and I ask'd their Servants the Names of all those Persons that were there?

Mr. *Conyers.* Did you know Mr. *Porter*, pray?

*Huntley.* Not before that Time: I did see Mr. *Porter*, and I knew him again when I saw him, his *Black* told me his Name that Day.

Sir *B. Shower.* You, *Huntley*, I would ask you one Question more; Was the Door shut or no?

*Huntley.* No, it was not.

Sir *B. Shower.* Did the Servants go up and down as they us'd to do?

*Huntley.* Yes, Sir.

Mr. *Att. Gen.* Sir *Bartholomew* would make it that there was no Consultation at all.

Sir *B. Shower.* They were mad Folks if they would consult at that Rate with the Door open. Pray call Mr. *William. Cock*. [*Who was sworn.*]

Mr. *Att. Gen.* Sir *John Friend* has own'd it, that's dead.

Sir *B. Shower.* Sir *John Friend*'s Confession is nothing to the Prisoner.

Mr. *Att. Gen.* Mr. Serjeant *Darnal* did open, that the Confession of those that dy'd was an undeniable Proof of the Conspiracy: But go on with your Evidence.

Mr. Serjeant *Darnal.* Pray, Mr. *Cock*, will you recollect yourself, about the Time when Captain *Porter*, and some other Gentlemen, din'd at your House.

*W. Cock.* Yes, very well.

Mr. Serjeant *Darnal.* Pray, Sir, can you tell who din'd there at that Time?

*W. Cock.* There were my Lord of *Aylesbury*, my Lord *Montgomery*, Sir *William Perkins*, Sir *John Fenwick*, Sir *John Friend*, Mr. *Charnock*, Captain *Porter*, and Mr. *Cook*.

Mr. *J. Rokeby.* Was that all the Company?

*W. Cock.* Yes, it was.

Mr. *J. Rokeby.* One of them said there were Eight.

L. C. *J. Treby.* And he has nam'd Eight, Brother.

Mr. Serjeant *Darnal.* Can you remember when any of the Company went away, and who went away first?

*Cock.* My Lord of *Aylesbury* and my Lord *Montgomery* went away in a Hackney-Coach; and their Servants were frequently in the Room, and waited afterwards in another Room, after that they had waited at Table at Dinner; and tho' the Door was shut, as it used to be when any Company is there, yet no Body was forbid to come there at all.

Mr. *Att. Gen.* Do you remember when Mr. *Goodman* came there?

*Cock.* I never saw Mr. *Goodman* in my Life before to Day.

Mr. Serj. *Darnal.* Did any Body come to this Company before my Lord of *Aylesbury* went away that did not Dine there?

*Cock.* I did not see any Body there at all: And my Lord of *Aylesbury* was about buying a Hoghead of White-wine, but we could not agree about the Price: And when my Lord of *Aylesbury* went away, I went down with my Lord, and waited upon him to the Coach; and I told my Lord, I hoped he would buy the Wine still. But he answered, he could not tell whether he should or no.

Mr. Serj. *Darnal.* Who else went with my Lord of *Aylesbury*?

*Cock.* My Lord *Montgomery*. I don't remember any Body else.

Mr. *J. Rokeby.* Did all the rest of the Company go away at once?

*Cock.* Truly my Lord, I can't say they did.

Mr. *J. Rokeby.* By what time did the Rest go away?

*Cock.* I believe it might be Eight or Nine o' Clock.

Mr. Serjeant *Darnal.* You saw my Lord of *Aylesbury* when he parted: Was Mr. *Goodman* there then?

*Cock.* I did not see him.

Mr. *B. Powis.* Did Mr. *Cook* stay 'till the last?

*Cock.* That I can't tell truly.

Mr. *B. Powis.* I find they all Swear to Four o'Clock of my Lord *Aylesbury*'s going, and go no further.

Mr. *Att. Gen.* Pray, Sir, let me ask you a Question or two: Did you ever see Mr. *Goodman* before now?

*Cock.* No, I do not remember I did.

Mr. *Att. Gen.* When you went into the Room after Dinner, did you look about the Room to see whether there were any new Company?

*Cock;*



*Cock.* I did look about the Room several Times, and so did my Servants, to see if there were any Thing wanting.

*Mr. Att. Gen.* Can you take it upon your Oath, that he was not there whilst my Lord of *Aylesbury* staid?

*Cock.* I do: And can take it upon my Oath, he was not.

*Mr. Att. Gen.* Then if you can, pray distinguish the Time when he came in.

*Cock.* I do not remember that ever I saw him in my Life before to Day.

*Mr. Att. Gen.* Why are you not as positive that he was not there at all, as that he was not there before my Lord of *Aylesbury* went away?

*Cock.* He might come in, and I not see him.

*Mr. Att. Gen.* Might he not as well come in before they went away, as after, to come in and you not see him?

*Cock.* No, I do not think he could.

*Mr. Att. Gen.* Why do you think so?

*Cock.* Because the Servants were all about, and they did not go to Dinner 'till Two o'Clock: And I believe those Gentlemen that I named, came in a Quarter of an Hour's Time to Dinner.

*Mr. Att. Gen.* We do not say he came there before Dinner: But could he not come in after Dinner, before my Lord of *Aylesbury* and my Lord *Montgomery* went away, without your seeing him?

*Cock.* Yes, Sir.

*Sir B. Shower.* Then heark ye, Sir, I would ask you one Question: Did you see him, upon your Oath, or not?

*Cock.* No, I did not.

*Sir B. Shower.* Might not Mr. *Goodman* come in to them without your seeing him?

*Cock.* It is possible; but I don't think it was so.

*Mr. J. Rokeby.* How then can you be positive that he was not there 'till my Lord of *Aylesbury* went?

*Mr. Soll. Gen.* You say you may be positive he was not there before my Lord of *Aylesbury* went: Can you be as positive now, that he was not there before Mr. *Cook* went?

*Cock.* I do not know when Mr. *Cook* went.

*Mr. Soll. Gen.* How can you be then positive he was not there before my Lord of *Aylesbury* went?

*Cock.* There were no more than what dined there when my Lord of *Aylesbury* went away.

*Mr. Conyers.* Pray, Sir, let me ask you a Question: Were you in the Room at any Time after Dinner?

*Mr. Conyers.* Pray, Sir, How many Times after Dinner, were you there?

*Cock.* I believe half a dozen Times.

*Mr. Soll. Gen.* And yet you do confess that Mr. *Goodman* might come in after Dinner before my Lord of *Aylesbury* went, and you not see him?

*Sir B. Shower.* Ay, but he could not stay there without his seeing him, if he was so often in the Room: You don't take Mr. *Cock's* Evidence right.

*Mr. Att. Gen.* You named eight Persons that dined at your House: Did you know them all personally before that Day?

*Cock.* Yes, my Lord, the most of them at least.

*Mr. Att. Gen.* Did they use to meet at your House?

*Cock.* Commonly Sir *John Friend* did once a Week. Mr. *Charnock* I knew when I was Drawer, and so I did Sir *William Perkins*: The Rest I knew by hearing their Names.

*Mr. Att. Gen.* Did you know them before that Day; Sir, I ask you?

*Cock.* I had seen Captain *Porter* several Times before that Day; but I cannot say at my own House.

*Sir B. Shower.* Do you remember the Treaty about the Hoghead of White-wine?

*Cock.* Yes, Sir, very well.

*Sir B. Shower.* Were you by when my Lord of *Aylesbury* went away, and spoke with him about it?

*Cock.* Yes, I was; and told him, I hoped he would buy the Wine still.

*Sir B. Shower.* Can you be positive that any Body was there before my Lord of *Aylesbury* went away, that could stay there any Time, and did not Dine there?

*Cock.* I believe not, Sir; for I came in half a dozen Times after Dinner, and I believe if I had heard Mr. *Goodman's* Name, or seen him there, I should have remembered it; but I did not see any Body but those that dined there.

*Mr. Cowper.* Where was you when my Lord of *Aylesbury* went away? Where did you meet him going away?

*Cock.* Upon the Stairs: Seeing my Lord of *Aylesbury* and my Lord *Montgomery* coming down, I met them.

*Mr. Cowper.* Where did you meet them? At the Middle, or the Top of the Stairs?

*Cock.* My Lord of *Aylesbury* was at the Top of the Stairs.

*Mr. Cowper.* Did you meet him just coming out of the Room?

*Cock.* Yes, Sir, I saw the Coach that was called for my Lord; and so I went up Stairs, and met my Lord at the Top of the Stairs coming down.

*Mr. Soll. Gen.* Now how can you be positive who was in the Room when he came out of the Room?

*Cock.* I went up in the Room after my Lord of *Aylesbury* went away.

*Mr. Soll. Gen.* How long after my Lord of *Aylesbury* went away?

*Cock.* It was presently after.

*Mr. Soll. Gen.* How long before my Lord of *Aylesbury* went away, had you been in the Room?

*Cock.* I had been there just before.

*Mr. Serjeant Darnal.* Call *Thomas Peachy*. [*Who appeared and was sworn.*]

*Sir B. Shower.* My Lord, we shall prove that after the Plot broke out, and after Mr. *Porter* had made his Discovery, there was no Disturbance of Mr. *Cook* 'till a good while after *Charnock's* Trial; and Mr. *Cock* was so far from being sensible, or conscious of any Guilt, that he never absconded, but continued for three Weeks in his Father's House, where he was taken by a Messenger. Pray Mr. *Peachy* will you tell my Lord, and the Jury, where Mr. *Cook* was taken, and when, and by whom.

*Peachy.* He was taken at his Father's House by a Messenger, about Seven o'Clock in the Morning.

*Sir B. Shower.* What Day of the Week was it he was taken?

*Peachy.* Upon a Sunday Morning, in his own Room, in his Father's House, at Seven o'Clock in the Morning.

*Sir B. Shower.* Did People come to him as they used to do?

*Peachy.* Yes; and he went frequently abroad as he used to do, and did never abscond from his Father's House.

*Mr. Serjeant Darnal.* Pray swear *Mr. Treganna.* [Which was done.]

*Sir B. Shower.* *Mr. Treganna,* Pray do you remember how long after the Plot broke out did you see *Mr. Cook*?

*Treganna.* After *Mr. Charnock's* Trial, a Week, he was at my Chamber; after the Plot broke out, he was concerned in a Trial at *Winchester* Assizes, upon an Issue out of *Chancery*, *Mr. Nicholls* was the Clerk in Court, and went down to manage it at the Assizes; and *Mr. Cook* came to me a Day or two after *Winchester* Assizes was over, and ask'd me if I had any News from the Assizes? This was long after the Plot broke out: And I remember particularly, that I saw him twice after the Plot was discovered, at my Chamber.

*Sir B. Shower.* Swear *Mr. Nicholls,* [Which was done.]

Sir, Pray will you tell my Lord and the Jury what you know of *Mr. Cook's* appearing abroad after the Plot was discovered?

*Mr. Nicholls.* I was sent down to the Trial: I was present, and did attend at two Trials indeed, and I suppose *Mr. B. Powis* may remember that I attended at two Trials at *Winchester* Assizes.

*Mr. B. Powis.* Possibly you might, Sir: I can't tell all the Attendance at the Assizes.

*Mr. Nicholls.* And after my Return from *Winchester* Assizes, *Mr. Cook* was with me several Days, both at my Office and Chamber, and at his Father's Office: And I remember particularly, that he threatened me that I was in Trouble when I was at *Winchester*, and therefore I remember it very well.

*Sir B. Shower.* *Mr. Nicholls,* you know *Mr. Cook* very well; pray what are his Morals?

*Mr. Nicholls.* Upon Occasion of the Cause in *Chancery* that went to Trial, I have had the Knowledge of *Mr. Cook* five or six Years; I always believ'd him to be as temperate a Man as ever I met with: I think in five Years Time I was not above once with him in a Tavern.

*Sir B. Shower.* Did you ever hear him Swear?

*Mr. Nicholls.* No, never; nor vent a Curse: I believe he drank as little as any Man, and was as godly a Man. I never heard him speak a foul Word.

*Sir B. Shower.* How do you know that, Sir, that he was so godly a Man?

*Mr. Nicholls.* Upon Occasion of this Cause, I was several Times at *Sir Miles Cook's*, and at *Mr. Cook's* Lodgings there, and we were to go about Business, and after he was dress'd, he has made me stay while he went into his Closet and said his Prayers. And he told me further, that he never went out of his Father's Doors without saying his Prayers; and I was forc'd to stay at the Door while he perform'd his Devotions, as he told me, and I believe he did.

*Mr. Serj. Darnal.* Now, my Lord, we will call some other Witnesses to prove his good Affection to his Country, how he continually desired Success to the Fleet, and to the Army.

*Sir B. Shower.* So that really he had an Aversion to it.

Swear *Mr. Hamond.* [Which was done.]

*Mr. Serj. Darnal.* Pray, Sir, will you give an Account what you know of the Prisoner, concerning his Judgment, and concerning his Morals?

*Hamond.* I have been for some Time acquainted with *Mr. Cook*, the Prisoner at the Bar, and to the best of my Observation, I always took him to be a conscientious Man, and I have heard him declare great Detestation of a *French* Force: And three or four Days before he was taken into Custody, I ask'd him what he heard of Intelligence? He said he heard what was in the publick Prints, and heard no more, and knew no more; and he had a great Abhorrence of the Conspiracy, and thought it a very monstrous Thing. I never heard him speak a disrespectful Word of the King's Person or Government in my Life. And I say again, I have heard him several Times declare, in common Conversation, that he had an Aversion to *French* Power, and he had a dread of it.

*Mr. Serjeant Darnal.* What have you heard him say about our Fleet, or Army?

*Hamond.* My Lord, I have heard him very much wish Prosperity and Success to our Fleet.

*Mr. J. Rokeby.* What Fleet, pray Sir.

*Hamond.* To our Fleet, King *William's* Fleet against the *French.* Things to this Purpose he frequently said.

*Mr. Serjeant Darnal.* Then Swear *Mrs. Hunt,* [Which was done.] but she was not examined.

*Sir B. Shower.* My Lord, we leave it here. But I must beg the Favour, that if they give any new Evidence, and there be Occasion, we may have Liberty to answer it. And I have an Observation or two to make when the Evidence is over.

*Mr. Att. Gen.* My Lord, if they have done with their Evidence, I beg leave to observe, that there is something arises upon that Evidence, that will give us occasion to call a Witness or two more. My Lord, the first Witness which they call'd was *Edwards*, and he is in Custody upon Suspicion of High-Treason in *Newgate*, and he gives an Account of some Discourse that he had with *Mr. Goodman*; and for that, it will be necessary for us to call *Mr. Porter* again and *Mr. de la Rue*, to shew that this *Edwards*, the Witness, as he is committed for Suspicion of High-Treason, so he was in the Conspiracy for the Assassination; he was one in the List that was brought back by *Cranburne* from *Mr. Charnock* to Captain *Porter*, as one of *Charnock's* Men, and he is in Custody for it. Then as to the other Matter, they have called three Witnesses to prove, That *Mr. Goodman* was not in this Place at this Time. The Counsel indeed opened it, that he was not at the Tavern till after my Lord of *Aylesbury* and my Lord *Montgomery* were gone away; but their Evidence goes further, That he was not there at all: And the Master of the House says, he was not there to his Knowledge at any Time. So that if their Evidence prove any Thing, they prove that he was not there at all; they do not remember that they saw him there: So that the Question will be, whether *Mr. Goodman* was there at that Time, and it will be necessary to call *Mr. Goodman* again, and *Mr. Porter*, to confront these Witnesses, who will tell you when he came in: And particularly as to my Lord

of *Aylesbury*, that he went with him to the Stairs-head, and my Lord would not let him go further, but he went back again when my Lord of *Aylesbury* went down Stairs. We will begin with the Witnesses, as to this *Edwards*.

Swear *Mr. De la Rue*. [*Which was done.*]

*Mr. Conyers*. *Mr. De la Rue*, Pray do you know *Mr. Edwards* that was here?

*Mr. De la Rue*. He goes by several Names; I know him by the Name of *Douglas*: And last Monday I came into the *Press-Yard*, and saluted him by the Name of *Douglas*, and he said he had taken his own Name again, by which he was known at *St. Germain's*, and that was *Edwards* or *Richards*, as I remember, or some such Name.

*Mr. Conyers*. When was he at *St. Germain's*?

*Mr. De la Rue*. About three or four Years ago.

*Mr. Conyers*. Pray look upon him, see if you know him.

*Mr. De la Rue*. I know him very well, there he stands, that is the Person in the black Wig; he was reputed at *St. Germain's* to be my late Lord *Dundee's* Chaplain.

*Mr. Att. Gen.* What Name did he go by at *St. Germain's*?

*Mr. De la Rue*. I can't very well tell: But he said he had taken his own Name again; and I think he said it was *Edwards* or *Richards*.

*Mr. Conyers*. Did he go formerly by the Name of *Douglas*?

*Mr. De la Rue*. Yes, here in *England*: *Mr. Porter* knew him to go by that Name.

*Mr. Att. Gen.* What else do you know of him?

*Mr. De la Rue*. The List that *Mr. Cranburne* carried from *Mr. Porter* to *Mr. Charnock*, and which he brought back again from *Mr. Charnock* to *Mr. Porter*, had in it, among the other Names, the Name of *Douglas*, which I understood to be that Gentleman.

*Mr. Att. Gen.* Did he go by that Name at that Time?

*Mr. De la Rue*, Yes, he did.

*L. C. J. Treby*. Pray repeat that again, Sir, that we may understand it, and see whether it be Evidence.

*Mr. De la Rue*. Why, Sir, the List that *Mr. Cranburne* brought from *Mr. Charnock* to *Mr. Porter*, at the Foot of the List which *Mr. Porter* had sent to him, there were other Names written, as I believe, in *Mr. Charnock's* Hand, and among those Names there was the Name of *Douglas*, which I understood to be this *Mr. Edwards*, as he calls himself. And moreover, when *Mr. Porter* went out of Town, going to *Doctors Commons*, I called at *Mr. Charnock's*, and he had a great deal of Company with him, four or five Troopers, and among the rest this *Edwards* or *Douglas* was there sitting by him. Here is a Gentleman that I see upon the Bench, I think he is a *Scotchman*, that knew him at *St. Germain's* as well as I. I think his Name is *Mackdonnel*.

*Mr. J. Rokeby*. What Countryman did you take this *Edwards* to be?

*Mr. De la Rue*. A *Scotchman*, and Chaplain to my Lord *Dundee* that was killed in *Scotland*.

*Mr. Serjeant Darnal*. Did you see this Gentleman in *France*, Sir?

*Mackdonnel*. I never was in *France* in my Life.

*Mr. Att. Gen.* You can't ask him the Question:

You know it tends to make him either accuse or excuse himself of a Crime. Pray call *Mr. Porter* again. But in the mean time, till he comes, we'll examine *Mr. Goodman*, because he is here. *Mr. Goodman* you were by, and heard what these Drawers said concerning your being at the *Old-King's-Head* in *Leaden-hall-street* that Day. Pray give an Account when you came in, whether you saw my Lord of *Aylesbury*, and what passed between you at my Lord of *Aylesbury's* going away?

*Mr. Goodman*. *Mr. Porter* brought me up; and when I came in they were all sitting; and after Salutation I sat down: And when they had consulted some Time, they came to a Resolution, as I have told you already. The Fellows are so far in the Right of it, that my Lord of *Aylesbury* and my Lord *Montgomery* went away first; for I took my Leave of them at the Head of the Stairs. Says my Lord of *Aylesbury* to me, Pray avoid Ceremony, we will go away privately as we came, in a *Hackney-Coach*. And as to the Master of the House, who says, he does not know me, I have dined several Times there; four or five Times with *Sir John Friend*: And one particular Day above all the rest, I remember I was not well, and I went down Stairs to the Bar, and said, I pray, can you get me a little Brandy. He said, yes; he would help me to some of the best in *England*. And he brought me up some which I liked very well; and thinking he had a Quantity of it, I ask'd him what I should give him a Gallon for a Parcel. But he said, he had but a little: And I am sure he has seen me there five or six Times.

*Mr. Att. Gen.* Then set up that Master of the House, *Cock*, again. [*Which was done.*]

Come, Sir, You hear what *Mr. Goodman* has Sworn, and mind it; you are upon your Oath. You said just now, that you never saw *Mr. Goodman* before.

*Cock*. No, upon my Word, Sir: I don't know that ever I saw him before.

*Mr. Att. Gen.* Do you remember nothing of his being with *Sir John Friend* at your House?

*Cock*. No, upon my Word, Sir.

*Mr. Att. Gen.* Nay, you are upon your Oath. Nor do you know nothing of your giving of him Brandy?

*Cock*. No, upon my Oath, I do not remember any such Thing.

*Mr. Att. Gen.* That is a very safe Way of Swearing, I profess.

*Mr. Conyers*. He remembers the particular Time when he was Sick, and you offer'd to sell him some Brandy.

*Mr. Att. Gen.* No, he ask'd him what he should give him for it a Gallon. But, *Mr. Cock*, did you ever see *Goodman* in your House since my Lord of *Aylesbury* and they were there?

*Cock*. No, upon my Word, Sir, I did not: And I never had but two Gallons of Brandy in my Life at a Time: And I never had any Cask, or any Thing of that Nature, to sell any out of.

*Mr. Att. Gen.* Who used to be with *Sir John Friend* at your House?

*Cock*. There used to be *Mr. Richardson*, and Justice *Cash*, and Col. *Cash*.

*Mr. Goodman*. *Mr. Richardson* was there that Day: I could almost have remembered the particular Day, but I cannot be positive; only we were

were in the same Room where the Consultation was, at the further Part of the Room.

*Mr. J. Rokeby.* Your, Friend, the Master of the House, you hear what *Mr. Goodman* says: He says he was with *Sir John Friend* at your House, and being not well he ask'd for some Brandy, and you told him, you'd give him some of the best in *England*. And he propounded to you then to sell him some of it; but it seems there was no Bargain made. Do you remember any such Thing of one that was with *Sir John Friend*, that spoke of buying of Brandy when he was sick?

*Cock.* No, upon my Word I do not.

*Mr. Att. Gen.* Then set up *Mr. Porter*. [*Who stood up.*] Pray, *Mr. Porter*, look upon that Man in the Black Peruke; what Name did he use to go by?

*Mr. Porter.* He used to go by the Name of *Edwards*.

*Mr. Att. Gen.* Had he any other Name?

*Mr. Porter.* Yes. *Douglas*.

*Mr. Att. Gen.* He has so many Names, that we don't know which is his true Name. *Mr. Porter*, pray what else do you know of him touching his being concerned in the Conspiracy?

*Mr. Porter.* I know not any thing of my own Knowledge; but his Name was put down in the List that *Mr. Charnock* sent me of his Men, and *Mr. De La Rue* read his Name there.

*Mr. Soll. Gen.* *Mr. Porter*, you were a Witness upon the Trials of *Sir John Friend*, and *Sir William Perkins*; did you give Evidence that *Mr. Goodman* was in the Room at the same Time when the Consultation was?

*Mr. Porter.* Yes, Sir.

*Mr. Att. Gen.* Well, you hear that these People have sworn, that *Mr. Goodman* did not come till my Lord of *Aylesbury* went away; nay, indeed, that he was not there at all.

*Mr. Porter.* My Lord, upon my Oath he was there before my Lord *Aylesbury* went away, and *Mr. Goodman* bowed, and took leave of my Lord as he went out of Doors.

*Mr. Att. Gen.* What time did my Lord of *Aylesbury* go away?

*Mr. Porter.* It was about an Hour and a Half, or two Hours after Dinner, and he was in the Room when my Lord went away, for he took his Leave of him at the Door.

*Mr. Cowper.* Do you remember the Manner of *Mr. Goodman's* coming in?

*Mr. Porter.* *Mr. Goodman* sent up his Name to me, and I told the Company, and promis'd for him, that he was a very honest Man, and much in King *James's* Interest; and then with their Consent I went down and brought him up.

*Mr. J. Powell.* How long time do you think there was between *Mr. Goodman's* coming in, and my Lord of *Aylesbury's* going away?

*Mr. Porter.* I cannot tell that, I do not remember exactly how long it was.

*Mr. J. Powell.* Was it a quarter of an Hour, or half an Hour?

*Mr. Porter.* A great deal longer, for we had discoursed of the whole Business after *Mr. Goodman* came into the Room.

*Mr. Conyers.* How long were they there after *Mr. Goodman* came in?

*Mr. Porter.* It was very near two Hours after he came in, before they went away; they did not go away till Six o'clock, and he came in at Four as near as I can remember.

*Mr. Att. Gen.* Then, my Lord, we have done.

*Sir B. Shower.* Then I beg the Favour of a Word or two, my Lord. May it please your Lordship, and you Gentlemen of the Jury, I am of Counsel in this Case for the Prisoner at the Bar, and I must beg your Lordship's Patience, and your Favour, Gentlemen, to make a few Observations upon the Evidence that has been given; for we humbly insist upon it in point of Law, that here is not sufficient Evidence before you to convict the Prisoner. You are, Gentlemen, to have respect and regard to your Consciences and the Oaths which you have now taken, to give a Verdict, and make true Deliverance between the King, and the Prisoner; you are not to go according to your own private Opinions, nor according to publiick Fame, nor according to common Report, nor according to the Verdicts in other Cases, nor according to the Confessions or Dying Speeches of Criminals who have been Executed, *whether made by themselves, or by others for them*, but you are to go by the Testimony of Credible Witnesses, and if you have not the Evidence of two Credible Witnesses before you, my Lords the Judges will inform you how the Law stands. That by the Statute of *Edward* the Sixth, and the new Statute for Trials of Treasons, there must be two Witnesses to prove the Prisoner guilty of the Overt-Act of the Treason that is laid in the Indictment; and whether there have been two Credible Witnesses produced before you, is the Question that you are to consider upon your Oath and Conscience; that is, whether you are satisfied here be two such as the Law requires. The Question is not merely whether *Mr. Cook* be guilty, but whether in your Consciences he be legally proved guilty; whether there be Evidence to satisfy your Consciences, according to the Laws of the Land, that he is guilty; and we insist there is not; and therefore I beg leave to recapitulate what has been sworn against him, that we may see how far it reaches, and wherein it is defective.

Gentlemen, *Mr. Porter* he swears that about the Beginning or Middle of *May*, he cannot tell which, there was this Meeting at the *Old-King's-Head* Tavern in *Leaden-Hall-street*; in which, I would observe to you, that he confines himself to a certain Month; the Reason is very plain, and therefore I ask'd him whether it was not in *April*; for if he had said it had been then, there had been no danger to the Prisoner, because of the Act of Indemnity, therefore he was careful to fix it in *May*; and he would not lay it in *June*, for the Tenth of *June* is a famous Day; and then, or soon after *Newgate* had him; he was confined there for a Riot on that Day, and so they have restrained it to a Month, and the only Month that he is capable of swearing to, as to any Act done the last Year till they came in *January* to the Assassination Plot, which the Prisoner is not accused to have had any Concern in; but it shou'd seem he cannot tell what Day of the Week, or of the Month, but about the Beginning or the Middle of *May* Eight Persons dined at this Place; and then after Dinner *Mr. Goodman* came in, and they discoursed about this Matter.

First, Gentlemen, we insist upon it, that it is very improbable that *English* Protestants of pious Conversation and good Morals, should agree, as he says, to send such a Message to the late King, to invite over a *French* *Papish* Force; we may

easily

easily see the horrid and mischievous Consequences that wou'd have followed such a Practice, such as must affect every *Englishman* with a Concern, so that it is improbable a Man of Virtue and Piety cou'd engage in such an Enterprize; and if it be improbable, you will never believe it, unless the Conviction or Proof be irresistible: And if you have any other Reasons to distrust this Man's Truth, then we hope you will go upon the Side of Probability; and not let popular Prejudice, common Fame, or any Thing else but legal and undeniable Evidence have the Ascendant over you. If you are not satisfied that *Mr. Cook* did assent (as from the Character of the Man it is not probable he shou'd) to send *Charnock* into *France*, to persuade King *Lewis* and King *James* to send Ten Thousand Men to invade our Country, then he is not guilty.

In the next Place, Gentlemen, he is not guilty we say in the Eye of the Law, if they have not two Witnesses; and for that we say you have but one, or but one that is to be believed; and if you have but one that is to be believed, that in Law is but one, and consequently my Client is not guilty; so the King's Counsel agree, that if there be but one Witness, he cannot be convicted, the Law is plain in the Case. Now to make it out that here is but one Witness at most, we have offered you several Objections, and made them out by Evidence, against the Testimony of *Mr. Goodman*; that he is not a Person fit to be believed; and if he be out of the Case, then does *Mr. Porter's* stand alone, and all will amount but to one Witness, suppose it shou'd be granted that his Testimony were true.

*First*, We have read a Record of Conviction against him, of a Crime, one of the Greatest next unto Treason, that is known in our or any other Law. That he hired a Man to poison two Dukes, Branches of a Noble Family, to which he had such great Obligations, as all Mankind do know, and he himself cannot but acknowledge; and if there were not that Aggravation in it, of his Obligations to that Family, yet to lie in wait to Murder and Poison, is such an Offence as any Age can seldom shew the like. And the Objection is not so very easily answered as they would have it; nor can it be so soon passed over as they think, by saying He is a Witness of a Confederacy with which the Prisoner is accused, a Crime greater than the Thing objected. It is true, none can bear Testimony in such a Business, but he that is a Party: But, we say, if these Persons who come and set up themselves for Witnesses, were not *probi Homines*, and did not appear to be Persons of indifferent Credit between Man and Man, and did not stand impartial in the Eye of the World in other respects before, then they are not to be believed, as to what they charge themselves and others to be guilty of. Now, if *Mr. Goodman* stand convicted of such an Offence as this that is alledged against him, tho' he is pardoned by the Act of Parliament, or Satisfaction acknowledged upon the Record, though it be even the very next Term, yet that does not purge him from the Infamy and Disgrace, or from the Imputation of being concerned in so Villainous a Design. It is impossible that he should be a good Witness that wou'd be engaged in such a Matter, especially when we have those various Witnesses, and such a concurring Testimony, that what he has Sworn is absolutely false.

Gentlemen, If there were nothing but his own Testimony in the Case, there would be no Question at all in it: And as to Capt. *Porter's* Testimony about his being there, we have produced three Witnesses, who, if they be of Credit, then *Mr. Goodman* is not to be believed, but is falsified throughout; for it is not the Question, whether *Mr. Cook* went away before the Consultation and the Resolution; for if my Lord of *Aylesbury*, or my Lord *Montgomery* went away, *Mr. Goodman* is falsified in that, and consequently you ought not to believe him in the rest; for he actually swears, that my Lord of *Aylesbury*, my Lord *Montgomery*, and those other Gentlemen, were all present, and at the Consult, and did consent and agree to the Resolution, by using these Words; *Yes, you may; Yes, you may.* Now, we say, there are three Witnesses that swear, That my Lord of *Aylesbury* was gone before he came there. I do not care whether he came there, or not; that is not material: For if there were no Body there when my Lord of *Aylesbury* was there but those that were at Dinner, then *Mr. Goodman* was not there at any such Consultation, as they would insinuate was at that Time, in that Place, and that Company.

My Lord, we have proved to you *Mr. Cook's* Abhorrence and Declaration, which, we think, ought to go a great Way; in Satisfaction of his Innocence, at least to induce you to the favourable Side; for, Gentlemen, you are not brought hither to Convict a Man only, but to Try and Examine him, and it is your Duty to Acquit, as well as Convict, according as the Evidence stands: It is your Duty to go according to your Consciences, and to declare whether he be Guilty or Not Guilty, upon the Evidence you have before you: You are to examine the Truth of the Fact in all its Circumstances, and upon your own Consciences to declare, whether he is Guilty or Not Guilty; now we propose it to you, and submit it to your Consciences, that here are three Witnesses, that speak upon their Oaths, against whom there is no Objection, that ever they were guilty of lying in wait to Poison any Body, nor in any Plot for an Assassination, nor any Conspiracy for inviting an Invasion from *France*, nor any other Objection against them, but they stand upright in the Face of the World, and they three swear, That he was not there at that Time. The Answer that we expect, is, That he might be there, and they not see him: And because it was possible he might be there, and they not see him, therefore it is no Evidence: But, my Lord, because it may be so, is no Evidence that it is so; that's no Objection; for you will take it as the Nature of the Thing will afford, and the Matter itself allow. Now there can be no better Evidence than this; that they went in and out continually; the Drawers, and the Master of the House five or six Times himself, were in the Room, and they say, there was no such Person there. Why then it is very improbable, if not impossible, that any such Man should be there. The one swears, he came down from my Lord of *Aylesbury* just before he went away; and another says, he followed him out of the Room; and the Master says, that he met my Lord of *Aylesbury* at the Stairs-head. All which falsifies *Mr. Goodman* in that Particular, that he was with my Lord of *Aylesbury* at the Stairs-head, when he went away.

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These are incompatible; and if we falsify him in any one Thing, he is not to be believed in any other.

Then, Gentlemen, we offer to your Consideration an Answer to another Objection: They say these Witnesses seem to swear, that he was not there at all. We are not concerned whether he was there afterwards, or not: If you are satisfied, that he was not there, as our Witnesses swear, while my Lord of *Aylesbury* was there, that's enough. But then they make an Objection, how comes the Master of the House to remember my Lord of *Aylesbury's* going away, more than any Body else? Gentlemen, you know the Nature of the Thing shews, not only that it was more probable the Master of the House should make his Observations near the Time of Dinner, rather than afterwards at Night, when there is more Hurry: But it is more probable he should take notice of it from the Quality of the Person, from the Discourse he had with him about the White-wine, which was a good *Medium* to refresh a *Vintner's* Memory, it being a Matter in his own Trade, and that might make him call it to mind.

Therefore, Gentlemen, we think these three Witnesses stand free and clear in their Credit; and being so, are inconsistent with Mr. *Goodman's* Testimony; and we hope, in favour of Life, the Credit inclines on their Side, especially when the Question is, whether a Man shall be executed for *Treason* who never fled for it, who was never charg'd with any *Treason* or *Treasonable Practices* before; nay, not so much as with any particular *Crime* or *Immorality*: And whether three Witnesses shall be believed, against whom there is no Objection, rather than Two, against One of which there are such Objections.

My Lord, we are not now debating or attacking the Evidence of the *Plot*, or arraigning the former Judgments against the *Conspirators* that have suffer'd; but, Gentlemen, we are putting you now upon a serious Enquiry, (as God and your own Consciences shall incline you) whether our Client be guilty or not guilty upon this Evidence; that is, whether Mr. *Goodman* swears true, or not. We hope that we have given you sufficient Satisfaction, that upon Mr. *Goodman's* Part the Evidence is insufficient; and we hope you will accordingly find our Client not guilty.

*Mr. Att. Gen.* If Mr. *Cook* have any thing to say himself, I desire he may say it now, before we begin.

*Sir B. Shower.* No, pray go on, Sir.

*L. C. J. Treby.* Mr. *Cook*, wou'd you say any Thing your self, before the King's Counsel sum up?

*Cook.* The little I have to say, my Lord, I'll speak now, or by and by, which you please.

*L. C. J. Treby.* You must do it now, because after they have summ'd up, there is nothing more to be said by you.

*Cook.* My Lord, I thank God, I have lived, a Life, I hope, as good as any Man, and have often received the Blessed Sacrament; I have done it constantly, and shall do it speedily, by the Grace of God, as soon as I can have a Minister come to administer it to me. I did offer it to my own Father, when he came to me, and told me, *If I would confess this Thing I should not come to Trial*: I told my Father, I would not for Ten Thousand Worlds take away the Blood of an in-

nocent Man to save mine. I thank God; I am in a very good Way to die; I have, for at least this last Year, frequently received the Blessed Sacrament; and how I have liv'd, every Body in the Court that knows me can tell my Life and Conversation has been as regular as any Man's, and I am as ready to die to-morrow, if Occasion was for it (I thank God) as any one; I will receive the Blessed Sacrament upon it; and it is not for Life that I would do any Thing that is wrong or unjust: I do love my Nation, and I love the Quiet of the Nation; I never was for disturbing the Government that now is; and I ever was against Foreign Forces or an Invasion, for I never thought of one, or heard of it, but with Abhorrence and Detestation: And I do assure faithfully, I shou'd be sorry to disparage Mr. *Porter's* Evidence, because I would have every Body that was concerned in that Horrid and Barbarous Crime to suffer; in God's Name, let them all suffer. I thank God, I never knew any Thing of it, nor of a *French* Invasion: And I would say more of it, but that I would not hurt Mr. *Porter's* Evidence, whose Discovery of that bloody Business has done so much Service. As for Mr. *Goodman*, as I hope to receive the Blessed Sacrament, and may I perish when I do it, if I speak an Untruth; I would not for any Thing, no, not for the Good of my Country, have innocent Blood spilt; I would lay down my Life to serve my Country, but I would not have my Blood be lightly lost; and how little a Man soever I am, my Blood will lie as heavy upon the Nation as any the weightiest Man's can do. I do not doubt your Lordship's Justice, nor the Jury's, but I pray, my Lord, observe; though it is usual not to own Things at the Bar, yet I do not make this Denial as of Course, but out of Truth; and I assure you, in the Presence of the whole Court, if I should suffer for this, I must at my last Moments either confess or deny something: And, I say, I do assure, in the Presence of the whole Court, and I will take the Blessed Sacrament upon it, that I must, at my Death, deny this whole Matter, and that ever I did see Mr. *Goodman* at all there; I do not think I saw him; I do not remember I saw Mr. *Goodman* at all, except once in *Germain-street*, when the Coach broke, and that must be but in passing by neither, and he would have hurt or kill'd the Coachman, and we kept him from it; and I walk'd with him half the Length of *Germain-street*, before I knew who Mr. *Goodman* was. If ever a one of those Gentlemen, that are Men of Credit and Honour, can say I was any ways so inclined, or that they ever saw me, or knew me, that I ever bought a Pistol or a Blunder-buis, or the like, may God sink and strike me dead; and the Blessed Sacrament, which I intend to receive, be my Curse and Damnation, if I knew of King *James's* Coming, till after the whole Town rang of it: I had no Hand in the Invasion; and, besides my Abhorrence of introducing foreign Force, I desire your Lordship and the Jury to consider the Circumstances of my Case, that I had but a very small Allowance from my Father, and therefore it is not probable I shou'd take upon me to join with my Lord of *Aylesbury*, and my Lord *Montgomery*, and those other Gentlemen, to send Mr. *Charnock* into *France*, to invite over a Foreign Force: And I call God to witness I had no Hand in it. I beg your Lordship's

ship's Pardon for all this Trouble; I would not hurt *Mr. Porter's* Evidence, for the Reasons that I have told you; but this is for my Life, and I don't so much value that as I do Truth and Sincerity; and I shall receive the Blessed Sacrament, if I die, that I never did do so. Indeed I never did take the Oaths, nor did I ever refuse them, because they were never offer'd me; but I wou'd take the Oaths now if they were offer'd me. My Lord, I beg your Pardon for this Trouble.

*L. C. J. Treby.* Have you done, Sir? Have you said all you would say?

*Cook.* Yes, my Lord.

*L. C. J. Treby.* Then, you Gentlemen of the King's Counsel, will you conclude?

*Mr. Soll. Gen.* May it please your Lordship, and you Gentlemen of the Jury, I am of Counsel in this Case for the King, and I could have been very glad that this Gentleman's Defence that he has made had been stronger than in Truth it has been: And I should have been very glad too that his Counsel had been able to have made it better for him; but that he and they may be satisfied as much is done as the Case will bear; they have had all the Liberty in the World to make his Defence they could desire, nay, more than in Strictness could be allowed them.

Gentlemen, our Evidence is very positive against the Prisoner at the Bar, and for the highest Crime that the King's Subjects can be guilty of, by the Confession of the Gentleman himself and of his Counsel. We have, I say, two positive Witnesses against him; they say they are not legal ones: I must own, if we have not two Witnesses, we have never an one; for whatsoever falsifies *Mr. Goodman's* Testimony, falsifies whatsoever *Mr. Porter* has sworn. Now, the Evidence that *Mr. Porter* has given against him, is this: He says, There was to be a Meeting at the *King's-Head-Tavern* in *Leaden-Hall-Street*, and there they consulted of the Methods to bring back *King James* hither; and it was thought the best Way to send to *King James* to invite the *French King* to send 1000 Horse, 1000 Dragoons, and 800 Foot, to Land here in this Kingdom, where they would meet him with 2000 Horse. They pitch'd upon a very proper Messenger, *Mr. Charnock*, a Person that has been attainted, and has suffer'd for High-Treason; he was to be sent into *France* upon this Errand; *Mr. Cook*, the Prisoner at the Bar, was one of the Persons that were there at that Time, and he was consenting to this Message; and *Mr. Porter* gives you a particular Token relating to the Prisoner, for he remembers the Prisoner did kneel upon the Chair, and lean'd his Elbows upon the Table when he consented.

*Mr. Porter* goes further, and tells you, That *Mr. Charnock* would have another Meeting, to know and see whether all the Company were of the same Mind they had been; and, That afterwards they met at *Mrs. Mountjoy's* House, and there the Prisoner at the Bar was present, and consenting to the same Thing: Thereupon *Mr. Charnock* went into *France*, and came back again, and said, The *French King* could not spare so much Force. *Mr. Goodman* gives the same Evidence that *Mr. Porter* had given: It's true, he was not at *Mrs. Mountjoy's* Tavern, but he tells you withal, he spoke with *Mr. Charnock* when he came back from *France*, and *Charnock* return'd him the same Answer he did to *Mr. Porter*, That the *French King* could not spare so many Forces. This is the

Evidence in short, Gentlemen, that is given against the Prisoner; and if this Evidence be true, then is he guilty of the Crime for which he is indicted.

Against these Witnesses they have produced, first, a Record of Conviction against *Mr. Goodman*, and that was for Hiring one *Amydei* to poison the Duke of *Grafton*, and the Duke of *Northumberland*: They have produc'd the Record, whereby it appears, he was Convicted, and Fined 1000 *l.* and was to find Security for his good Behaviour during Life; and he was to lie in Prison till the Fine paid, and Security given: But it happens, in that very Record it appears there was Satisfaction acknowledg'd upon that, even the very next Term; and that gives a great deal of Suspicion to believe, that the Evidence that was given was not much credited; for, tho' the Counsel for the Prisoner has said, that it was the Payment of the 1000 *l.* that was the Satisfaction; no, it is not so, it is a Satisfaction of the whole Judgment, for finding Security as well as the Fine. They say he was not able to pay the Fine, and there is nothing appears of the other Parts of the Judgment being complied with, but the whole Judgment is set aside.

But all this does not make a Man *no Legal Witness*; if they thought this Conviction tended to set aside his Evidence, they would have produc'd it at another Part of the Trial, than where they did: That is, when *Mr. Goodman* was first call'd to be sworn as a Witness, then they should have produced this Record, and said he had been no Witness: But they knew well enough that that was no Exception against the Legality of his Evidence, but tends only to his Credit, and nothing else. Now, tho' it be a black Crime to endeavour to poison another, yet that does not totally destroy any Man's Credit; if it did, then the other Gentleman, *Mr. Porter*, has confess'd himself guilty of a greater Crime than that for which *Mr. Goodman* is convicted by this Record; for he owns himself one that was in that Design of Assassinating the King. And *Mr. Goodman* owns himself too guilty of a greater Crime than what's objected to him, which is that of *High-Treason*; and, I hope, if he may be believed, when he owns himself guilty of *High-Treason*, which is a greater Crime than Poisoning a private Subject; or guilty of such a Design as the Assassination of the King, which *Mr. Porter* has charg'd himself with, and notwithstanding which, they have not offer'd that as an Exception against *Mr. Porter's* Evidence, (for they very well know, his Evidence has been receiv'd, and credited:) *Mr. Goodman* may be credited, tho' guilty of the Crime objected to him: And the constant Practice in all Trials of this kind hath been, that it does not take away the Witness's Evidence, however it affects his Credit, which in this Case is supported by the concurrent Testimony of *Mr. Porter*. And so then, I say, we have two legal Witnesses (notwithstanding all the Exceptions) to prove *Mr. Cook* guilty of the Crime for which he is indicted.

Then they go on further, and produce other Witnesses: First, they produce one *Edwards*, a Person that is committed for *High-Treason* himself, and under Suspicion of his being to be one of those that was to have a Hand in the Assassination; but his Evidence goes no further, than that *Mr. Goodman* told him he was to be a Witness against

against Mr. *Cook*, and either he the Witness, or Mr. *Cook* must suffer; and, That it was a foolish thing to be hang'd. My Lord, there is nothing at all in this Matter that takes away Mr. *Goodman's* Evidence: It is very plain Mr. *Goodman* had forfeited his Life, and must do something to save it, and I think he could not do a better Service to entitle himself to the King's Mercy, than to discover those that were equally guilty with himself. 'Twas his Duty to have done it, if he had not been in Danger; and if he hath done no more than what was his Duty, I hope that is no Objection against his Testimony.

They have produced likewise a Drawer of the *King's-Head Tavern*, one *Crawford*, and he says, he attended in this Room while this Company was there. But then he goes a little further than the Counsel, or the Prisoner would have had him; for they called him to prove that Mr. *Goodman* was not there when my Lord of *Aylesbury*, my Lord *Montgomery*, and Mr. *Cook* were there. But when the Drawer comes, he knows nothing of Mr. *Goodman's* being there at all: He says, Mr. *Cook* was there, but not Mr. *Goodman*; and yet he does acknowledge, that Mr. *Goodman* might be there, and he not see him come up. He acknowledges he attended upon other Company as well as this; so that it is plain in the Nature of the Thing, and his own Confession, that *Goodman* might be there. This cannot take off the positive Evidence of Mr. *Goodman*, and Mr. *Porter*, who both swear, That *Goodman* was there.

But then they produce another Drawer; and that is one *Huntly*; and he gives the same Account, only indeed he says; He was there all the while they were at Dinner: But that is nothing, because it is acknowledg'd both by Mr. *Porter*, and Mr. *Goodman*, That he was not there at Dinner-Time, but he might be there after Dinner, and yet *Huntly* could not see him at Dinner: He tells you likewise, he pass'd up, and down in the Room afterwards, and did not see Mr. *Goodman* there; but yet he might be there, and he not see him.

Then they produce the Master of the House, and he gives much the same Evidence in Effect which his Servants do, That he did not see Mr. *Goodman* there all the while; but he says something that is a little incredible; He can be positive that Mr. *Goodman* was not there while my Lord of *Aylesbury* was there, but he cannot be positive he was not there afterwards. He tells you, he met my Lord of *Aylesbury*, and my Lord *Montgomery* upon the middle of the Stairs coming down, and he is sure Mr. *Goodman* was not in the Room at that Time. Now, is that possible that he can be sure of that, when he owns, (and cannot but own) That Mr. *Goodman* might go into the Room, and he not see him: So that he has made a strain in his Evidence that it is very little to be credited, which was not designed so much for the Advantage of Mr. *Cook* as for the Advantage of somebody else: And, in itself, it is almost an impossible Thing that it should be true, by what he offers as the Reason of his Evidence.

But then, Gentlemen, you are to consider, that all these three Witnesses, if they swear true, do falsify not only Mr. *Goodman*, who swears, That he was there; but they likewise falsify the Evidence of Mr. *Porter*, and for that Reason I

ask'd Mr. *Porter* the Question, Whether he did not give the same Evidence against Sir *John Friend*? And if what he swears now be not true, neither was it true when Sir *John Friend* was try'd, for he was the only Witness at that Time against Sir *John Friend*, for this Meting; and therefore these Mens Testimony tends to overthrow both Witnesses as well as one: And I must tell you, that if Mr. *Goodman* be not a legal Witness, because he has sworn a Thing that is not true, then Mr. *Porter* is not a good Witness, who has sworn the same Thing, viz. That Mr. *Goodman* was there; and then you ought to acquit the Prisoner, because there is no Witness against him at Law; for there is the same Evidence against Mr. *Porter*; that there is against Mr. *Goodman* as to this Matter.

Then, Gentlemen, as for the Character of Mr. *Cook*, they say he is a good *English Protestant*, I hope he is so; but it is plain, that Religion does not vary the Case: 'Tis within the reach of every Man's Memory that is here, that the same Things have fallen upon other Gentlemen that have had the same Character, particularly Sir *John Friend*, and Sir *William Perkins*, who both said the same Things, in the same Place, That they were *True Protestants* of the Church of *England*. But that is no Manner of Evidence that will be Weight against positive Oaths.

Now, Gentlemen, it is fit likewise you should reflect upon another Thing: What is it that should engage Mr. *Porter*, and Mr. *Goodman*, or invite either of those two Gentlemen to give a false Evidence against the Prisoner at the Bar? It does not appear that there was any Injury done by him to them, to provoke them to it; so that it could be for nothing but for the sake of Truth.

It has been further said on the behalf of Mr. *Cook*, That he abhorred the *French*, and any Invasion upon his Country, and the like: It is a Matter that is easily said; and it has been said by others that have been in the same Place where he now stands; That they hated all Plots, and they might punish them if ever they caught them. But these are only Sayings, and nothing else. If there can be any Constructions made of the Evidence given by these two Witnesses, that does not directly prove the Indictment, then the Prisoner ought to be acquitted: But if there can be no other Construction made, but only, That there was a plain Design to send *Charnock* into *France*, to King *James*, to persuade him to prevail with the *French King*, to come and invade us with a Foreign Force: And if our Witnesses are legal Witnesses, (as, I doubt not, my Lords the Judges will tell you they are; if there be no Exception to the Credit of *Goodman*, but only that he was in such a Design of Poisoning the two Dukes, which is really no Objection of Discredit to his Testimony;) then, with Submission, I think there is no Room left for you, Gentlemen of the Jury, to doubt, but that the Prisoner is as guilty of this Crime laid to his Charge, as any others that have been try'd and condemn'd for the same: And so, Gentlemen, I leave it to you.

*L. C. J. Treby.* Mr. *Conyers*, and Mr. *Cowper*, will you say any Thing to this Matter?

Mr. *Conyers*, and Mr. *Cowper*. No, my Lord, we submit it entirely to your Lordship's Direction; we have done on all Sides, we think.



*L. C. J. Treby.* Gentlemen of the Jury, the Prisoner at the Bar, Mr. *Cook*, stands indicted here for *High-Treason*; there are laid in the Indictment two Sorts of *Treason*; the one is, *Compassing and Imagining the Death of the King*, the other is *adhering to the King's Enemies*. The Evidence to prove these *Treasons* seems to be joint; for, as to that of *Compassing and Imagining the King's Death*, as well as to the other, the Overt Acts are meeting and consulting about the *Treason*, and then agreeing and resolving to invite and procure an *Invasion from France*, and to meet that *Invasion* with an *Insurrection* here. And the Evidence is apply'd *entirely* to prove these *Acts*.

Gentlemen, that these are proper *Overt Acts* of *Compassing the King's Death*, I need not inform you, the Law is very well known; and the Prisoner's own Council do acknowledge, that these are sufficient *Overt Acts* of *Compassing and Imagining the King's Death*: So that all which they defend him by is, the *Improbability* of the *Testimony* given against him.

Now, Gentlemen, you are to consider and weigh well the Evidence that has been given. By Law, it is true, as they observe, there must be *two* Witnesses. Here is no *Defect of Number*; that's acknowledg'd too, here are two Witnesses; but the *Question* is, whether here be two Witnesses that deserve *Credit*, and upon whose *Testimony* you can find that the Prisoner is guilty. The Witnesses, Gentlemen, are Mr. *Porter* and Mr. *Goodman*.

*First*, For the Matter of their *Testimony*, it is positive from them both; that you'll do well to observe. Mr. *Porter* tells you, That in *May* last, (which is now just a *Twelvemonth*) there was a Meeting of eight Persons, that is, my Lord of *Aylesbury*, my Lord *Montgomery*, Sir *John Fenwick*, Sir *William Perkins*, Sir *John Friend*, Mr. *Charnock*, Mr. *Cook* the Prisoner at the Bar, and the Witness himself Mr. *Porter*; and this was at the *King's-Head Tavern* in *Leaden-ball-street*, and there these Eight dined, and this was in order to consult about an *Invasion*, together with an *Insurrection* intended to be made for the *Restoring of the late King*. After Dinner comes in Mr. *Goodman*, he says, and then they pursued this Consultation, and came to a Resolution, to send Mr. *Charnock* into *France*, and the Message was agreed upon which he should carry; and he was to go to the late King, and sollicite him to obtain 10,000 Soldiers from the *French King*, whereof 8000 should be *Foot*, 1000 *Horse*, and 1000 *Dragoons*. These were to make up the 10,000 Men to invade this Kingdom. And they resolved also, when this Force should land, they should meet and assist this *Invasion* with a joint Force, that should consist of 2000 *Horse*. And to acquaint and assure him of this, was the Message. But, he says, That Mr. *Charnock* was very cautious in it, and would not presently go upon this Errand, but he would have further Assurance that they were in earnest, and would make good what they did send him to propose, therefore he would have a second Meeting; and a second Meeting was had, and that was at Mrs. *Mountjoy's Tavern*, and there they did renew the same Resolution, and there were present my Lord of *Aylesbury*, Sir *William Perkins*, Sir *John Fenwick*, Sir *John Friend*, Mr. *Charnock*, the Prisoner at the Bar, and himself; he does not know or re-

member whether my Lord *Montgomery*, or Mr. *Goodman* was there. He says, Mr. *Charnock* did accordingly go into *France*, and he did return and bring back King *James's* Thanks to them, but their Desire could not be comply'd with; and he had his Share of the Compliments.

Now comes Mr. *Goodman*, and he says, That about the same Time, *viz. Mid. May*, Mr. *Porter* acquainted him, there would be a Meeting of some of King *James's* Friends, at this Tavern in *Leaden-ball-street*. He says, That he did tell Mr. *Porter*, he doubted he should not be there at Dinner, but he would come as soon as he could after Dinner; and according to Appointment, he did come after Dinner, and there was this Consultation and Resolution that Mr. *Porter* speaks of, and says, That Mr. *Charnock* afterwards told him, he had been in *France* with the late King, and brought back the same Answer that Mr. *Porter* speaks of; and he had the Honour of Thanks from the late King too.

Gentlemen, I must observe one Thing to you, which does go very much towards the Confirming what these Witnesses say, and that is the Agreement in their Testimonies, tho' they were examin'd *apart* at the Desire of the Prisoner: You will find they agree in these several Circumstances, in the Time, that it was this Time twelve months; in the Place, that it was at this Tavern; in the Number of Persons that were there, which was Eight before Mr. *Goodman* came in; in the Number of Horse, Foot, and Dragoons that were to be brought from *France*, and in those Horse that were to meet them here; and besides, in those Words of Discourse upon the Consultation and the Resolution. And there is one Circumstance more in which they do agree, and which is very particular; That when they came to deliver their Consent to this Message that Mr. *Charnock* was to carry, the rest sat, and Mr. *Cook* the Prisoner did kneel upon the Chair, and lean'd upon the Table. And this both of them do agree in. And after all the many Questions ask'd in their separate Examination, I do not find they disagree in any Part of their Evidence. So that, Gentlemen, there can remain no Question now, but whether these two Witnesses are Men of Credit; or, whether there has been oppos'd to them any such Evidence as will make you believe, that (if not both) at least one of them has forsworn himself. They do produce nothing against Mr. *Porter*, whatsoever may have been produc'd at former Trials against his Credit: Perhaps what has been before, has satisfied the Objectors, and there is nothing appears against his Credit; but he is not only a *competent* but a very clear, good, credible, and undoubted Witness.

But against Mr. *Goodman* they offer several Things which they say amount to a violent Presumption, that he is not to be look'd upon as a credible Witness: And first, they produce a Record of a Conviction upon an Information against him, for attempting to poison two Noble Dukes: This he was convicted of, and fin'd 1000 *l.* and ordered to find Sureties for his good Behaviour during his Life. But, to this it is answered, that it appears in the same Record, that Satisfaction was acknowledged of the 1000 *l.* and all the rest of the Judgment the very next Term, and he was forthwith discharged, and that without paying the Money, which (twas observ'd) the Prisoner's Counsel said

Mr.

Mr. *Goodman* was not able to pay at that Time, no more than he could 20,000*l.* and thereupon the King's Counsel say, that the Government was convinc'd that he was wrong'd by a causeless Prosecution, and the Evidence against him was found not to be credible. And besides, Mr. *Goodman* stands pardoned by several Acts of Pardons, as well as other Subjects.

Then they produce one *Edwards*, who is a Prisoner here, and committed for Suspicion of High-Treason, and for Treasonable Practices: He is, no doubt of it, a Witness for all that: For that is but an Accusation upon him, and does not take away his Credit. He tells you of a Discourse that he had with Mr. *Goodman*, and that *Goodman* ask'd him when the Prisoner was to be try'd; and he told him he wou'd be try'd such a Day; and when it was ask'd what it was for, it was answer'd, not for the Assassination, but for sending Mr. *Charnock* into *France*. He ask'd then who were the Witnesses against him? Mr. *Goodman* said, Mr. *Porter* and himself. And further said, that he understood that Mr. *Cook* had sworn against him (though he would give an Account of no Body else) and had no Pardon, and either he must hang, or himself. And then he talk'd lightly of the Business of Hanging, and said it was a foolish Thing to be hang'd, for all that People would say, was, that such an one hang'd *handsomly* or dy'd *bravely*. This indeed is a Sort of Discourse as if Mr. *Goodman* did apprehend himself in Danger from Mr. *Cook*'s Evidence; and yet I cannot see that it does at all falsify the Evidence of Mr. *Goodman*: He may be a true Witness, and yet he might say he was to give Evidence against Mr. *Cook*, and it was in Mr. *Cook*'s Power to give Evidence against him, and that truly; and if both were in the Guilt, they were in Danger of one another. But for a further Answer, the King's Counsel have produc'd Mr. *De la Rue*, who says, that he knew Mr. *Edwards*, and that he was a *Scotchman*, and reputed Chaplain to the Viscount of *Dundee*, that he went formerly by the Name of *Douglas*, and by that Name he was set down and described in the List that Mr. *Charnock* sent to Captain *Porter*; and to that Name he answer'd in the *Press-Yard* lately. Now it is certain, that Mr. *Charnock*'s putting of his Name in that List, is no Evidence of his being guilty in Mr. *Charnock*'s Treason. But his going by two Names doth justly lay him under some Suspicion. But the Evidence that the Prisoner seems to rely upon most, is what Evidence has been produc'd against Mr. *Goodman* in that Point of Fact, by the Master and the two Drawers; the first of the Drawers Name was *Crawford*, and he does tell you, that about twelve Months ago there was this Company at Dinner there: My Lord of *Aylesbury*, my Lord *Montgomery*, Sir *John Friend*, Sir *John Fenwick*, Sir *William Perkins*, Captain *Porter*, Mr. *Charnock*, and the Prisoner, though he did not then know his Name, or the Name of one or two more of them I observe by the Way, that his Testimony so far does verify theirs, that there were eight of them there, but he says he did not see Mr. *Goodman* there, nor any but those that dined there. And my Lord of *Aylesbury* went away, as he thinks, about Four o'clock. He cannot say that the Prisoner was there, or was gone at that Time before Mr. *Goodman* came in; for he did not see Mr. *Goodman* there at all, he was not in the Room all the Time, but he was to and fro attending till my

Lord of *Aylesbury* and my Lord *Montgomery* went away in a Coach that was called, and when they were gone, the rest of the Company staid there a good while; being urged to tell how long, at last he said it was dark, and that agrees with Mr. *Porter*, who says, it was about nine o'clock when they went away. He says he was there once or twice after my Lord of *Aylesbury* went away, but he never saw Mr. *Goodman* that he remembers at all, till last *Saturday*, in all his Life. As to this, the King's Counsel say, that it is only a *negative* Evidence, and in which a Man cannot be absolutely *positive*, but can only speak according to his Observation and Memory, which might not be perfect, and Mr. *Goodman* might be there in the mean time of his going in and out: That is possible; and so it must be left to you to consider of it.

Then there is *Huntley* the other Drawer, and he says my Lord of *Aylesbury* went away about that Time, and that he did not see Mr. *Goodman* there at all, nor ever in his Life till now; neither does he remember that any Body came to them after Dinner, and if any fresh Man had then come in, he thinks he should (going often in to them) have known him; and says, that he attended this Company only: And he had seen Sir *John Friend* and Sir *William Perkins* there before.

Then Mr. *Cock*, the Master of the House, was produced, and he names all the eight Persons that did dine there, and so far he confirms the King's Evidence: He thinks that my Lord of *Aylesbury* and my Lord *Montgomery* went away privately (as it seems they had come) in a *Hackney-Coach*, and that it was about Four o'clock, and he says, he did not see Mr. *Goodman* there, and he does not know that he ever saw him till now: But when he was cross-examined by the King's Counsel, he does acknowledge that he might possibly come in after Dinner, and before my Lord of *Aylesbury* went away, and he not see him, because he was not there all the Time; he says, Sir *John Friend* used to dine at his House, and came to his House once a Week; and he had seen some of the rest, but they did not frequent his House as Sir *John Friend* did: He says, the Company din'd about Two o'clock, and the last of them staid till about Eight or Nine, and that the Door was shut as is usual when Company is in a Room, but no Body was forbid to come there.

But to establish the Credit of the Evidence on the King's Part, they did produce Mr. *Goodman* and Mr. *Porter* again: Mr. *Goodman* does acknowledge so far to be true, that my Lord of *Aylesbury* went away first; but says, that himself was not wholly a Stranger to this House, for he had dined there four or five Times with Sir *John Friend*, and particularly one Time, he being sick, and asking for some Brandy, the Master of the House said he would help him to some of the best in *England*, and Mr. *Goodman* would have bought some of him. But the Master seems not to own that, and says, he does not remember any Thing of it.

But then comes Mr. *Porter* again, and he says positively, that Mr. *Goodman* was there, and that he did speak with the Company, and complimented my Lord of *Aylesbury* when he went away, and went Part of the Way towards the Stairs with him; and he does well remember it by this Token, that when Mr. *Porter* was told Mr. *Goodman* was below, he mentioned him in the Company as a trusty

Man, that was fit for the Conversation, and then Mr. *Porter* went and fetch'd him up, and Mr. *Goodman* was there near two Hours, and they discoursed all this Matter in that Time in the Presence of the Prisoner and the rest; and he says it was about six o'clock before my Lord of *Aylesbury*, and my Lord *Montgomery* went away, and then there was Opportunity enough for this Discourse, and Consult that they speak of.

The Prisoner has offered another Sort of Evidence: First the Confidence of his own Innocence, that he was abroad three Weeks after this Conspiracy was discovered; and they have produced Mr. *Treganna*, Mr. *Peachy*, and Mr. *Nichols*, who prove that he never absconded, but was abroad, and appeared openly (for three Weeks after) till such Time as he was taken. This the King's Counsel say is no Proof that he is not Guilty, and their Evidence untrue. They say he might have a Confidence, and the rather because he is not charged with the Assassination; for at that Time these Witnesses speak of, nothing was discovered, and publick but the Assassination; for it was before Sir *John Friend's* Trial; and then was the great Discovery of the Secret of the Invasion.

Then he shews further as to his Conversation, that he is a Man of a very sober Life, never was known to swear, that he drinks but little, and is a *Godly* Man, and often says his Prayers. As to that, the King's Counsel on the other Side tell you, that has been pretended to by other People too; and the Question is not about *Religion*, but *this Fact* that you are now to try. Whether he be so Religious, or no as he pretends, or whether he be sincere in his Devotion, that is not so much the Matter now, but the Question is, whether he has offended in this Kind as he stands accused? They produce a Gentleman, one Mr. *Hammond*, and he says that he is a very Conscientious Man, and particularly is a great Lover of his Country; and he has often heard him declare a Detestation of an Invasion by a *French* Force, and wish Success to the Fleet; but *that* which he remembers chiefly, was about the Time of the Discovery of this Plot. The King's Counsel answer to this, that a Man may use such kind of Expressions, perhaps to cover his Guilt; and in the Reply to Sir *Bartholomew Shower's* Observations, it was taken notice of by Mr. *Solicitor*, (what we all cannot but remember) that the like Evidence was given as to Sir *John Friend*, that he did detest an Invasion, and was present at the Common-Prayer when King *William* was pray'd for, and declar'd against Plots; and that if they catch'd him in the Corn they might put him in the Pound. These Things a Man might say, and it is the lightest Evidence that can be given, being Discourses out of Mens own Mouths, who will never proclaim their own Guilt; and therefore it is the weakest Defence that can be offered. But, Gentlemen, you are to consider the other Evidence that has been produced by the Prisoner, given by several Witnesses, and who are upon their Oaths now as well as the King's Witnesses. And his Counsel say their Witnesses, but particularly the three upon whom they chiefly rely, have no Objection made out against them; and no Man's Testimony ought to be *presumed* to be false. And it must be taken notice of, that they can speak only according to their Belief, grounded on their Observation, and Memory, that they did not, so far as they observed, or remember, see Mr. *Goodman* there, as 'twas

most probable they should if he had been. But 'tis possible they might overlook, or forget; the rather for that they were not of the Company, but in and out, up and down; and Mr. *Goodman* was not there at Dinner, when their Attendance was fix'd and constant.

It ought to be considered also, that here are several Circumstances, some of which seem very pregnant. It is agreed on all Hands, that the Prisoner dined there with those other seven Persons, concerning Four of whom we must conclude nothing; but concerning Three of them we in this Court may take notice, they are Attainted of High-Treason, and so it is evident that the Prisoner was for a long Time a Companion of three Traitors, and had a Conversation with them. I do not find that he had any Occasion to be there; nor any of the rest of the Company. Concerning my Lord of *Aylesbury*, indeed it is said he propos'd to treat about a Hoghead of White Wine. But that seems to be casual, and not the End of his Coming, and Dining with this Company there. But, be that how it will, that relates to his Lordship alone. But, for the others, I do not find they do pretend any Occasion of Meeting there; and therefore it leaves it the more suspicious: And 'tis the more so, because it was managed so privately, and cautiously. They were not attended according to their Qualities. The Lords went away together in a Hackney-Coach that was called, as they had come thither in another. The rest thought fit to stay there till it was dark; and as soon as it was so, went away. There was some extraordinary Cause for all this. It did import the Prisoner to shew, that it was for some good Cause, and Purpose.

And further, it is observable that this House was a Place which, as the Master says, none of this Company did use to resort to, except Sir *John Friend*; which makes it probable (this being a House that Sir *John Friend* frequented, and none of the others) that *He* bespoke this Place, and brought the rest thither: And if it were so, that makes it more probable that there was such a Treason there to be hatch'd, as is evidenced by the King's Witnesses; for you may remember, and it appears by the Record in this Court, that Sir *John Friend* was indicted and attainted (not for the Assassination, but) for the Treason for which the Prisoner is now a Trying, an Invasion that was to be supported with an Insurrection. Now if Sir *John Friend* was chiefly acquainted with this House, and brought this Company together, it is very probable it was about this Business which Sir *John Friend* was so concerned in. And that he is Attainted for it, appears upon the Record before us; which should be read, but that the Prisoner's Counsel admit it, and are so far satisfied in it, that they won't Arraign the Verdict; nay, they did acknowledge that there was a Plot; and there was no Doubt of it, there was *such a Plot*.

Now then, Gentlemen, here it is certainly proved by these two Witnesses, (and not gain-said by the Prisoner's own Witnesses) that there was such a Meeting, and that the Prisoner was there; and they both have positively sworn that this Treason was committed there. You have heard what has been objected to their Credit; they have delivered their Testimony upon their Oaths, and so, Gentlemen, you are upon your Oaths: If you are satisfied, and can take it upon your Consciences

sciences, that these two Witnesses are, or any one of them is, (if such Distinction can possibly be made in this Case) then you are to acquit the Prisoner; but if you are satisfied, and think they have sworn true, you are to find him Guilty.

*Mr. J. Rokeby.* Nay, if one be forsworn, both are; for the Evidence is intirely in all Parts the same; and if *Mr. Goodman* be perjured, *Mr. Porter* is so too.

*Sir B. Shower.* Forsworn and Perjured are hard Words; we only say mistaken.

*Mr. J. Rokeby.* Well, that Objection goes to one as well as t'other.

*L. C. J. Treby.* It must be so, since they speak of the same joint Matter, viz. their being together in Company. If *Mr. Porter* says true, when he swears that *Mr. Goodman* was there with him and the rest, *Mr. Goodman* must say true when he swears that he was there with *Mr. Porter* and the rest. There was one Thing that I forgot: *Sir B. Shower* observed, that it might be an Invention of *Captain Porter*, because he fixeth it in Point of Time to the Month of *May*, that he does not say it was in *April*; for that then it would be within the Pardon, which extends to *April 29*, last Year; nor would he lay it in *June*, for then he was in *Newgate*, and others of them were dispersed by reason of a Riot committed in *Drury-Lane*; and this *Sir Bartholomew Shower* alledges, was a Piece of Skill and Contrivance: But, really, this is a Piece of Ingenuity in himself: For, besides that the King's Witnesses affirm positively that it was in *May*, and remember it by a certain Token, viz. That it was within a very few Days after the King went beyond Sea, one, or two of the Prisoner's Witnesses (*Crawford* I am sure) did say that this Meeting was this Time Twelvemonth, and you know we are now near mid-*May*.

*Mr. Serj. Darnal.* If you believe our Drawers for part, you must believe them for all.

*Mr. Att. Gen.* No, not so: My Lord speaks only where they concur with our Evidence. It were strange to expect we should disbelieve, or doubt what the Witnesses on both Sides affirm to be true: But, I do not think it would be to the Advantage of the Prisoner, if what his Counsel proposeth were agreed to, viz. That the Drawers (and their Master too) should be believed for all they say, provided equally the King's Witnesses should, in like manner, be believed for what they say. For, the main thing controverted, is, Whether *Mr. Goodman* were at this Meeting? These Witnesses for the Prisoner say, they did not see him there; at least they do not remember it. *Mr. Porter*, and *Mr. Goodman* himself says, he was there. Now, these Things agreed, and admitted, would make a very consistent clear Evidence, that *Mr. Goodman* was there, tho' the Master and Drawers did not observe, or do not remember his being there.

*Then an Officer was sworn to keep the Jury, who withdrew to Consider of their Verdict, and about Three Quarters of an Hour after returned into Court.*

*Cl. of Arr.* Gentlemen, answer to your Names.  
*Henry Sberbrook.*

*Mr. Sberbrook.* Here. And so of the Rest, &c.

*Cl. of Arr.* Are you all agreed of your Verdict?

*Jury.* Yes.

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*Cl. of Arr.* Who shall say for you?

*Jury.* Our Foreman.

*Cl. of Arr.* Set *Peter Cook* to the Bar, (which was done) *Peter Cook* hold up thy Hand, (which he did) Look upon the Prisoner; how say you, Is he guilty of the High-Treason whereof he stands Indicted, or not guilty?

*Foreman.* Guilty.

*Cl. of Arr.* What Goods, or Chattels, Lands, or Tenements had he at the Time of the Treason committed, or at any Time since?

*Foreman.* None to our Knowledge.

*Cl. of Arr.* Then hearken to your Verdict as the Court has recorded it: You say that *Peter Cook* is guilty of the High-Treason whereof he stands Indicted, but that he had no Goods, or Chattels, Lands, or Tenements at the Time of the High-Treason committed, or at any Time since to your Knowledge, and so you say all.

*Jury.* Yes.

*Cl. of Arr.* Gentlemen, the Court dismisses you, and thanks you for your Service.

*Then the Court adjourned 'till Five o'clock in the Evening.*

#### POST MERIDIEM.

*About Six o'clock, the Court being, by Proclamation, resum'd, the Prisoner, convicted, was brought to the Bar, in order to Judgment.*

*Cl. of Arr.* *Peter Cook*, hold up thy Hand (which he did.) thou stand'st convicted of High-Treason, for compassing and imagining the Death of his Majesty King *William* the Third, and for adhering to the King's Enemies: What can'st thou say for thy self, why the Court should not give thee Judgment to die according to the Law?

*Cook.* My Lord Mayor, my Eyes are very bad, therefore I desire your Lordship would be pleased to take this Paper, and that it may be read.

*Cl. of Arr.* Have you any Thing to say in Arrest of Judgment?

*Cook.* I desire my Paper may be read.

[It was handed up to the Court, and then delivered down to *Mr. Attorney General*, and the King's Counsel, but not openly read.]

*Mr. Recorder.* [Sir *Salathiel Lovell.*] *Mr. Cook*, the Court have read your Paper you sent up, and have communicated it to the King's Counsel; if you have any Thing to move in an Arrest of Judgment, this is your Time, and we will hear you; but as for any Representation of your Case to any others, that must be considered of afterwards, you are now called to your Judgment.

*Cook.* I did not know that I might offer any thing afterwards, but if your Lordships think fit to communicate that to my Lord Justices, I submit it to you.

*Mr. Recorder.* *Mr. Cook*, there is nothing appears upon this Paper that is Matter of Law, and so not serviceable to you now, and therefore what you desire in it, the Court will consider of afterwards.

*Cook.* I do not understand the Law, my Lord, but I have heard the Court ought to be of Counsel for the Prisoner, and I desire I may not suffer by my Ignorance.

*Mr. Recorder.* I declare it, for my part, I know nothing that you can have any Advantage of, in Arrest of Judgment; if I did, you should not lose

the Benefit of it, and you have had your Counsel assigned, who have pleaded for you without restraint; and if there had been any Matter of Law that would have availed you in the Arrest of Judgment, no doubt, they would have laid hold of that Advantage for you.

*Cook.* I can't tell, my Lord, what is Matter of Law.

*Mr. Att. Gen.* Your Lordship observes, they took all the Objections that they could to the Indictment, but there was none that they could fix.

*Cl. of Arr.* Then Crier make Proclamation, (*which was done on both Sides of the Court.*)

*Crier.* O yes. All Manner of Persons are commanded to keep Silence while Judgment is in giving, upon Pain of Imprisonment.

*Cook.* My Lord, may I have my Paper again?

*Mr. Recorder.* If you think it may be any Service to you to leave it with the Court, you may do so; or if you desire it, you shall have it again.

*Cook.* I desire your Lordship to keep it.

*Mr. Recorder.* I will receive it, and it shall not be buried, I assure you.

*Cook.* I don't hear what the Court says.

*Mr. Recorder.* You say you did not hear what was said to you: If you desire to have your Paper again, you shall have it; but if you desire to have it communicated Above, the Court will consider it, and take care of that too.

*Cook.* I desire your Lordship would do it.

*Then the Recorder proceeded to give Judgment.*

*Mr. Cook.* I think it useful to the Publick, and also at this Time to you, to observe, That the Reign of the late King *James*, was, throughout, one intire Design and Project form'd, in conjunction with the *French King*, totally to subvert our Religion, Laws, and Liberties, which grew so apparent to the Subjects of these Nations, in so many Instances of fatal Consequence, manag'd in such a Method, and advanc'd so far, that the People of these Kingdoms, of all Qualities, Ranks, and Degrees, did find it absolutely necessary for the Preservation of themselves and the neighbouring Nations now in Alliance with us, to pray in Aid of the then Prince of *Orange*, as a Person not only nearly allied to this Crown, but also intirely in the Interest of these Kingdoms, and those neighbouring Princes, and Countries that lay exposed to the Violence and ambitious Insults of *France*. And the Love which that noble Prince did bear, not only to us, but to our Neighbours also, disposed him to embrace that Invitation, upon whose Arrival here, that Predecessor, from Motives that were invisible, declin'd the Kingdom and the Government, and left the People to themselves; whereupon his present Majesty was necessarily and rightfully placed upon that Throne he so well deserved: And this is now that King, for whose Preservation all good People have associated, and spare neither Lives nor Treasure to support and to continue in the Government; and this is that King whom you have traiterously conspired, not only to dethrone, but also to destroy; and this is that People that you would have to swim in Blood, and lose their Religion, Liberty, and Property. These Matters need a History to relate at large, I only touch them shortly, to move good Men to rejoice in their Deliverance, and to move you seriously to reflect upon the Heinousness of your Crime.

*Mr. Cook,* you are an *English Man* and must

needs know that in this Place we frequently condemn to Death, Clippers, Coiners, Thieves, and Robbers, and other such like Criminals, and that justly and necessarily too, for the Preservation of the Innocent, and for the common Good. Of what Condemnation must you, and such as you, be worthy then, who have so horridly endeavour'd and design'd the fatal Ruin and Destruction of your own native Country, and to render your Fellow-Subjects a miserable Prey, and at the best to become Slaves and Vassals to a foreign Prince?

Let me also mind you, that nothing is more sure, than that after this, you must receive a Judgment in another World; and if that pass against you too, that Sentence will be most Terrible, and your Sufferings without End: And therefore I do advise you to employ the few Days you have yet to live, in Preparation for your future Happiness, which cannot be duly done without a full Confession of this, as well as other Crimes you have been guilty of: I therefore charge it to you, as your Duty, and leave it with you at your utmost Peril, that you honestly and faithfully discover all you know of this inhuman and traitorous Conspiracy, and all the Persons that you do know to be guilty of it: This will be the greatest Service you can do in this World, and will be the best preparatory Step that you can take towards a better.

And, Sir,

There now remains no more for me to say, but to pronounce that Sentence on you which the Law directs: And that is this,

*That you, Peter Cook, be taken hence to the Place from whence you came, and thence be drawn upon a Hurdle to the Place of Execution, where you are to be hanged by the Neck, and cut down before you be dead; that your Bowels be taken out, and your Privy-Members cut from your Body, and both burnt in your Sight; that your Head be cut off, and your Body divided into four Quarters, which Head and Quarters are to be at the King's Disposal; and God Almighty have Mercy upon your Soul.*

*Cook.* I beg, if your Lordship please, that I may have my Relations and Friends come to see me, and some Divines, the better to prepare me for another World.

*Mr. Recorder.* *Mr. Cook*, if you'll give the Names of those that you would have come to you, to the Officer, Care shall be taken in it; and you will not be denied any reasonable Helps that may be had for your Preparation for Eternity.

*Mr. Att. Gen.* It is not fit he should be deny'd any reasonable Help; but in the mean time there is Reason for the Government to be cautious upon the Account of what has notoriously pass in the Case of some others.

*Mr. Recorder.* If he give in the Names, it will be consider'd of, and Care taken that nothing be done, but what is reasonable and safe.

*Then the Prisoner was taken from the Bar, and the Court proceeded to what was remaining of the Business of the Sessions.*

*He was afterwards pardon'd, upon Condition of transporting himself, and never returning any more to England.*



CLX. *The TRIAL of ALEXANDER KNIGHTLEY, at the King's-Bench, for High-Treason, May 20. 1696. Paschæ 8 Will. III.*

*Thursday, April 30, 1696.*

**T**HIS Day the Keeper of *Newgate* brought to the Bar of the Court of *King's-Bench*, *Alexander Knightley*, by Virtue of a Writ of *Habeas Corpus*, Issuing out of that Court for that Purpose, to be Arraigned upon an Indictment of High-Treason, found against him at the Sessions of *Oyer and Terminer*, holden for the County of *Middlesex*; which Indictment by Writ of *Certiorari* was removed into the *King's-Bench*. The Return of the *Habeas Corpus* was delivered, and then the Prisoner was Arraigned thus.

*Cl. of Arr. Alexander Knightley* hold up thy Hand (*which he did.*) Thou standest Indicted by the Name of *Alexander Knightley*, late of the Parish of *St. Paul Covent-Garden* in the County of *Middlesex*, Gent. For that you not having the Fear of God in your Heart, nor weighing the Duty of your Allegiance, but being moved and seduced by the Intigation of the Devil, as a false Traitor against the most Serene, most Illustrious, and most Excellent Prince, our Sovereign Lord *William* the Third, by the Grace of God of *England, Scotland, France and Ireland*, King, Defender of the Faith, &c. Your supreme, true, rightful, lawful, and undoubted Sovereign Lord, the cordial Love and true and due Obedience, Fidelity, and Allegiance, which every Subject of our said Lord the King that now is, towards him our said Lord the King should bear, and of right ought to bear, withdrawing, and utterly to extinguish, intending and contriving, and with all your Force purposing and designing the Government of this Kingdom of *England*, under him our said Lord the King that now is, of right duly, happily, and very well established, altogether to subvert, change, and alter, as also the same our Lord the King to Death, and final Destruction to put and bring, and his faithful Subjects, and the Freemen of this Kingdom of *England*, into intolerable and most miserable Slavery to *Lewis* the *French* King to subdue and intral, the tenth Day of *February*, in the seventh Year of the Reign of our said Sovereign Lord the King that now is, and divers other Days and Times, as well before as after, at the Parish of *St. Paul Covent-Garden*, aforesaid, in the County aforesaid, falsely, maliciously, devilishly, and traiterously you did compass, imagine, and contrive, purpose, design, and intend, our said Sovereign Lord the King that now is, to slay, kill, and murder, and a misc-

rable Slaughter among the faithful Subjects of our said Lord the King, throughout this whole Kingdom of *England*, to make and cause; and your said most wicked, most impious, and devilish Treasons, and traiterous Compassings, Contrivances and Purposes aforesaid, to fulfil, perfect, and bring to effect, you the said *Alexander Knightley* afterwards, to wit, the same tenth Day of *February*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, and divers other Days and Times, as well before as after, there and elsewhere in the same County, falsely, maliciously, advisedly, secretly, traiterously, and with Force and Arms, with very many other Traitors to the Jurors unknown, did meet, propose, treat, consult, consent, and agree, him our said Lord the King that now is, by lying in wait and deceit, to assassinate, kill, and murder, and that execrable, horrid, and detestable Assassination and killing, the sooner to execute and perpetrate, afterwards, to wit, the same Day and Year, and divers other Days and Times at the Parish aforesaid, in the County aforesaid, traiterously you did treat, propose, and consult with those Traitors, of the Ways, Manner, and Means, and the Time and Place where, when, how, and in what Manner, our said Sovereign Lord the King, so by lying in wait, might be slain and killed, and that you did consent, agree, and assent with the same Traitors, that forty Men on Horseback, or thereabouts, of whom you the said *Alexander Knightley* were to be one, with Guns, Muskets, and Pistols, charg'd with Gunpowder and leaden Bullets, and with Swords, Rapiers, and other Arms, armed, should lie in wait and be in ambush, the same our Lord the King in his Coach being when he should go abroad to attack, and that a certain and competent Number of those Men so arm'd, upon the Guards of our said Lord the King, him then attending, and being with him should set upon, and should fight with them and subdue them, whilst others of the same Men so armed, him our said Lord the King should assassinate, kill, slay, and murder; and you the said *Alexander Knightley*, your Treasons and all your traiterous Intentions, Designs, and Contrivances aforesaid, to execute, perform, fulfil, and bring to effect, afterwards, to wit, the aforesaid tenth Day of *February*, in the seventh Year aforesaid, at the Parish aforesaid, in the County aforesaid, diverse Horses, and very many Arms, Guns, Muskets, Rapiers, and Swords, and other Weapons, Ammunition, and warlike Things, and military Instru-  
ments, falsely,

fafully, maliciously, secretly, and traiterously you did obtain, buy, gather together, and procure, and to be bought, obtain'd, gathered together, and procured, did cause with that Intent to use, employ, and bestow them in and about the detestable, horrid, and execrable Assassination, Killing, and Murder, of our said Lord the King that now is, as aforesaid; and the same Premises, the more safely, and surely to execute, do, and perform, you the said *Alexander Knightley*, with one *Edward King* late for High-Treason, in contriving and conspiring the Death of our said Lord the King that now is, duly convicted and attainted, by the Consent and Assent of divers of the Traitors and Conspirators aforesaid in the said tenth Day of *February* in the seventh Year aforesaid, traiterously did go and come to the Place propos'd, where such intended Assassination, Killing, and Murder, of our said Lord the King, by lying in wait should be done, performed, and committed, to view, search, and observe, the Conveniency and Fitness of the same Place for such lying in wait, Assassination, and Killing, there to be made, performed, and committed, and that Place so being seen and observed, afterwards, to wit, the same Day and Year, your Observations thereof to some of the said Traitors and Conspirators, you did relate and impart, to wit, at the Parish aforesaid, in the County aforesaid, against the Duty of your Allegiance, and against the Peace of our said Sovereign Lord the King that now is, his Crown and Dignity, and against the Form of the Statute in this Case made and provided. How say'st thou, *Alexander Knightley*, art thou guilty of the High-Treason whereof thou stands indicted, or not guilty?

*Knightley*. Not guilty.

*Cl. of Arr. Culprit*, How will you be Try'd?

*Knightley*. By God and my Country.

*Cl. of Arr.* God send you a good Deliverance.

*Knightley*. With Submission to your Lordship, I did not expect, in this weak Condition that I am in, to be brought at this Time, to the Bar; That having taken me off extremely from the Application that I should have otherwise made of my self to my Defence; but seeing there is no Mercy to be had here, I will endeavour to have Patience, and undergo my Fate as well as I can.

*L. C. J. Holt*. Mr. *Knightley*, you have no Reason to find fault; for when I was acquainted you were ill, and desired a Physician, I ordered one to be sent to you; and Yesterday in the Afternoon you sent Word you were so sick, that you could not be brought hither to Day; but your Doctor was with me last Night, and upon Discourse with him, I did apprehend you were not so ill, but that, especially considering the Weather, you might very safely be brought to the Bar to Day.

*Knightley*. The Gentleman that brought me the Copy of the Indictment found me very ill, and I have been ill ever since this Day seven-night.

*L. C. J. Holt*. Well, now let us see what Time we shall appoint for the Trial.

*Mr. Att. Gen.* [Sir *Thomas Trevor*.] When your Lordship pleases to appoint.

*L. C. J. Holt*. I think you cannot Try it till *Wednesday* Fortnight.

*Mr. Clark*. That Day is free, my Lord.

*L. C. J. Holt*. It being upon a *Certiorari*, the *Venire facias* must be returnable upon a common Day; and there must be fifteen Days between the *Teste* and the Return.

*Mr. Att. Gen.* May it not be *Tuesday* then, that the Jury appear?

*L. C. J. Holt*. You cannot have it before *Wednesday*, for that is the Return-day.

*Mr. Clark*. *Tuesday* Fortnight is appointed for the Trial between *Pride* and the Earl of *Bath*.

*Mr. Att. Gen.* Then it must be upon *Wednesday*, for there must be fifteen Days between the *Teste* and the Return.

*L. C. J. Holt*. Well, take back your Prisoner; and bring him here again on *Wednesday* Fortnight, you shall have a Rule for it.

*Then the Prisoner was carried back.*

*Die Mercurii Vicesimo Maii, 1696. In Banco Regis. Dominus Rex versus Knightley.*

**T**HIS Day being appointed for the Trial of the Prisoner, he was brought to *Westminster-Hall*, and the Jury were call'd over as soon as the Court appeared in the Hall, and the Defaulters recorded; and about Eleven of the Clock the Prisoner was brought to the Bar.

*Clerk of the Crown*. *Alexander Knightley*, hold up thy Hand, (*which he did*.) Those good Men that thou shalt hear called, and personally appear, are to pass between our Sovereign Lord the King and thee, upon the Trial of thy Life and Death: If therefore thou would'st challenge them, or any of them, thy Time is to speak unto them as they come to the Book to be Sworn, before they be Sworn.

*L. C. J. Holt*. Mr. *Knightley*, I perceive you have a Desire to speak something; let us hear what you have to say.

*Knightley*. I humbly beg your Lordship's Leave, that I may speak before the Jury be called. What I have to say, I beg I may have your Leave to read, because I have a bad Memory.

(*Reads*.) **M**Y Lord, I hope to save the Jury and the Witnesses against me a great deal of Trouble, and design to take up very little of your Lordship's Time: But in the first Place I think my self obliged to thank your Lordship for your great Indulgence, in granting me so much Time between my Arraignment and Trial; the greatest Part of which I have employed to appear before the great Tribunal of Heaven.

I speak in the Face of the World here, That I am convinced I cannot hope to be happy hereafter, without a just Abhorrence of, and a sincere Repentance for that Crime for which I here stand Indicted.

And since Confession is an essential Part of Repentance, I do acknowledge I was to have been concern'd in some Part of the barbarous Assassination, and was unhappily surprized into a Consent to act in it, though in my Heart I did abominate the Fact as much as any Man living; but under some honourable and fair Pretences I was drawn in at first, and then of a sudden became so far engaged, that by a mistaken Notion of Honour, I thought I could not retreat without the Infamy of Cowardise.

My Lord, I humbly crave your Lordship's Permission, to acquaint you, how that some Time since

since I was brought before some of the Lords of his Majesty's most Honourable Privy Council, where I do assure your Lordship I did freely own and fully discover my being concerned in that horrid Design; and I here openly confess the same with that Sorrow and Repentance as becomes a Man of Honour and Conscience.

My Lord, there is one Circumstance particular in my Case, I most humbly beg leave to insist upon, and urge to your Lordship in my behalf, which is, that it was upon my Confession (as I conceive) that Mr. *Harris*, now a principal Evidence against me, was first discovered; so that my own Confession has been a great Means to take away my Life.

I expect after a few Words now in this solemn Court to receive from your Lordship the Sentence due upon the Conviction, from my own Mouth, of a Crime for which I cannot in modesty hope, so much above my Deserts, the King's most Gracious Pardon; yet the Greatness of my Offence does not rob me of all Thoughts of Mercy, whilst I throw my self absolutely and entirely at his Majesty's Feet for it; and I humbly beg of your Lordship as a Privy-Councillor, that you would represent my unfortunate Case to their Excellences the Lords Justices of *England*, as an Object of his Majesty's Favour.

And now, my Lord, I shall not detain your Lordship and the Court any longer, but my next Words convict and lay me under the just Sentence of Death: So to my Indictment I beg Leave to plead guilty, and throw my self entirely upon the King's Mercy, and do desire my former Plea to my Indictment may be withdrawn.

*Cl. of the Crown.* Thou hast been Indicted and Arraigned of High-Treason, in compassing and imagining the Death and Destruction of the King; how say'st thou *Alexander Knightley*, art thou guilty of the High-Treason whereof thou stand'st indicted, or not guilty?

*Knightley.* Guilty, my Lord.

*Cl. of the Crown.* Art thou content to withdraw thy Plea, Not guilty.

*Knightley.* Yes, Sir.

*Cl. of the Crown.* Do you plead to the Indictment guilty or not guilty?

*Knightley.* I am guilty.

*Mr. Att. Gen.* Then my Lord we desire, since he relinquishes his Plea of Not guilty, that you will record his Confession; and since he has confessed the Indictment, we have nothing more to do but wait the Judgment of the Court.

*L. C. J. Holt.* We shall not give Judgment now.

*Mr. Att. Gen.* If the Prisoner have any thing to say for himself your Lordships I suppose will hear him to it.

*L. C. J. Holt.* But I say we cannot by the Course of the Court give Judgment now, for after a Person is convicted here, whether by Confession or Verdict, he ought to have four Days from the Time of such Confession or Verdict, to move in Arrest of Judgment, if there be so many Days of the Term remaining, if not, then the longest Time that can be had in the Term is allow'd: In (*Trial 74.*) *Stayley's* Case it was otherwise practised, Judgment was given the same Day, that was in the Time of the Popish Plot, and is a Case not to be imitated, because not justified by any Precedent before that Time or since, but it has been always observ'd to have four Juridical Days

for moving in Arrest of Judgment, if so many remain of the Term.

*Die Lunæ Vicesimo Quinto Die Maii  
An. Dom. 1696.*

*Being the last Day of the Term, the Prisoner was brought from Newgate to the King's Bench-Bar.*

*Mr. Att. Gen.* If your Lordship please, I desire the Judgment of the Court to be pronounced upon Mr. *Knightley* upon his Conviction.

*Cl. of the Crown.* *Alexander Knightley* hold up thy Hand. [*Which he did.*] Thou hast been Indicted and Arraigned for High-Treason in compassing and imagining the Death of the King, and adhering to the King's Enemies; what can'st thou say for thy self, why Judgment should not be given against thee to die according to the Law?

*Knightley.* I have nothing more to say, my Lord, than what I have said.

*Cl. of the Crown.* Crier, make Proclamation for Silence. *Which was done on both Sides the Court.*

*Cryer.* Oyez: Our Sovereign Lord the King straitly charges and commands all manner of Persons to keep silence while Judgment is in giving, upon pain of Imprisonment.

*L. C. J. Holt.* Mr. *Knightley*, You are by your own Confession convicted of High-Treason in designing the Murder of the King and the Subversion of the whole State of *England*, in promoting an Invasion from the *French*, its most antient and inveterate Enemies.

It hath appeared before your Arraignment, not only by the Evidence that hath been given at former Trials; but even by the Signs of the Times and the Manner of some Mens Actings, that there hath been for some Years last past a Train of Plots and Conspiracies against this Government, and when the various Means which the Conspirators did project among themselves for its Ruin proved ineffectual, it was at last resolved among some of the Conspirators to assassinate the King, as the most certain Way of accomplishing their End.

In which Design you were deeply engaged and was an active Instrument in the carrying it on, being sent to view the Ground on both Sides the Water, and with others that were sent with you reported your Opinion, which was the most convenient Place to attack the King and his Guards.

And though you did, the last Time you were at the Bar, urge by way of Extenuation of your Crime, that you being engaged in the Interest of the late King, and thereby supported, you was surprized into this barbarous Design, which being proposed to you, you thought your self obliged in Honour to engage in it; which is so far from an Extenuation, that it is an high Aggravation: For Men of honourable Principles, tho' most zealously disposed to the Advancement of any particular Interest, yet always detest the Use of base and vile Means. Therefore when the Assassination of the King was proposed, you had an Opportunity to have retreated with Honour; and might have refused to be further concerned;



cerned; but you rather pursued this wicked Enterprize with great Zeal.

And tho' you are by your Profession a *Roman Catholick*, and may for that Reason think that your Crime is mitigated, because you acted in the Behalf of a Prince of your own Religion, which you hoped thereby to introduce: Notwithstanding all which, your Offence is highly aggravated in respect of the Ingratitude and Folly with which it is attended. For there is no *English* Papist that is Master of any Property, but he is interested in the Preservation of this Government, to which the whole Party of them hath been; and still are continually obliged for its Moderation and Justice; for instead of being exposed to the Severity of those Laws to which they are obnoxious, they have had the same Indulgence in the Enjoyment of their Religion, and the same Protection, and as much Benefit in the Distribution of the Common Justice of the Realm, as any other of the King's Subjects; therefore none of them could ever expect to mend their Condition under a *French* Domination. But the contrary is foreseen by all considering Men; for the *English* Papist, as well as Protestant, would have been reduced to a most dismal State if you had obtained your End.

For it is against all the Rules of Reason, and the Experience of all Ages, to imagine, that the *French* King would spare *English* Papists more than Protestants; for it is not Zeal to Religion, or Affection to the Interest of the late King, that hath excited him to invade *England*, but it's his Pride and Ambition to conquer the three Kingdoms, and to reduce this to be a Province to *France*: Indeed the Pretence of restoring the late King, and introducing the *Papish* Religion may serve to delude some warm and unwary Zealots to engage in his Assistance, who do not consider, that if they should be successful they would be as certainly destroyed as others, but with more Disadvantage to themselves. For after they shall have survived the Liberty of their Country, have embred their own Hands in their Countrymen's Blood, they will be at the Mercy of their Conqueror, who can never think it his Interest to trust them, but will despise them for being such villainous Traitors to their own Country. Nay, rather, these *Englishmen*, who by their Courage and Resolution shall endeavour to defend their Country, though they should be unfortunately vanquished, will meet with a much better Reception, for they will have given Assurances that

they may be confided in, when the others have by such a wicked Treason given a Demonstration to the contrary.

There being then nothing to be said that can palliate such a Crime as that of which you are convicted; but you having taken a different Course the last time you were at the Bar from what you took at first, you have relinquished your Plea of Not guilty, and have confessed the Indictment; I wish out of Charity to your Person it was as sincere as (I think it) it was prudent in you; for after several Convictions of others that were your Accomplices, you could not be a Stranger to the Evidence upon which they were grounded, you must therefore in all Probability have expected to have undergone the same Fate. If your Confession be a real Effect of your Repentance, you will reap the Advantage of it in the next World, but what Consequence it will have in this I cannot say, *For the Heart of the King is in the Hand of the Almighty, which as the Rivers of Water, he turneth whithersoever he will.* Live therefore for the Time to come in expectation of a speedy Death, and prepare your self to appear before another Judgment-Seat; to the making of which important Preparation I shall dismiss you, first discharging the Court of the Duty now incumbent upon it, in giving that Judgment which the Law hath appointed. And the Court doth award,

*That you be conveyed from hence to Newgate, the Prison from whence you came, and from thence you are to be drawn upon a Hurdle to Tyburn; where you are to be hanged by the Neck, and while you are alive to be cut down, your Privy-Members are to be cut off, and your Bowels to be cut out of your Body and burnt in your View; your Head is to be cut off, and your Body is to be divided into four Parts, and your Head and your Quarters are to be disposed where his Majesty shall appoint. And I pray God to have Mercy upon your Soul.*

*Knightley.* My Lord, I am truly sorry for what I have done, and I humbly thank your Lordship, and the rest of the Judges for your Favour to me.

*Then the Prisoner was carried back to Newgate, and afterwards was graciously pardon'd.*

*The End of the* FOURTH VOLUME.