48-3

A

DISPLAY OF Tyranny; OR REMARKS,

UPON

The Illegal and Arbitrary Proceedings, in the Courts of Westminster, and Guild-Hall *London*.

From the Year, 1678. To the Abdication of the late *King James*, in the Year 1688.

In which time, the Rule was,

Quod

Principi placuit, Lex esto.

First Part.

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TO

The Eminently Deſerving and Highly Honoured,

Sr Samuel Barnardiſton

Baronet.

Sir,

THat I do inſcribe theſe my ſummary *Collections* of ſome few of the *Exorbitancies*, and of the *arbitrary*, *illegal* and *pernicious Practices* of the late *unhappy Reigns*, to your *Name*; will, as I hope, be forgiven; when you reflect upon your own dear bought ſhare, in the *melancholy* and *tragical Tranſactions*, upon which I have ſpent my thoughts.

The Names of the late *Earl* of *Shaftesbury*; & of my *Lord Ruſſel* & *Col. Sidney* and other great Men (who were run upon, and deſtroyed by

a Race of Men, who were raiſed to the *Bench*, from being the *Scandal* of the *Bar*; and by *ignorant*, *corrupt* and *partial Jury-Men*) will be remembred with eternal honour. And by conſequence it muſt be yours, that you were my *Lord Ruſſel's* endeared Friend; That you ſerved as *Foreman* of that great *Jury* which guarded the *Earl* of *Shaftesbury's* Life, and that you expreſſed your ſelf with ſome tranſport of Joy, at the hopes of the brave *Colonel Sidney's* deliverance; and that the *ſham Proteſtant Plot* was confounded.

That from hence immediately your late Troubles ſprung, is freſh in every Bodies remembrance; but 'tis not ſo well known, that you had the guilt of Original Sin upon you; you were a *Barnardiſton*, deſcended of a *Family* well known, and highly eſteemed in *Suffolk* and *Lincolnſhire* for many hundreds of years paſt, & which no *Hiſtory* remembers to have been

been *clouded*, but in times, when the *Laws* of *England* have ſuffered an *Eclipſe*.

Your never to be forgotten Father *Sr Nathaniel Barnardiſton*, was in the worſt of times (*thoſe in which we have lived, excepted*) a *Champion*, & a Reſolute *Aſſertor* of the *Engliſh Liberties*; He, in the year 1626, when King *Charles* the firſt, in a moſt arbitrary way, *required money* by way of *Loan*; (*with many other good* Patriots) refuſed to ſubſcribe and lend; and was thereupon, as a *refractory Perſon* (*as was the Language of the* Privy Council *of that day*) confined (*far enough from home*) in the County of *Suſſex*; however, he ſtiffly adhered to his honeſt reſolution againſt that arbitrary attempt; and continued under confinement, till the beginning of the year 1628, when that *King's* ſtraits neceſſitating a *Parliament*, the *Gentlemen* impriſoned for refuſing the *Loane-Money*, were then

releaſed, and generally throughout the Kingdom, *elected to preſent the Grievances, and aſſert the* Liberties *of the* People, *in that Parliament* ; as was Sr *Nathaniel Barnardiſton*, for his *County* of *Suffolk*.

Sir ! The Remembrance of this, when you were firſt invited by that *County*, to repreſent them in *Parliament*, upon the death of Sr *Henry North*, might in (all propability) provoke a great *Miniſter of State* to ſay, *that there was reaſon of State, why you muſt not be* Knight *of your* Shire ; and therefore he would appoint an eaſie *Gentleman* (whom he could manage) *Sheriff*, to keep you out ; and ſo he did as long as he could ; at a time, when that *Parliament* was corrupted, to ſuch a degree, that the Fate of the *Nation* ſeemed almoſt to depend upon the *Vote* of one or two good *Members* ; your *Country*, had upon that occaſion, a manifeſt demonſtration of your Fidelity and Zeal

Zeal, in their Service ; you did worthily aſſert the right of that *Election* (than which there never was any more clearly made) & after a tedious and very expenſive attendance, in proſecuting your Complaint of that abuſe ; your *Election* was affirmed in the *Houſe* of *Commons* ; tho' oppoſed by the united power, of *Tories*, *Penſioners* and *Papiſts* ; you then came into *Parliament* at a moſt Critical Juncture, When the *Proteſtant Religion*, and the *Laws* were eminently beſet, and dangerouſly threatned ; you did moſt faithfully and unwearied-ly labour there for ſome years, againſt very great Diſcouragements ; It being in that day a mighty conqueſt, if the true *Engliſh Gentlemen* of that *Houſe*, could, for the ſaving of the *Kingdom*, carry a *Queſtion* by five or ſix *Voices*, againſt the numerous *Penſioners*, who were there *liſted* ; *and fed, and paid*, to betray their *Countries* Liberties.

Your demeanour and great deſert in that day of *England*'s Diſtreſs, merited a Title to the Hearts of your *Country Men*; who with very little oppoſition, if not with an unanimous Voice, Elected you, for one of their *Repreſentatives* to the three ſucceeding *Parliaments*; in which, your avowed Oppoſition to *Popery*, and undaunted *Adheſion* to the *Bill of Excluſion*; as the only expedient for ſecuring the *Proteſtant Religion*, markt you out to the *Popiſh Rage*.

Theſe (*Sir*) were in truth your heinous actual tranſgreſſions; Theſe provoked *Jefferies* (*whoſe Talent lay in facing all things down with Noiſe and Impudence*) to diſcharge a load of Slime and Choler at you; your *Crimes* were complicated; and they lie under a very great miſtake, who think, that your *Impriſonment* and *Fine* of 10000 *l.* were only for writing to a Friend, what you believed, and all good Men paſſionately deſired. Having

Having thus mentioned your great Oppreſſion, I ſhall take leave (not for your own, but) for the *Reader's* Information, to inſert the *Reaſons* upon which the *Houſe* of *Lords*, did lately reverſe, that unjuſt and wicked *Judgment* upon you.

1ſt. The *Information* in this *Caſe*, being grounded upon *Letters*, which in themſelves were not material, but made ſo by *Innuendo's*, their *Lordſhips* declared, that *Innuendo's*, or ſuppoſed or forced Conſtructions, ought not to be allowed; for all *Accuſations ſhould be plain, and the Crimes aſcertained.*

2dly. That the *Fine* of 10000 *l.* is exorbitant and exceſſive; not warranted by legal *Precedent* in former Ages; for all Fines ought to be with a *Salvo Contenemento*; and not to the Parties Ruin.

3*d.* That the demanding Sureties for the *good Behaviour*, during Life; except in very great, and very often

ten repeated Crimes; wherein the Publick Peace of the *Realm* is very much concerned; *is contrary to the Liberty of the Subject.*

Sir! to detain you no longer upon a ſubject ſo well known, as is that of your own Sufferings and Defert, I know not whether I ought to apologize, for my frequent uſing the name of *Tory*; I am conſcious, that *Names* of *Diſcrimination* and *Reproach*, are offenſive to the Ears of good Men; therefore to explain my ſelf; I intend not thereby to expoſe the well-deſerving and pious *Members* of the *Church of England*; but I mean the *Men*, who,(being forſaken of common Senſe and Honeſty)ſeemed ready to renounce the name of *Proteſtant*; and *gloried in Ranting, Damning, Swearing Loyalty*; The *Men*, who encouraged and triumphed, in the *Murders* of late committed amongſt us; and who, to this hour, go on to palliat and excuſe, if not

to juſtifie them; The *Men*, who *cryed up a* Popiſh *Succeſſor, as the only means to preſerve the* Church of England, *and who are now for calling him back.*

Theſe were Men, who would have finiſhed the Ruin of the Nation, in the *Diſſolution* of its antient and well Eſtabliſhed *Government*; and in the Blood of its beſt *Patriots*; They gloryed in calling themſelves *Tories*; their *Guide* and *Patron*,did, in their name, thruſt out & ſtigmatize all the ſober and moderate Men of the *Church of England*, with the Name of *Trimmers*, & beſtowed upon them this Apothegme, *That a* Trimmer *is worſe than a Rebel.* Whoever recurs to the *Original* of that *Name*, in the *Obſervators*; will find that it pointed at firſt, at two honourable and never to be forgotten *Proteſtants*, of your Neighbour County, the late *Lord Townſhend* and Sr *John Hobart*, of *Norfolk*; and

quickly

quickly after, Dr *Fowler*, Mr *Smithee*, and many other *Reverend Divines* of the *Church of England*, fell under that Denomination: Now ſurely 'tis not a Crime, to call ſuch Men as theſe by the name which they appropriated to themſelves; and 'twere Fooliſh, to eſteem Men of their practices, to be of any *Religion*.

In ſome caſes a Man ought not to be over-patient; and it muſt move any one, to hear a Learned Lawyer at the Bar, at the time when *Popery* had actually aſcended the *Throne*, in this manner, to careſs a *Tory-Jury*; Gentlemen! *I cannot but with much Sorrow remember to you, and I know you all remember it too well, that there was a time when the* City of London, *was ſo far corrupted, that it was become a* Refuge *and* Sanctuary *for high* Treaſon; *when there was no Juſtice to be had for the* King *there; when Men lodged themſelves within, thoſe*

thoſe Walls, as a Protection for their Conſpiracies; *We all remember the time, when* Indictments *were perferred, and a plain Evidence given to a* Grand-Jury; *even to the publick ſatisfaction of all that heard it; and yet they have refuſed to find the* Bill; *and not only ſo, but were ſo abetted by the* Rabble; *that it was ſcarce ſafe for the* Judges *to ſit upon the* Bench; *Theſe are things none of us can forget, but muſt be perpetually remembred; to the ſhame of the* Authors and Contrivers, *of them.*

And muſt it not provoke a Man, to hear the following *Doctrine* from the *Pulpit*, upon the ſad occaſion of the good *Lord Ruſſell's* death (of whom one of the beſt *Divines* now living, did truely ſay, that an Age would not repaire that loſs to the Nation) viz.

Cuting of Throats would have been counted only a Scotch *way of Triming, and the deſtruction of* Princes, *to be*

no

no more but a perfecting the Hiſtory *of the* Reformation.

They who cannot riſe up to all the heights of Conformity; *can yet ſtrain a point upon occaſion, and riſe up to all the heights of* Rebellion *and* Barbarity; *and had not* God *marvelouſly interpoſed; theſe ſqueamiſh* Conſcience Traytors, *would have ſhewed the truth of this.*

Is it not aſtoniſhing (at this day, when the *Parliament* hath declared, that my *Lord Ruſſell*, *Colonel Sidney* and *Sr Thomas Armſtrong*, were murdered) to heare an Iriſh *Arch-Deacon (who fled hither upon the ſcore of Religion, and is a Principal Manager of our Charity, to the Iriſh Proteſtants)* publickly ridicule, the death of the firſt two; *(by telling us in an upbraiding way, theſe are your Martyrs)* and affirm, that the laſt dyed juſtly and according to Law?

Would ſuch men as theſe, ſatisfie the World, of their *Ingenuity* and *Repen-*

Repentance, theſe *extravagancies* undoubtedly, ought to be put into utter *Oblivion*; now, that *Heaven* has wrought for us, a moſt ſignal and miraculous deliverance; but, which is to be lamented, thoſe very Men, who carryed us to the very brinck of *deſtruction*; are not onely remorſeleſs, but many of them do make it their buſineſs, (by *drinking Popiſh Healths*; wiſhing ſucceſs to their *Arms*; and *ſpreading falſe Newes)* to infect and debauch the *Kingdom* (eſpecially the *City*) and to traduce, maligne and undermine the *Government*, under which, the *divine Providence*, has ſo mercifully placed us: and therefore, they who have given ſuch high provocations and done ſo much miſchief; and do ſtill remain impenitent: ought not to eſteem themſelves unkindly uſed, by ſome tart expreſſions.

Sr! That I may be juſtied with you, who I am ſure would believe the

the beſt of every Man, and make the beſt of all things; I have ſaid much more then I did intend upon this occaſion, and hope you will forgive it.

You have very ſignally, and heartily lent and laid out your ſelf in your *Countries* ſervice; that ſervice was not onely difficult and hazardous, but it had proved fatal, had not *Heaven* interpoſed for your *deliverance*; and therefore, all true Lovers of old *England's* welfare, muſt wiſh, that no falſe Inſinuations may leſſen you in the eſteem of Good Men; *you have been a publick Good*, and that obliges me to be,

February 10. 1689.

Sir!

Your Honourer and

Moſt Obedient Servant.

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Remarks

REMARKS upon the Tryal of Dr *Titus Otes*, upon an Indictment for *Perjury*; at the King's Bench Bar at *Weſtminſter* before Sr *George Jeffryes*, (Baron of *Wem*) Lord chief Juſtice;

(*Whom the* Houſe *of* Commons *had recommended to the* King, *by this Vote, and an Addreſs thereupon*, November *the* 13*th*, 1680. Reſolved,

That Sr George Jeffryes *Recorder of* London, *by traducing and obſtructing Petitioning for the ſitting of this Parliament, hath betrayed the Rights of the Subject.*

Ordered, *That an humble Addreſs be made to his Majeſty to remove Sr* George Jeffryes *out of all publick Offices.*)

Mr Juſtice *Wythens*, (*Who was advanced to a Seat upon that Bench, by the following Vote of the* Houſe of Commons, *October* 29. 1680. Reſolved,

That Sr Francis Wythens, *by promoting and preſenting to his Majeſty, an Addreſs, expreſſing an Abhorrence to Petition his Majeſty for the calling and ſitting of Parliaments, hath betrayed the undoubted Rights of the Subjects of* England.

And this Order thereupon:

Ordered, *That Sr* Francis Wythens *be expelled this Houſe for this high Crime; and that he receive his Sentence, at the Bar of this Houſe upon his Knees from Mr Speaker.* (Which he received accordingly.)

Mr Juſtice *Holloway*, (*late Recorder of* Oxford, *whoſe part in the diſpatching* Stephen Colledge *advanced him to this ſtation.*) And

Mr Juſtice *Walcot*, (*the beſt of all the four, but as poor as Sr* R. Wright, *and by conſequence a fit Tool to ſerve the purpoſe of that Juncture.*)

THat the *Conſpiracy* to introduce *Popery* and *Arbitrary* Government in *England*, took life in the Year 1660. and was from that time carried on, is now little doubted by

by any *Engliſh-man*, who was not a well-wiſher to it. We are not to queſtion the late King *Charles* the ſecond's dying a *Papiſt*, and 'tis as true that he ſo lived; but upon his Reſtoration, that the Duke's turn might be ſerved, he muſt not then declare. An *Act* of *Parliament* was made to forbid our talking of it, under moſt ſevere Panalties: Then another *Act* put the *Sword* into his hands, by veſting the *Militia* ſolely in him: The *Pulpits* of the Kingdom (*generally ſpeaking*) were filled with *Gentlemen* who had imbibed the Doctrine of *paſſive Obedience*, *and Non-Reſiſtance*; An *Oath* was impoſed, *That it was not lawful upon any pretence whatſoever to take up Arms againſt the King, or againſt any Commiſſionated by him*; About *Two thouſand* ſober and pious *Miniſters* were thruſt from the *Churches* and *Corporations* (*and many of them into loathſome Goals*) for *Non-Conformity* to that *Oath*, and to a few ſlight, and as they judged unwarranted *Ceremonies*; and the beſt Members were thrown out of all the *Corporations* of *England* by a pretended *Regulation*, much more early then that of the late King *James*. Matters being thus ripened, and the Nation ſufficient-

ly Debauched by the *Court*-Example, what was wanting but an actual Execution? This the *Conspirators* well knowing, as they did, that the famous City of *London*, was the chief, if not the only obstacle to their Hellish design, a Resolution was taken to destroy it, which they effectually accomplished; discovery of this horrid Villany being made, (not to mention any thing of the worthy Sr *Robert Brookes*, Chair-man of the Committee of Inspection into the firing of *London*.) *Hubert* a poor *French Papist*, being thereof Convict; the House of *Commons*, knowing that such a contemptible *Varlet* was not alone in that Fact, resolved to take him the next day into Examination, for discovery of his *Accomplices and Directors*; but to prevent it, that *Wretches* Mouth was stopt at *Tyburn*, in the Morning before the House met.

I am conscious that there are Persons now in being, who do not only pretend to doubt of this part of the *Popish* Plot, (the burning of *London*) but of the Plot it self, I shall therefore here subjoyn the Sence of one of the best Houses of Commons which ever met at *Westminster* *Janury* the 10*th*, 1680. Resolved,

That it is the Opinion of this House, that the City

City of London *was burnt in the Year* 1666. *by the* Papists, *designing thereby to introduce Arbitrary Power & Popery into this Kingdom.*

It may also be here observed, that at this, as at every other juncture, when any *Popish Plot* was near the point of Execution. The *Papists* had constantly the *Fanaticks* at hand to answer for their Villanies, without doubt the *Burning this Nest of Heriticks*, had been concerted both at *Paris* and at *Rome*, and the time for puting it in execution approaching; In *April* 1666. a *Fanatick Plot* is brought upon the Stage, & seven or eight were Condemned at the *Old-Bayly* for *Ploting to kill the King, and to Burn the City upon the* 3*d day of* September *then following.* (*For a more full account of this the Reader is referred to the* London Gazette, *of* April *the* 30*th* 1666. *Numb.* 48.

The whole *Kingdom* being alarmed and put into a ferment by this accursed Enterprize, the Plot was post-poned; however it was kept alive, and the unwearied *Conspirators* carried it on, and in the Year 1678. the blow was ready to be given; but then, by the Providence of the *Almighty*, Dr *Otes* detected their Machinations; He gave his first Information thereof to that worthy and never to be forgotten Justice of the Peace, Sr *Edmundbury Godfrey*, of which

the *Conſpirators* having notice, for the ſtifling ſo fatal a diſcovery, they, in a moſt barbarous manner, hurried him out of the World, and did, with effronted Impudence attempt to perſwade the World to believe, that that Gentleman was *Felo de ſe*, but Heaven bringing that matter to light, and his Murderers to juſtice; The Plot (maugre all oppoſitions and diſcouragements) began to be ſearched into, and was made out beyond contradiction, by ſome looſe Letters and Papers found in the Houſe of *Colman* (the Duke of *York's* Secretary) who had early notice of the diſcovery, and thereupon had carried his moſt material (and as it may be reaſonably concluded he thought all) Papers which might endanger him, or his Maſter's Cauſe, to the Chamber of Mr *Wright* a Profligate Lawyer of *Lincoln's*-Inn, where they were burnt, for which aſſiſtance and good ſervice, *Wright* was afterwards preferred to ſit by turns in every of the Courts of *Weſtminſter*, and at length to the place of Lord Chief Juſtice of *England*, then whom a Perſon more ſcandalous and ignorant, was never in any Age placed there.

Well,

Well, *Colman* was indicted, the Plot proved by Dr *Otes* and other Witneſſes, & thereby, & by his own Papers he was convicted and executed, as were by degrees ſeveral others: but for the ſake of the Duke, and of the *Roman Catholick* Cauſe, the game muſt be retrived; in order thereto fit Engines were employed, ſome of the *Clergy* (who had long aſſerted, that *Popery was more tolerable then Presbytery*) with their guide the *Obſervator*, made it their buſineſs to decry the Evidence of the Plot, impudently affirming (as in particular did one *Scotred* a grand Jury-Man in the Iſle of *Ely*, who at the time of the Aſſizes there, began the Pope's health to his Brethen of the Grand Jury) *That there was no* Popiſh, *but a* Presbyterian *Plot.*

A great part of the unwary, and looſe Church of *England* Men throughout the Kingdom, appeared to be infected with this mad Doctrine, ſo that to offer Inſtances thereof may ſeem impertinent: however, I ſhall take the liberty to inform the Reader, that upon complaint to the *Judge* ſitting in *Court* (in *September* 1679.) of the above-named *Scotred's* diſcourſe, and drinking the

Pope's health; and *Juſtice* of the Peace, then upon the Bench, fell upon the Perſon who made that complaint, with great rage, and ſwore *By the Name of God there is a* Presbyterian *Plot.*

To this I ſhall only ſubjoyn that which will be a more authentick Evidence of what is above aſſerted (*viz.*) *October* the 28th, 1680. (In the Houſe of Commons;)

Reſolved, *That it doth appear by the evidence this day given to this Houſe, that Sr* Robert Can *is guilty of publickly declaring in the City of* Briſtol, *in* October 1679. *That there was no* Popiſh *Plot, but a* Presbyterian *Plot.*

Ordered, *That Sr* Robert Can, *a Member of this Houſe, be committed to the Priſon of the Tower, and that he be expelled this Houſe.*

Ordered, *That Sr* Robert Yeomans *be ſent for in Cuſtody to anſwer for publickly declaring in* Briſtol, *That there was no* Popiſh *Plot, but a* Presbyterian *Plot.*

Theſe eaſie miſ-guided *Gentlemen* were Diſciples of famous Parſon *Thompſon* of *Briſtol*, whoſe Breath infected that great City, and upon whom the following Vote paſſed in the Houſe of *Commons.*

December the 4th, 1680. Reſolved, *Nemine contradicente, That* Richard Thompſon

Thompſon *Clerk, has publickly defamed his Sacred Majeſty, preached Sedition, Vilified the Reformation, promoted Popery, by aſſerting Popiſh Principles, denying the Popiſh Plot, and turning the ſame upon the Proteſtants, and endeavoured to ſubvert the Liberty and Property of the Subject, and the Rights and Priviledges of Parliament, and that he is a Scandal and Reproach to his Function.*

Reſolved, *That the ſaid* Richard Thompſon *be Impeached thereupon.*

Men of this Kidney having made way for its belief, We were from this time entertained with a Succeſſion of ſham *Presbyterian-Plots*; the firſt thereof, known by the name of the *Meal-Tub-Plot*, being happily diſcovered by Mr *Dangerfield*; both *Lords* and *Commons* taking the Alarm, did ſet themſelves with double diligence to the Proſecution of the *Popiſh-Plot*, and to find out ways for the Uniting *Proteſtants*, and for Eaſing *Diſſenters*; ſo little had the opinion of a *Presbyterian-Plot* prevailed within their Walls; and the *Commons* ſeeing a Diſſolution at hand, paſſed theſe Votes.

December the 15*th* 1680. Reſolved, *Nemine contradicente, That a Bill be brought in for an Aſſociation of all his Majeſties Proteſtant*

Proteſtant Subjects, for the ſafety of his Majeſties Perſon, the defence of the Proteſtant Religion, and the preſervation of his Majeſties Proteſtant Subjects, againſt all Invaſions and Oppoſitions whatſoever, and for preventing the Duke of York, *or any Papiſt, from ſucceeding to the Crown.*

January the 7*th* 1680. Reſolved, *That it is the Opinion of this Houſe, that there is no ſecurity or ſafety for the Proteſtant Religion, the King's Life or the well Conſtituted and Eſtabliſhed Government of this Kingdom, without paſſing a Bill for diſabling* James Duke of York *to inherit the Imperial Crown of* England *and* Ireland ; *and to rely upon any other means or remedies without ſuch a Bill, is not only inſufficient, but dangerous.*

January the 10*th* 1680. Reſolved, *That it is the Opinion of this Houſe, that the Proſecution of Proteſtant Diſſenters upon the* Penal Laws, *is at this time grievous to the Subjects, a weakning of the Proteſtant Intereſt, an encouragement to Popery, and dangerous to the Peace of the Kingdom.*

The next Moment after the paſſing this Vote, the *Parliament* was prorogued for ten days, and quickly after diſſolved.

A new *Parliament* was forthwith Summoned to meet at *Oxford* the 21*ſt* of *March* following; but though the place was changed, the *Conſpirators* found there, moſt of the Zealous *Proteſtant* Members of the *Weſtminiſter Parliament*, who came thither animated to proſecute the *Popiſh Plot*, the Excluſion of the *Duke*, and the Uniting of Proteſtants; by Addreſſes from thoſe whom they repreſented, whereof take an Inſtance.

To the Honourable Sr *Samuel Barnardiſton*, and Sr *William Spring* Baronets, Knights of the Shire for the *County of Suffolk.*

Gentlemen;

WE the Freeholders of this County having choſen you our Repreſentatives in the laſt Parliament, in which We had ſatisfactory demonſtration of your Zeal for the Proteſtant Religion, of your Loyalty to his Majeſties Perſon and Government, and of your faithful Endeavours for the preſervation of the Laws, our Rights and Properties; We now return you our moſt hearty Thanks,

and

and have unanimously chosen you to Represent this County at the Parliament to be holden at Oxford *the 21st of* March *next, and though We have not the least distrust of your Wisdom to understand, or of your Integrity and Resolution to maintain and promote our common Interest now in so great hazard, yet We think it meet (at this time of eminent danger to the King and Kingdom) to recommend some things to your Care, and particularly we do desire ;*

First, *That, as hitherto you have, so you will vigorously prosecute the execrable* Popish Plot, *now more fully discovered and proved, by the Tryal of* William *late* Viscount Stafford.

Secondly, *That you will promote a Bill for Excluding* James Duke of York, *and all Popish Successors from the Imperial Crown of this Realm, as that which under God may probably be a present and effectual means for the preservation of his Majesties Life (which God preserve) the Protestant Religion, and the well Established Government of this Kingdom.*

Thirdly, *That you will endeavour the frequent Meetings of Parliaments, and their sitting so long as it shall be requisite for the dispatch of those great Affairs for which they are*

are convened, as that which is our only Bulwark against Arbitrary Power.

Fourthly, *That you will endeavour an happy and necessary Union amongst all his Majesties Protestant Subjects, by promoting those several good Bills which were to that end before the last Parliament.*

And that till these things be obtained, which We conceive necessary, even to the Being of this Nation, you will not consent to bring any Charge upon our Estates: And We do assure you, that We will stand by you with our Lives and Fortunes, in prosecution of the good Ends before recited.

This *Parliament* beginning where the former left, and being found to adhere unalterably, to the Resolution of rooting out the Plot, and of Excluding the *Duke*, as the only adequate remedy for all the threatning Evils to the Kingdom; they were, after a very few days Sitting, upon the sudden Dissolved, and followed into their own Countries with a *Declaration*, (bearing date *April* the 8*th* 1681.) pretending to set forth the Causes and Reasons that moved the *King* to Dissolve that and the proceeding *Parliament*, but really designed to expose

expoſe and blacken thoſe worthy Patriots; and to that end it was ordered to be read in all Churches and Chappels throughout the Kingdom, which was readily obeyed.

To wheadle the Nation, till it might be nooſed, that *Declaration*, according to the mode of that Reign, ſpoke and promiſed fare, tho' the train, was then laid to blow up our Religion, Laws and Liberties: It exhorted us *that the reſtleſs malice of ill Men who were labouring to poiſon the People, might not perſwade us that the King did intend to lay aſide the uſe of Parliaments; and declared that no Irregularities in Parliament, ſhould ever make him out of love with Parliaments. And that he reſolved by the Bleſſing of God, to have freqnent Parliaments, and both in and out of Parliament to uſe his utmoſt Endeavours to extirpate* (he means Eſtabliſh.) *Popery*, †

† Note, this was after his Fathers Copy, who by a Declaration in the year 1626. to juſtifie his Arbitrary way of Leveing Money by way of Loane, ſaid that his Occaſions would not give leave for the calling a Parliament, but aſſured his People, that he intended not to ſerve himſelf by ſuch ways to the aboliſhing of Parliaments, and yet the Nation ſaw not a Parliament from the 3*d* to the 16*th* year of that Reign, *vide Ruſhworth's Collections*, firſt Part, page 418.

This

This Royal Grace, (*or rather Slander upon one of the three Eſtates*) was not only proclaimed from the Readers Desks, but was promulgated from both Pulpit and Preſs; five dayes after the emiting this Declaration (*viz.*) *April* the 13th 1681. The virulent and envenom'd Pen of *L'Eſtrange* was ſet to work upon, and to vilifie the Evidence of the Plot, Parliaments, nay, the Proteſtant Religion it ſelf. Addreſſes with thanks for the violation of our Rights in the Diſſolution, and likewiſe abhorring *Parliaments* (*our Bulwark againſt Tyranny*) were obtained and moſt graciouſly received, The Preſenters thereof being uſually honoured with *Knighthood*, and rewarded with Preferment to places of Truſt and Profit; By this art the common Cry of a profligate party in every corner of *England* was; *Popery is better then Preſbytery, at leaſt the Papiſts and Diſſenters are equally dangerous, if not all one*; 'tis therefore more then time, that a *Colledge* be hang'd againſt a *Pickering*; And the Nation was almoſt put beſides it ſelf, by the doleful Cry of *Blood, Blood, Aſſociations, Conſpiracies,*

cies, *Rebellion*, *Treaſon*, and what not, that was frightful and terrible.

Rome it ſelf could not poſſibly have ordered matters better for the ſervice of *Holy Church*; the *Proteſtant* Religion is now mocked, Parliaments deried, the Witneſſes of the Plot vilified, and the belief of any other then a *Presbyterian Plot* vaniſhes.

This proceeding gave new Life and heart to the Popiſh *Conſpirators*, and ſtroke no ſmall damp upon their Proſecutors; of the Witneſſes, ſome were bought off, and others terrified from their Teſtimony; of which I ſhould recount Inſtances, but that I have dwelt too long upon the fore-going Melancholy Contemplations.

To proceed therefore to the matter intended, and from which I have too long digreſſed, Dr *Otes* the firſt diſcoverer of the *Popiſh Plot*, being no way ſhaken, but bearing with moſt undaunted Courage and Conſtancy, innumerable Reproaches and Slanders from the *Pulpit* and *Preſs*, nay, and from the *Stage* alſo, Hell it ſelf ſeemed to be engaged to diſcredit and batter down the belief of his Evidence; *Knox* and *Lane*, to blaſt his

his Reputation were employed to accuſe him of an unuſual, but moſt hainous Wickedneſs, that Plot not obtaining, and matters being prepared for placing unmasked *Popery* upon the Throne, he was condemned in *One Hundred Thouſand Pounds*, for words ſpoken of the *Duke of York*, and thereupon ſecured againſt the deſired ſeaſon for the *Conſpirators* taking their full revenge upon him.

Upon the 8*th* of *May*, 1685. he was brought to Tryal in the Kings-Bench Court, upon an *Indictment* to the effect following (*viz.*) that *Whitebread*, *Ireland*, *Fenwick*, *Pickering* and *Grove* (five Jeſuits) *were Indicted of high Treaſon, for conſpiring the Death of King* Charles *the ſecond*; *and that* Ireland, Pickering *and* Grove *were Tryed* December *the* 17*th* 1678. *And that the Defendant gave Evidence, that there was a treaſonable Conſult at the* White-Horſe Tavern *in the* Strand, *the* 24*th of* April, 1678. *at which* Whitebread, Fenwick, *and* Ireland, *and the Defendant were preſent: and that they there came to a Reſolution to Murder the* King, *and that the Defendant carried the Reſolution from Chamber to Chamber to be Signed by*

the Jesuits, whereas in truth he was not present, nor carried any such Resolution to be Signed, and so committed wilful Perjury.

The Jury upon this Tryal, were

Sr *William Dodson*,	*Robert Bedingfield*,
Sr *Edmund Wiseman*,	*Thomas Rawlinson*,
Richard Alley,	*Roger Reeves*,
Thomas Fowles,	*Ambrose Ifted*,
Thomas Blackmore,	*Henry Collyer*, &
Peter Pickering,	*Richard Howard.*

And the Tryal was managed against the Defendant, by

Mr *Attorney* General,

Mr *Solicitor* General,

The *Recorder* of *London*, Mr *North*, Mr *Jones*, Mr *Molloy*; and Mr *Hanses*, *L'Estrange*'s Assistance and Brother Burgess in Parliament for *Winchester*, both of them being chosen by the direction of Mr *Bernard Howard* a noted *Papist*, Brother to Cardinal *Howard*.)

In the First place Mr *Foster*, one of *Ireland*'s Jury, swore what the Defendant evidenced at that Tryal, (*viz.*) his being at the *White-Horse* Consult the 24*th* of *April*, 1678.

Then the King's Counsel produced about

bout twenty *Jesuits* and *Students* of St *Omers*, these all testified that the Defendant came to St *Omers* in *December*, 1677. and went not from thence until *June*, 1678.

Whosoever reads this Tryal, cannot but observe some things worthy noting, as

First, The rage of the *Chief Justice*, and extraordinary zeal of the *King*'s *Council*, both against the Defendant, and the belief of the *Popish Plot*, (of which more in its due place.)

Secondly, The Caresses and tender usage of these Jesuited Sparks, both by the Court and Council; their Evidence was received without the least interruption, not one cross, thwarting, or doubting question being put to any one of them; nay, there did not appear so much temper as to permit the Defendant to propose his questions to them, which made him with undaunted Courage cry out, That his defence was under a very great prejudice, and that there was a turn to be served, and therefore he was not admitted to ask the Witnesses questions; And said, I do verily believe, *That at this rate, it is more*

ſafe for Papiſts *to be Traytors, than for any* Proteſtant *to diſcover a Popiſh Plot.*

Thirdly, The harmony and uniformity of their Evidence, which was ſo extraordinary, that any indifferent Reader muſt judge, that they were inſtructed by their Tutors before they came from St *Omers*, and had oft conn'd their Leſſons by the way, for they did to admiration agree in ſwearing to particular days, and to moſt minute and trivial things, as to the day of playing at Nine-Pins, of a Ball being ſtroke over a Wall, and the like.

In the next place, to inſinuate that the Defendant's Evidence was not always true and credited; the *King's Council* produced the *Earl of Caſtlemaine*, and *Sr George Wakeman*, *who decreed that what he ſwore againſt them at their Tryals was falſe.*

Here the *Chief Juſtice* obſerving the Defendant's undauntedneſs, ſaid, I wonder to ſee any one that has the face of a Man, carry it at this rate, when he hears ſuch Evidence brought againſt him; To which the Defendant reply'd, (very well) I wonder Mr *Attorney* will offer to bring this Evidence, *Jeffryes* (*whoſe Character with*

with King Charles *the ſecond was, that he had the Impudence of ten Carted Whores*) in a raving fit retorted, ſuch Impudence was never ſeen in any Chriſtian Nation, you are a ſhame to Mankind, to which the Defendant's Reply was; No, my Lord, I am neither a ſhame to my ſelf, nor to Mankind; what I have ſworn is true, and I will ſeal it with my Blood if occaſion be; *Ah, Ah, my Lord, I know why all this is, and ſo may the World, but this will not do the work to make the* Plot *to be diſ-believed, things are not to be done by great Noiſes, I will ſtand by the Truth.*

The Defendant in his defence obſerved, that the Indictment againſt him was ſix years after the pretended Perjury; That the Witneſſes againſt him were ſome of thoſe who gave Evidence at the Tryal of the five *Jeſuits*, and tho' there were ſome freſh Witneſſes that they did evidence the ſame thing that was then offered, but the Teſtimony rejected, tho' then, and alſo at *Langhorn's* Tryal, ſixteen St *Omers* Youths were brought to falſifie his Evidence; He further obſerved very pertinently, that *Whitebread* and *Fenwick* were preſent, and heard the whole of the Evidence given by him

upon the Tryal of *Ireland*; that they were Tryed six Months after, and in that time might have provided Witnesses to falsifie his Evidence, they knowing what it was.

He urged that his Case was hard, his Testimony having been received with credit, *And the Jury upon convicting the Jesuits, being told by the Court, That they had found an unexceptionable Verdict, That all the Objections against the Evidence were then fully answered, that there was nothing that the Prisoners had been wanting in, to object, which could be objected, and that the thing was as clear as the Sun*; And that yet after six years he must be called to an account for Perjury in that Testimony, of part of the *Popish Plot*, with which the King and Kingdom, four successive Parliaments, all the Judges of the Land, and three Juries were so well satisfied.

He further observed the several attempts to baffle his Testimony, *viz.* the Murther of Sr *Edmundbury Godfrey*, who took his first Depositions, and the contrivance of *Payne*, *Farwell* and *Thompson*, to make Sr *Edmund Felo de se*. Then he produced these Witnesses, (*viz.*)

Cicely

Cicely Mayo, who swore that she saw *Dr Otes*, at *Sr Richard Barker*'s House in *Barbican*, the latter end of *April* or the beginning of *May*, 1678, and that he came again thither within a few days, and was frequently there; That she remembred the time by a particular circumstance (*viz.*) her Master Sr *Richard Barker*'s being sick all the Month of *April*.

All imaginable art was employed by the Chief Justice, and the King's Council to perplex and confound this, and all other the Witnesses for the Defendant, by impertinent and puzling cross Questions; but she honestly and very boldly stood to it, telling *Jeffryes*, that her Evidence was the Truth, and nothing but the Truth; to which he in a scoffing taunting way replyed, *Ay, no doubt of it, thou swearest nothing but the Truth.*

She further added, that the Defendant came in a disguise, in a white Hat and coloured Clothes, and went to Sr *Richard*'s Ladies Sister, *Madam Thorold* (now in *Wales*) who said to him, Mr *Otes*, I hear you are turned *Jesuite*, and We can have no Society with you now. That a Servant of Sr *Richard*'s, one *Benjamin*

jamine Turbet (ſince dead) ſaw him at thoſe times, and told her that he was turned *Jeſuit*. That he Dyned with *Dr Cocket* and *Madam Thorold* (both now in *Wales*) and with her two Sons (ſince dead) and two Daughters (now in *Lincolnſhire*) at Sr *Richard Barker's* Houſe three or four days after his firſt coming to the Houſe in the latter end of *April*.

John Butler, Servant to *Sr Richard*, witneſſed that *Dr Otes* came to his Maſters in diſguiſe, in the beginning of *May* before the Plot broke out; hereupon *Jeffryes* demanded how he could be able to ſwear to the preciſe time, & vexed him with repeated queſtions; and the demand of reaſons for his remembring the month, (tho' by the way no ſuch queſtion was put to any one of the twenty *St Omers* Witneſſes) to which *Butler* anſwer'd, that he was called to witneſs it about ſix or ſeven Months afterwards, at *Ireland's* Tryal; that he remembred the time by the token that in *May Sr Richard* was ſick at *Putney*, whether he went the latter end of *April*, and ſtayed a fortnight.

The *Solicitor General* endeavoured to confound this Witneſs with abundance of Queſtions very little to the purpoſe,

purpoſe; and *Jeffryes* (with little reaſon) called his Evidence a wild Story without Reaſon. Upon which the Defendant ſaid, Truly, my Lord, I do not find you were ſo ſtrict in the Examination of the St *Omers* Witneſſes, or bore half ſo hard upon them as you do upon my Witneſſes.

Mrs *Mayo* being again and again interrogated and thwarted with apparent deſign to confound her, did declare that ſhe did ſee Dr *Otes* in *May* 1678. and that ſhe ſpoke nothing there but as in the preſence of the Lord: Upon which *Jeffryes* ſaid, *We are all of us in the pretence of the Lord always*; and ſhe retorted, And ſhall anſwer before him for all that we have done and ſaid, all of us, the proudeſt and the greateſt here.

Philip Page ſwore that he could not remember the preciſe time, but that Dr *Otes* came to Sr *Richard Barker*'s in a diſguiſe, when Sr *Richard* was ſick at *Putney* (whereupon the Defendant did well obſerve that the St *Omers* men did ſwear through-ſtitch, but that his honeſt Witneſſes were cautious, it being ſo long ago.)

Mr

Mr *W. Walter* a Miniſter, ſwore that he met Mr *Otes* between St *Martins* Lane and *Leiceſter*-Fields in a ſtrange diſguiſe, and that he did then obſerve the Elm-Trees in *Leiceſter*-Fields budded forth as big as Hazel-Nuts, ſo that by that token he reckoned it was between *Lady-day*, and the latter end of *April*, and that it was near a Year and a Quarter before the time when he was examined about this matter at the Tryal of the five Jeſuits, which was the 13th of *June*, 1679.

The *Attorney General* called theſe Canting Witneſſes that beat about the Buſh, and ſpoke of Uncertainties.

Then the Defendant proceeded in his defence, and offered theſe Objections to the Validity of the Evidence brought againſt him.

1. *That a* Papiſt *in a Cauſe of Religion is not to be received and believed as a good Witneſs*; (and this caſe did ſurely require Witneſſes above all poſſible Objections againſt their Teſtimony.) But

Here Judge *Wythens* interpoſed, ſaying, *Is not a* Papiſt *as good a Witneſs as a Diſſenter*?

Which was anſwer'd by citing *Bulſtrode*

ſtrode's Reports, part 2. 155. *viz. A Popiſh Recuſant is not to be admitted a Witneſs between party and party*; which was alſo my Lord *Cok's* opinion.

Wythens replyed, May a *Presbyterian* be a good Witneſs, Mr *Otes*? and *Holloway* (who had help'd the Blood-hounds to murder *Stephen Colledge*) ſaid, Or would Mr *Colledge* have been a good Witneſs, Mr *Otes*?

Moſt certainly by the rules of Law, the Teſtimonies of theſe Perſons ought not to have been offered in this Caſe to delude the People. And it may be well obſerved here, as it was lately in relation to the Popiſh *Witneſſes about the Birth of the pretended* Prince *of* Wales; *That the Civil Law ſo fully concurs with our Common Law in rejecting Enemies to be Witneſſes in the Cauſe of their Enemy, that it denyes credit to what they may teſtifie in the cauſe of their Enemy, with their dying Breath after they have received the* Euchariſt. *That is the general Concluſion of the Doctors of the Civil Law,* Inimicus etiamſi in Articulo mortis conſtitutus & accipiſſet Euchariſtiam repellitur a Teſtimonio Cauſæ ſui Inimici.

Objection 2. *To the Teſtimony of the St* Omers *Witneſſes was their education, bred*

up

up in a Seminary againſt Law. To which *Jeffryes* anſwered, Every Man that is bred a Diſſenter is bred up againſt Law. Whereupon the Defendant ſaying, My Lord, I have not offered any Diſſenter as an Evidence for me. *Jeffryes* in a reproachful manner retorted, No, they are all of them no doubt of it, very good People; Good-Wife *Mayo* and her Companions, excellent *Proteſtants* without all queſtion.

Object. 3. *The Statute* 27 *Eliz. chap.* 2. entituled, *An Act againſt Jeſuits, Prieſts, and other ſuch like diſobedient Perſons.* Which Act makes it Treaſon for any Jeſuit or Eccleſiaſtick Perſon of the *Romiſh* Church to come into *England.* And the Statute 3. *Car.* 1. *Cap.* 2. whereby it is enacted, That in caſe any Perſon ſhall go into parts beyond the Seas, and be reſident or trained up in any Priory, Abby or *Popiſh* Univerſity or School, he ſhall be diſabled to ſue, or to be an Executor or Adminiſtrator, or capable of any Legacy or Deed of Gift, or to bear any Office, and ſhall forfeit his Goods, and alſo his Lands for his Life.

Object. 4. *The Judgments of* Papiſts *in caſe of Conſcience*, whereby they maintain the

the vileſt Wickedneſs to be lawful for the Churches Service: and they own *They have Diſpenſations to ſwear Lyes for promoting the Catholick Cauſe.*

Object. 5. *What was ſaid and done in the Earl of* Shaftsbury's *Caſe at the Seſſions in the* Old-Bayly *and* Hickes-Hall. It was there moved for Liberty to bring Indictments of Perjury againſt the Witneſſes who accuſed him of Treaſon, but thoſe Motions were over-ruled, becauſe they would not have the King's Witneſſes Indicted of Perjury, nor the *Popiſh Plot* called in queſtion.

Theſe Objections receiving no other anſwer from the Bench, then that all was trifling and idle; and being ſo huff'd off, the Defendant proceeded to ſpeak to this effect,

My Lord, this I ſay, The Evidence upon which I am Indicted, is the ſame which was delivered ſix Years ago, at Whitebread's *and* Langhorn's *Tryals, where were ſixteen Witneſſes againſt me, but what credit did they then receive? Now if my Evidence was then to be believed, though oppoſed by ſo many Witneſſes, what new Objection doth riſe againſt it, which was not then hinted and anſwered——I do avow the*

Truth

Truth of the Popiſh *Plot, and will ſtand by it whilſt I live——I have called ſome Noble Lords to teſtifie for me, but I find either the diſtance of time has wrought upon their Memories, or the difference of the Seaſon has changed their Opinion——VVas ever Man dealt with as I am, or had ſuch Evidence offered againſt him? VVho are the VVitneſſes to prove this Perjury, but Youths out of a Seminary? My Lord of* Caſtlemaine *and* Sr George Wakeman, *known* Papiſts? *As for* Caſtlemaine, *all the World knows he was acquitted, becauſe there was but one Witneſs againſt him, and that without any reflection by the Lord Chief Juſtice* Scroggs *upon my Teſtimony. Then* Wakeman *ſwears all I ſaid againſt him was falſe, whereas had it not been for two diſhoneſt Perſons, one of them (meaning* Graham) *I have now in my ſight, we could have proved* 5000 l. *of the Money paid to him, and that he gave a Receipt for it. But my Lord, this I am ſure of, if I had been a VVitneſs againſt thoſe who ſuffered in the late Fanatick Plot (as 'twas called) I had never been called in queſtion, if my Evidence had been falſe; but 'tis apparent the* Papiſts *have now a turn to ſerve, and theſe St* Omers *Youths are brought to falſifie my Evidence, and*

and to bring off the Lords who ſtands Impeached of high Treaſon for the Popiſh Conſpiracy——My Lord, 'tis not me they Indict, but the whole Proteſtant *Intereſt is aimed at in this Proſecution——For my own part I care not what becomes of me, the Truth will one time or another appear.*

Then Mr *Solicitor* in a long Harangue gave great Reputation to the *St Omers* Witneſſes, and then told the Jury, that the Defendants Witneſſes were theſe four, *Cicely Mayo*, *Butler*, *Page* and *Walter*, the Parſon; and that he would firſt mention *Page* and *Walter*, and ſet them out of the way: *Page* (ſays he) remembers to have ſeen *Otes* in a diſguiſe at Sr *Richard Barker*'s but he is not certain as to the time; and he cannot take upon him to ſay what time of the Year, or what Year it was, only he believes it was in *May*; and therefore that can be no ſufficient evidence to contradict Witneſſes, that with great particularity ſpeak to certain times. As for *Walter* he cannot remember the time when, neither: Nay, the remembrance he has of it goes rather to another time, then the time in queſtion, for being ask'd what circumſtances he knew the time

time by, he ſaid it was about a year and a quarter before the Plot was diſcovered, which muſt be in *April* or *May*, 1677. and that will do the Doctor no ſervice at all upon this queſtion; thus Mr *Solicitor*.

For Tryal of this learned *Gentleman's* Sincerity, I ſhall review the Evidence given by theſe two Perſons, that the Reader may make his Judgment how fairly they were ſet out of the way.

Page did indeed declare, that he could not be poſſitive to the Year or Month, but that to the beſt of his remembrance 'twas in the Year 1678, and in the beginning of *May* (this was like an honeſt conſcientious Witneſs) but what he further teſtified, did evidently ſhew the time to be in the beginning of *May* 1678. For beſides his mentioning the Doctor's coming in diſguiſe, according to the evidence of Mrs *Mayo* and *Butler*, he declared that it was at that time when Sr *Richard Barker* was ill at *Putney*, and that Sr *Richard* came to Town ſoon after, and Mrs *Mayo* and *Butler* ſwore expreſly that the time of the Doctor's coming in diſguiſe, was when Sr *Richard* was ſick at *Putney*, and that that was in the end of *April* or beginning of *May*, 1678. As

As to Mr *Walter*, his evidence was, that he met the *Doctor* in diſguiſe, and did upon that very day obſerve the Elm Trees budded forth, ſo that by that token he thought it might be between *Lady-day* and the latter end of *April*; and as to the Year, that it was near a Year and a Quarter, before he was examined about this matter, at the Tryal of the five *Jeſuits*, which was the 13*th* of *June*, 1679; but Mr *Solicitor* (*to the end this Man's Teſtimony might not ſerve the Doctor, as he himſelf worded it*) repreſents it quite otherwiſe, and tells the *Jury*, that Mr *Walter* ſaid, the time was about a year and a quarter before the *Plot* was diſcovered, and ſo he makes the time to be *April* or *May* 1677, though Mr *Walter*, in ſpeaking for himſelf, being ask'd about the time of the diſcovery of the Plot, ſaid, that he could not tell when the Plot was diſcovered, or whether it be found out yet or no. *Where is the Candor or Ingenuity of this proceeding?*

Now comes the Scandal of the Law, *Jeffryes*, *that mortal Enemy to the Liberties of England*, and all true *Engliſh-men*; He foaming, vomits a flood of Malice and Rage; Firſt, *he careſſes* Sr William

Dodſon *and his Brethren of the Jury, with the complement, that to his knowledge they are Perſons of great underſtanding and abilities*; and adds, that Mr *Solicitor* had ſhortened his Labour, by the pains he had taken, to ſum up the Evidence to them, *which he concluded he had without doubt done, with all faithfulneſs to his Maſter.*

He then proceeds to blacken the Defandant with all the foul Language that Malice could ſuggeſt, and tells his old Friends of the *Jury*, (*whoſe acquaintance with him, diſpoſed them to credit him*) *that the* Popiſh *Plot was a ſham, and that under the pretence thereof, another black and bloody Conſpiracy was carried on*: Then he magnifies the Evidence againſt the Defendant, both from the number of the St *Omers Sparks*, no leſs then twenty, but alſo their harmony; and he affirms, that againſt the credit of their Teſtimony, there was no objection really made, but only Impudence; that the Defendant had produced but two poſitive Witneſſes, & that they were likewiſe poſitive in their contradiction of one another; that they ſwore according as their humour led them, and not according to any remembrance they had of the

the thing; and that he rather believed it, becauſe the third Witneſs, *Page*, gave an Evidence contrary toboth of them, (*how notoriouſly falſe theſe malitious Suggeſtions are, will evidently appear upon the peruſal of what theſe three honeſt and plain-dealing Witneſſes ſwore.*)

Then he comes to the Defendants fourth Witneſs, Mr *Walter*; and poſitively affirms, that he ſays nothing to the matter, for that it did plainly appear, the time which he ſpeaks of, was about a year and a half before the five *Jeſuits* Tryal, which muſt be in 1677. before the Defendant went to St *Omers.*

Mr *Solicitor* told the Jury, that Mr *Walter* ſpoke of a year and a quarter before the diſcovery of the *Plot*; had that been true, it had run it back to the year 1677. and to a time before the *Doctor* went to *St Omers.* His Lordſhip makes Mr *Walter* to ſpeak of about a year and a half before the *Jeſuits* Tryal, which runs it back to *December* 1677. and then the King's celebrated Witneſſes, and Mr *Walter* are agreed; but Mr *Walter* (*ſpeaking for himſelf*) *ſays, the time was near a year and a quarter before*

the Tryal of the Jeſuits, which brings us to April, 1678.

Though the *Chief Juſtice* and *Solicitor* were not agreed in this matter, yet they would not quarrel about it, provided the *underſtanding Jury* would credit either of them, againſt Mr *Walter*, and ſo ſerve the turn they aimed at, the baffling the credit of the *Popiſh Plot*; and not allow this Witneſs to be ſerviceable to the Vindication of *Dr Otes*.

Upon the following day after the Tryal, Dr *Otes* was tryed upon an *Indictment* for an other ſuppoſed *Perjury*, but that proſecution being of the Complexion with what is here preſented, I ſhall not trouble the Reader with any thing further upon this ſubject, then to preſent him with the Names of the Jury (*viz.*)

Sr *Thomas Vernon.*	*George* Tory Ano.
Nicholas Charlton, Eſq;	*H. Loades*, Tory alſo
Tho. Langham, Eſq;	*John Midgley*,
Thomas Hartop,	*John Pelling*,
Francis Griffith,	*Thomas Short*, and
John Kent,	*George Peck.*

The *Juries*, having according to the direction of that Man of Blood *Jeffryes*, brought in the Defendant guilty of both the

the Perjuries; Comes the *Abhorrer of Parliaments*, the tender-hearted good natured Proteſtant Judge *Wythens*, to pronounce the Sentence; previous to it he tells the Defendant, That no *Chriſtian's* Heart can think of the *Innocent Blood* which was ſhed by his Oath, without bleeding; That every knowing Man believed, and every honeſt Man grieved for it: He proceeds, *God be thanked, our Eyes are now opened* ——— ——You had not one Word to juſtifie your ſelf from that great and heinous Perjury you were accuſed of [*tranſcendant Impudence.*]

This very Perſon *Wythens* being Council for *Knox*, did declare openly in the Court of *Kings-Bench*, that Dr *Otes* had ſerved the Nation too well to be vilified in that Court.

The Judgment of the Court (*inter alia*) is, *You ſhall upon* Wedneſday *next be Whipt from* Algate *to* Newgate.

Upon Friday *you ſhall be Whipt from* Newgate *to* Tyburn, by the Hands of the common Hangman.

This I pronounce to be the Judgment of the Court upon you, and I muſt tell you plainly, *If it had been in my power to have carried it further, I ſhould not have*

have been unwilling to have given Judgment of Death upon you.

I ſhall ſum up all, with the ſenſe of the preſent *Houſe of Commons* upon this whole proceeding, which take in this Vote;

Martis 11*th die Junij* 1689.

Reſolved, *That the Proſecution of* Titus Otes *upon two Indictments for Perjury in the Court of Kings Bench, was a deſign to ſtifle the Popiſh Plot, and that the Verdicts given thereupon were corrupt, and that the Judgments given thereupon, were cruel and illegal.*

Notes upon the Tryal of *Nathaniel Reading* Eſq; for attempting to ſtifle the King's Evidence as to the horrid Popiſh Plot; upon *Wedneſday*, the 24th of *April* 1679. before the Lord Chief Juſtice *North*, &c.

THe Conſpirators againſt our Religion, Laws and Liberties, being ſtruck with aſtoniſhment, and the Impriſoned and Impeached Traytors with no

no ſmall Terror, at the moſt providential and happy acceſſion of Captain *William Bedloe's* Teſtimony, to the diſcovery made by Dr *Otes* of the helliſh Popiſh Plot, in which he had ſtood ſingle, and much diſcouraged, we do quickly find their thoughts at work how to remove this newly acquired Witneſs. Their way of taking off Sr *Edmundbury Godfrey* having ſo highly diſ-ſerved their Cauſe, that is not to be again practiſed, therefore, the reſolution taken in the preſent caſe, is to tamper with, and buy off Captain *Bedloe*, & they pitched upon Mr *Reading* to carry on this Intrigue, whoſe parts and principles did very well qualifie him for ſuch an undertaking, but Mr *Bedloe*, being above the reach of very powerful Temptations, he very honeſtly, detected the villainous, Attempts upon him, and the *Suborner* was brought to Juſtice as follows:

The Indictment ſets forth the Plot againſt the *King*, the *Government* and the *Proteſtant Religion*, and that *Colman*, *Ireland* and *Grove* were tryed, condemned and executed for the ſame. That ſeveral *Lords*, viz. the *Earl* of *Powis*, *Lord Viſcount Stafford*, *Lord Bellaſis*

laſis, *Lord Arundel* of *Wardour*, *Lord Petre*, and alſo *Sr Henry Titchbourn* ſtand impeached of the ſaid Treaſon: That *Reading* well knowing theſe things, and to obſtruct and ſtifle them, and retard the proſecution of Juſtice againſt the *Lord Powis*, *Stafford*, *Bellaſis*, *Petre* and *Sr Henry Titchbourn*, did, on their part, the 29th of *March* Laſt, ſolicit, ſuborn and endeavour to perſwade *Mr William Bedloe*, whom he knew to have given Information of thoſe Treaſons againſt the ſaid Perſons, to leſſen, ſtifle, and not to give in evidence the full truth againſt them, and to give ſuch evidence as he ſhould direct, and to that purpoſe did give him *fifty ſix Guineas*, and promiſed him other great Rewards, to the hindrance and ſuppreſſion of Juſtice.

The Jury were theſe;

Sr *John Cutler*,	*Thomas Caſs*,	
Joſhua Galliard,	*Rains. Waterhouſe*,	
Edw. Willford,	*Mathew Bateman*,	
Tho. Henſlow,	*Walter Moil*,	
Thomas Earſby,	*Richard Pagget*,	
John Serle,	*John Haines*.	

Eſquires. Eſquires.

The King's Counſel were,
Sr *Creſwell Levens*,
The *Attorney General*,
Mr *Ward*.

The

The evidence of this Practice and Subornation, was very clear and full, particularly Mr *Bedloe* witneſſed, that *Reading* had often treated with him about mincing his Evidence for the bringing off the Lords, and Sr *Henry Titchbourn*, and gave him Money at ſeveral times, and did draw up a Paper of what *Bedloe* ſhould Swear, and did carry it to the *Lords* in the Tower, to be viewed and corrected by them: Mr *Speke* teſtified that *Bedloe* had from time to time informed him how the Treaty was carried on; that upon the 29th of *March*, 1679. Mr *Speke* and *Wiggins*, *Bedloe*'s Servant, being concealed in his Chamber, Mr *Reading* came, and in the firſt place asked whether any body could hear their diſcourſe, and being aſſured that he was ſecure and ſecret, he told Mr *Bedloe*, upon his demand, what the *Lords* in the *Tower* ſaid, and what my Lord *Stafford* ſaid, that as to my Lord *Stafford*, he ſhould be ſure of the Eſtate in *Glouceſterſhire*, which had been promiſed to be ſetled upon him; for my Lord had ordered him to prepare a blank Deed, which within ten dayes after his Diſcharge, ſhould be perfected; and the reſt of the

Lords

Lords did assure him, that after they were acquitted, in proportion to the service he did them, in lessening of his Evidence, he should have a plentiful Reward.

That *Bedloe* did then demand to have something under their hands, but *Reading* said, that they think that not convenient, but I do take their Words, and you must take mine; and then promised to go to the Lords in the Tower against Munday, to prepare and bring him the Instructions from them for his Evidence.

Mr *Speke* added, that upon the *Munday* morning, he was to watch and see the Delivery of the Paper and did see *Reading* put it into *Bedloe's* hand, in the *painted-Chamber*, who immediately delivered it to Mr *Speke*: This Paper was all of Mr *Reading's* writing, and being read in Court, was found to contain the purport of the Evidence to be given against the *Lords*, and was so ordered that the whole was only hear-say, and could no way touch them.

Wiggins agreed with Mr *Speke*, in the Evidence given, of the Transactions between Mr *Bedloe* and Mr *Reading*, in Mr *Bedloe's* Chamber. *Reading*

Reading coming to make his Defence, offered nothing against the credit of the Witnesses, but did, in effect, confess all they had testified, and the whole matter charged in the Indictment, and in truth he was the greatest witness against himself, as was well observed, after he was found guilty; by the Right Honourable Sr *Robert Atkyns*, then one of the Judges of the Common-Pleas, (but soon after thrust out for non-Compliance with Sr *Francis North*, then Chief Justice; and is now most deservedly *Lord Chief Baron* of the *Exchequer*, and *Speaker* of the *House* of *Lords*.)

The *Jury* having brought him in guilty, he was fined 1000 *l.* adjudged to a years Imprisonment, and to be set in the Pillory upon the Munday following, for the space of one hour, in the Palace-Yard in *Westminster*.

When the late King *James* ascended the Throne, he was a particular Favourite, and his Suffering in this matter was well rewarded.

It may not seem impertinent, to present the Reader, upon this occasion, with so much of *Captain Bedloe's* solemn Death-Bed Declaration, as the *Lord Chief Justice North*

North allowed the World to see, his Lordship was pleased to acknowledge, that he took *Captain Bedloe*'s Examination upon Oath at *Bristol*, upon the 16th of *August* 1681. And that *he declared, that the* Duke *of* York *had been so far engaged in the* Plot, *that there was no part that had been proved against any Man that had suffered, but he was to the full guilty of it; all but what tended to the Kings Death; from the trouble whereof the Jesuits had undertaken to deliver the* Duke. And his Lordship added, that Mr *Bedloe* told him he lookt upon himself as a dying Man, and that he *must shortly appear before the Lord of Hosts, to give an account of all his Actions*; and that, because many persons had made it their business to baffle and deride the *Plot*, He did for satisfaction of the World there declare, *upon the Faith of a dying Man, and as he hoped for Salvation*, that whatever he had testified concerning the *Plot* was true; and that he had many Witnesses to produce, who would make the *Plot* as clear as the Sun. *That the Jesuits had resolved the King's Death, and would spare him no longer, than he continued to be kind to them; And that they resolved to set up an Head for their Cause here, whatever came of*

of it; and said, *that if they should slip the opportunity they then had, they should never have such another.*

Notes upon the Tryal of *Thomas Knox* and *John Lane*, for a *Conspiracy* to Defame and Scandalize Dr *Otes* and Mr *Bedloe*, thereby to discredit their Evidence about the Popish Plot; At the *Kings*-Bench Bar at *Westminster*, upon the 25*th* of *November*, 1679.

The Judges then upon the Bench were,
Sr *William Scroggs*, *Lord Chief Justice*,
Sr *Francis Pemberton*, and
Sr *Thomas Jones*.

THe unlucky miscarriages of *Reading*'s attempt, to corrupt the *King*'s Evidence, or to overthrow the credit of their Testimony, deterred not others from prosecuting so pious a work; for that it instantly succeeded by the cursed Conspiracy of *Knox* and of *Lane*, and *Osburne*; the one lately, the other at that

that time a Servant to *Dr Otes*, but Juſtice overtook them; as the following Scheme of their Tryal ſhews.

The Indictment being read, upon their pleading not guilty, the following Jury was ſworn.

Sr John Kirke, Kt.	Esq.	*John Roberts*,
Thomas Harriot,		*R. Waterhouſe*,
Henry Johnſon,		*Thomas Earsby*,
Simon Middleton,		*Joſeph Ratcliffe*,
Hugh Squire,		*James Supple*,
Francis Dorrington,		*Richard Coope.*

The King's Council, were *Mr Attorney General*, *Mr Solicitor General*, *Mr Serjeant Maynard*, *Sr Francis Winnington*, *Mr Williams*, *Mr Thomas Smith*, & *Mr Trenchard*.

For KNOX, *Mr Saunders*, *Mr Withens*, & *Mr Scroggs*.

For LANE, *Mr Holt*, (aſſigned by the Court.)

The *Indictment* (opened by Mr *Trenchard*) was, that whereas *Colman*, *Ireland*, *Pickering* and *Grove*, conſpired to deſtroy the *King*, and change the *Religion* Eſtabliſhed by Law; & to introduce *Popery*, and were thereof Convicted, Attainted and Executed; And whereas the *Lord*

Lord Powis, *Lord Arundel* of *Wardour*, and others were accuſed of thoſe Treaſons, and Impeached for the ſame in Parliament, *&c.* The Defendants knowing Mr *Otes* and Mr *Bedloe* had given Information of theſe Treaſons, to ſtifle the Evidence and ſcandalize them, did conſpire to repreſent them as wicked Perſons, and of no credit. And the Indictment further ſets forth, that *Knox*, with the agreement of *Lane* and *Osbourne*, cauſed Letters to be wrote, with contrivance to accuſe *Otes* and *Bedloe*, that they had conſpired falſly to accuſe the E. of *Danby*. And that *Otes* had attempted to commit *Sodomy* with *Lane*; that, to effect thoſe wicked deſigns *Knox* gave ſeveral ſums of Money to *Osbourne* and *Lane*, and had promiſed great Rewards to them.

Then the Cauſe was opened by that moſt incomparable Perſon (*the honour of the Law*) old *Sr John Maynard*, (*now firſt Lord Commiſſioner of the great Seal*, whoſe Ability, Integrity and Deſert, have kept him from a Seat upon the *Benches of Weſtminſter*, till about the eighty eight Year of his Age; when Heaven ſet the Law free) he ſpoke to this effect; This

This Cauſe is of great conſequence; there hath been an horrid and abominable *Conſpiracy*, againſt the *King*, the *Nation*, our *Religion* and the *Law*: The firſt diſcovery of this *Conſpiracy* came from a ſingle Perſon, who ſtood ſingle and diſcouraged a long time, and there were endeavours to diſcourage his further diſcovery, when it ſtood ſo. Sr *Edmundbury Godfrey* having taken his Examination, then the endeavour was to ſuppreſs it, and that by no leſs a wickedneſs then the barbarous Murder of that honeſt Gentleman; that being accompliſhed, they ſtrived to baffle and defame him when dead. All this while he ſtood ſingle; it fell out, by the mercy of God, that *Bedloe* made a further diſcovery, and publick Juſtice has gone upon it.

Then they attempted to corrupt his Teſtimony with Bribes and Rewards, and *Reading*, who tranſacted it, is attainted of it, *ſcelere tutandum eſt ſcelus.*

Having gone all theſe ways, they return again to ſee if they can diſgrace and baffle the Evidence of *Otes* and *Bedloe*, by ſcandalizing them, with foul offences, eſpecially Dr *Otes*; and that was

was thus, *Knox* tampered with *Lane*, a Servant to *Otes*, to accuſe him of the Horrid Sin of *Sodomy*: In order to it, there were Letters wrote by *Osborne*, who is run away, but contrived by *Knox*.

It happens in this Caſe as it did long ago; as the *Hiſtorian* told us, *Multi ob ſtultitiam non putabant, multi ob ignorantiam non videbant, multi ob pravitatem non credebant et non credendo conjurationem adjuvabant.* To this Sr *Creſwell Levens*, the King's Attorney-General added, *This is a counter-part of Mr* Readings *Caſe, only it ſeems in this to differ, that it exceeds the Original.*

In the proceeding upon the Cauſe, it was proved that *Lane*, upon his firſt coming to Dr *Otes* in *November* 1678, had a deſign to accuſe him, as he afterwards did, of *Sodomy*, *a Crime above the common ſtandard of Villanies*; That he declared whilſt he was with the *Doctor*, that he hoped in a ſhort time to get 1000*l.* That *Lane* ſent for Sr *William Waller*, that he might confeſs the whole Contrivance to him, declaring that he was pricked in Conſcience for the falſe Oaths he had taken.

That *Lane* and *Osborne* had confeſſed

before a *Committee* of the Houſe of *Lords* (and alſo before Sr *William Waller* and *Juſtice Warcup*) that they were ſuborned by *Knox* to ſwear falſly againſt *Dr Otes* and *Mr Bedloe*, *and that he had given them money to do it.* That *Knox* made *Lane* and *Osborne* ſwear Secrecy, and to ſtand faſt to the Inſtructions he had given them. That he went to the *Sugar-Loaf* in *Pickadilly*, and took Lodgings for them, and lay there with them, and promiſed them Money and Preferment; and told *Lane* that he need not doubt but the *Lords* in the *Tower* would acknowledge their Kindneſs.

That *Lane* and *Osborne* ſaid, they were going from *Dr Otes*, that they were ſworn Brothers, if the one did go, the other would; and they ſhould get Perferment, and have 100*l. per annum*, and 500*l.* in Money.

As to *Knox* his endeavours to blaſt the Teſtimony of Dr *Otes* and Mr *Bedloe*, it was proved, That

Knox endeavour'd to ſuborn *H. Wiggins* to accuſe Mr *Bedloe*, his Maſter. That he propoſed to *Thurſton*, a Servant to Dr *Otes*, to be very kind to him, if he could find any thing to Swear againſt his

his Maſter. That *Knox*, to invite *Wiggins* to betray and accuſe Mr *Bedloe*, ſaid, The King knows *Otes* and *Bedloe* to be great Rogues, and when he has got what he can out of them, he will hang them up. That when *Knox*, *Lane* and *Osborne* were Priſoners in the Gatehouſe, for this contrivance; *Knox* offered the *Under-Keeper* a Reward to allow him to correſpond by Letters with *Lane*, and gave him three half Crowns, deſiring him to ſpeak to *Lane* to ſtand faſt to him, and then they *ſhould be two againſt one*; for he fear'd *Osborne* had betrayed them about the buſineſs of Dr *Otes*; That *Knox*, and *Lane*, and *Osborne* went to *Juſtice Dewy*, and *Knox* told him, he was adviſed to come to him to take an Information againſt Dr *Otes*; and that they went to *Juſtice Cheyney* upon the ſame errand. That *Lane* had been kept the laſt Summer at the *Lord Powis* his Houſe, & had 10*s. per* week allowed him. That *Knox* was to have 30 or 40*l.* to carry on the buſineſs, and that *Knox*, *Osborne* and *Lane* were to be rewarded by the *Lords* in the Tower for their Evidence againſt Dr *Otes* and Mr *Bedloe*.

That *Lane* being taken, *Knox* ſent for *Osborne*, and carried him in a Coach to *White-Fryers*.

That the Papers relating to the *Conſpiracy* were delivered by *Knox* to *Dangerfield*, and went about to the *Lords* in the *Tower*, and afterwards to *Nevil* alias *Paine*, and were by him amended, and then delivered to *Knox* again.

The Caſe appearing ſo very clear upon the Evidence, the *Jury* without going from the Bar found the Defendants guilty. Whereupon they received this merciful Sentence; *Knox*, the principal, (*who is now at this day in a better ſtation* (*at Court*) *than ever he was in his Life, or could ever have hoped for*) Fined two hundred Marks; to be Impriſoned a year, and to be bound to the good behaviour for three years; *Lane* Fined one hundred Marks; to ſtand once in the Pillory, and to be impriſoned a year.

Notes

Notes upon the Tryal of *John Taſborough* and *Ann Price for Subornation of Perjury*, in endeavouring to perſwade *Mr Stephen Dugdale* to retract and deny his Evidence about the *Popiſh Plot*, with an intent to ſtifle the further Proſecution of the ſame. At the *Kings Bench*, upon the third of *February* 1679. before *Sr William Scroggs*, *Sr Thomas Jones*, *Sr William Dolben*, and *Sr Francis Pemberton*, Judges of that Court.

The Jury were,

Thomas Harriot,	*Edward Willford*,
Tho. Johnſon.	*Richard Bull*,
Char. Umphrerile,	*Joſeph Ratclaffe*,
Tho. Earsby,	*Richard Cooper*,
Richard Pagget,	*James Supple*,
John Greene,	*George Read.*

THe ſuborning attempt of *Knox* & *Lane*, was ſucceeded by another of the like nature, carried on by two

Popiſh Engines, Mr *Taſborough* and Mrs *Price*; which being likewiſe happily detected, they were proſecuted as follows;

The Indictment was to this effect, That *Whitebread*, *Harcourt* and *Langhorne*, and others, were convicted and attainted for Treaſon, and that *Dugdale* had been a material Evidence againſt them, and the Defendants knowing this, and contriving to ſtifle the evidence of thoſe Treaſons, did before *Harcourt's* Tryal, ſuborn and endeavour to perſwade *Dugdale*, not to give evidence againſt him, and after the Tryal ſolicited him to retract the Evidence he had given; and promiſed him large Rewards for it; and to accompliſh it, they incited him to withdraw and retire himſelf, and produced a Note which he was to ſign, which follows in theſe words, *Being touched with a true Remorſe of Conſcience, and hearty ſorrow for the great ill I did, in coming in a Witneſs againſt the* Catholicks, *and there ſpeaking things which I know in my Conſcience to be very far from the Truth, I think my ſelf bound in duty both to God and man, and for the ſafety of my own Soul, to make a true declaration, how I was drawn in to this wicked action: But being very well ſatisfied that I ſhall create my ſelf many powerful Enemies upon this account, I have retired my ſelf to a place of ſafety, where I will with my own Hand diſcover the great wrong that hath been done the* Catholicks, *and hope it may gain belief: and likewiſe, I proteſt before Almighty God, that I have no motive to induce me to this Confeſſion, but a true Repentance for the Miſchiefs I have done, and hope God Almighty will forgive me.* And they promiſed him great Rewards to ſign this Note. To this Indictment they pleaded not Guilty.

The King's Counſel were,	*For* Tasborough,
Mr *Serjeant Maynard*,	Mr *Pollexfew*,
Mr *Attorney-General*,	Mr *Seroggs*,
Solicitor-General,	Mr *Thompſon*.
Mr *Belwood*.	*For* Price,
	Mr *Saunders*,

Mr Serjeant Maynard obſerved to the Jury that this practice was not new, and minded them of what *Reading*, and what *Knox* and *Lane* did, and that this was the third Cauſe of that kind, and it went ſomewhat further then the two former; for this was to be done in writing, and ſubſcribed by *Dugdale* to be

produced upon occaſion, to defame all the Evidence; the Witneſſes being then called, *Dugdale* teſtified, that he had been long acquainted with *Mrs Price*, and that before *Harcourt*'s Tryal, ſhe deſired him to be kind to *Harcourt*, becauſe he had been her Confeſſor; and *Mr Wright* teſtified, that he over-heard her make this requeſt to *Dugdale*; and that *Dugdale*, upon their parting, told him (upon his enquiry what ſhe ſaid to him) that it was to take off his Evidence againſt *Harcourt*.

Dugdale further teſtified, that ſhe treated with him for to retract his Evidence, and to be gone, and to leave the Paper behind him, to ſignifie the trouble in his mind, for the wrong done in his Teſtimony: *To this he is invited by the Promiſe of* 1000 l. *of a Pardon for Body and Soul, and aſſurance of Security abroad.*

That *Dugdale* acquainted my *Lord* of *Shaftesbury*, *Mr Hambden* and *Mr Charleton* with this; who adviſed him to get ſome Perſons to be by, when they further treated about this buſineſs, which he did.

That *Mrs Price* told him, *that the Duke of* York *had a wiſe Council*, and contri-

ved it ſo, that if he would come over to them, there would not a *Papiſt* more ſuffer; that the *Witneſſes* ſhould in a ſhort time be hanged, * The *Plot ſhould be turned on the* Proteſtants, & Popery *ſhould be eſtabliſhed in half a Year.*

That *Mrs Price* brought *Mr Tasborough* to him, who told him that all that *Mrs Price* had propoſed & promiſed to him, ſhould be perform'd; that he muſt ſign the Paper; be gone, and give no more evidence; and he ſhould have protection, pardon and ſecurity; and *That* Tasborough *tranſacted all this in the Duke of* York's *Name.*

Dr Chamberlain teſtified, that he was in a Cloſet in *Dugdale*'s Chamber, and that Mrs *Price* came into the Chamber, and he heard their Diſcourſe; and ſhe told him, that the *Spaniſh Ambaſſadour* was unwilling to treat with him, becauſe he muſt uſe an *Interpreter*, which would be dangerous. That ſhe perſwaded him to be gone,

* Note this, of Hanging the Witneſſes is the ſame Argument uſed by *Knox* in his tampering with *Lane* and *Oſborne*, and it evinces, that by the common conſent of the Conſpirators, ſome of the Witneſſes were to be corrupted, & theſe who were temptation proof, to be ſcandalized and hanged.

gon, and the *Duke of York* would protect him, pardon him, and give him 1000 *l.* and that then *Dugdale* said to her, You know Mrs *Price* that I began not this Intrigue with you, but you proposed it to me, which she owned; That upon *Dugdale's* demanding of her how the 1000 *l.* should be secured; She said she would in a Weeks time bring a Person of quality, who should secure it to him.

Mr Cleave, who was in the Closet at the same time, testified to the same effect with *Dr Chamberlaine*; and added, that *Dugdale* asked her when he should go to the *Spanish Ambassadour*; and that *Dugdale* told her, he well liked her offer of bringing a person of Quality to secure the 1000*l.* and she then said, you shall have the *Duke of York*'s Protection, and a Pardon, not only for your Body but your Soul; *a large Proffer*?

That *Dugdale* told her, that his coming over to them, and going away, would signifie little, there being *Dr Otes* and others to go on with the Evidence: To which she answered, We do not care so much for them, for the *Duke*'s Eye is only upon you.

Sr

Sr *Robert Southwell*, Sr *John Nicolas*, and Sr *Thomas Doleman*, Clerks of the *Council*, testified, that Mrs *Price*, being examined before the *Council* the 23d of *October*, and being demanded who fram'd the Paper for her, set forth in the Indictment, she said, that she studied it, and indicted it her self.

That Mr *Tasborough* being asked about the Paper, spoke very cautiously; that he did not positively say he had pressed *Dugdale* to sign it, but told him, unless he signed it, he could not proceed to get any favour for him, for that was to testifie him to be a Penitent.

Mr *Crosse* testified, that Mrs *Price* spoke to *Dugdale* not to proceed further against *Parson's* (a *Priest* in the Gatehouse) than he had done.

The guilt of the *Defendants* being thus clearly made out, and nothing material offered in their defence; the *Jury* without stirring from the Bar, found them both guilty of the Charge in the Indictment.

It might have been reasonably expected, that the reiterated attempts to suborn the Witnesses of the *Popish Plot*, would have irritated the Justice of the

Nation,

Nation, to more ſeverity upon theſe Offenders; but 'tis evident, that the *Plot* did daily grow and gain ground, even upon our Courts of Juſtice.

I ſhall here take occaſion to obſerve, what Fines had been formerly impoſed upon *Proteſtants*, for Offences, very ſlight, compared with this; Mr *Joſeph Brown*, in the *Term* before the *Popiſh Plot* broke out, in 1678. was adjudged to pay 1000 Marks fine; to find Sureties for the good Behaviour for ſeven years, and to have his Name ſtruck out of the Roll of Attornies, and what was his Crime? Why, the Superſcribing a Pacquet to the *Eaſt-Indies*, wherein was only incloſed a very good Book, called the *Long Parliament Diſſolved*.

Benjamine Harris a Book-ſeller, in the year 1680. adjudged to pay 500 *l.* Fine, to ſtand in the Pillory, and to be bound to the good Behaviour for three Years; (and Chief Juſtice *Scroggs*, would have had him Whipt into the bargain, but that Mr Juſtice *Pemberton* checkt it, by holding up his hands in Admiration) this perſons Crime was, the publiſhing a Book called, *An Appeal from the Country to the City*, in which this paſſage was contained

tained; *We in the Country have done our parts in chuſing good Members for Parliament, but if they muſt be Diſſolved or Prorogued when-ever they come to redreſs the Grievances of the Subject, we may be pitied, not blamed, if the Plot takes effect, as in all probability it will, Our Parliaments are not then to be condemned, for their not being ſuffered to ſit occaſioned it.*

But now, when we come to Judgments for Miſdemeaners on the other ſide; We ſhall perceive great Compaſſion and Mercy appearing in that Court; indeed *Reading*, who was Convicted for the firſt attempt upon the *King's-Witneſſes*, was adjudged to pay 1000*l.* to be Pilloried, and Impriſoned for a year; and one would have thought, that more ſevere Judgments would have paſt upon ſuch as ſhould dare to repeat the ſame Crimes, after ſuch an Example; but we ſee the contrary; About ſix Months afterwards *Knox* and *Lane* being Convicted of the ſame Offence, accompanied with much blacker Circumſtances, *Knox* the principal, was only Fined 200 Marks, and condemned to a years Impriſonment, and to be bound to the good Behaviour for three years: And *Lane* Fined 100 Marks,

and

and adjudged to ſtand once in the Pillory, and to be Impriſoned a year. And now in the Caſe before us, (Mr *Tasborough*, a Gentleman of a good Eſtate, who had treated about ſo great a Villany in the name of the *Duke of York*) was only Fined 100*l.* And Mrs *Price* 200*l.* But who can admire at this notorious departure from the rules of Juſtice and Equality in the aſſeſſing of Fines, that remembers that the *Chief Juſtice Scroggs, did in this very* Term *declare in open Court, in the Caſe of* Dr Jeſſop, *a very honeſt and worthy Proteſtant of* Norfolk, *that he would have regard to Perſons and their Principles, in impoſing of Fines; and would ſet a Fine of* 500*l.* *on one perſon, for the ſame Offence, for which he would not Fine another* 100*l.* And accordingly Fined Dr *Jeſſop* 100*l.* for reporting falſe News, as they called it, and at the ſame time Fined the *Doctor's Author* of that News, (*a right Tory no doubt*) only five Marks; Now ſurely will the Reader ſay, this *Jeſſop* was undoubtedly a very naughty Man; but to undeceive him, I can affirm, he is as true a *Church* of *England*-Man as can be found; and the bad Principle, which made him to be thus marked, was, that he

he was an avowed Enemy to *Popery*, and true to the *Liberties* of *England*; and did, upon every occaſion, exert himſelf, to a degree hardly to be equalled by any Gentlemen of *Norfolk*; for the chuſing deſerving men for *Knights* for the ſhire; and particularly for Sr *John Hobart*, then whom none ever deſerved better of that County, and whoſe name will always be remembred there, with great Honour. For this extravagant Partiality and Injuſtice in impoſing Fines, the Court of *Kings-Bench*, was deſervedly marked with this Vote of the Houſe of *Commons*.

December the 23*d* 1680.

Reſolved, *That the Court of* King's Bench, *in the Impoſition of Fines on Offenders of late years, hath acted Arbitrarily, Illegally, and Partially, Favouring Papiſts and perſons Popiſhly affected, and exceſſively Oppreſſing Proteſtants.*

Reflections

Reflections upon the Proceedings in the *Old-Baily*, before the Lord Chief Juſtices, *Pemberton* and *North*, *November* 24*th* 1681. upon an Indictment for High Treaſon, framed againſt the Right Honourable *Anthony Earl* of *Shaftesbury*, for conſpiring the Death of the *King*, and Subverſion of the Government.

THe Names of the *Grand-Jury*, returned by Sheriff *Pilkington* and Sheriff *Shute*, and who were Sworn upon that occaſion, were,

Sr *Sam. Barnardiſton*,
John Morden,
Thomas Papillon,
John Dubois,
Charles Herle,
Edward Rudge,
Humphrey Edwin,
John Morris,
Edmund Harriſon,
Joſeph Wright,
John Cox,
Thomas Parker,
Leonard Robinſon,
Thomas Shepherd,
John Flavel,
Michael Godfrey,
Joſeph Richarſon,
William Empſon,
Andrew Kendrick,
John Lane, and
John Hall.

A ſort of people called *Tories*, (wedded to their own blindneſs) having loudly clamoured of this great *Jury*, I ſhall here add the names of thoſe who were returned upon the ſame Pannel.

Alderman Ellis,
Mr *Mellish*,
Mr *Tho. Gardener*,
Mr *Samuel Swinnock*,
Mr *Ben. Godfrey*,
Mr *John Pollexfen*,
Mr *John Smith*,
Mr *John Gardener*,
Mr *Peter Delenee*,
Mr *Peter Hubland*,
Mr *William Aſhurſt*,
Mr *John Deagle*,
Mr *Thomas Weſtern*,
Mr *Bonnel*,
Mr *Gabriel Wheatley*,
Mr *Tho. Carpenter*,
Mr *L. Baſkerville*,
Mr *George Marwood*,
Mr *John Smith*.

And now, let all who know the *City* of *London* judge, whether a more ſubſtantial Pannel, in every reſpect, was ever returned to ſerve at the *Old-Baily*.

The *King*'s Council for the management of this *Intrigue*, were,

The *Attorney-General*,
Sr *Francis Wythens*, (*the Abhorrer of Parliament*.) And
Mr Saunders (*afterwards the Quo Warranto*, *Lord Chief Juſtice*.)
Mr Graham, (*the Solicitor of all the late*

Sham Plots upon Proteſtants, *and pay-maſter of corrupt Juries and perjured Witneſſes*) *ſolicited this Proſecution, and hence took his firſt ſtep to ſuch Preferment, as enabled him to give Eight or ten thouſand Pounds with a Daughter*; 'Tis to be lamented that he hath lived to this day without further Preferment, in the way, which at that time the then Lord *Chancellor* promiſed to honeſt *Captain Wilkinſon*.

The magnified Evidence of this horrid Treaſon, and that, which the *King*'s *Council* relying upon, begun with, was a Paper proved by Secretary *Jenkins*, Mr *Blaithwaite*, and Mr *Gwin*, to have been found in the *Earl*'s Houſe; of which ſuch noiſe has been made in the World, by the virulent *Obſervator*, and the *Popiſh* news-Writers (as well as from too many of our *Pulpits*) that it may not be ungrateful to the Reader, to be here preſented with the very words thereof, which follow,

The Aſſociation.

WE the Knights, &c. *finding, to the grief of our Hearts, the* Popiſh Prieſts *and* Jeſuits, *with the* Papiſts, *and their*

their Adherents, *and* Abettors, *have for ſeveral years laſt paſt, perſued a moſt pernicious and helliſh Plot, to root out the true* Proteſtant Religion, *as a* peſtilent Hereſie, *to take away the Life of our Gratious* King, *to ſubvert our* Laws *and* Liberties, *and to ſet up* Arbitrary Power *and* Popery.

And it being notorious, that they have been highly incouraged by the Countenance and Protection, given and procured for them, by James Duke of York, *and by their expectations of his ſucceeding to the Crown; and, that through Crafty* Popiſh *Councils, his Deſigns have ſo far prevailed, that he hath created many and great Dependants upon him, by his beſtowing Offices and Preferements, both in Church and State.*

It appearing alſo to us, that by his influence, Mercenary Forces *have been levied and kept on foot, for his ſecret Deſigns, contrary to our Laws*; *the* Officers *thereof having been named and appointed by him, to the apparent hazard of his* Majeſties Perſon, *our* Religion *and* Government, *if the Danger had not been timely fore-ſeen by ſeveral Parliaments*; *and part of thoſe Forces, with great difficulty, cauſed by them to be Diſbanded, at the Kingdoms great Expence*;

and, it being evident; that, notwithstanding all the continual endeavours of the Parliament, to deliver his Majesty *from the* Councils, *and out of the power of the said* Duke; *yet his interest in the Ministry of State, and others, have been so prevalant, that Parliaments have been unreasonably Prorogued and Dissolved, when they have been in hot pursuit of the* Popish Conspiracies, *and ill Ministers of State, their Assistants.*

And that the said Duke, *in order to reduce all into his own Power, hath procured the Garrisons, the Army and Ammunition, & all the Power of the Seas, and Souldiery, and Lands belonging to these three Kingdoms, to be put into the hands of his Party, and their Adherents, even in opposition to the Advice and Order of the last Parliament.*

And, as we considering with heavy hearts, how greatly the Strength, Reputation and Treasure of the Kingdom, both at Sea and Land, is wasted, and consumed and lost, by the intricate, expensive management of these wicked destructive Designs; and finding the same Councils, after exemplary Justice upon some of the Conspirators, to be still pursued, with the utmost devillish Malice, and desire of Revenge, whereby his

his Majesty *is in continual hazard of being Murdered, to make way for the said* Duke's *advancement to the* Crown; *and the whole Kingdom, in such case is destitute of all security of their* Religion, Laws, Estates *and* Liberty; Sad Experience, in the Case of *Queen Mary*, having proved the wisest Laws to be of little force, to keep out *Popery* and *Tyranny* under a *Popish Prince.*

We *have therefore endeavoured in a Parliamentary way, by a Bill for that purpose, to Bar and Exclude the said* Duke *from the Succession to the* Crown; *and to Banish him forever out of these Kingdoms of* England *and* Ireland; *But the first means of the* King *and* Kingdoms *safety being utterly rejected; and we left almost in Despair of obtaining any real and effectual Security; and knowing our selves to be intrusted, to advise and act for the preservation of his* Majesty *and the* Kingdom; *and, being perswaded in our Consciences, that the dangers afore-said, are so eminent and pressing, that there ought to be no delay of the best means that are in our power, to secure the* Kingdom *against them; We have thought fit to propose to all true Protestants, an Union amongst themselves, by*

ſolemn and ſacred Promiſe, of mutual Defence and Aſſiſtance, in the preſervation of the true Proteſtant Religion, *his* Majeſty's *Perſon, and Royal State, and our* Laws, Liberties *and* Properties; *and we hold it our bounden Duty, to joyn our ſelves for the ſame intent, in a* Declaration *of our united Affections and Reſolutions in the form enſuing.*

I A. B. *do in the Preſence of* God, *ſolemnly Promiſe, Vow and Proteſt; to maintain and defend, to the utmoſt of my Power, with my Perſon and Eſtate, the true* Proteſtant Religion, againſt Popery, *and all* Popiſh *Superſtition, Idolatry, or Innovation; and all thoſe, who do or ſhall endeavour to ſpread or advance it, within this Kingdom.*

I will alſo, as far as in me lies, maintain and defend his Majeſty's *Royal Perſon and Eſtate, as alſo the Power and Priviledge of* Parliaments, *the lawful Rights and Liberties of the Subjects, againſt all Incroachments and Uſurpation of Arbitrary Power whatſoever; and endeavour entirely, to Disband all ſuch Mercenary Forces as we have reaſon to believe were raiſed to advance it, and are ſtill kept up in and about the City of* London; *to*

to the great Amazement and Terror of all the good People of the Land.

Moreover, James Duke *of* York, *having publickly profeſſed and owned the* Popiſh Religion, *and notoriouſly given Life and Birth, to the damnable and helliſh* Plots *of the* Papiſts *againſt his* Majeſty's *Perſon, the* Proteſtant Religion, *and the* Government *of this Kingdom:* I will never conſent that the ſaid *James Duke* of *York* or any other, who is, or hath been a *Papiſt*, or any ways adhered to the *Papiſts* in their wicked Deſigns, be admitted to the Succeſſion of the *Crown* of *England*: *But by all lawful means, and* by force of Arms, *if need ſo require, according to my Ability,* will oppoſe him; *and endeavour to Subdue, Expel and Deſtroy him, if he come into* England, *or the Dominions thereof, and ſeek by Force to ſet up his pretended Title; and all ſuch as ſhall adhere unto him, or raiſe any War, Tumult, or Sedition for him, or by his Command, as publick Enemies of our* Laws, Religion *and* Country.

To this end, We and every one of Us, whoſe hands are here-under written, do moſt willingly bind our ſelves and every one of Us, unto the other; joyntly and ſeverally, in the

Bond of one firm and loyal Society, or Association; and do Promise and Vow before God, *that with our joynt and particular Forces, We will oppose and pursue unto Destruction, all such as upon any Title whatsoever, shall oppose the Just and Righteous ends of this* Association; *and Maintain, Protect and Defend all such, as shall enter into it, in the just performance of the true intent and meaning of it. And, lest this just and pious Work should be any ways obstructed or hindred, for want of Discipline and Conduct, or any evil-minded Persons under pretence of raising Forces for the Service of this* Association, *should attempt or commit Disorders; We will follow such Orders, as we shall from time to time receive from this present* Parliament, *whilst it shall be sitting; or the major part of the Members of both Houses, Subscribing this* Association, *when it shall be prorogued or dissolved; and obey such Officers as shall by Them be set over Us, in the several Countries, Cities and Burroughs; until the next meeting of this, or another* Parliament; *and will then shew the same Obedience and Submission to it, and those who shall be of it.*

Neither will we for any respect of Persons, or Causes, or for Fear, or Reward; separate

rate our selves from this Association, or fail in the prosecution thereof, during our Lives, upon pain of being by the rest of us prosecuted and suppressed, as perjured Persons, and publick Enemies to God, *the* King, *and our Native* Country.

To which Pains and Punishments we do voluntarily submit our selves, and every one of us, without benefit of any colour or pretence to excuse it.

In witness of all which Premisses, to be inviolably kept, we do to this present Writing, put our Hands and Seals, and shall be most ready to accept and admit any others hereafter into this Society and Association.

It is to be observed, that this Paper had neither date, nor any Hand to it; nor did it appear of whose Hand-writing it was; but Sr *Francis Wythens* aggravated the matter, saying, That tho' the Paper began very plausibly, and went a great way so, yet in the last clause but one, they came to perfect levying of War, declaring, that they would joyn to destroy the mercenary Forces about *London*; (*the Words by the way were, to disband the mercenary Forces raised*

raiſed and kept up to advance Arbitrary Power; but ſuch a miſtake may be remitted to Sr *F. Wythens*, and alſo to that ſmooth *Lord Chief Juſtice North*, who in ſuming up the Evidence to the Grand-*Jury*, did wilfully (no doubt of it) make the ſame miſ-repreſentation of that matter. Mr *Saunders* added, that the deſign of the Paper was pretended to oppoſe *Popery* and *Arbitrary Power*, and deſtroy the *Papiſts*; which ſeemed not ſo much in it ſelf; but that their Witneſſes would ſhew, who thoſe *Papiſts* were that were to be deſtroyed.

And now the *Witneſſes* are called, who were, *John Booth*, (a moſt notorious and ſcandalous Villain, who had been guilty of ſeveral Felonies); *Edward Turberville*, and *John Smyth*, an *Iriſh Prieſt* (who were manifeſtly perjured in the Tryal of honeſt *Colledge*) *Brian Haynes*, *John Macnamar*, *Dennis Macnamar*, *Edward Ivey* and *Bernard Dennis* (*Profligate Iriſh Witneſſes*, who, according to every ſeaſon, had traded in *Swearing and Counter-ſwearing*.)

It may ſuffice to preſent the Impartial Reader with the Names of theſe ſcandalous Fellows; for 'twould be nauſeous

nauſeous to detain him, in reading the non-ſenſical, incredible, contradictory ſtuff, ſworn by them; as *That the Earl would raiſe the Kingdom, to compel the King to give* Haynes *a Pardon. That the Government was to be changed to a Commonwealth, and the Duke of* Buckingham *to be King. That the Earl ſhould tell* Macnamar, *and* Ivey, *that he would bring the King's Head to the Block.* That a Perſon of the Earl of *Shaftesbury*'s extraordinary caution, *ſhould talk Treaſon* (or any thing elſe) *with ſo infamous a Fellow as* Haynes, *for an Hour together, in a Cook's Shop in* Ironmonger-Lane.

It ſeems here worthy of Obſervation, that the *Conſpirators* clap'd this *Noble Lord* into the *Tower*, in the beginning of *July* 1681; but the Term coming on, when they muſt proſecute him, or he would be bailed out; they were then to ſeek for *Engliſh Witneſſes* to back the truſty *Iriſh*; ſo *Booth* and the reſt were rak'd together; and *Captain Wilkinſon* (*one of the honeſteſt Men, then or now living*) was tempted and threatned, at a more then ordinary rate, to come in, to back and credit their Teſtimony; as was evidently made out by his *Informa-*

tion

tion, which, to his eternal honour, he publiſhed before this proſecution; an *Abſtract* whereof, I do hereunto ſubjoyn, to evince the curſed practices of thoſe days, and to mind an ungrateful Generation, of the merit of that worthy upright Perſon.

It may *alſo* deſerve Remark, that the Treaſonable diſcourſes Sworn againſt his Lordſhip by theſe Varlets, were fix'd by them, to *February* and *March* before; the *Inſtructors of theſe Witneſſes* well remembring, that that was a time when the *Nation* was in no ſmall ferment, upon the trifling with *Parliaments* for the introducing *Popery* and *Tyranny*; yet moſt of theſe *Witneſſes*, upon their examination, were forced to acknowledge that they gave(*or rather ſold*) their *Informations*, after my *Lord* of *Shaftesbury* was committed in *July*, upon a *Warrant* for *high Treaſon*, which *Secretary Jenkins* (*who managed this whole Intrigue and the Witneſſes thereof*) gloried, that he had the honour to ſign.

I ſhall here take occaſion to declare, what I have long believed, that the amuſing us in *England*, with the *Iriſh-Popiſh Plot*, did proceed from the depth of

of the *Jeſuits Counſels*, with deſign to trip up the Heels of their execrable *Plot* here; & that they ſent us theſe wretches on that very errand. I do alſo think that the *Conſpirators* then at *White-Hall*, did, in the management of this *Intrigue*, over-reach this great and wiſe Lord, the *Earl of Shaftesbury*; and that his zeal to extirpate *Popery* in both the Kingdoms, diſpoſed him to be too credulous in that matter of the *Iriſh Plot*, at leaſt as to the honeſty of the *Witneſſes* thereof. But, what Man endued with the leaſt grain of Honeſty and Senſe, could ever credit the Evidence againſt this *Noble Peer*, after the reading Mr *Colledge*'s *Tryal*; and the *Information* of worthy *Captain Wilkinſon*, about this very affair.

As to the Paper found in the *Earl's* Houſe, and upon which ſo great ſtreſs was laid, I ſhall here note, that at this time it was notoriouſly known, even in every *Coffee-Houſe*, *that an Aſſociation* (and very probably this now given in evidence) *had been reſolved upon and read in Parliament*; and the *Fore-man* of the *Grand-Jury*, who was a *Member*, well knowing that the *Plot-Secretary* was then

of

of the *House* of *Commons*; examined him ſtrictly obout it; but he appeared very reſerve and cautious in his anſwers, and could not at firſt remember that he had heard of the *Aſſociation*, but as *Town-talk*; but being cloſely followed with Queſtions by the worthy *Fore-man*, he, very unwillingly, went a little further, ſaying, That to the beſt of his remembrance he was not preſent in the *Houſe* at the Reading the *Aſſociation*; *though 'tis notoriouſly known that he did there make Speeches againſt it.*

To evince that the project of an *Aſſociation* was no new thing; I cannot hinder my ſelf from a ſmall digreſſion, to ſhew, that one of this former *Secretary's Confidents*, *Nathaniel Thompſon*, the *Popiſh Printer*, had publiſhed the news of this *Aſſociation*, near two years before this proſecution; it is in his *Intelligence* of *December* the 9th, 1679, in theſe Words, *A form of an Aſſociation is preparing, for People to ſubſcribe, for the defence of the* King's *ſacred* Perſon, *the preſent Eſtabliſhed Forme of Government, and the* Proteſtant *Religion, paralel to that in* Queen Elizabeth's *time, which was afterwards confirmed by* Act of Parliament. *This ſeems to take its Riſe from the Reſolve of*

of the late Parliament.

This very *Advertiſment* may be well ſuppoſed to put ſuch as were curious to know the Tranſactions of that time, to get a ſight of the *Aſſociation*, ſo notified to be on foot; and 'tis very probable, that by that means it might, as news, be handed to the *Earl* of *Shaftesbury*, and ſo come to be thrown by amongſt his old Papers; however, had not an upright underſtanding *Engliſh-Jury* interpoſed, it had as certainly deſtroyed the Honour, Eſtate and Life of this never to be forgotten *Noble Lord*, as the *Weſtminſter Carpenter (in diſguiſe with his little Presbyterian Band)* and his eleven *Brethren*, did deſtroy the brave *Colonel Sydney*, upon the evidence of old looſe Papers, found in his Houſe, enforced with a *Maxim* in three cramp words, *Scribere eſt Agere*; as unintelligible, in all probability, to that *pack'd Jury*, as was the *Treatiſe* of that *great Man*, or as the Maxim it ſelf is to learned *Lawyers*.

Well, to conclude, after much contrafting between the *Jury* and the *Court*, *whether the Jury might conſider the credibility of the Witneſſes*; which the *Chief Juſtice* denyed; and Mr *Papillon*, with much tugging, having gained a great point

point of the *Court* (viz.) *That they were within the compass of their own Understanding and Consciences to give their Judgment*; Which is in truth no more than the giving them leave, *to see with their own Eyes, hear with their own Ears, and judge by their own Reason*; *the Jury* returned *Ignoramus* upon the *Indictment*, to the unspeakable satisfaction and joy of all Men, who were not in the *Conspiracy* or *Well-Wishers* to it.

An *Abstract* of *Captain Henry Wilkinson's Information*, of what passed between him, and the Persons who attempted to prevail with him, *to swear high Treason against the Earl of Shaftesbury*.

Imprimis,

HE declares on his Oath, That upon the 8th of *October*, 1681, Mr *Walter Baines* came to him in the *King's-Bench Prison*, and, caressing him with great kindness, told him, that Mr *Browrig* was sent *Prisoner* to *York-Castle for Treason, and for appearing for the Earl of Shaftesbury*.

He

He then told the *Informant*, that he could not but know much of my Lord *Shaftesbury's* designs against the *King*; and, that if he would make discovery to him, he was ready to do him any Kindness, and desired an opportunity; and added, that he had been lately with Mr *Graham*, and that he had a great Interest with my Lord *Hide*.

That *Baines* spent all the time he staid with him, in expressing a great deal of Zeal upon that subject, and assured the *Informant*, that he should have *Pardon*, and should be considerably rewarded, to which the *Informant*, (perceiving what was designed, and resolving to humour it) seemed to listen, telling *Baines*, that when he was requited for his former Services (having suffered much for *King Charles the first*, and been very active in the Restoration of the *second*) he would serve his *Majesty* in what he could.

That upon the 11th of *October*, the *Informant* was sent for to Mr *Booth*, who was a *Prisoner* at *Weaver's* House near the *King's-Bench* (*he having been removed thither the Night before from one of the Compters*) That the *Informant* understood

Booth to be in the design; that he had known him above twenty Years, and to be a person of good learning, and ingenuous, but of bad Principles, and very ill Reputation, having been accused and condemned for Cliping and Coyning, besides Murder, therefore he resolved to stand upon his Guard.

That *Booth* said to the *Informant*, that he was to tell him, that he had an opportunity to be a better man in his Fortune then ever he was, and to make his Fortune; and *that he might have* 500*l. per annum, to him and his Heirs, or* 10000*l.* which he pleased, to discover what he knew of my *Lord Shaftesbury*, and of his design to change the Government to a Common-wealth, and to *witness against him*; to which the *Informant* replyed, that no Body would believe that he should be trusted with such a design; but that *Booth* answered, that he was the likeliest man to know, having served the *King*, and been slighted; that the *Informant*, (to humour the matter, and to provoke *Booth* to speak his full mind) told him, that he was with the *Lord Shaftesbury* the Night before he was apprehended, and that *Sr Thomas Armstrong was there.*

That

That the *Informant* gave an account of this Transaction to one *Mr Gervas James* that Night, desiring him to put it in Writing, *declaring that if he should be tempted to Swear any thing of a Plot or Design by the* Lord Shaftesbury *against the King, it was for Reward, and desired him to witness it against him.*

That upon the 12th of *October*, he was invited to the same place, to *Booth*, with whom he found *Baines*, where they tempted him as before, to be a *Witness* against the *Lord Shaftesbury*, who answered, that till he was satisfied for by-past Services, he would not be any way concerned at *Court*, but that if they would give him *two Thousand Guineas* towards the Injury he had received, he would discover what he knew; but still declared that he knew nothing of any design by that *Lord*; but that the more he declared he knew nothing, the more *Booth* urged the Reward, saying, that 500*l. per annum*, or 10000*l.* was intended for him. That the *Informant* upon *Booth*'s importunity said, when he had the Money and a Pardon, he would do any Service he could; that *Baines* thereupon told him,

that he might have a *Pardon* in two or three days, and then took his *Chriſtian* Name; which the *Informant* conceived was with intention to get a *Pardon.*

That upon the 13*th* of *October*, the *Informant* was ſent for by *Booth* & *Baines* to dine with them at Mr *Weaver*'s *Houſe*; and that Mr *Graham* came thither, and told the *Informant*, whom he had known about twenty years, that my *Lord H. and my Lord H.* and the two *Secretaries of State*, had inquired of him concerning the *Informant*, and his Reputation, and that he the ſaid *Graham*, had anſwered, that the *Informant* had ſerved the *King* and his *Father* faithfully, and was a very honeſt Man, and a great ſufferer; and had received great diſappointments; *and they had ſent him the ſaid* Graham, *to carry him to the* King, *where he ſhould have his promiſe to be requited for his Sufferings, and to receive his Royal Promiſe for his Reward.* That the *Informant* thereupon told *Graham*, that he could ſay nothing, and would not go to *Whitehall*; upon which *Graham* ſaid, *That whether he could ſay any thing or not, he might be recompenced for his Sufferings*; Whereupon the *Informant* took leave, and went away diſſatisfied to be ſo tempted. That

That upon the 14th of *October*, *Booth* came to the *Informant*, to know whether he would go to the *King* or not, and told him, *That Mr* Wilſon, *my Lord* Shaftesbury's *Secretary, then in the Gate-Houſe, had offered to come in and make diſcovery if he might be pardoned, and therefore he would have the Informant to have the honour to be the firſt diſcoverer.* That the *Informant* then telling him, that he had no buſineſs at *Whitehall*. *Booth* ſaid, if he would not go to the *King*, the *Lord Chief Juſtice's Warrant* would be ſent to fetch him to his *Chamber*, where ſome of the *Council* would examine and ſwear him, that *Booth* then demanded of him, whether he did not ride with Sword and Piſtols, out of Town with the *Lord Shaftesbury* when he went to *Oxford*, which being confeſſed by the *Informant*, *Booth* then ſaid, that he muſt needs be privy to this, that if the *King would not paſs three Acts*; *one, for excluding the Duke, the next for making void the Act of* Queen Elizabeth *againſt* Recuſancy, *and the third for uniting* Proteſtants, *then by force of Arms he was to be compelled*; *and added, that all the Council were ſatisfied that he knew this.*

That upon the 15th of *October*, *Booth* came again to the *Informant*, to know whether he would yet go to *Whitehall*. Who demanding for what: *Booth* ſaid, To evidence againſt the *Earl of Shaftesbury*. And being told by the *Informant*, that he had nothing to ſay againſt him, *Booth importuned him not to loſe the great opportunity he then had.* That *Baines* then came to them, and the *Informant* inquired why they ſhould be ſo urgent to have him a *Witneſs*? who told him, *There were yet none but* Iriſh Witneſſes *who had not credit; but if he would come in, though he had been unfortunate in his private Concerns, yet he was not blemiſhed in his Credit.* That *Baines* then told him, if he would not go to *Whitehall*, the *Marſhal* had a *Habeas Corpus* to carry him, and ſo they parted.

That about four in the afternoon the *Marſhal* came, with *Booth* and *Baines*, and compelled him to go to *Whitehall*: That there, *Secretary Jenkins*, and my *Lord Conway*, did ſtrictly examine him about the *Lord of Shaftesbury*, and what he knew of any deſign againſt the *King*; who told them he knew nothing, That the *King* then came, and honoured the *Informant*,

Informant, by ſaying, *that he knew him well, and that he had ſerved his Father and him faithfully, and he hoped he would not decline his Obedience*; to which the *Informant* anſwering, *that he deſerved not to be ſuſpected*, the *King told him, that he had not had an opportunity to ſerve his Friends, but hoped he might, and promiſed to conſider the Informants Sufferings*, but told him, that what kindneſs was intended him, was not with a deſign to invite him to ſpeak a word, but truth it ſelf; and then demanded what he knew of a deſign againſt his Perſon, and Government; that he thereupon told the *King* that he knew nothing of any *Plot* or *Deſign* againſt his *Majeſty* or Government; that the *King* ſeemed not to be ſatisfied; *but ſtill preſſed hard upon him*; and he, not being able to give any ſatisfactory anſwer to the queſtions put to him by the *King*; his Majeſty told him, if he would ſay, as he hoped to be ſaved, he knew nothing of any deſign againſt his Perſon, he would believe him; which the *Informant* did ſay, in thoſe very words; at which the *King* ſeemed to wonder, That then he was left to *Secretary Jenkins*, *who uſed ſuch Arguments as he thought fit*; And

then he was carried into another Room, before the *King*, *the Lord Chancellour*, *Lord Hallifax*, and *Lord Hide*, the two *Secretaries*, and *Chief Juſtice Pemberton*, and Examined there; *Graham*, *Burton* and *Baines being preſent:* That the *Chancellour* was ſharp upon him, with ſeveral Queſtions, which the *Informant* could not anſwer, and would not believe, but that he muſt be guilty of knowing great things againſt the *Lord Shaftesbury*: That thereupon the *Informant* told him, if they would not take his Word, he would declare his Knowledge upon Oath if they brought the *Lord Shaftesbury* to Tryal, and *that without any hopes of Gain or Advancement*, upon which, the *Chancellour* told him, *there were two ſorts of Advancement, and he need not give himſelf that trouble, for he himſelf was like to come to Tryal before the Lord* Shaftesbury. That then the *Chancellour* demanded of the *Informant*, whether he had not a *Commiſſion* for the new Service againſt the *King*, which being denyed; he told the *Informant*, that he was to have a *Troop of Fifty Men*, and that *Booth*, who ſtood by, gave that Information, and was Liſted under him; which *Booth* affirmed to be true, and that he had made Oath of it;

it; that the *Informant* knowing his Innocence, was unconcerned, and told the *Council*, *if they had ſuch another Witneſs they might do his Buſineſs.*

The *Information* of *Gervas James* Gentleman.

THat Captain *Wilkinſon* upon the 11*th* of *October*, 1681. and daily afterwards, acquainted him, with the Treaties and Tranſactions between him and *Baines*, *Booth* and *Graham*, and the other perſons mentioned in the fore-going *Information*, and that they were in ſubſtance the ſame with what is therein ſet forth, the *Informant*, at *Captain Wilkinſon*'s requeſt, and for his own ſatisfaction, having kept a daily journal during the ſaid Treaties.

The *Information of Mrs Suſannah Wilkinſon*, Wife of Captain *Wilkinſon*.

THat upon the 12th of *October*, 1681, ſhe found her Husband at *Weaver*'s Houſe, with *Booth* and *Baines*, who were very largely treating him with Wine; That her *Husband* ſtepping out, *Booth told her that he was a moſt obſtinate man*; and deſired her to perſwade him, to be

be guided by him; *and ſaid, the King would do more for her Husband then ever the* Ld. *of* Shaftesbury *would, and was ſenſible of his Service and Sufferings*; And if her *Husband* would be perſwaded by him, the ſaid *Booth*, to appear againſt the *Ld. of* Shaftesbury, *he ſhould have* 500 *l. per annum ſettled upon him and his Heirs forever.*

That upon the 14th of *October*, 1681, ſhe being with her *Husband* at the *King's Bench-Priſon*; *Booth* came, and deſired her for *God's ſake*, to perſwade her Husband to be ruled by him; *and that if he would, he might be a happy man, and the Duke of* York *would ſettle* 500 *l. a Year in* Ireland *upon him and his Heirs.*

Having, in the fore-going Abſtract, ſhown what mighty Temptations honeſt Captain *Wilkinſon* withſtood; I ſhall now intimate ſomething of the manner how the *Iriſh VVitneſſes* were corrupted, and wrought upon; to Swear againſt my Lord of *Shaftesbury*.

Mr *Robert Boulter* of *London* Stationer, and *Mary Cox* of *Stoke-Newington* in *Middleſex* Spinſter, upon the 8th of *July* 1681. gave *Information* in writing upon Oath, before *Sr John Fredrick*, a Juſtice of the Peace for *London*, That upon

upon the 7th of *June* 1681. *Bernard Dennis* told them, that *David Fitz. Gerald* had made him great proffers, to retract his Evidence about the *Popiſh Plot*.

Bryan Haynes made Oath before the *Council* the 5th of *October*, 1681. that *David Fitz. Gerald* one of the *King's Evidence*, about the end of laſt *February*, told him, that he had poſſeſſed the *King*, that *the late Plot was a Presbyterian Plot*, and invented by the Earl of *Shaftesbury*, to extirpate the Family of the *Stewarts*, and turn *England* into a *Common-wealth*, or ſet the Crown upon the *Earl's* Head. That *Fitz. Gerald* did diverſe times tamper with the Deponent to retract his Evidence concerning the *Popiſh Plot*, and that *Fitz. Gerald* told him, that he wanted but *John Macnamar* to come in and joyn with him, and he would have the Earl of *Shaftesbury's* Head off, and Sham the whole *Popiſh Plot*.

This Information of *Bryan Haynes* is ſtill extant, and certified to the World by Mr *Blathwayte*, then one of the Clerks of the *Council*, in theſe Words,

A true Copy of a Paper, remaining at the *Council-Board*, atteſted in

in pursuance of an Order in *Council*, dated the 5th of *October*, 1681.

William Blaithwaite.

Now, Is it not a most astonishing thing, and not to be believed in the next Age, that the *King*'s *Council*, should, without blushing, produce these very Men, *Dennis*, *Haynes*, *Macnamar*, &c. as Witnesses against this Noble Lord; and that Mr *Secretary Jenkins*; and Mr *Blaithwaite*, and Mr *Gwin*, *Clerks of the Council*, could stand in the Court and hear them give their Evidence without Exclamation? But they may say as the Poet hath it,

Ætas Parentum peior Avis,
Nos tandem protulit Progeniem
Vitiosorem.

Notes upon the Tryal of Mr *Stephen Colledge* at *Oxford*, upon an Indictment for High Treason, the 17th of *August*, 1681.

THe *Conspirators* having been disappointed of many an hopeful *Plot*, an

and to this time not getting one to bear; They now resolve to content themselves with a very ill-favoured one; and *having suborned and bought in a Set of proper Witnesses*; They resolve, first to enter them upon *Stephen Colledge*, a Joyner, before they run them at more *Noble Game*.

Hereupon he is clap'd into the *Tower*, and an Indictment for High Treason, is offered to this following *City-Grand-Jury*.

John Wilmore,	*Edward Powel*,
William Mackley,	*Paul Dorrel*,
Sampson Puller,	*Francis Lascoe*,
Thomas Cope.	*John Armiger*,
Peter Mortimer,	*Samuel Totton*,
John Wood,	*John Pettyt*,
Thomas Haynes,	*S. Main*,
Thomas Fox,	*Caleb Hooke*, and
John Read,	*Robert Davies*.
Marke Stretton,	

These *Gentlemen* well-seeing the Villany of the practice, and *weighing* (as undoubtedly they might and ought) *the Credibility of the infamous Witnesses*; They reject the *Bill*, & hand it back to them who sent it, with an Honourable *Ignoramus*.

The Being of their *Plot*, depending upon their gaining the point against this

this Poor Mans Life, They change the *Scene* to *Oxford*; and at the *Assizes* there, one *Gregory*, the well-disposed *Sheriff* of that *County*; picks out a *Grand-Jury* for the purpose, and so an Indictment of *Treason* is there found against him.

Matters being thus prepared for the *Murdering* this honest Man, the *Proto-Martyr in the sham Presbyterian-Plot*, and it being a thing of mighty moment, these four *Judges* are speeded to *Oxford*, armed with a special Commission to try, or rather to dispatch him.

Lord Chief Justice North,
Mr Justice Jones,
Mr Justice Raymond,
Mr Justice Levins.

Colledge is hurried from his close Imprisonment in the *Tower*, down to *Oxford*, and was, at his first entring the *County*, exposed by *Gregory* the *High Sheriff*, and mocked at the House of *Mr Stoner a notorious Papist*.

Upon the 17th of *August*, 1681. he is brought into the Court, where the Council against him were;

The Attorney General,
The Solicitor General,
The late infamous Lord Chancellor,
Serjeant Holloway, *Mr*

Mr *North*, and
Mr *Jones*.

He being charged with an *Indictment for conspiring the Death of the* King, *and to levy War, and subvert the Government*; prayed a Copy of the *Indictment*, and the Names of the *Jury*; and that the *Court* would assign him *Counsel*; these things were not only refused him, but an un-heard of *Injustice* was put upon him, for just before he was brought into the Court, *they took from him the Papers which he had prepared for his defence*, and most unjustly with-held them.

Then this Jury was sworn to pass upon him.

Henry Standard,	*Roger Brown*,
William Big,	*Timothy Doily*,
Robert Bird,	*Ralph Wallis*,
John Shorter,	*John Benson*,
William Windlow,	*John Peircy*, and
Charles Hobbs,	*John Laurence*.

Now *Mr Attorney General* falls to work about him, addressing himself in this manner to the Jury;

Gentlemen! The *Prisoner* stands Indicted of *High Treason*, and that of the deepest dye; it is for an endeavour to destroy

deſtroy the King, to ſubvert the Government, and to raiſe a Rebellion—— He laid his deſign to ſeize the King at *Oxford*, and he wanted not his *Accomplices* to do it: But they were not *Proteſtants*, but Men that were *Rebels* in the late War——

The World never was, nor never will be obliged with a Liſt of the Accomplices here talked of.

In order to this, he hath prepared Arms of a great value for a *Joyner*; *He prepared a good Horſe, extraordinary Piſtols, a Carbine; a Coat of Mail, an Head-piece, and ſo being arm'd Cap a Pe, with that deſign he came to Oxford*——*We* ſhall ſhew you, that he made it his buſineſs to perſwade others to undertake the deſign, and joyn with him——*He* gave out a *Sign*, which was a *blew Ribbon*, wrought with Letters in it (*No Popery, No Slavery*) by this they were to know one another——*We* ſhall give you an Account of his *Principles*; and what encouragement he was to have, for *he boaſted he ſhould in a little time be a Colonel*——This was not a ſudden unpremeditated thing; for he had entertained the horrideſt malice againſt the King, that ever Subject did, *He* hath made it his

his common diſcourſe (*I believe I could bring you forty and forty Witneſſes to it*) to defame the *King*, and murder him in his Reputation——*We* ſhall give evidence, that he carried on the ſame deſign, with that *Arch-Traytor, Fitz. Harris*, who was a *Papiſt*; and *I believe if he were examined throughly, he would be found of the ſame Stamp*——The *King* hath been traduced, as a *deſigner of Arbitrary Government*, and *as an Introducer of Popery*——*If any Man ever was guilty of high Treaſon ſure he is, and deſerves the ſevereſt puniſhment.*

Then *Stephen Dugdale, John Smyth, Bryan Haynes* & *Edward Turberville* were ſworn: *Dugdale* ſaid, That the *Priſoner* had oft rail'd againſt the King, & *ſaid he was a Papiſt*, and as deep in the *Plot* as any *Papiſt* of them all; *that nothing was to be expected from him, but introducing of Popery and Arbitrary Government*; That he would arm himſelf, and be here at *Oxford*, having ſeveral ſtout Men, particularly *Captain Clinton, Captain Brown*, and *Don Lewis*; *that would ſtand by him, in caſe there ſhould be a Riſing.*

That the *Priſoner* gave him forty Shillings worth of *Blew-Ribbon*, with the

Inſcrip-

Inſcription, No Popery, No Slavery, to give to his Friends——That the *Priſoner* ſaid at *Oxford*, *Let the King begin as ſoon as he will, his Party is but an handful to our Party.*

Smyth declared, That the *Priſoner* told him, *that the* King *was as great a Papiſt as the Duke of* York, *and every way as dangerous to the Proteſtant Intereſt*, and he doubted not but he would dye his Fathers death.

That *Colledge* carried him to his Houſe, and ſheweth him his *Piſtols, Blunderbuſs, great Sword, Armour Back and Breaſt, and his Head-piece*; and told him, theſe would deſtroy *Rowlye's* pittiful Guards, which were kept up againſt Law to ſet up Popery and Arbitrary Power.

That the Priſoner ſaid, he expected ſome ſport at *Oxford*, and would go thither, and *would be one who ſhould ſeize the King, if he ſhould ſeize any of the* Members; That upon a Diſcourſe of diſarming the City, the Priſoner ſaid, that if the Earl of *Feverſham* or the *King* himſelf ſhould come to do it, he would be the Death of him; rather than he ſhould take away his Arms.

Haynes

Haynes Witneſſed, That the *Priſoner* told him, that the *King* ſhould be called to an Account for all his Actions, for, it was notorious, *That he reſolved to Eſtabliſh Popery and Arbitrary Power.*—— And that no *King* of his Race ſhould ever Reign in *England* after him.

Turbervile ſaid, That the *Priſoner* told him at *Oxford*, that there was no good to be expected from the *King*, *for he and all his Family were Papiſts.* That he wiſhed the *King* would begin, and ſaid, but if he do not, We will begin with him, and ſeize him; for there are ſeveral brave Fellows about this Town, that will ſecure him, till we have thoſe terms we expect; adding, *That he had got a Caſe of Piſtols, and a very good Sword and a Velvet-Cap.* (*This Mr Attorney repreſented, to be Armour Cap a Pe.*)

In the next place *Sr George Jefferies* brought againſt the *Priſoner*, one Mr *Robert Maſters*, *whom he recommended to the* Jury, *as a Gentleman of an undoubted loping Reputation*; and he ſwore that *Mr Colledge* in diſcourſe with him, had juſtified the Proceedings of the *Parliament* of 1640. And that the laſt *Weſtminſters-Parliament*, was of the Opinion

with that *Parliament*; And that he the ſaid *Maſters*, having in a pleaſant way ſaluted *Colledge*, by the Name of *Colonel*, he ſaid, don't mock me, I may be one in a little time.

Then Sr *William Jennings* teſtified, That Mr *Colledge* was ſhewing a *Picture*, to a Crowd of ſeven or eight or ten People, at *Oxford*; and gave one of the Pictures to him, which he gave to Juſtice *Warcup*. That the next day he ſaw *Colledge* ſell a yard of *Blew Ribbon* (with the Words, *No Popery*, *No Slavery*, workt into it) to a *Parliament-man* in the *Coffee-Houſe*, for 2 *s.* *who tyed it upon his Sword.* That Mr *Colledge*, upon the day of the *Diſſolution* of the *Parliament*, told him, that *Mr Fitz. Gerald* had ſpit in his face, and that they went to fiſty-Cuffs, and that he told Mr *Colledge*, that his Noſe bled, and he thereupon replied, *I have loſt the firſt Blood in the Cauſe, but it will not be long before more be loſt.*

Note, how doth this ſtand with the A. General's Suggeſtion about the Ribbon given for a Signal?

After ſome Contraſting with the *Judges* and *King's Council*, The Priſoner ſpoke to this effect. *I don't queſtion but to*

to prove this one of the moſt Helliſh Conſpiracies *that ever was upon the face of the Earth, an abſolute Deſign to deſtroy all the* Proteſtants *of* England, *that have had the Courage to oppoſe the* Popiſh Plot; In which no Man of my Condition, has done more than I have done; I was bred a *Proteſtant*, have ſo continued, and *by the Grace of God will dye ſo*——'Tis the greateſt Nonſence to believe, that I would ſay theſe things, to perſons whom I could never hope would conceal my *Treaſons*, having diſcovered their own. *I had been a Fool*, a Mad-man, *to diſcover them to* Papiſts, Prieſts *and* Iriſh-men; *Men ready to ſtarve for Bread.* Had I declared a deſign to ſeize the *King* when he was here at *Oxford*, *they neither would nor ought to have concealed it*—— I declare, as *God is my Judge*, that *had I had a deſign to ſeize the* King, *I know not of one Man upon the face of the Earth, to have ſtood by me; Parliament-man*, or other——I have a Soul that muſt live to Eternity, I would not call *God* to Witneſs to a Lye, to ſave One Thouſand Lives; *This is a Villainous Conſpiracy, and if it take place againſt me, God knows how far it may go:* This is the 17*th* or

18th Sham *Plot* of the *Papiſts* againſt the *Proteſtants*; *If they can make me a Traytor, they will try it upon others*, and ſo hope to Sham off their own Treaſons.

Then the *Priſoner* called his Witneſſes.

Mr *William Shewin* teſtified, that *Turbervile* told him, the week before at *Charing-Croſs*, that there would be ſtrange things at *Oxford* againſt *Colledge*, and he would lay ten to one, that Mr *Bethel* and Mr *Wilmore* would be Hang'd at *Chriſtmas*; and that he would lead Mr *Bethel* by the Gold-Chain about *Fleet-Street*.

Mr *Hickman* teſtified, that he overheard *Haynes* ſay to a *Papiſt*, who Lodged in *Hickman*'s-houſe, *God Damn me, I care not what I ſwear, nor whom I ſwear againſt, for it is my Trade to get Money by ſwearing.*

Mrs *Hall* and *Mary Richards* her Servant teſtified, That *Haynes* acknowledged, *that he was employed, to turn the* Plot *upon the* Proteſtant Diſſenters.

Mr *Whaley* teſtified, that about 6 years ago, *Haynes ſtole a Silver Tankard from him.*

Mr Lun teſtified, that ſoon after the *London-Grand-Jury* had brought in their *Ignoramus* upon the *Indictment* againſt Mr *Colledge*; *Haynes* in diſcourſe about it, fell

fell very foully upon that *Jury*, and *ſaid, he would do the Earl of Shaftesbury's buſineſs, and help the* King *to Money enough out of the* Fanaticks *Eſtates*, And that upon the laſt Munday, *Haynes* told him, that e'er long the *King* ſhould have *Sheriff Bethel's* Eſtate.

Mr Broadgate teſtified, that *Turbervile* told him, that the *King*'s evidence were ſlighted and vilified, and *that he was tempted, with great offers, to diſown the* Popiſh Plot, *and to turn to the other ſide.*

Dr Otes being called, *produced* to the *Court* a *Petition* to the *Common Council* of *London*, ſigned by *Turbervile*, &c. wherein they acknowledged, that they had been tempted to retract & deny the Evidence they had given about the *Popiſh Plot*; and the *Dr.* teſtified, that *Turbervile* denyed to him, that he had given Evidence to the *London-Grand-Jury* againſt *Colledge*, & declared, that he could not give any Evidence againſt him: That the *Dr.* afterwards charging him with it, He ſaid, that the *Proteſtant Citizens* had deſerted them, and *God damn him*, he would not ſtarve.

The *Dr.* further teſtified, that upon a quarrel between *Colledge* and *Smith*, at *Richard's Coffee-Houſe*, he hard *Smith*

ſwea: God damn him he would have Colledge's Blood.

That *Dugdale* had told the *Dr. that he knew nothing againſt any Proteſtant in England*; that afterwards the *Dr.* charging him that he had gone againſt his Conſcience; *Dugdale* ſaid, that he was neceſſitated to it, for he could not otherwiſe get Money: and confeſſed that *Colonel Warcup* promiſed him a Place in the *Cuſtom-Houſe.*

Mr Samuel Smith, and *Mr Thomas Gardener* teſtified, that *Smith* the Witneſs, did ſeveral times declare to them, that he *believed a Popiſh Plot, but not any Proteſtant Plot.*

Bolron and *Mowbray* teſtificd, that *Smith* endeavoured to ſuborn them, to Swear againſt Sr *John Brookes* of *Yorkſhire*; and *Bolron* added, that *Smith* would have ſuborned him, to witneſs againſt the *Earl of Shaftesbury* and *Colledge*, telling him what he ſhould ſay, and that if he managed it rightly, he ſhould be made for ever.

And that he had hard *Haynes* declare, that he knew nothing of a *Popiſh Plot*, nor of a *Presbyterian Plot*; but that *he did not care*

care what he ſwore, and would ſwear any thing to get Money, and would be of that *Religion* which had the ſtrongeſt Party.

Then *Mr Everard* teſtified; That *Smith* told him very lately, *that he knew of no Presbyterian or Proteſtant Plot*; and that *Juſtice Warcup* would have perſwaded him the ſaid *Everard* to have ſworn a *Presbyterian Plot*. That *Haynes* told him, that he was drove by neceſſity to ſwear againſt *Proteſtants*, for he had but ſhort pay——And that the *Iriſhmen*'s ſwearing againſt the *Engliſh*, was juſtly fallen upon them, for their Injuſtice in outing the *Iriſh* of their Eſtates.

The Priſoner after he had called theſe and many other Witneſſes (whoſe evidence (though material) I do for brevity ſake omit to tranſcribe) ſpoke thus;

My Lord, *I have no flouriſhes to ſet off my Defence*; *I cannot take the* Jury, *nor the* Court *with Oratory*——*My Lord*, They have ſworn deſperately againſt me, and it appears they have contradicted one another; It has been proved, that this was a *deſign:* That they were

were tampered withal; That they complained *they were in Poverty*; They confeſſed they were tempted to come over to ſwear againſt *Proteſtants*; and now, the *Lord* knows, they have cloſed with it, and they begin with me———There is never a Man that has ſworn againſt me, but has been ſufficiently confuted by perſons of *Integrity*, *Honeſty*, *Men of Principles*, and *Men of Religion*, ſuch as make Conſcience of what they ſay. ——I have been a *Lover* of the *Church* of *England*, I never had a prejudice againſt any Man in the *Church* in my Life, but ſuch as have made it their buſineſs to promote the Intereſt of the *Papiſts*; and ſuch there are amongſt them, who divide the *Proteſtants*, and allow none to be true *Proteſtants*, but thoſe that are within the *Church of England eſtabliſhed by Law*———I have been an hearty Man againſt the *Papiſts*, and for *Parliaments*, *the Bulwark of our Liberty*——I have ever ſince the diſcovery of the *Plot*, endeavoured, with all my Heart and all my Power, to come to the very bottom of it———Theſe Men that ſwear againſt me, uſed to follow me, and

and would ſay, *that they came to ſave our Lives, and yet* We *let them want Bread*; and the Argument was ſo fair, that, I *thought it unreaſonable to ſee them ſtarve.*

The *Priſoner*, afterwards ſpeaking to the *Judges*, ſaid, *My Life and your Souls lie at ſtake to do me Juſtice*——My *Witneſſes* have ſpoken materially, to contradict what has been ſaid againſt me, to prove that *this was done for Money*, and that *every one of them have confeſſed they were hired to it*, and that *they did it for a Livelyhood*; And *Haynes*, *ſaid it was a good Trade*; *Damn him*, *he would do any thing for Money*——I need inſiſt upon this no further; *The whole Nation is ſenſible what is doing*, *and what this does ſignifie*; *They have begun with me*, *in order to the making of a* Presbyterian *Plot*, which they would carry on to *ſtifle the Noiſe of the* Popiſh *Plot*, and this is not the firſt, the ſecond, nor the tenth time that they have been at this Game; how many Shams have they endeavoured to raiſe?———I only deſire the *Jury* to take all into their ſerious conſideration; *I expect a Storm of Thunder from the learned Council to fall upon me*——and *I muſt defend my ſelf without Council.* I know not

not whether it be the practiſe in any other *Nation*, but certainly 'tis hard meaſure, that I, being illeterate and ignorant in the Law, muſt ſtand here all day, They being many, and taking all advantages againſt me, and I a ſingle Perſon, and not able to uſe one means or another, either of writing or ſpeaking——Then applying to the *Jury* (*after a ſolemn Proteſtation of his Innocence*) ſaid, I beſeech you, *be not frighted nor flattered*———you are to acquit me or condemn me, and *my Blood will be required at your Hands.*

Now comes *Mr Solicitor* to beſtow his Rhetorick upon the *Priſoner*, ſaying; *Here has been a great deal of time ſpent, and truly I think for no other Reaſon but to divert from the matter before you, and that you might forget the Evidence*, and therefore, to refreſh your Memories, *I ſhall repeat it*: The *Fact* charged upon the Priſoner, *is a deſign to Kill the King*, the manifeſtation of that deſign is, by preparing *Armes* to that purpoſe, and by coming down to ſeize the *King* here, *the proof of it has been by Witneſſes, that I think by and by, you will have no Objections againſt.*

Then,

Then, having recounted the Stories of the Witneſſes, he proceeds thus, The *Objection* made to this proof by the *Priſoner*, is, *That this is a Popiſh deſign to raiſe a new Plot, and caſt it upon the* Proteſtants; And that theſe *Witneſſes* are now to deny all the Evidence they have given of the *Popiſh Plot*; This is that he would perſwade you to believe, but I *think it will be impoſſible for you to have ſuch a Thought*; *For what are the Evidence* that have proved this? *Men of Credit*, that have been Evidences againſt the Popiſh Plotters, Men that ſtill ſtand to the Evidence they have given——*And yet forſooth, theſe Men are going about to ſtifle this Plot.*

Gentlemen! Theſe are the Men the whole *Nation* has given Credit to, My Lord *Stafford* dyed upon the Credit of theſe Men, Theſe are the Witneſſes, *Gentlemen*, that this Man thinks ought to be blown off, with that *frivolous Objection, that they are perſons*, he would have you believe, *Who are guilty of a deſign to throw the Plot upon the* Proteſtants.

Now, *Gentlemen*! If *Colledge* have all this while under the name of a *Proteſtant*, acted

acted the part of a *Papiſt*, I may ſay, *he is not that good Proteſtant he pretends to be.* I muſt do him right, and repeat the Evidence he hath given againſt our Witneſſes; Mr *Hickman* ſays, he overheard *Haynes* ſay, *It was his Trade to Swear, and he muſt get Money by it*; *Lun* ſays, that *Haynes* declared the ſame thing to him. *Whaley* ſays, *that Haynes ſtole a Silver Tankard*; but he was never proſecuted for it. I think the Nature of this Evidence hath not that weight, as to take off the Credit of what this Man hath ſaid upon his Oath, *eſpecially being backt with the Evidence of* Dugdale, Smyth *and* Turbervile, *whoſe credit has not been impeached*: Indeed Dr *Otes* is produced againſt them, *and he muſt vilifie their Credit*, whoſe *Teſtimony*, at firſt of the *Popiſh Plot*, *received Credit by being ſeconded by theſe Men*: It is a ſtrange thing, that this Man comes now to vilifie the Teſtimony of thoſe *who have been Credited by the whole Kingdom*——*This looks as if the*

A thing much more monſtrous was put in practice by the King's Council, when they produced the very perſons whom Dr *Otes* had charged with the Popiſh Plot, to convict him of Perjury in the Evidence which he gave of their Plot.

the Doctor were again returning to StOmers.

There are two Witneſſes, *Bolron* and *Mowbray*, who teſtifie, *That* Smyth *would have ſuborned them to ſwear againſt Sr John Brookes*: But I think *I need ſay no more to theſe Men, but only to deſire you to weigh their Credit*; They have, I confeſs, been evidence againſt ſeveral that have been accuſed of the *Popiſh Plot*, but, *they have been ſo unfortunate, that they were never yet believed, though they have been ſworn in their own Country.*

[Note, This by the way was not true, for *at Summer Aſſizes at York* in 1680, Thwyng *was convicted of the Plot, & afterwards executed, and that upon the Teſtimony of theſe very men,* Bolron *and* Mowbray, *in their own Country.*]

Mr *Solicitor* then cloſes thus,

I think, *Gentlemen*, this is the ſubſtance of what has been offered againſt the *King's Witneſſes*, except that of Mr *Everard*, who ſays ſomething againſt *Haynes*; that he ſhould ſay, *he ſwore for ſelf-preſervation*; And againſt Mr *Smyth*, he ſays, that he heard him ſay, *he did not know of any* Presbyterian Plot.

By theſe things (*And by a great many others, which had ſlip'd the Memory of the Solicitor,*

Solicitor, and alſo of the Chief Juſtice (he hath endeavoured to take off the credit of our *Witneſſes*; and he would have you believe, *that he is a very good* Proteſtant, *though he does the* Papiſts *work.* ———I think it a great piece of arrogance for him, to take upon him the Title of a *Proteſtant*, when he hath abuſed that title by ſuch unſuitable Practices———*I cannot but reflect upon the condition of this Man, whoſe onely hope is, that you ſhould now forget your ſelves and become as ill as he is, But as that cannot be preſumed, ſo I ſhall not need to ſay any more to you.*

After the making of very long *Speeches* to the *Jury*, by Sr *George Jeffryes*, and alſo by the *Lord Chief Juſtice North*, to the ſame effect with the *Solicitor's*; The *Priſoner* minded the *Lord Chief Juſtice*, that he had omitted to mind the *Jury* of ſeveral material things evidenced for him; but his *Lordſhip* anſwered, *That he had repeated to them as much as he could remember*; And ſo the Jury having been for a ſhort time ſent out, and returning, it being about three in the Morning, they *brought in the Priſoner Guilty.*

The

The *Lord Chief Juſtice North* coming to pronounce Sentence, ſaid, *I think the Court were all very well ſatisfied with the Verdict, and the* Jury *did according to Juſtice and Right*; I thought it was a *Caſe*, that, as you made your own defence, *ſmall proof would ſerve the turn, to make any one believe you Guilty*; and ſo he was ſentenced to dye as a Traytor.

At the place of Execution upon the 31ſt of *Auguſt* 1681. he behaved himſelf with great Courage and Conſtancy, and expreſſed himſelf to this effect,

He *profeſſed* in the preſence of the *Living God, That he was ſo far from being Guilty of thoſe Treaſons falſly ſworn againſt him by the wretched and mercenary Men*, Dugdale, Turbervile, Smyth *and* Haynes, *that he never ſpoke ſo much as one ſingle word of thoſe Treaſons to them, or either of them*; or ever heard them ſpoke, till ſworn in the *Court.*

He declared, that *Haynes* had diſcovered to him, that the *Parliament* was to be deſtroyed at *Oxford*; and that *Fitz. Gerald* and his Party had a deſign to murder the *Earl of Shaftesbury*; and that they did endeavour to bring *Macnamar* over, and ſaid that then it would be

well with them; And *they would not be long before they had* Shaftesbury's *Life*.

That, *as for what Arms he and others had, they were for their own defence in case the* Papists *should make any attempt by way of Massacre.*

He took it upon his Death, that he was never engaged in any manner of *Plot* or *Conspiracy* against the *King*, the *Laws* or *Government*, or knew of any, except that of the *Papists*.

That if it had been true, that he was to have seized the *King*, *he knew not of so much as one single Person, that was, or would have stood by him in that attempt.*

That *Masters* was unjust in what he swore, in omitting the material part of the discourse about the *Parliament* of 1640, for when *Masters* cursed them and the last *Westminster-Parliament*; and charged the *Parliament* of 1640, with beginning the *War*, and *cutting off the King's Head*; he denyed both, and told *Masters* that the *Papists* begun that *War*, and that the death of the *King* was the fatal consequence of it.

That Sr *William Jennings* also did him wrong, for his words were, *that he had lost the first Blood for the* Parliament, *and wish'd it might be the last.*

That

That he was reported to be a *Papist*, but he declared he detested Popery, and that he had lived and dyed a *Protestant.*

That *Secretary Jenkins*, my *Lord Killingworth* and Mr *Seymour*, when they committed him, did interrogate him to many things, that he should be privy to against the *King*; Mr *Seymour saying that* Colledge *did know, the Lord of* Shaftesbury, *the Lord* Howard, *and Mr* Ferguson *were also engaged*; but that he answered, were it to save his Life, he could not accuse a Man of them, nor any other Person whatsoever.

That upon the 23*d* of *August*, the *Messenger* who brought him the message of his Death, told him he might save his Life, if he would confess who was the Cause of his coming to *Oxford*, and upon what account? And that he answered him, *that he came voluntarily of himself, rode his own Horse, spent his own Money, and neither was invited, nor had dependency on any Person whatsoever*; and had only one *Case* of *Pistols* and a *Sword*, and that had the *Papists* offered to have destroyed the *Parliament*, as was sworn they would; that he was there to have lived and dyed with them.

That when he had ſaid this to the *Meſſenger* (though the very truth) *he found it was not that he wanted*, and ſo left him with a *Curſe*.

He concluded, *I dye by the Hands of the Enemies of the great God, his Chriſt, his Servants, his Goſpel, and my Country*; to which I willingly ſubmit, and earneſtly *pray mine may be the laſt* Proteſtants *Blood, that murdering Church of* Rome *may ſhed in Chriſtendom*; And that my Death may be a far greater Blow to their Bloody Cauſe, than I either have, or could have been by my Life, The *Lord God Almighty* ſave *England* from *Popery* and *Slavery*, bleſs the *City of* London, *and unite all good Proteſtants in the Nation.* Amen, Amen,

Notes

Notes upon the Tryal of *Nathaniel Thompſon (the Popiſh Printer) William Paine* (Brother of the famous *Nev l Paine*) and *John Farwell*, upon the 20*th* of *June*, 1682. before the *Lord Chief Juſtice Pemberton*, upon an Information for Writing and Publiſhing Libels, importing that Sr *Edmundbury Godfry* Murdered himſelf.

THe *Conſpirators* from the very firſt diſcovery, reſolved that the *Popiſh Plot*, ſhould be turned to a *Presbyterian Plot*; purſuant thereto, the credit of the Evidence, eſpecially from the time of the Diſſolution of the *Oxford* Parliament, in the beginning of the year 1681. had been, with matchleſs Impudence, and Virulence, traduced and run down, by the ſcriblings of *L'Eſtrange*, and of *Heraclitus ridens*, and the *Intelligences* of this *Thompſon* now before us; ſo that by this time, a multitude were infected with the poiſon of their Works

and,

and seduced into a belief, that the *Popish Plot* was a Sham; nothing but a thing raised by the *Protestants* against the *Papists*; however, it still remained upon them to wipe off the Blood of that *Martyr*, the worthy Sr *Edmundbury Godfry*, which was more then One Thousand Witnesses against them, and now, they judging matters to be ripened for it, with effronted fore-Heads, set to the Work, as will appear by what follows.

The Information against these notorious Criminals, *Thompson*, *Paine* and *Farwell*, was to this effect, That they well knowing that *Green*, *Berry* and *Hill* were Convicted, Attainted and Executed for the Murther of Sr *Edmundbury Godfry*, and that *Prance*, *Bedloe*, *Brown*, *Curtis*, *Skillarne* and *Cambridge*, were Witnesses for the King against them, and that by the *Coroners Inquest*, taken upon view of the Body, it was found, that he was Strangled and Choaked; they, to subvert and elude the due course of Law, and to defame the Justice of the Kingdom, and to render as well the *Witnesses*, as the *Coroner* contemptible, and to deter others from detecting the Designs of *Papists*, and to induce a belief that

that *Green*, *Berry* and *Hill* were unjustly Executed; and that Sr *Edmundbury Godfry* was *Felo de se*, they did most impiously Compose and cause to be Printed and Published, two false Scandalous and Defamatory *Libels*, entituled, Letters to Mr *Miles Prance*; and three other Scandalous *Libels*, called the *Loyal Protestant and true Domestick Intelligence*, and did, by these Libels, suggest, that Sr *Edmundbury Godfry* was *Felo de se*; and did reflect on every of the said Witnesses, as if they had contradicted themselves, and insinuate, that the *Coroner's-Jury* did at first declare, that he was *Felo de se*, and that the *Coroner* used much Art and Skill to procure their Verdict to the contrary.

The *Jury* which tryed this Cause, were,

Peter Houblon,	*George Widdows*,
John Ellis,	*William Sambrooke*,
William Barret,	*William Jacomb*,
Joshua Brooks,	*John Delinee*,
Gervas Byfeild,	*Samuel Bayly*, and
Jonathan Lee,	*Samuel Howard.*

The

The Counſel for the *King*, were,
Mr *Serjeant Maynard*,
Mr *Solicitor General*,
Sr *Francis Winnington*,
Mr *Williams*,
Mr *Thompſon*,
Mr *Saunders*, and
Mr *Gooding*, Counſel for *Paine*.
Mr *Yalden* for *Thompſon*.
Mr *Osborne* for *Farwell*.

Mr *Thompſon* having opened the Indictment, Mr *Serjeant Maynard* ſpoke to the Crime, and declared it to be as impudent a thing as ever was done, in that it ſcandalized the publick Juſtice of the Nation, undertook to vindicate the Murtherers, and to accuſe the Proceedings of the Nation, and then calling the *Witneſſes*.

Sr John Nicholas, *Sr Philip Loyd*, and *Mr Bridgman*, *Clerks* of the *Council*; proved that the two Letters ſet forth in the Information, were ſhewed to the *Defendants* at the Council, and that *Thompſon* owned the Printing both of them; and that *Farwell* owned the carrying the firſt, and *Paine* the carrying the ſecond to *Thompſon*. After reading theſe Letters in Court; *Thompſon*'s *Intelligence* of the *17th* of *March* 1681, was produced, wherein it is contained as follows;

There

There is not in the ſaid Letter (meaning the ſaid firſt Letter) *the leaſt Item or Circumſtance, but what will be by undeniable Evidence made out to be Truth, ſo that* Mr Prance, *having not as yet vouchſafed an Anſwer to that Letter; he will ſpeedily receive a further Letter, relating to that Murther, wherein the further truth will be ſet forth, and other Circumſtances ſet out.*

Another of thoſe *Intelligences* of *March* 11*th*, 1681. given in Evidence, ran thus; *Whereas* Dick Janeway *in this days Mercury, promiſes an Anſwer to the late Letter to* Mr Prance, &c. *This is to give him, and all the World notice, that ſuch an Anſwer is impatiently expected by the Author of that Letter, who queſtions not but to prove every title of that Letter, to the ſatisfaction of all Mankind*; and then it proceeds to challenge the *Lord Mayor, Aldermen*, and Common-Council, to inſpect the truth of that Letter; and ſays, *That then the Fraud and Blindneſs put upon the World, in Relation to the Murther of* Sr Edmundbury Godfry *will be manifeſtly proved.*

A third of theſe *Intelligences*, took a further ſtep, glorying, in an imagined

victory in this matter, for it says, *Last Wednesday Nathaniel Thompson, upon Summons appeared before the Lords of the Council, about the Letters to Mr* Prance *concerning the death of Sr* Edmundbury Godfry, *where he justified the matter, and produced the Authors who are ready to prove (by undeniable and substantial Witnesses,* &c.) *that every tittle and jota of these Letters are true. And* after adds, Mr *Thompson, and the Gentlemen, his Friends are to attend the next Wednesday at Council, where they do not doubt, but that honourable Board, will put them into a Method, to prove the whole, or any particular, which their Honours, in their great Wisdom shall think convenient to be brought to the Test, or Examination.*

An honest *English-man*, can never better express his admiration and detestation of the transcendent impudence, of these vile *Miscreants*, then in the Language of the late famous *Baron of Wem*, upon another occasion, with a small alteration of Words, *Good God! whither were we running; when many easie People were so strangely wrought upon by these Impostors, and when the villainous and black Designs of some evil Instruments among us, were so powerfully abetted and countenanced, that they*

they were arrived to this degree of assurance, that they could beguile and delude, not only some of the Shepherds of our Church of England, *with their silly innocent Flocks; but even the King and his Privy-Council, into the belief of so horrid a falshood; and that at a time when not a hidden, but a deeply contrived and detected Treason was carryed on amongst us, for extirpating our Religion,* (termed the Northern Heresie) *our Laws and Liberties; The Conspirators had a fair Game of it, whilst these Fellows were believed; and they needed no other means to compleat their design; I cannot but say, my Blood does curdle, and my Spirits are raised, to see fellows so impudent, as to brazen it out, as these monstrous Villains do; the blackness of their Souls, the baseness of their Actions, ought to be lookt upon with such horror and detestation, as to think them unworthy any longer to tread upon the face of God's Earth.* But, to return to the matter in hand, from which I have digressed;

It being, as aforesaid made out, that the Defendants had published, that, what was testified against the Murderers of *Sr Edmundbury Godfry* was a lye; Mr *Saunders* and Mr *Gooding*, Counsel

for *Paine*, declared it was a raſh and unadviſed Act, but not out of Malice, and that he was ſorry for what he had done, and had offered to give any Satisfaction.

To whom the Lord *Chief Juſtice* replyed, *To me he ſaid he would make it out by five hundred Witneſſes*, they would make it as plain as the day: and Counſellor *Thompſon* added; ſince the laſt time that was appointed for the Tryal, they have printed that they would prove it by ſixty Witneſſes; and were very ſorry it did not come on.

Mr Talden, Counſel for *Thompſon*, ſaid, that he thought his Client was unfortunately drawn into the buſineſs by *Paine* and *Farwell*, who turn all upon him now.

Mr Osborne, Counſel for *Farwell*, ſaid, It was a fooliſh thing, to do as he had done, but, that his Client ſaid he had ſeveral Witneſſes, who being called; it was manifeſt that *Farwell* deſigned, to have even then, raiſed a doubt whether *Sr Edmundbury Godfry* was murthered, or not; but it appeared, that of the eleven or twelve Witneſſes he called, there was not one but was as much againſt him as could be; for they did plainly evince it, that Sr *Edmundbury Godfry*

Godfry was Killed, and that by Strangling, and ſo confirmed the evidence given againſt *Green*, *Berry* and *Hill*.

It being thus manifeſted, *that this was a curſed combination to affront the publick Juſtice of the Nation*; and that done, to the end, to perſwade the World, there was *no Popiſh Plot*. The *Jury*, without ſtirring from the Bar found them all three guilty of the Information; and the judgment was, that *Farwell* and *Thompſon* ſhould ſtand in the Pillory in the *Palace-Yard*, for one hour, the laſt day of the Term, and each of them pay 100*l*. Fine, and to be impriſoned till paid; and that *Paine* ſhould only pay 100*l*. Fine, and be impriſoned till paid. Upon the 5th of *July* 1682. according to the Judgment, *Thompſon* and *Farwell* ſtood in the *Pillory* with this Writing over their Heads, *For Libelling the Juſtice of the Nation, by making the World believe, that Sr* Edmundbury Godfry *murdered himſelf*.

Tho' this bold and daring Contrivance of theſe *Champions* for *Holy Church*, was thus happily defeated, and their own Counſel did not only declare that it was an unadviſed undertaking, but ſome of their own Gang began to ſay that the

Devil owed them a ſham; yet, no doubt of it the deſign was better laid, then ſome imagined. But what fence for ill luck? They did confidently relie upon the *Council-Board* to cheriſh the undertaking, and to inſtruct the proſecution thereof, and nothing diſappointed them there, but an unlucky miſ-timeing the matter. They alſo knew full well, that the credit of *Popery* muſt be reſtored, and that, by ſuppreſſing the evidence of their Plot, and that if one thing failed, another would hit; they remembred the *Prophecy* of one of the Guides of the hair-brain'd *Toryes*, *Heraclitus Ridens*, *who fore-told, ſoon after the election of Sr* John Moore *to be Lord Mayor; that at, or before* 1683. *they ſhould have Juries for their turn*, and, that then talking to the *Whiggs* about hanging, that *Author* with great aſſurance told them, *They muſt come to't, and ſhould come to't*; ſo that all had been Cock-ſure, if they had tim'd it, ſo as to have had it tryed, before any one of the corrupt and *murdering Juryes*, which that year of 1683. furniſhed for my *Lord Ruſſel*, *Colonel Sidney*, and others.

Reflections

Reflections upon the *Tryal* of *Thomas Pilkington*, Eſq; and *Samuel Shute*, Eſq; Sheriffs of *London*. And of

Ford Lord Grey,	Mr *Richard Freeman*,
Alderman Corniſh,	Mr *Robert Key*,
Sr *Thomas Player*,	Mr *John Wickham*,
Slingesby Bethel, Eſq.	Mr *Samuel Swinnock*,
Mr *Francis Jenks*,	Mr *John Jekyl*, and
Mr *John Deagle*,	Mr *R. Goodenough*.

Upon an Information for a pretended Riot at Guild-hall, *at the day for Election of* Sheriffs, *being the* 24*th of* June, 1682.

THe *Conſpirators*, having in the beginning of the Year 1681, delivered themſelves from the *danger of Praliaments*: They well knew that there then ſtood nothing in their way, but the old faſhioned, abhorred way of *Tryals* by *Juryes*: Therefore, they muſt now (to cut off all who ſtood in their way) have *Jury-Men*, as they had already *Judges*, *at their own Nomination and Devotion*, ſo,

In *October* 1681, *Sr John Moore* is made *Lord Mayor* of *London*; than which

(to the discerning part of Mankind) nothing was more protentious, nor of worse *Omen* ; and the dire effects with that fore-boded were quickly felt ; For now (*the Lord* Mayor *giving himself up, intirely and implicitly, to the dispose and conduct of* Sr Leoline Jenkins) all things went according to the Will of the *Conspirators*.

The great care now is, how to get such *Sheriffs*, as would furnish proper *Juryes* to serve the turn ; for securing this great point, the *Mayor* is closely plyed by their little *Engines* in the *City* ; and directed to insist upon a pretended *Prerogative*, to elect one of the *Sheriffs* ; This point being gained upon him, they bethink themselves of a fit Man, and incline to Sr *Benjamin Newland*, but at length they pitch upon Mr *North* (*lately returned from* Turkey, *Brother to the Lord Chief Justice North*) He readily embraces the Employment, and before the day for election of *Sheriffs* was come, (a thing never before known) he seals a *Bond* to the *Court* of *Aldermen*, to hold *Sheriff* ; and the *Gazette proclaims it to the World, that the* Lord Mayor *had elected* Dudley North *Esq* ; *Sheriff of* London

The

The *Conspirators* and the *Mayor*, having thus acted the matter by concert, *Midsummer-day*, the accustomed time for Election of *Sheriffs*, being come ; the *Mayor* insists to have Mr *North* admitted as one of the *Sheriffs*, and his Party put up Mr *Box* to be joyned with him ; But the *Citizens* withstood the *Mayor's* Usurpation upon their undoubted Rights ; and proceeded according to immemorial Custom, to Elect their *Sheriffs* ; and fixed upon those well deserving and eminent *Citizens* Mr *Papillon*, and Mr *Dubois* ; who were chosen upon the view, by a very great majority of *Voices*.

Hereupon, to gain time for Consultation, how to trick this *Election* ; the *Accomplices* of the *Conspiracy*, demand a *Poll*, that being yielded to them ; the *Sheriffs* went upon the takeing the *Poll* ; and it being far proceeded upon, and it appearing that there were two to one of the *Electors*, polled for Mr *Papillon* and Mr *Dubois* ; the *Mayor* was sent with a *Rabble*, in a *Tumultuous* manner, to interrupt the finishing the *Poll*, by Adjourning the Court.

The *Sheriffs*, Mr *Pilkington* and

Mr

Mr *Shute*, well knowing the *Managment* of the *Election* to belong to them; continued for ſome time to proceed in takeing the *Poll*, and then adjourned to the Tueſday following.

The *Conſpirators* call this a Riot, (*as in truth it was of their own ſide*) and the *Council* at *Whitehall*, commit the *Sheriffs* to the *Tower*; and there lock them up, till, by an unlucky *Engliſh* Inſtrument, called an *Habeas Corpus*, the *Tower* Gates were forced open; they nevertheleſs with undaunted reſolution, perſiſted to aſſert their own and the *Citizens* Rights; and declared *Mr Papillon* and *Mr Dubois*, to be Elected *Sheriffs*.

Then it was propoſed and conſented to, that a new *Poll* ſhould be taken; which being done, it appeared, that Mr *North* had 170 *Voices*, Mr *Box* 1353. and Mr *Papillon* and Mr *Dubois*, upwards of 2700. and they are a ſecond time declared to be Elected *Sheriffs*.

Thereupon, upon the 20*th* of *July*, divers eminent *Citizens* attended the Lord *Mayor* and *Court* of *Aldermen*; and for themſelves, and on behalf of the reſt of the *Citizens*, demanded, that they would cauſe *Proclamation* to be made

made, for Mr *Papillon* and Mr *Dubois*, to appear and ſeal Bonds, according to Cuſtom; to take the Office of *Sheriffs*; And at the ſame time, they entred a *Caveat*, to Mr *Wagſtaffe* the *Town-Clerk*, againſt the ſwearing and admitting, Mr *North* and Mr *Box*, *Sheriffs*.

However, the Lord *Mayor* by the direction of Sr *L. Jenkins*, and the influence of *Saunders*, and of *Jefferies* (both declared Enemies to the City Rights, and at that time, of *Council* with the *Conſpirators*, for the overthrow of their *Antient Charters*) aſſumes the boldenſs to declare, both Mr *North* and Mr *Box*, *Sheriffs*; and ſo raviſhes from the *Citizens*, the right to Elect either of the *Sheriffs*; But Mr *Box* appearing to be endued with a better ſtock of Diſcretion, then to undertake the Office, upon that Title, declined it; Whereupon 'tis reſolved that Mr *Rich* ſhall be the Man, and a *Common-Hall* being called, a little before *Michaelmas*, where, tho' above ten to one were found againſt *Rich*, yet, the *Common Serjeant* (*who was deeply engaged in the Intrigue*) makes report to the *Mayor*; *as was before concerted*; that Mr *Rich* was Elected, and

and ſo without more to do, he is declared Mr *North's* Partner.

Upon the day for ſwearing the new *Sheriffs*, being *Michaelmas-Eve*, 1682. The *Citizens* went in a very great Body to *Guild Hall*, to preſent Mr *Papillon* and Mr *Dubois* to be ſworn, but were withſtood by *Souldiers, Armed with Pikes and Muſquets*, then in poſſeſſion of the *Hall*; By theſe means, and *in this Military, Arbitrary*, and moſt *Illegal* way, *were Mr* North *and* Rich conſtituted Sheriffs *of* London *and* Middleſex, to the unſpeakable joy of the *Conſpirators*, and their inſipid *Adherents* in the *City*.

Theſe new *Sheriffs*, to gratifie their *Faction*, and to oblige the World, with notice of what muſt be expected from them; At the publick *Feaſt* upon their entring upon the *Office*, They entertain their *Crew* with theſe *Rhimes*, Sung at their own *Table*,

Thanks to Sr John, *our good Lord* Mayor,
'Gainſt Sheriffs *tricks he kept the Chair*;
Then to the famous Sr John Moore,
May after Age, that Name Adore.
For Ropes and Gibbets the next year,
The Whigs, *we hope need not deſpaire*;

If

If Rich *find Timber (give 'em ſcope)*
Brave North *will never grude 'em Rope.*
Then to brave North *a double Doſe,*
Who the ſtrong Factions did oppoſe.
Then to brave Rich *a Health off hand,*
Who the loud Tumults did withſtand.

Well, to be ſerious, and after a too tedious digreſſion, to return to the matter propoſed; Theſe *Sheriffs*, being thus ſettled, and by conſequence, *Juryes* to ſerve their turn, at hand; They ſet themſelves to a vigorous proſecution of the *Quo Warranto*, brought againſt the *City Charters*; and of an *Information* exhibited about this notorious and horrid *Riot*; and to make ſure work herein, they caſt an Eye into *Weſtminſter-Hall*, and finding Sr *Francis Pemberton*, *Lord Chief Juſtice of the King's Bench* would not ſerve this purpoſe; He is thruſt down into the *Common-Pleas*; with a Complement from the *Lord Keeper North*, that no Man's ſervices were more eminent nor better accepted, than *my Lord Chief Juſtice Pemberton's*; And *Mr Saunders* (*the* Counſel *againſt the* City *upon the* Quo Warranto, *and* Adviſer *of the* Lord Mayor's *moſt extravagant proceed-*

ing

ing in the matter of the Sheriffs (is upon the 23d of *January* 1682, promoted to be *Lord Chief Justice*; being then told by the *Lord-Keeper*; *That the King's People might not suffer in the want of so good a* Magistrate *as his* Predecessor, *his* Majesty *had taken care in the choice of him, to succeed in that great and important* Office; he being a *Person* of manifest Integrity and Affection to the *King*'s service; And that his *Lordship* might say without flattery, that he came into the Seat of Lord *Chief Justice*, with as few Passions and personal Frailties as any that had been before him. [*Methinks* Sr Matthew Hale *or* Sr William Scroggs, *might have been excepted.*] That the Age was so degenerate, and full of Faults; *Faults of Irreligion, Immorality, Debauchery, &c.* that it required more than a Man to censure them. And, his *Lordship* added, *That the temper of the present Age required his Severity in case of Sedition, Which, he said, was lately grown to that height and Insolence, and managed with that Malice, that it was very near breaking out into open force.*

All things being now thus well prepared; upon the 8th of *May* 1683, the matter of the *Riot* is brought to *Tryal* at *Guild-*

Guild-hall before this vertuous *Lord Chief Justice Saunders*, upon an *Information* to this effect;

That upon the 24th of June 1682. *in* Guild-hall, *there was a* Common-Hall *summoned by* Sr John Moore, Lord Mayor, *for the Election of* Sheriffs; *and that on that day, the* Lord Mayor *in a lawful manner adjourned the Court, till Tuesday following*; *That after the* Adjournment, *the* Lord Mayor *made* Proclamation *for all persons to depart*; *That the* Defendants *intending to disturb the King's Peace, did unlawfully meet together, and riotously assault the* Lord Mayor; *And, that after the* Adjournment, Mr Pilkington *and* Mr Shute, *by colour of their Office, as* Sheriffs: *and the rest of the* Defendants, *did continue the* Poll, *& affirm to the* People, *that* Sr John Moore *had no power to adjourn them: and that they continued this great Tumult three hours; to the terror of the* King's Subjects, *and against the* Peace.

The

The Prosecution of this *Information*, was managed by,	And defended by,
The King's Attorney General,	Mr *Wallop*,
Solicitor General,	Sr *Francis Winnington*,
Sr *George Jefferies*,	Mr *Williams*,
Mr *Dolben*,	Mr *Thompson*,
Mr *Jones*, and	Mr *Holt*,
Mr *Molloy*.	Mr *Sommers*, and
	Mr *Freke*.

Mr *Sommers* and Mr *Thompson*, upon calling the *Jury*, offered a *Challenge* of the *Array*; and pressed to have it read, which being done; Sr *George Jefferies* called it a Tale of a Tub, But Mr *Thompson* persisted, *Urging*, that *Sheriff North* was interessed in the matter, and if Sr *John Moore* had not Authority to Adjourn the *Poll*; Mr *North* was not duly chosen *Sheriff*; and so ought not to return a *Jury*; the very Title, to the *Office* of *Sheriff*, being in question.

This point was further pressed by Mr *Williams*, Sr *Francis Winnington*, and Mr *Wallop*; but opposed by the *Attorney*, and *Solicitor General*, and *Jefferies*; and over-ruled by the *Lord Chief Justice*, Then,

Then Mr *Thompson* prayed the Benefit of a Bill of *Exceptions*; but that was also over-ruled; and the *Jury*, returned by the *Sheriffs*, who was forced upon the *City* by the true *Rioters*, were,

Sr *Benjamin Newland*,	*Henry Wagstaffe*,
Sr *John Mathews*,	*Barth. Ferryman*,
Sr *John Buckworth*,	*Tho. Blackmore*,
Sr *Tho. Griffith*,	*Samuel Newton*,
Sr *Edmund Wiseman*,	*Will. Watton*, &
Percival Gilburne,	*George Villers*.

Then Mr *Dolben* opened the *Information*, and Mr *Attorney* followed, saying, *That the* Information *was brought for setling the Peace of the* City, *and to shew who is the Supream* Magistrate there; That the *Lord Mayor* in all times, was the *Kings Lieutenant*; and no publick *Assemblies* could ever meet, without his *Summons*; That the question was about the *Election* of *Sheriffs*; That the *Lord Mayor* adjourned the Court; and the *Sheriffs* proceeded, and made *Proclamation*, that it was not in the power of the *Mayor*; and continued the *Poll* in a *Riotous* manner; and when the *Mayor* attempted to go out of the *Hall*; *they struck him*;

ſtruck his Hat off, and preſſed ſeveral of the Aldermen; That if the others had made oppoſition, all had been in Confuſion, upon this Uſurpation.

To this, Mr *Solicitor* added; That after my *Lord Mayor* commanded them to depart, they continued their Aſſembly there, in a very riotous manner, and as my Lord came down, they offered Inſolence to his Perſon.

Then comes Sr *George Jeffryes* (*the main Contriver and Abettor of the Lord Mayor*'s moſt daring and unjuſtifiable attempt) and tells the *Jury*; That the *Rabble* came upon my *Lord Mayor*; had him down upon his Knees, and if ſome *Gentlemen* had not come in, they had trod him under feet; He then called Sr *William Hooker*, Mr *Lifghtfoote*, Mr *King*, the *common Serjeant*, the *Common Cryer*, the *Sword-Bearer*, and Mr *Bancroft*; to teſtifie (as they did) that the Lord *Mayor*, did always convene and diſmiſs the *Common-Hall*, and, as to the matter in queſtion, the *Common Cryer* evidenced, that about five or ſix of the Clock, he adjourned the *Court* by my Lord *Mayor's* Order, to the Tueſday following.

Mr

Mr *Weſton* witneſſed the ſame, about the Adjournment; and that he ſaw my *Lord's Hat off*; *and his* Train-bearer, *was knock't down, or fell down.*

The *Common Serjeant* evidenced, that he heard them (*but could name no Perſon*) cry out, No *God Bleſs the King*; *down with the Sword*; *No Lord Mayor*; *No King*. And he affirmed, *that he had the ſole management of Elections of* Sheriffs, *as the Duty of his Place.*

Then *Cradock*, and others, witneſſed that the ſeveral perſons charged in the *Information*, continued upon the place, after the *Adjournment*; and *Cradock* ſaid, that *Mr Bethel* came to him and bid him reſiſt my Lord *Mayor*.

Mayjor Kelſey declared, That he ſaw my *Lord Mayor*'s *Hat upon his Back*. *And Captain Clerk*, ſaid, *that he heard above a hundred hiſs and cry, No Knig*'s *man*, upon the proclaiming, *God ſave the King*, and that they alſo cryed, *preſs on, preſs on.*

Higgins ſaid, that ſome cryed, *God ſave the Proteſtant Sheriffs*; *down with the Sword*; and that after the *Lord Mayor* was gone home, he ſaw one *Freeman* (*whom they call the Proteſtant Cheeſmonger*) calling *to Poll to Poll*; And that he heard

Alderman Corniſh tell the *Sheriffs*, they were doing right; and you ſhall have all right done to you; *Higgins* added, that he was ſaying, you are all in a *Riot*; and Mr *Swinnock* ſaid, this is no *Riot* —— —— *I can never meet you, but you are railing againſt the* King's Evidence.

Note, This *Spark Vavaſor*, was the malicious and implacable Mover and Promoter of the unjuſt Proſecution of honeſt *Mr Wilmore*; and ſaid, This Dog *Wilmore*, this *Ignoramus* Dog, If I do but rout him, I ſhall be made the *King's Attorney*.

Had Mr *Attorney General* known, that he had the Ambitious thought of ſupplanting him, he would not have given him this lift towards the Office of *King's Attorney*, by making him one of his *Majeſties Witneſſes*.

Mr *Vavaſor* (called by Mr *Attorney General*) witneſſed that *Sheriff Shute* ordered *Proclamation* to be made, and told them, *whereas my Lord* Mayor *had taken upon him to Adjourn*, We *the* Sheriffs, *being the proper Officers*; do Adjourn to *Tueſday* at nine of the Clock; And *Vavaſor* added, that had it not been for *Trice Hammond*, he believes he had been trod under foot.

Then *Farrington* teſtified, that, Mr *Wickam* a Scrivener ſaid to him, My

My Lord Mayor has nothing to do here, We will not be ruled by any of your Tory Lord Mayors; and he added, that they fell about him, and he was in great danger of himſelf, *for they trod upon his Toes.*

Mr *Kemp*, teſtified, that Mr *Deagle* confeſſed to him, that he was there about ſeven at night, with *Alderman Corniſh*.

It will no doubt, be a warning to Mr *Deagle*, to go, upon his next tranſgreſſion, a little further than *Pater-Noſter-Row*, for a *Confeſſor*.

Mr Williams then urged on behalf of the *Defendants*; That for the Cries and Diſorders, nothing was fixed upon them; *and it appeared not, whether one Party, or other made the noiſe*; That, the queſtion here was, *whether the* Sheriffs *did more than their* Office; *and he did not ſee the* Government *concerned, one way or other*; ——That here is nothing more proved, than the continuing the *Poll*, and it will be very hard to make them guilty of a *Riot*.

Sr *Francis Winnington* added; That at this rate, they that are the greateſt Number (*or rather the moſt powerful Party*) may, upon every occaſion, make them, againſt whom the Election is carried, to be *Riotors*.

Then Sr *Robert Clayton* witneſſed, That when he was *Lord Mayor*, *a Perſon whom he drank to, for* Sheriff, *was rejected by the* Common-Hall; *and they were left to chooſe two* Sheriffs *for themſelves*; *That the management of the Election was left to the* Sheriffs; *who did grant a Poll, and managed it*; which Sr *Robert* took to be their Duty; *and did not apprehend it to be his right.* That that *Poll* was the moſt litigious he had known; and laſted five or ſix days, and the *Sheriffs adjourned it, without conſulting him, or receiving any direction from him*; *for he did not look upon it to be in his power.*

Here, the *Attorney General* and Mr *Jones* (deſigning without doubt to catch this prudent and well-deſerving *Gentleman*; as they lately had the worthy Sr *Patience Ward*) did mightily labour to have him be poſitive in his evidence; but, he not being to be ſo *enſnared*; declared, that he ſpoke to the beſt of his remembrance, every thing he ſaid.

Alderman Love then witneſſed, that when he was *Sheriff*, about two & twenty Years ago, *he took it for granted, that it was the* Sheriffs Office, *to manage the* Common Hall; *as my Lord Mayor's* was, to have a *Sword* born before him; *and that*

that he received it by Tradition from all before him: That in his *Sheriffalty*, when they came to chuſe *Sheriffs*; the *Lord Mayor* ſaid to him and his *Brother*; Gentlemen, *look to your Office*; that one was put in nomination who had been drank to; and, he being a fitting *Alderman*; he was choſen with another; He added, that had my *Lord Mayor* gone about to intermeddle; *he ſhould have deſired him to meddle in his own Office, and let him alone with his.* That he never knew or heard, that the *Lord Mayor* interpoſed, till of late years; but the *Sheriffs* managed the whole buſineſs of chuſing *Sheriffs.*

Deputy Sibley then teſtified, that he had been of the *Livery* ever ſince the Year 1639. That, in all his time (*except of late*) *the* Sheriffs *had the management of the* Election; *and the* Lord Mayor *never interpoſed*; *but he and the* Aldermen *went off the Bench.*

Mr *Winſtanley* teſtified, that when Sr *Samuel Starling* was *Mayor*, Sr *James Edwards*, and Sr *James Smyth*, the *Sheriffs*, managed the *Poll*, between Mr *Kyffen* and Sr *Robert Clayton.*

Mr *Wallop* then put this *Caſe*; in a

point of right; if there be a probable Cauſe to inſiſt upon it; *Suppoſe I ſend three or four Men to a Wood, and take a Car or Team; if they be a competent Number to cut down Wood; if I am miſtaken in the title, that is no Riot.*

Then Mr *Roe* teſtified, that he ſaw a *Rabble*, of about one hundred in the Street, with their Hats upon Sticks, crying *damn the Whigs*; & they declared, that they did it, to ſtop the *Polling for Sheriffs*.

Then ſomething in excuſe for the Lord *Grey's* being there was offered.

Sr *Simon Lewis* and Sr *Jonathan Raymond*, who were *Sheriffs* in Sr *Robert Clayton's Mayoralty*, then ſaid, That upon the firſt day of Election of *Sheriffs*, my *Lord Mayor* adjourned the *Court*; and that afterwards they only appointed from day to day till the *Poll* was ended.

The *Common Serjeant* out-ſtripped theſe *Gentlemen*, and now declared, that upon the Poll for Mr *Bethel* and Mr *Corniſh*, againſt Mr *Box* and Mr *Nicholſon*, in the *Mayoralty* of Sr *Robert Clayton*; *every Adjournment was made, by my* Lord Mayor's *direction to him.*

(*This* Centleman's *endearedneſs to* Jeffryes

Jeffryes *did ſufficiently diſpoſe him to give his beſt aſſiſtance to the Conviction of theſe worthy* Citizens, *aimed at in this proſecution; and it may be ſuſpected that it would not have much diſpleaſed him, to have ſeen them capitally accuſed; for he was heard to ſay at* Tunbridge, *to ſome of his* Confidents, *ſoon after my* Lord Ruſſell's *Death, That the* Plot, *at preſent lay amongſt* Lords *and* Country-Gentlemen, *but when it came into the* City, *they ſhould ſee what work it would make.*)

The *Attorney General* concluded, ſaying, *This matter relates immediately to the* Government: *here is the publick Peace of the* City *in danger, and if my* Lord Mayor *had been a perſon of great Spirit, and had raiſed others to ſuppreſs this* Riot; *then the* City *had been in a fine condition*; therefore *Gentlemen*, it is hoped you will ſettle the *City*, by deſtroying this pretence, which has been fluttering in the Air, but hath no ground for it.

Then, the *Chief Juſtice* ſumming up the matter, told the *Jury*; That the *Riotors* would make the *Sheriffs*, the Men; and that the *Lord Mayor* was no body; and *that it was ſomething of the* Common-Wealth *ſeed, that was like to grow up among*

among the good Corn—— That the *Jury* muſt conſider, whether theſe *Gentlemen* did not in a tumultuary way, make a *Riot, to ſet up a* Magiſtracy, *by the power of the People*——*That in truth, the* King *muſt be put out of his* Throne; *to put theſe two* Sheriffs *in it*——*That it was to dethrone the* King, *as far as they could*——*That my Lord Mayor* himſelf, had like to have been trod under foot; *his Hat was down*—— That, all this Flame took fire from this Spark; *That the Sheriffs might do what they thought fit, about chuſing Officers.*

Hereupon, the Jury having found the *Defendants* guilty: Upon the 26th of *June*, Juſtice *Jones*, declaring the heinouſneſs of the Fact, and what an evil Preſident it might prove, if it ſhould paſs unpuniſhed; after a little Whiſpering, with his *Brother Wythens*, awarded the following Fines to be paid (*viz.*)

Mr *Pilkington* (*to whom* Royal Mercy *was extended, in regard, he was a Priſoner upon* Execution *for* 100000*l. given by a* Loyal Hertfordſhire Jury, *for Words about the* Duke *of* York) only 500*l.*

Mr *Shute* 1000 Marks.

Lord *Grey* 1000 Marks.

Alderman

Alderman Corniſh 1000 Marks.

Sr Tho. Player 500 Marks.

Mr Bethel 1000 Marks.

Mr Jenks 300 Marks.

Mr Deagle 400 Marks. (Quere, *If not beſtowed upon* Kemp *for betraying his Neighbour.*)

Mr *Freeman* 300 Marks.

Mr *Key* 100 Marks.

Mr *Wickham* 100 Marks.

Mr *Swinnock* 500 Marks.

Mr *Jekil* 200 Marks.

Mr *Goodenough* 500 Marks.

The black Repreſentation of the demeanour of the *Sheriffs*, and many of the moſt valuable Perſons in the *City*, upon this Election of *Sheriffs*; as, *that it was a Branch, a Limb*, any thing, or every thing, of *an horrid Fanatical* Conſpiracy *againſt the* King's *Life*; *A deliberate deſign to ſpoil the* Crown, *the* Church *and the* Subject. The impetuous proſecution of the *Information*; The ſtrange practices to procure the *Conviction* of the Perſons now named; the exorbitant *Fines* impoſed upon them; And, to add no more, the avouching and out-facing the acceſſing of the *Tory Crew*, to moſt of the

the extravagant and arbitrary Practices of the late *Reigns*; in the attempt (even in the beginning of the auſpicious Reign of their preſent Majeſties, whom *God* long preſerve) to bring Sr *John Moore* a ſecond time to the *Chaire*, and that at a time when the Houſe of *Commons* had received *Petitions*, charging him with high Miſdemeanours, in his *Mayoralty*, and were proceeding to the examination thereof; I ſay, the conſideration of theſe things, may well juſtifie the Remarking with ſome plainneſs, the tranſactions at *Guild-Hall* upon the memorable 24th of *June*, 1682, *ſo that Truth may be vindicated againſt Calumny.*

As to the Evidence of the Riot and Diſorders, given by Sr *John Moore*'s *Witneſſes*, ſome things ſeem pritty obſervable, as

1*ſt*. Though the Witneſſes were all forward enough; the *moſt ſplenetick, violent and imbittered Tories*, ſaw and heard moſt, indeed every thing, for Inſtance; *Mr Bethel*, amongſt the many hundreds or thouſands there Aſſembled, unhappily chopt upon (or rather ſought out) *Cradock*, for he ſwore *Mr B.* came, to him and bad him *reſiſt my Lord Mayor.*

Captain

Captain Clarke heard above one hundred hiſs and *cry no King's Man*, upon the proclaiming *God ſave the King*, and yet it was not heard by one other, of more than twenty Witneſſes produced on that ſide. The common Serjeant went a ſtep higher than *Clarke*, for he, and no body elſe, heard them cry, *No Lord Mayor, no King.*

2*dly*, *Captain Clarke* heard the People cry, *Preſs on, preſs on*; *Major Kelſey* ſaw my *Lord Mayor's Hat* upon his Back; *Vavaſor* was in danger of being trod under foot; Nay, the *Roguy Whigs* trod upon *Farrington's Tory Toes*; but they paid dear for it, for he Swore Mr *Wickham* in for his 100. Marks. But, which was worſt of all, there was ſuch a Crowd, my *Lord Mayor* (taking a falſe ſtep) had like to have got a fall.

Now, tho' it may be thought, that but few of theſe *Gentlemen*-Witneſſes do frequent thronged *Churches*; yet they will not deny, but when they have gone to divert themſelves, with the laſhing of the *Whiggs*, at one or other of the *London Churches*, upon a Set-day, they have been in ſuch haſte, to get out to the *Wonder-Tavern to drink their Confuſion*, that they have not only uſed this naughty

Language

guage now complained of, *preſs on, preſs on*; but have alſo (*in a riotous manner*) trode upon one anothers *Toes*. But if ſo, it may be objected, that it was amongſt themſelves; ſo in truth was this We are talking of, for the matter was no other than this,

Heat of the *Brains*, reigning at that day to an high degree, amongſt many of that Party; when *my Lord Mayor* went out of the *Hall*, towards the *Sheriffs*, who were taking the *Poll* in the *Guild-Hall*-Yard; the *Crowd* of his own furious *Followers* (of whom every one ſtrove to be foremoſt) preſs'd upon him; and by that means, and no other, did the diſaſter happen, of his *Lordſhip*'s *Hat falling from his Head*.

To conclude, though the carriage of things at that time of the ſwearing *Mr North* and *Mr Rich*, *Sheriffs* (when that notorious *Uſurpation* upon the *Citizens* right, was juſtified by *Baſham Quincy* and his *Janazaries*) did creat an apprehenſion, that no Laws, Uſages or Cuſtoms, would be regarded, when they came in competition with the deſigns then on foot; yet the *Citizens*, aſſerted their Rights with all modeſty, and the *Sheriffs*,

riffs, in the whole proceeding, carried themſelves, with all imaginable impartiality, and with the greateſt regard to the Quiet and Peace of the *City*.

Having juſt touched the unheard of practice, of bringing the *Military Power*, to ſtrike a Terror into the *Citizens*; and thereby to wreſt from them their undoubted priviledge of chuſing *Sheriffs*; I ſhall take leave to ſubjoyn a brief account, of the *Indignities* & *Violence* then uſed towards ſeveral of the *Chief Magiſtrates* of the *City*; but ſhall by the way (though it comes not in its proper place) preſent the Reader with a Tranſcript, of the New-faſhon'd *Summons*, iſſued by the *Lord Mayor*, upon the extraordinary occaſion, which then appeared, *to have Sheriffs of Sr L.* Jenknis *his Nomination*.

By the *Mayor*.

THeſe are to require you, that on Mid-ſummer-Day *next* (being the day appointed, as well for Confirmation of the Perſon who hath been by me *Choſen, according to the Antient Cuſtom and Conſtitution of this* City; *to be one of the* Sheriffs *of this* City *and the* County *of* Middleſex,

dlesex, *for the Year ensuing*; *as for the* Election of the other of the said Sheriffs, *and other Officers*) *you cause the* Livery *of your* Company *to meet To either, at your* Common-Hall, *early in the Morning, and from thence to come together, Decently and Orderly, in their Gowns, to* Guild-Hall, *there to make the said* Confirmation *and* Elections.

Given this 19*th Day of* June, 1682.

Wagstaffe.

To return to what was last proposed; The accustomed day for Swearing the Sheriffs being come, the *Aldermen* were called to *Guild-Hall*, by *Summons* from the *Lord Mayor*, as follows.

Sir, your Worship *is desired to be at a* Court *of* Aldermen *at* Guild-hall, *on* Thursday *at nine of the Clock in the forenoon, in your Violet Gown and Cloke; it being the* 28th *of* September.

Hereupon, at that hour, six *Aldermen* (*viz.*) Sr *John Laurence*, Sr *Robert Clayton*, Sr *Patience Ward*, Sr *Thomas Goold*, Sr *John Shorter* and *Alderman Cornish*, went, with Mr *Papillon* and Mr *Dubois*, to *Guild-hall*; where *Quincy*, in a very insolent manner came to them, and told them, *he had*

had a command to keep the Hall clear; whereupon they demanded, *whether he did not know them to be* Magistrates *of the* City, *and could believe his Order reach'd them*; he replyed, *that he knew them, and they must remove*; They then said, *they were summoned and attended in all peaceableness*; quickly after, he accosted them again, saying, *Gentlemen*; *you must with-draw, I have a command to require it*; They then demanded a sight of his *Warrant*, but (huffing) he said, *he would shew none to such as they were*; and then laid hold of Sr *P. Ward*, saying, *Sir, you must remove*; and in the same manner laid hold of Sr *John Laurence*, *pulling him with such violence, that he had like to have thrown him down*; and treating the rest of the *Aldermen* in that manner, they were all forced to retire; in this proceeding, he was abetted and supported by, Mr *Wythers*, *Wiseman*, *Nichols*, *Steverton*, &c. then present in *Guildhall*. (*proper men to be returned to serve upon the* Jury *in the foregoing* Cause.)

The *Lord Mayor* being come to the *Court*, Mr *Papillon* and Mr *Dubois* declared, *that they were ready, and did there tender themselves to take the* Office of

Sheriffs, *and to be ſworn*; and humbly prayed the Anſwer of his *Lordſhip* & the *Court*; but without condeſcending thereto, the *Mayor* went to the *Huſtings*, calling Mr *North* and *Rich* to follow him; and there, calling them to the *Book* to be ſworn, Mr *Papillon* and Mr *Dubois* offered themſelves to be ſworn, and Mr *Papillon* laid his hand on the *Book*; but his *Lordſhip* and Sr *J. E.* Sr *W. P.* and ſome other *Aldermen commanded them to forbear, and keep the Peace and be gone*: Some of the *Alderman* claimed to be heard, but the *Mayor* refuſed it, and proceeded to ſwear *North* and *Rich*; whereupon the duely elected *Sheriffs* with the ſix *Aldermen*, with-drew, proteſting againſt thoſe irregular and arbitrary proceedings.

Remarks

Remarks upon the Tryal of my *Lord Ruſſell*, upon the 13*th* of *July*, 1683.

UPon the Diſcovery of the *Popiſh Plot*, the *Conſpirators*, finding their meaſures to be broken, as indeed were thoſe of the *French King* all over *Europe*; they adviſed *King Charles the Second*, to make uſe of the Diſcovery, as a Cripple, to beg Money of the then approaching *Parliament*, which was immediately to ſit; for the better effecting therof, the obſequious *Clergy* were privately inſtructed to Preach againſt *Popery*, and to magnifie the Diſcovery of the Plot; this Doctrine was thundered out from the Pulpits, till the Diſſolution of that notorious *Pentionary Parliament*. Having then found their hopes daſh'd, new Inſtructions were given, and the *Clergy* advertiſed that there was ſome fear from the *Diſſenters*, but yet for a time, they were to Preach againſt *Popery*, but not to talk of the *Plot*; this humour continued till the *Diſſolution* of the *Parliament*

which met in *March* 1678. & was diſſolved in *May* following, 1679. Then they received advice that there was a *Presbyterian* as well as a *Popiſh Plot*; this made the *Eccleſiaſtical Drums* beat loudly againſt *Diſſenters*, and that work was cloſely followed, till the breaking the *Parliament* at *Oxford*, in the beginning of the year 1681. When the *Conſpirators* influenced too many of the *Pulpits*, to thunder againſt the credit of the *Popiſh Plot*, and to inſinuate a belief of a *Preſbyterian Plot*; which they were all the while hammering; and by this art, they did at length uſher it into the World.

The Nobility and Gentry of England, to make bold with their own words in their *Memorial* for our now Gracious *King* and *Queen*, then *Prince* and *Princeſs* of *Orange*; had been, as they therein freely confeſſed, *too ſlow to believe the deſperate* Popiſh Plot, *and had been deluded with the* King's *Promiſes to protect and maintain the* Proteſtant Riligion, *and the* Laws *and* Government of England; *until they ſaw them all undermined:* But many diſcerning this *Deluſion*, more early than others did, the never to be forgotten

forgotten *Duke of Monmouth*, *Earl of Eſſex*, *Lord Ruſſell*, and *Colonel Sidney*; with ſome other great and valuable Perſons, who were of that well-grounded Opinion; *That a free Nation, like this of* England, *might defend their* Religion *and* Liberties, *when Invaded and taken from them, under pretence and colour of Law*; began to bethink themſelves how to reſtore *Parliaments* to their antient freedom, and to deliver the *Nation* from the fury of that *Torrent* of *Popery*, which they wiſely fore-ſaw ready to break in and carry all before it.

At this juncture the *Conſpirators* laid hold of the *Information* given by *Keeling*, of unadviſed and raſh Diſcourſes of a very ſmall number of Men, (nine or ten at the moſt, all Strangers to the Perſons and honeſt Conſultations of thoſe great Men before named) and they cunningly and maliciouſly, patch'd and work'd it into one piece, and emitted it to the World by their *Declaration*, read in all *Churches*, under the name of a *Presbyterian* or *Fanatick Plot*, which they had long wanted.

Hereupon a *Proclamation* purſues the *Duke* of *Monmouth*, and ſome others

(designed for destruction) who chose to stand aside, out of the reach of the *Blood-thirsty Conspirators*; But the *Earl* of *Essex*, my *Lord Russell*, and *Colonel Sidney*, would not be overcome by the perswasions of those who invited them to safe retirements; and so were clap'd into the *Tower*, and afterwards, in different wayes butchered.

It was resolved, that my *Lord Russell* (*the Honour of his Age*) should be cut off in a seeming way of *Justice*; and as he was a *Person* of *inestimable value*, so the art used to destroy him was extraordinary; in the first place, The *Conspirators*, to introdue a belief of his *Lordship's* guilt, procure two Persons charged with *Keeling's-Plot*, to be convicted just before my *Lord* is brought to *Tryal*; reserving other two of them, of whose Conviction they more doubted, to be tryed after his *Lordship*.

Then a well prepared *Pannel* of *Jurors* (many of them train'd and disciplin'd under *L'Estrange*, and some Inferiour *Clergy-Men* his *Prostitutes* was returned by *Sr John Moor's Sheriffs*.

Matters being thus prepared, He is brought upon his *Tryal* at the *Old-Bayly* upon

upon *Friday* the 13th of *July* 1683; At the instant of entring upon it, the *Conspirators* cut the *Earl* of *Essex's* Throat in the *Tower*; and to facilitate the dispatch of the *Lord* then at the *Bar*, they immediately intimate by an express to the *Old-Bayly*, that the Earl of *Essex* had murdered himself; from hence a wicked (and unquestionably a premeditated) Inference is raised, of the good Lord *Russells's* guilt, and by this *diabolical* contrivance, the *Blood* of the Earl of *Essex* is made a main Evidence towards the *Prisoner's* Conviction, that being accomplished; upon the day ensuing, the *Verdict* of his guilt, is made an Argument to seduce and delude the *Coroner's* Inquest, into a belief that the *Earl* of *Essex* had destroyed himself.

The Jury being called, his *Lordship* was over-ruled in his *Challenges*, of those of them, who were not *Free-holders*; though the learned in the Laws, did and do say, that he was entituled to those *Challenges not of Grace but Right*; and the same was allowed to others by my *Lord's Prosecutors*, at such Seasons, when it would not disserve their turn; thus the *Estate*, *Honour* and *Life* of this *Noble*

 Lord,

Lord, are put into the Hands and Power of *Tradesmen* and *Shop-keepers*.

He being charged with an *Indictment* for *high Treason*, the right of my *Lord's* Challenging for want of *Freehold*, was argued and insisted upon by his *Council*,

Mr Follexfen, *Mr Holt*, and *Mr Ward*.

But was opposed by

The Attorney General,
The Solicitor General,
Sr George Jeffryes, and
Mr North.

And was over-ruled by the *Judges* upon the Bench, who were,

The Lord Chief Justice Pemberton,
The Lord Chief Baron,
Justice Jones,
Justice Windham,
Justice Charleton,
Justice Levins,
Baron Streete, and
Justice Wythens.

Then the following Jury were sworn,

John Martin,	*William Butler*,
William Rouse,	*James Pickering*,
Gervas Seaton,	*Thomas Ieve*,
William Faskion,	*Hugh Noden*,
Thomas Short,	*Robert Brough*, and
George Tory Ano.	*Thomas Oneby.*

Then

Then Mr *North* the *King's Council*, opened the *Indictment* to this effect, *That the Prisoner stood charged with no less than conspiring the Death of the King, and that in order to it, he with other* Traytors, *the second of* November, 1682. *conspired to raise War against him, and* to Massacre *his* Subjects, *and to seize his Guards and Person.*

The *Attorney General*, (being so hot upon this bloody pursuit, that he had before positively *refused to defer the Tryal till the Afternoon* * and imposed upon the Court to go instantly upon it) did now apply himself *totis viribus*, to impress the *Jury*, telling them, that the *Prisoner* was one of the *Council of State* (*as he in a scornful way expressed himself*) to give forth directions for the general *Rising* that (*as had appeared*) was to be in the *Kingdom*; That the *Rising* was of great concern and expence, and must be managed by Persons of Interest, Prudence

* 'Tis probable that he might imagine that by the After-noon the suspition of the Earl of *Essex*'s Assassination might reach the Ears of the Jury, as it did in a few hours many about the Town, and then Mr Attorney had lost that which he made a mighty part of his Evidence.

dence and Secrecy. That they consulted in *October* and *November*, how to seize the *Guards*, and at several meetings, they received Messages from my Lord of *Shaftesbury*, touching the *Rising*. That this was the great Consult, and moved all the Wheels. *That there were Underlings who were to manage the Assassination* —— *who were an inferiour Council* of seven. That there was a great *Council of six*, who were the *Prisoner*, the *Earl of Essex* (*whom he pretended he was sorry to name, he having that Morning prevented the hand of Justice upon himself.*) * and four others. That they debated how they should make the *Rising*, & Resolved, that before they fell upon it, they would have an exact account of the time & Method of the *Scotch Rising*; and thereupon *Colonel Sidney* sent *Aaron Smyth* on purpose to invite *Scotch Commissioners* to treat with these Noble Lords; that pursuant

* Note, this was spoken within an hour or two after the *Earl's* death, before any *Inquisition* taken, or it could possibly be known how he came by his death; but, right or wrong, this *Jury* must now pass upon him, and find him *Felo de se*, to facilitate and justifie the Murder they are now to commit.

suant to this, just before the *Plot* broke out, several came from *Scotland*, to treat how to manage the Work; They demanded at first 30000 *l.* then fell to 10000 *l.* and at last to 5000 *l.* but they not coming to their terms, it broke off the Week the *Plot* was discovered. He concluded, *that they should shew, that all the Inferiour party, still look'd upon these to be the Heads.*

I shall not here trouble the *Reader*, with the particulars of the Evidence given against this *Noble Lord*, by the *Lord Howard*, *Colonel Romsey*, and *Mr Shepheard*; nor offer at any *Remarks* thereupon, much less to touch upon the many Hardships and great Injustice put upon his *Lordship* in this prosecution, in point of Law; all that having been admirably well done, by the Learned Pens of the right *Honourable the Lord Chief Baron Atkyns*, and of *Mr Hawles* of *Lincolns-Inn*, My purpose, not only in extracting these Notes in my *Lord Russel's* Case; but also in this whole Tract; being only to present the World with some matters of History, which they did not put down, or remark upon; and (which indeed invited me to this work)

work) to gather together, for publick uſe, Abſtracts and Remarks upon ſome memorable *Tryals* in the late unhappy *Regins*; upon which they never touched.

I ſhall therefore now proceed, to repreſent ſomething further of the carriage and exaſperating Speeches of the *King's Council*, &c. againſt his *Lordſhip*.

The *Solicitor General* ſum'd up the Evidence in this manner, *That the Priſoner ſtood Indicted for High Treaſon in conſpiring the Death of the King*, That the *Overt Act*, laid to prove that *Conſpiracy* by, is the aſſembling in *Council*, to raiſe Arms againſt the *King*, and to raiſe a Rebellion, and that they had proved that, by three Witneſſes; He then proceeded to ſtate the ſubſtance of the Evidence, *which having done as he thought fit*; he added, That my *Lord Ruſſell* had made ſeveral *Objections*, and then he pretended to anſwer them, and in doing it, ſaid, *That their Conſultation* was *to ſeize the* King's *Perſon*, and bring him into their power, and, *that to deſign to bring the King into their power, only till he had conſented to ſuch things as ſhould be moved in Parliament, was equally Treaſon, as if they had agreed*

agreed directly to Aſſaſſinate him——That therefore, the *Jury* were to conſider nothing, but to ſee that the fact be fully proved, and *he ſaw nothing ſaid by my* Lord *that doth invalidate the Evidence*.

He went on thus, That the laſt *Objection* (to which a great many Perſons of Honour and Quality had been called) was, *That my* Lord Ruſſell *being a man of Honour, Vertue and ſo little blamable in his whole Converſation; 'twas not likely he ſhould be guilty of any thing of this kind*; This he confeſſed to have weight in it, but then he bad the *Jury conſider, that he was but a man*, and that Men fall by ſeveral *Temptations*, ſome out of *Revenge*, ſome by *Malice* fall into ſuch Offences as theſe; my *Lord* is not of this Temper, but *Gentelman*, there is another great and dangerous *Temptation* that attends *people* in his Circumſtances; whether it be *Pride, or Ambition, or the cruel ſnare of Popularity*, being cryed up as a *Patron of Liberty*; This is the only way to tempt Perſons of Vertue, and the *Devil* knew it, when he tempted the *Pattern of Vertue*——*Tho' he be a Perſon of Vertue, I am afraid theſe Temptations have prevailed upon my* Lord, for I cannot give my ſelf

ſelf any colour of Objection to diſ-believe all theſe Witneſſes ; *I ſee no Contradiction, no Correſpondence, no Contrivance at all between them*, you have plain Oathes before you, and I hope you will conſider the weight of them, and the great Conſequence that did attend this Caſe, *the overthrow of the beſt Government in the World, and the beſt and moſt unſpotted Religion*, which muſt needs have ſuffered. *The greateſt liberty and the greateſt ſecurity for Property that ever was in any Nation, bounded every way by the Rules of Law, and thoſe kept ſacred, I hope* ☞ you will conſider *the weight of this Evidence, and conſider the Conſequences ſuch a* Conſpiracy *might have had.*

But under his favour, theſe celebrated *Witneſſes* were at Bargain, and bought their own lives at the price of this Noble *Lord's* Blood.

Then *Jeffryes*, to Inſinuate this *Noble Lord's* Guilt, argued thus, *Had not my* Lord of Eſſex *been conſcious of his being guilty of deſperate things, he would ſcarcely have brought himſelf to that untimely End, to avoid the methods of publick* Juſtice. —— I am ſorry to find that there have been ſo many of the Nobility of this Land, that have lived ſo happily under the benigne

benigne influence of a *Gracious Prince*, ſhould make ſo ill returns.

Gentelmen ! whereas that *Noble Lord* ſays, he hath a *vertuous good* Lady, he hath many Children, he hath Vertue and Honour, he puts in the Scale. I muſt tell you on the other ſide, *you have Conſcience, Religion*, you have a *Prince*, and a moſt merciful one too ; Conſider the Life of your Prince, *the Life of his Poſterity*, the Conſequences that would have attended, if this *Villany* had taken effect, What would have become of your Lives and Religion ? *What would have become of that Religion we have been ſo fond of preſerving* —— *You have your Underſtandings*, your Wives and Children, let not the Greatneſs of any man Corrupt you.

Then, the *Lord Chief Juſtice* directing the *Jury*, told them (after he had repeated the evidence) that the *Queſtion* before them was, *whether they did believe my* Lord Ruſſell *had any deſign upon the King's Life*, to deſtroy the *King*, to take away his Life, and *that that was the material part there* —— you have not evidence in this Caſe, as there was in the other matter, that was tryed in the morning

morning, or yesterday, against the *Conspirators* to kill the *King* at the *Rye* —— *This is an act of contriving Rebellion and an Insurrection, and to seize the Guards; which is urged as an evidence, and surely is in it self an evidence, to seize and destroy the* King——If you believe the *Prisoner* at the Bar, to have conspired the death of the *King*, and in order to that, to have had these Consults, then you must find him guilty of this *Treason* laid to his Charge.

The *Court* then adjourned, and at their sitting again in the After-noon, the *Jury* brought in their *Verdict*, that my *Lord Russell*, was Guilty.

I shall here, to refresh the Reader's memory, subjoyn some brief Heads of the dying *Speech* of this great and invaluable Person, *a Martyr for the true Religion and the Liberties of his Country.*

He thanked *God*, that he found himself so composed and prepared for Death, and his thoughts so fixed on another World, that he hoped in *God*, he was quite weaned from setting his heart on this.

He

He blessed *God* for the many Blessings of his Life, *That he was born of worthy good Parents, and had the advantages of a Religious Education*, which he had look'd upon as an invaluable Blessing, for when he minded it least, it still hung about him, and gave him checks; and that he now, in his extremity, found such happy effects of it, that the fear of Death had not been able to discompose him.

That he had lived and now dyed of the Reformed Religion, a true & sincere Protestant, and in the Communion of the Church of *England, tho' he could never rise up to all the heights of some People.* He wished the removal of all our unhappy differences, *and that all sincere Protestants would consider the danger of Popery, and lay aside their Heats, and agree against the Common Enemy*; That the *Church-men* would be less severe, and the *Dissenters* less scrupulous.

He declared, *that he looked upon Popery as an Idolatrous and bloody Religion*; and therefore thought himself bound in his station to do all he could against it; and fore-saw that he should procure such great and powerful Enemies to himself,

 that

that he had been for ſome time expecting the worſt; and *bleſſed God that he fell by the Ax, and not by the fiery Tryal.*

That, yet he never had a thought of doing any thing againſt *Popery, baſely or inhumanly*; *but what could well conſiſt with the* Chriſtian Religion, *and the* Laws *and* Liberties *of the* Kingdom.

That he had always loved his Country more then his Life, and *never had any deſign of changing the Government*, and would have ventured his Life to preſerve it; *and would have ſuffered any extremity, rather then have conſented to any deſign to take away the King's Life*, and that no Man ever had the Impudence to propoſe ſo baſe and barbarous a thing to him.

That he ſincerely prayed for the King; *that he might be happy both here and hereafter.*

He took *God* to witneſs, that in the proſecution of the *Popiſh Plot*, he proceeded in the ſincerity of his Heart—— *that he did ſtill believe that Popery was breaking in upon the Nation*; and that thoſe who advance it, will ſtop at nothing; *and declared his ſorrow that ſo many Proteſtants gave their helping-hand to it*; But he declared his hope, that *God* would preſerve

preſerve the *Proteſtant Religion* and the *Nation*; *though he feared it would fall under very great Tryals, and ſharp Sufferings.* That the bare-fac'd *Prophaneneſs and Impiety* in the *Nation, gave Reaſon to fear the worſt things that could befal a People.* He prayed *God* to prevent it, and give thoſe, who ſhewed concern for the publick good; and appear'd hearty for the *Proteſtant Religion*; *Grace to live ſo that they might not caſt a reproach on that which they endeavoured to advance*; which he declared had often given him many ſad thoughts.

As to his condition, he ſaid, he had no repining in his Heart at it; and did freely forgive all the World, particularly thoſe concerned in taking away his Life; and *conjured his Friends to think of no Revenge, but to ſubmit to the holy will of God.*

He declared, as to his appearing in the buſineſs of the *Bill of Excluſion*, that he thought the *Nation*, in ſuch danger of *Popery*, and that the expectation of a *Popiſh Succeſſor* put the *King's* Life in ſuch danger, that he ſaw no way ſo effectual to ſecure both, as that Bill; and that he thought, *his earneſtneſs in that matter had*

no ſmall influence in his preſent Sufferings.

As to his conſpiring to *ſeize the Guards.* the Crime for which he was condemned, and which was made a *conſtructive Treaſon* to take away the *King*'s Life, to bring it within the *Statute* of *Edwards* 3. His *Lordſhip* gave this account. That he never was at *Shepherd*'s but once, and that there was no undertaking then, of ſecuring or *ſeizing the Guards*, nor none appointed to view or examine them: Some diſcourſe there was about the feaſableneſs of it, and he heard it ſeveral times by accident in general diſcourſe elſewhere, *but never conſented to it as fit to be done*——*That the Duke of* Monmouth *exclaimed againſt it*, and his *Lordſhip ſaid, that he ever obſerved in him an abhorrence of all baſe things.*

He thanked *God*, that his part was ſincere and well meant; he obſerved, that it was inferred that he was acquainted with the *Heats and ill Deſigns* of ſome great Men, and did not diſcover them, but that that was but *miſpriſion of Treaſon*, at moſt; and ſo he died innocent of the Crime he ſtood condemned for; and hoped, *that no body would imagine that ſo mean a thought could enter into him, as*

as to go about to ſave his Life, by accuſing others; The part that ſome had acted lately of that kind, had not been ſuch, as to invite him to love Life at ſuch a rate.

He declared; that he *could not but think the ſentence upon him very hard*, for nothing was ſworn againſt him (*whether true or falſe*) but diſcourſes about making ſome ſtirs——That *by a ſtrange fetch*, the *ſtory of ſeizing the Guards, was conſtrued a deſign of killing* the King; and ſo he was caſt in that.

He prayed *God*, not to lay it to the charge of the *King*'s *Council*, the *Judges*, *Sheriffs* or *Jury*; That, for the *Witneſſes*, he pittied and wiſhed them well, and ſhould not reckon up the particulars wherein they wronged him; but had rather their own *Conſciences* ſhould do that; to which, and the mercies of *God*, he left them.

His *Lordſhip* added, that from the time of chuſing *Sheriffs*, he concluded, that the heat in that matter, would produce ſomething of this kind, and that he was not much ſurprized to find it fall upon himſelf, and *wiſhed that his Blood might ſatiate ſome Peoples Revenge.*

——He wiſhed thoſe *Gentlemen of the Law*, who have great readineſs in

ſpeaking, would make more Conſcience in the uſe of it, and *not run Men down by ſtrains and fetches*; and *impoſe on eaſie and willing* Juryes, *to the ruin of innocent Men*; for *to kill by forms and ſubtilties of Law, is the worſt ſort of Murder*. He further wiſhed, that *the rage of hot Men and the partiality of Juries* might be ſtop'd with his Blood, and ſaid, he ſhould offer it up with more joy, if he thought he ſhould be the laſt to ſuffer in ſuch a way.

He then concluded thus,

The Will of the Lord *be done, into whoſe Hands I commend my* Spirit; *and truſt that thou*, O moſt merciful Father, *haſt forgiven me all my Tranſgreſſions: The Sins of my Youth, and all the Errors of my paſt Life; and that thou wilt not lay my ſecret Sins to my Charge, but wilt graciouſly ſupport me, during that ſmall part of my Life now before me; and aſſiſt me in my laſt Moments, and not leave me then to be diſordered by Fear, or any other Temptation; but make the light of thy Countenance to ſhine upon me*; *For* thou art my Sun and my Shield: *And as thou ſupporteſt me by thy* Grace, *ſo I hope thou wilt hereafter crown me with* Glory, *and receive me into the Fellowſhip*

Fellowſhip of Angels *and* Saints, *in that bleſſed Inheritance purchaſed for me by my moſt merciful* Redeemer, *who is, I truſt, at thy Right hand, preparing a place for me*; Into whoſe Hands I commend my Spirit.

Notes upon the *Tryal*, of the honourable *Algernon Sidney* Eſq; upon an *Indictment*, for conſpiring the Death of the *King*, and intending to raiſe a Rebellion; Before the Lord Chief Juſtice *Jeffrys*, Juſtice *Wythens*, Juſtice *Holloway*, and Juſtice *Walcot*, at the *King's-Bench*, upon the one and twentieth of *November*, 1683.

THis honourable Perſon *Colonel Sidney*, having been long Impriſoned in *the Tower*, without any proſecution, brought his *Habeas Corpus*, for the obtaining his liberty, upon which; being brought to the *King's-Bench*, upon the 7th of *November*; the *Attorney General*, nopn the ſudden, clapt an *Indictment* of

Treaſon upon him, to which he was inſtantly compelled to plead.

Upon the 21ſt of *November* he was brought to *Tryal*, and this *Jury*, pack'd by *Graham* and *Burton*, was ſworn upon him, *viz.*

John Aunger, Carpenter.
Richard White,
William Lyn,
Laur. Wood,
Adam Andrews,
Emery Arguiſe,
Joſiah Clerk,
George Gliſby,
Nicolas Baxter, HorſeRider.
William Reeves,
William Grove, Cheeſmonger, &
John Burt.

The *King's* Council were,
Sr *Ro. Sawyer*, Attorney General.
Mr *Finch*, Solicitor General.
Mr *North*,
Mr *Dolben*, and
Mr *Jones*.

The *Indictment*, opened by Mr *Dolben* was to this effect; *That the* Priſoner, *with others, conſpired the death of the* King, *and to levy War in the Kingdom, and ſent one* Aaron Smyth *into* Scotland, *to excite ſome to come from thence, and to conſult upon aſſiſtance to carry on thoſe deſigns; And that the*

the Priſoner *to perſwade the* People, *that it was lawful to raiſe* Rebellion; *did cauſe a ſeditious* Libel *to be written, containing expreſſions*; That the power is originally in the People, *&c.*

Note, the Indictment did not charge the Priſoner with publiſhing the Papers, which was ever till *now done*, when Libels have been made Criminal; but their *proof* in this caſe would not come up to publiſhing.

Then the *Attorney General* thunders thus againſt him; The *Priſoner* is indicted of the higheſt Crimes, the conſpiring the *King's* Death, and the overthrow of the *Monarchy*——There is no *Engliſh-man* but does believe, that for ſeveral years a Deſign was laid; and to that end ſecret Inſtructions were made uſe of, and Libels ſpread, to perſwade the *People*, that the *King* was introducing *Arbitrary Power*. (*Ay, ſo he was, and ſo were his Judges, and Council at Law*) that he ſubverted their Rights and Liberties, *&c.* (*a ſad truth*) They endeavoured to make the World believe the *King* was a *Papiſt*: (*So they did, and his Dear and Royal Brother, cleared up that Point ſoon after his Death*)—— And then there

there was a Design of an open Rising ——This *Gentleman's* Head and Heart was entire in this Service; he was at this very time preparing a most Seditious and *Trayterous Libel* To perswade the People, that it is Lawful, nay, that they have a Right, to set aside their *Prince, in case it appears that he hath broken the Trust laid upon him by the People*; He uses great Reason in the Case, *That the Power of the Prince is Originally in the People; and that the King's Power was derived from the People upon Trust*, (most horrid Heresie) *and they might assume the Original Power they had conferred*, &c.

After this *Harangue*, to pre-possess the Jury; *Mr West, Col. Romsey, and Keeling* were called, and told long Stories of *Consultations, Plots* and *Resolutions*; without offering one Word of Evidence against *Colonel Sidney*.

Then the *Lord Howard* told his long History of the *Plot*; that being ended; They gave in Evidence some scraps of a Manuscript found in the *Colonel's* Study, and read three or four Paragraphs to the (*judicious*) Jury, whereof I shall here give the Reader a touch; *When Pride had changed* Nebuchadnezar *into a Beast, what should*

should perswade the Assyrians *not to drive him out amongst Beasts; until* God *had restored unto him the Heart of a Man? When* Tarquin *had turned the Legal* Monarchy *of* Rome, *into a most abominable* Tyranny, *Why should they not abolish it? And when the* Protestants *of the* Low-Countries *were so grievously oppressed by the Power of* Spain, *under the Proud, Cruel and Savage Conduct of the Duke of* Alva, *Why should they not make use of all the means that* God *hath put into their Hands, for their Deliverance? Let any Man who sees the present State of the* Provinces *that then united themselves, judge; whether it is better for them to be, as they are, or in the condition into which his Fury would have reduced them, unless they had, to please him, renounced* God, *and their* Religion: *Our* Author *may say*, They ought to have suffered; *The King of* Spain, *by their Resistance, lost those* Countries; *and that they ought not to have been* Judges *in their own Case. To which I Answer, That by resisting, they laid the Foundation of many* Churches, *that have produced multitudes of Men, Eminent in Gifts and Graces; and Established a most glorious and happy* Common-Wealth, *that hath been*

been ſince its firſt beginning, the ſtrongeſt Pillar *of the* Proteſtant Cauſe, *now in the World, and a place of Refuge unto thoſe, who in all Parts of* Europe *have been oppreſſed for the Name of* Chriſt: *Whereas otherwiſe, they had* Slaviſhly, *and I think I may ſay,* Wickedly, *as well as* Fooliſhly; *ſuffered themſelves to be* Butchered; *they had left thoſe Provinces under the Power of* Anti-Chriſt, *where the Name of* God, *is no otherwiſe known, than to be* Blaſphemed.

If the King of Spain *had deſired to keep his Subjects, He ſhould have Governed them with more Juſtice and Mercy*; When contrary to all Laws, both Humane and Divine, He ſeeks to deſtroy thoſe, He ought to have preſerved, He can blame none but himſelf, if they deliver themſelves from his Tyranny; *And when the matter is brought to that, That he muſt not Reign, or they over whom he would Reign, muſt periſh, the matter is eaſily decided; As if the Queſtion had been asked in the time of* Nero *or* Domitian, *whether they ſhould be left at Liberty to deſtroy the beſt part of the World, as they endeavoured to do; or it ſhould be reſcued, by their Deſtruction; And as for the* Peoples *being Judges*

Judges in their own Caſe, it is plain, they ought to be the only Judges; becauſe it is their own, and only concerns themſelves. ——The general Revolt of a Nation, from its own Magiſtrates, can never be called Rebellion.

The Papers being read, *Mr Solicitor* (*doubting ſurely the Capacity of the intelligent Jury to judge of theſe Notions upon the firſt hearing*) ſaid, that no time was miſſpent to make things clear, and that the *Jury* might have the Words read again, if they had a mind to it; and he repeated that offer to them, but the *Gentlemen* better underſtanding the work of the day, then the Treatiſe; did not deſire a repetition of the Words.

The *Priſoner* here ſaid, *They have proved a Paper found in my Study of* Domitian *and* Nero; *that is compaſſing the death of the* King, *is it?*——Whatever my Lord *Howard* is (of whom I have enough to ſay by and by) *he is but one Witneſs*; and there ought to be two Witneſſes to the ſame thing——Let my Lord *Howard* reconcile what he has ſaid now, with what he ſaid at my Lord *Ruſſell*'s Tryal if he pleaſes, there he ſwore, he ſaid all he could, and now he has got I know

not

not how many things, that never were ſpoken of there.—— He hath accuſed himſelf of divers *Treaſons*, and is under the terror of puniſhment for them; and would get his own Indempnity by deſtroying others—*He owes me a great ſum of Money, and when I ſhould take the advantage, of the forfeit of his* Mortgage, *he finds a way to have me laid up in the* Tower; this is a point of great cunning, at once to get his Pardon and ſave his Money. He was deſirous to go further, and would have got my Servants to put my Plate and Goods into his hands—— He made affirmations in the preſence of *God*, that I was innocent in his opinion, and he was confident of it; I know in my Lord *Ruſſell*'s Caſe, Dr *Burnet* teſtified ſomething like this; and when my Lord *Howard* came to anſwer it; he ſaid *he was to face it out*: Now he did face it out bravely againſt *God*, but was very timerous of Man——— I am to give an account of theſe Papers, which they would piece and patch to my Lord *Howard*'s diſcourſe, and by a ſtrange kind of conſtruction and imagination, make to have relation to this *PLOT*, as they call it (I know of none.) They

They offer no proof but ſimilitude of Hands: Some years ago, the Lady *Car* was indicted of *Perjury*; and as evidence, ſome Letters of hers were produced, that were contrary to what ſhe ſwore in *Chancery*; and it was proved to be like her hand; but Chief *Juſtice Keeling* directed the Jury, that this was the ſmalleſt and leaſt of proofs, in Civil Cauſes; but in *Criminal* it was none at all; So that my Lord *Howard's* Teſtimony is ſingle——As to the Conſult he talks of What could ſix Men do? Can my Lord *Howard* raiſe five Men by his credit? By his Purſe? For my part I knew not where to raiſe five Men. That ſuch Men as We are, that have no Followers, ſhould undertake ſo vaſt a deſign, is very unlikely; And *this great deſign thus carried on, had neither* Officers *nor* Souldiers, *no Place, no Time, no Money for it.* This is a pritty *Cabel*, and very deep maintaining of the *Plot*.

Then the *Priſoner* called the Earl of *Angleſey*, the Earl of *Clare*, Capt. *Philip Howard*, *Dr Burnet*, Mr *Joſeph Ducas*, Lord *Paget*, and Mr *Edward Howard*; who all teſtified, that the Lord *Howard* had frequently with great aſſeverations,

and

and calling *God* to Witneſs, *affirmed that he knew of no Plot, and that he was confident of* Colonel Sidney's *Innocence.*

Mr *Blake* proved, that my Lord *Howard* told him, *that he could not get his Pardon, till he had paſt the drudgery of Swearing.*

Mr *Ducas*, *Grace Tracy* and *Elizabeth Penwick*, proved, that the Lord *Howard* came to the *Colonel*'s Houſe, and being told that he was taken away to the Tower for the Plot, He took *God* to witneſs, he knew nothing of it, and believed the *Colonel* did not; *and he then deſired that the* Colonel's *Plate and Goods might be ſent to his Houſe to be ſecured.*

Then Mr *Wharton offered to imitate thoſe Sheets of Paper, ſo that they ſhould not know which was which*; but the Court did not regard it.

Now Mr *Solicitor*, in his wonted luxuriant way of talking Men to Death, falls upon the Priſoner, and jumbles things thus together, (*in his Addreſs to the Jury*) *Gentlemen!* We go about to prove the compaſſing and imagining the Death of the *King*, by the Priſoner's conſulting how to raiſe Armes; and by plain matter in writing under his hand; *where*

where he does affirm, it is lawful to take away and deſtroy the King [A ſtrange Suggeſtion, no way warranted by the reading the Papers] and he then proceeds in the ſame way to inſinuate many things againſt the Priſoner, which no way affected nor reached him, by the Evidence given. He then comes to the Papers, and ſayes, *Compaſſing and imagining the Death of the King, is the Act of the mind*, and when once there is an *Overt Act*, that is, a thing that manifeſts ſuch intention; Then the Law takes hold of it; Now after this Evidence. (*which the Reader will remember was only the Lord Howard's Swearing*) I think no man will doubt, whether it was in the heart of the Priſoner to deſtroy the *King*; here is an avowed principle of *Rebellion*, Eſtabliſhit upon the ſtrongeſt reaſon he has to back it——Gentlemen! (*ſpeaking to the Carpenter and his Fellows, moſt competent Judges of ſuch a Book*) *This*, with the other Evidence that has been given, *will be ſufficient to prove his compaſſing the Death of the* King——*This Book is another, and more than two Witneſſes againſt him*; you have heard one Witneſs prove it poſſitively to you, that he conſulted to

 riſe

riſe in Arms againſt the *King*, and here is his own Book ſays, *It is lawful to riſe in Arms, if the King break his Truſt*, and in effect he has ſaid the *King* has broken his Truſt, therefore, *this will be a ſufficient demonſtration, what the imagination of the Heart of this Man was; that it was nothing but the Deſtruction of the* King *and of the* Government——— Some Men, may by paſſion, be tranſported into ſuch an offence; in them, it is leſs dangerous, but it is this *Gentleman's* principle; *Gentlemen!* This is the more dangerous *Conſpiracy* in this Man, by how much the more it is rooted in him; and how deep it is you hear, when a Man ſhall write as his principle, *that it is lawful to depoſe Kings, they breaking their Truſt; and that the Revolt of the whole Nation cannot be called Rebellion.* It will be a very *ſad* * *Caſe, when People act this, according to their Conſciences*; and do all this for the good of the *People*, as they would have it thought; but this is the Principle of this Man; *We think We have plainly made it out, that it was*

* But late Experience refutes his Opinion, and we now ſee 'tis a very happy Caſe.

was the Imagination of his heart to Deſtroy the King.

Hereupon Colonel *Sidney* ſaid, My *Lord*, We have had a long Story, *I deſire* Mr Solicitor *would not think it his Duty to take away Mens Lives any how*——— My Lord *Coke* and Lord *Hales*, were both of Opinion, That the *Overt Act* of one *Treaſon*, is not an *Overt Act* of another; *Hales* ſaith, *Compaſſing by bare words is not an Overt Act*; *Conſpiring to levy War is no Overt Act.*

Then the *Chief Juſtice* concluded, with a long Repetition, of what he pretended had been given in Evidence? and ſaid, That though ſome *Judges* had been of opinion; that *Words* of themſelves, were not an *Overt Act*; yet my *Lord Hales* nor my *Lord Coke*, nor any other of the *Sages* of the Law, ever queſtioned, but that a Letter would be an *Overt Act*, ſufficient to prove a Man guilty of *Treaſon*; for *Scribere eſt Agere.* ———Gentlemen! I muſt tell you, that in caſe there be but one Witneſs to prove a direct *Treaſon*, and another to prove a circumſtance, that contributes to that *Treaſon*; That will make two *Witneſſes* to prove the *Treaſon*——Here

is a *moſt Trayterous Lybel*, if you believe that *Colonel Sidney* write it; No Man can doubt but it is a ſufficient Evidence, that he is guilty of Compaſſing and Imagining the Death of the *King*—— I muſt mind you that *this Book contains all the Malice and Revenge, and Treaſon, that Mankind can be guilty of*—— This is made uſe of by him to ſtir up the *People to Rebellion* (*yet by the way it was not ſo much as pretended that* Colonel Sidney *had publiſhed the Book, or ſhown it to any Mortal*)——So 'tis not upon two, but upon greater Evidence than two and twenty; if you believe this *Book* was writ by him. Next I muſt tell you, upon, I think, a leſs Evidence, the *Lord Ruſſell* was Convicted and Executed, (*An excellent Argument, that having then taſted Noble Blood, they muſt go on to drink their full of it; 'tis to be lamented, that ſuch Miſcreants have not been diſmiſed the World, as the famous* Scythian Queen Tomyris, *did the* Perſian *Tyrant* with a *Satiate vos Sanguine, quem ſitiſtis, Proditores Patriæ et dedecus humani generis.*)

This Doctrine thus powerfully inſinuated to the well diſpoſed *Jury*, (*a pack of meer Tooles, to eccho back the pleaſure of the Judges*)

Judge) procured a Guilty to be without difficulty brought in, upon this *Great and Noble Perſon.*

It being hereupon demanded of him, what he had to ſay why Judgment of Death ſhould not be given againſt him, He ſaid, that he had had no Tryal, *he was to be Tryed by his Country*, and he did not find his *Country* in the *Jury* that tryed him; There were ſome of them that were not *Freeholders*; and there is neither Law nor Preſident of any Man *Tryed by a Jury*, in a *County*; that were not *Freeholders*; So he had had no Tryal at all, and if ſo, there could be no *Judgment.*

To this *Jeffryes* replyed, that he had had the Opinion of the Court in that matter, and that they were unanimous in it. (*And ſo they were in all murdering work at that day.*)

Colonel Sidney *then ſaid, that there was nothing of Treaſon in the Words*, ſaid to be written in the Papers if the nature of the thing were examined; To which the *Chief Juſtice* retorted, There is not a line in the Book ſcarce, but what is *Treaſon.*

The Sentence being paſſed, the Priſoner expreſſed himſelf in theſe Words;

Why then, O Lord, Sanctifie I beſeech thee thoſe my Sufferings unto me, Sanctifie me through my Sufferings, Sanctifie me through thy Truth, Thy Word is Truth; Impute not my Blood unto this Nation, Impute it not unto the grand City, through which I ſhall be led unto the place of Death; Let not my Soul cry, tho' it lies under the Altar; make not Inquiſition for my Blood, or if innocent Blood *muſt be expiated; let thy Vengeance fall only upon the* Heads *of thoſe, who* knowingly and maliciouſly *Perſecute me for* Righteouſneſs ſake.

Upon the 7th of *December* 1683. He was Beheaded upon *Tower-Hill*; when he delivered to the *Sheriffs, Daniel & Daſkwood*, a *paper*, the *ſubſtance* whereof is here preſented to the Reader.

Men, Brethren and Fathers; Friends, Country-men and Strangers,

We live in an Age, that maketh Truth paſs for Treaſon; I dare not ſay any thing contrary to Truth, and the * Ears of thoſe that are about me, will probably be found too tender to hear it.

* Sheriff *Daniel's*, &c.

Weſt, Romſey and *Keeling*, brought to prove the *Plot*, ſaid no more of me, than

than that they did not know me. The Lord *Howard is too infamous* by his Life, and his many *Perjuries*, not to be denyed, or rather ſworn by himſelf, *to deſerve mention*: and being a ſingle Witneſs, would be of no value, though he had been of unblemiſhed Credit, or had not ſeen and confeſſed, *that the Crimes committed by him, would be pardoned, only for committing more.*

This being laid aſide, the whole matter is reduced to the Papers ſaid to be found in my Cloſet —— If I had been ſeen to write them, the matter would not be much altered; They plainly appear to relate unto a *Treatiſe* written long ſince in anſwer to *Filmer's Book, which is grounded upon wicked Principles, equally pernicious to Magiſtrates and People.*

If he might publiſh unto the World, his Opinion, *that all* Men *are born under a neceſſity, derived from the* Law *of* God *and* Nature, *to ſubmit unto an abſolute* Kingly Government, *which could be reſtrained by no Law, or Oath; and that he that hath the Power, hath the Right, and the Perſons and Eſtates of his Subjects, muſt be indiſpenſably ſubject to it*; I know not, why I might not have publiſhed my opi-

nion to the contrary, without the breach of any *Law*.

I might as freely as he, publickly have declared my thoughts, and the Reasons of my belief.

That Magistrates *were set up for the good of Nations, not Nations for the honour or glory of* Magistrates.

That the Right and Power of Magistrates was that which the Laws of the Country made it to be.

That those Laws were to be observed; and the Oaths taken by them; having the force of a Contract between Magistrate and People, could not be violated without danger of dissolving the whole Fabrick.

That few would be so gentle, as to spare even the best Magistrates, *if by their destruction, a wild* Usurper, *could become* God's Anointed.

This seems to agree, with the *Doctrines*, of the most *Reverend Authors*, of all *Times*, *Nations* and *Religions*. The best and wisest of *Kings* have ever acknowledged it. *King James*, in his Speech to the *Parliament*, Anno 1603, *doth, in the highest degree, assert it; The* Scripture *seems to declare it.* If the Writer

Writer nevertheless, was mistaken, *No Man, for such matters, hath ever been referred to the Judgment of a* Jury, *composed of Men, utterly unable to comprehend them.*

But there was little of this in my Case; The *extravagance* of my *Prosecutors* goes higher; The Treatise was never finished, nor could be in many Years; So much as is of it, was written long since; never reviewed, nor shewn to any Man.

Whatsoever is said of the *expulsion* of *Tarquin*; The *Insurrection* of *Nero*; The *Slaughter* of *Caligula*, or *Domitian*, &c. *is applied by Innuendo unto the King.*

They have not considered, that *if such* Acts *of* State *be not good, no* King *in the World has any title, nor can have any; unless he could deduce his Pedigree from the eldest Son of* Noah, *and shew, that the* Succession *had still continued in the Eldest, of the Eldest Line, and been so deduced to him.*

But *I was long since told that I must dye, or the Plot must dye.*

Lest the means of destroying the best Protestants in England *should fail, the* Bench *must be filled with such, as have been* Blemishes *to the* Bar. None,

None, But such as these, *would have advised with the* King's Council, *of the means of bringing a man to death, Suffered a* Jury *to be pack'd, by the* King's Solicitors, *and the* Under-Sheriff: *Admit of* Jury Men, *who are not* Freeholders; *Receive such evidence, as is above mentioned*; *refuse a Copy of an* Indictment, or to suffer the Statute of 46 *Edward* 3. to be read, that doth enact, *It should, in no case, be denied unto any Man upon any occasion whatsoever*; *over-rule the most important points of Law without hearing.* And, whereas the *Statute* 25 *Edward* 3. upon which they said, I should be tryed, *doth reserve unto the* Parliament *all* Constructions *to be made, in point of* Treason. *They could assume unto themselves, not only a power to make* Constructions; *but such* Constructions, *as neither agree with* Law, Reason, *or* Common Sense.

By these means, I am brought to this place; The *Lord* forgive these Practices, and avert the Evils, that threaten the Nation from them; *The Lord sanctifie these my Sufferings unto me, and tho' I fall, as a* Sacrifice *unto* Idols; *suffer not* Idolatry *to be established in this* Land. *Bless thy People and save them, defend thy own* Cause

Cause, *and defend those that defend it. Stir up such as are faint: direct those that are willing: Confirm those that waver: Give Wisdom and Integrity unto all. Order all things so as may most redound to thy own Glory. Grant, that I may dye glorifying Thee, for all thy Mercies, and, that at the last, thou hast permitted me to be singled out, as a* Witness *of thy* Truth; *and even by the Confession of my* Opposers, for that old Cause *in which I was from my Youth engaged, and for which thou hast often and wonderfully declared thy self.*

Thus, for Innuendo *Treasons*, and by a barbarous Prosecution; fell this never to be forgotten *Champion* and *Martyr* for the *English Liberties*; the honourable and valiant *Colonel Algernon Sidney.*

This great Man, having in his forementioned Paper, mentioned the *Opinion* of *King James* the first, delivered in his *Speech* to the *Parliament*, in the Year 1603. I shall here, to gratifie the Reader's Curiosity, transcribe a Paragraph or two of that Learned *King's* Speech (*viz.*)

I do acknowledge, that the special and greatest point of difference, that is betwixt a rightful King, *and an usurping* Tyrant, *is*

in

in this : *That, whereas the proud and ambitious* Tyrant, *doth think his* Kingdom *and* People, *are only ordained, for the ſatisfaction of his Deſires and unreaſonable Appetites*; *The righteous and juſt* King *doth, on the contrary, acknowledge himſelf to be ordained, for the procuring of the Wealth and Proſperity of his* People; *and that his great and principal Worldly Felicity, muſt conſiſt in their Proſperity.*——That I am a Servant, it is moſt true; *That as I am Head and Governour of all the People in my Dominion*, who are my *natural Subjects, conſidering them in diſtinct Ranks*; So, if we will take in the *People* as one *Body*, Then, as the *Head* is ordained for the *Body*, and not the *Body* for the *Head*; ſo, muſt a righteous *King*, know himſelf to be ordained for his *People*, and not his *People* for him.

Wherefore, *I will never be aſhamed to confeſs it my principal honour, to be the* great Servant of the Common-wealth.

To this I ſhall ſubjoyn a few Words, to the ſame purpoſe, out of that *King's* Speech to the *Parliament*, in 1609.

Every juſt King *in a ſetled* Kingdom, *is bound to obſerve that Paction made to his People, by his Law*; *in framing his Government*

ment agreeable thereunto; *And therefore*, a *King*, governing in a ſetled Kingdom, ceaſes to be a King, and degenerates into a *Tyrant*, *as ſoon as he leaves off to rule according to the Laws.*

Notes upon the Tryal of Sr *Samuel Barnardiſton* Baronet, at *Guild-Hall, London*, Before Sr *George Jeffryes*, Lord Chief Juſtice of the King's Bench, upon the 14*th* day of *February*, 1683. upon an *Information* to the effect following, (*viz.*)

THat there having been a *Horrid Plot* lately diſcovered, the Defendant, to ſcandalize the Evidence, wrote a Letter to this effect, *viz. That the return of the* Duke *of* Monmouth, *and his being received into Favour with the* King, *had made a great alteration at Court*, and that thoſe who before ſpoke indecently of him, did now court and creep to him; Yeſterday, being the laſt of the *Term*, all the Priſoners in the *Tower'*

Tower, upon the late *Sham Proteſtant Plot*, were Bailed. The Information againſt Mr *Bauddon* (*who Proſecuted the Murder of the Earl of Eſſex*) for a Subornation, was not proſecuted, and his Bail was diſcharged, and the paſſing Sentence upon the *Author* of *Julian* the *Apoſtate*, and the *Printer* of the late *Lord Ruſſell*'s *Speech* was paſſed over with ſilence; Great Applications are made to the *King*, for the pardoning Mr *Sidney*——The *Lord Howard* appears deſpicable, in the Eyes of all men—— The *Papiſts* and *high Tories* are quite down in the Mouth, *Their Pride is abated, and themſelves and their Plot confounded, but their Malice is not Aſſwaged.* Its generally ſaid, the *Earl of Eſſex* was Murdered. The brave *Lord Ruſſell* is a freſh lamented, The *Plot* is loſt here, *except you in the* Country *can find it out amongſt the* Addreſſers *and* Abhorrers. And that he wrote in another Letter to this effect. The *King* is never pleaſed but when the *Duke of Monmouth* is with him ——His Pardon was Sealed and delivered to him laſt *Wedneſday*; 'tis ſaid he will be reſtored to be Maſter of the Horſe, *&c.*——He treats all his old

old Friends with great Civility, they are all ſatisfied with his Integrity, and if *God* ſpare his Life, doubt not but he will be an Inſtrument of much good, to the *King* and *Kingdom*; he ſaid publickly, that he knew my *Lord Ruſſell was as Loyal a Subject as any in* England; and that his *Majeſty* believ'd the ſame now; it would make you laugh, to ſee how ſtrangely our high *Torys* and *Clergy* are mortified, their Countenances ſpeak it ——Sr *George* is grown very humble. Its ſaid Mr *Sidney* is reprieved for forty days, which bodes well.

And that in a third *Letter* he wrote thus, The late change here in publick Affairs, is ſo great and ſtrange that we are like men in a Dream, and fear we are not fit for ſo great a Mercy as the preſent Juncture ſeems to promiſe; the *Sham Proteſtant Plot* is quite loſt and confounded.

And that in a fourth *Letter*, there are theſe expreſſions——Contrary to all mens expectations, a *Warrant* is ſigned for beheading *Colonel Sidney* at *Tower-Hill* next *Friday*; great endeavours have been uſed to obtain his Pardon, *but the contrary party have carried it*; Which much

much daſheth our Hopes; *but God ſtill governs.*

The *King's Council*, to proſecute this matter were,

The *Recorder* of *London.*

Mr *Herbert* (*quickly after made Lord Chief-Juſtice.*)

Mr *Jones.*

Council for Sr *S. Barnardiſton*, were,

Mr *Williams*,

Mr *Thompſon*, and

Mr *Blackerby.*

The *Jury*, pick'd out to try this Cauſe, were,

Thomas Vernon (Knighted ſoon after the Service done in this Cauſe, and then made Fore-man of a *Jury* to convict Dr *Otes* of Perjury.)

Percival Guilbourne (one of the *Jury* upon the *Guild-hall* Riot)

Edward Rovery,

William Withers ſenior; (A well qualified Jury-man for this Cauſe.)

James Wood.

Robert Maſters: (A principal Witneſs againſt *Colledge.*)

Samuel Newton, (Another of the Riot *Jury.*)

George Toriano (One of the Lord *Ruſſell's Jury.*)

And

Kenelm Smyth, *Thomas [illegible]ny*, and *Thomas Goddard*, *Richard Blackburne.*

The *Recorder* of *London* and Mr *Herbert*, having aggrivated the charge in the *Information.* Mr *Blaithwait*, *Atterbury* the *Meſſenger*, and *Nehemiah Oſland*, Sr *Samuel*'s Servant, gave evidence of the writing thoſe Letters, and ſending them by the *Poſt*, for Sr *Philip Skippon*, Mr *Gael* and Mr *Cavel* in *Suffolk.*

Then Mr *Williams*, Counſel for *Sr Samuel*, applied to the *Jury*, to this effect; That the queſtion was, Whether Sr *Samuel* were knowingly guilty of the Writing and Publiſhing the four *Letters.* That, as to his publiſhing them, he ſaw no evidence, and he put it to the Court; whether the ſending them to the Poſt-Houſe, could amount to the publiſhing a *Libel*: and he added, to the *Jury*, that he ſuppoſed they would not take it upon their Oathes, that he was guilty of what he was there accuſed of, many things being laid in the Information, to inhanſe the Crime, of which there was no proof.

The Clamorous *Chief Juſtice*, proceeding

ceeding to direct the *Jury*, expreſſed himſelf to this effect, That the *Information* took notice of a horrid Conſpiracy lately hatcht, for the deſtruction of the *King* and *ſubverſion of the Government*; and that the *Lord Ruſſell* and *Algernon Sidney*, who were ingaged in that *damnable Conſpiracy*, were convicted and executed.

That the *Defendant*, being *diſaffected*, and a man of *ill Principles*; to diſturb the Government, did cauſe the four Letters to be writ and publiſhed.

That the Letters were Factious, Seditious and Malitious; and as baſe as the worſt of mankind could have invented——That it was a work of time and thought, fixt in his very Nature; and ſhewed ſo much Venom, as would make one think the whole maſs of his Blood were corrupted.

Here is *malice* againſt the *King*, malice againſt the *Government*, malice againſt both *Church* and *State*, malice againſt any man that bears any ſhare in the *Government*, indeed malice againſt all mankind, that are not of the ſame perſwaſion with thoſe *bloody Miſcreants*—— *Here is the ſanctifying of* Traytors *juſtly executed*

executed——*Here is the Sainting of two horrid* Conſpirators, *the* Lord *Ruſſell that bleſſed* Martyr; *my Lord* Ruſſell *that good Man, that excellent Proteſtant*, he is lamented; and here is Mr *Sidney* Sainted, and what an extraordinary man was he——*'tis a ſhame to think that ſuch* bloody Miſcreants *ſhould be Sainted and Lamented.*

'Tis high time for all mankind that have any *Chriſtianity*, or ſenſe of *Heaven* or *Hell* to beſtir themſelves, to rid the Nation of ſuch *Caterpillars*, ſuch *monſters of Villany*, as theſe are.

Theſe Letters tell you, God *would be ſure to raiſe up Inſtruments*; but what *Inſtruments* do they mean? *Inſtruments* of *Rebellion* and *Faction* and *Sedition*; which they moſt falſly call his own Work.

The queſtion is, whether the *Defendant* be guilty of writing theſe *Venomous, Malicious, Seditious, Factious, Tumultuous Letters*, of which you have as full and plain proof as can be made; And as to his publiſhing them, can you think that he would write all this Malitious Stuff, to put them in his Pocket; but you have it ſworn, that the *Defendant* ſaid, they were ſent to the *Poſt-Houſe*.

Then, the *Jury* immediately gave in their Verdict, that the Defendant was Guilty of the Offence and Misdemeanor, charged in the *Indictment*; *as no doubt they resolved to do, before they heard one word of the matter.*

The *Judgment* upon this *Verdict*, was, that the *Defendant should pay* 10000 *l. Fine, and be Imprisoned till paid, and to find Sureties for the good Behaviour for Life.*

Accordingly, he was committed for the Fine, to the *King's Bench*, and continued a *Prisoner* four or five years, which satisfied not, but *Graham* and *Burton*, those Instruments of Rapine and Oppression, broke in upon his Estate, and besides the *Waste* and *Destruction* made; they levyed to their own Use and the *King*'s about 6000 *l.*

Notes

Notes upon the Proceedings against Sr *Thomas Armstrong* at the *King's Bench*, the 14*th* of *June* 1684. Before the *Lord Chief Justice Jefferies* Justice *VVithens*, Justice *Holloway* and Justice *VValcot.*

SR *Thomas Armstrong*, having been *Out-lawed*, upon an *Indictment* of *high Treason*, and betrayed, and brought from *Holland*; was Committed to *Newgate* upon the 10*th* of *June*, 1684. by the *Warrant* of *Sidney Goldolphin* Esq; *principal Secretary* of State; And upon the 14*th* of *June*, being brought to the *King's Bench* Bar; Sr *Robert Sawyer* Attorney General, moved the Court for an award of *Execution*, upon the *Outlawry*; Whereupon he was Arraigned on the *Outlawry* (*viz.*) *that he had been Indicted of* high Treason *for conspiring against the* King's Life, and the *Government*; That for not appearing to plead and try that *Indictment*, he stood *Outlawed*, and thereby Attainted of the *Treason*; And it was demanded of him, what he had to say,

why Execution ſhould not be awarded againſt him.

Sr *Thomas* urged, *that he was beyond Sea at the time of the* Outlawry, and deſired that he might be Tryed; To which the *Chief Juſtice* anſwered, *We have nothing to do, but to award Execution.*

Sr *Thomas* deſired that the *Statute* 6. *Edward* 6. might be read, *which gives the Perſon Outlawed for* Treaſon, *a year to reverſe it, if he were beyond Sea*; and deſired that Council might be aſſigned him.

The *Chief Juſtice* ordered the *Statute* to be read, to which the *Attorney General* aſſented, but ſaid, Sr *Thomas* would not find it to his purpoſe; it was read to this effect, *That all proceſs of* Outlawry *for* Treaſon *againſt Offenders, being beyond the Seas, ſhall be effectually in the Law, but it provides that if the Party ſhall within a year, yeild himſelf to the* Chief Juſtice, *and offer to traverſe the* Indictment, *he ſhall be received to traverſe, and being found not Guilty, he ſhall be acquitted of the* Out-lawry, *and of all Penalties and Forfeitures by reaſon thereof.*

Then, the *Attorney General* ſaid, *Sr Thomas*, now I ſuppoſe will ſhew he yielded

yielded himſelf to your *Lordſhip*; and added, that before he went out of *England* he might have rendred himſelf, and been Tryed if he had pleaſed.

Sr *Thomas Armſtrong* anſwered, I have been a *Priſoner*; the year is not yet out, I now render my ſelf, and do conceive I am within the Benefit of the *Statute*, and do deſire it.

The *Chief Juſtice* replyed, we are of another opinion, we cannot take notice of it, *there is no doubt nor difficulty at all in the thing*, and applying to *Richardſon*, ſaid, *Captain Richardſon, you ſhall have a rule for Execution on Friday next.*

Then, Sr *Thomas* offered to the *Court*, that one in that place had the benefit of a Tryal offered him, and that was it that he deſired, for he thanked *God* his Caſe was quite another then his. That he knew his own Innocence (*And ſo did They too, otherwiſe he had not been denyed a Tryal*) and deſired to make it appear by a Tryal.

To this the *Chief Juſtice* anſwered, which you ſpeak of, was the *Grace and Mercy of the King*, who may, if he pleaſe, extend the ſame to you; but we are ſatisfied, that according to Law, we muſt

award Execution upon this *Outlawry*. Thereupon Mrs *Mathews* Sr *Thomas's* Daughter ſaid, *My Lord, I hope you will not Murder my Father*; for which being Brow-beaten and checkt, ſhe added, *God Almighty's Judgments light upon you.*

Then, the *Attorney General* ſaid, that he would acquaint the *Court* with one thing, in reference to what Sr *Thomas* had ſaid, That the *King* did indeed indulge *Holloway* ſo far, as to offer him a Tryal, and perhaps might have ſome reaſon for it; but affirmed, that the *Priſoner deſerved no ſort of Indulgence or Mercy*; and then, in effect went on to give Evidence againſt him, ſaying, *that it appeared that after the diſappointment to the meeting at the* Rye, *by the* New-market fire, *Sr Thomas was one of thoſe, who engaged to deſtroy the* King *by the way*, upon his haſty coming then to Town; and affirmed, that this did appear upon a full and clear Evidence; and that when he was taken beyond Sea, Letters of Communication with *Foreign Miniſters* and other people, were found about him.

The *Chief Juſtice* (knowing a more expeditious way of murdering this *Gentleman*)

Gentleman) ſaid he would not meddle with evidence; telling the *Attorney*, that that was not their buſineſs (*and no doubt they were both conſcious that they had not evidence where-with to convict him*) and ſaid, we have nothing more to do, but to award *Execution.*

Sr *Thomas* ſtill inſiſted that he was within the *Statute*, that *he was Out-lawed while he was beyond Sea, and that the twelve Moneths not being paſt, he ought to have the Law*, and demanded no more. Thereupon, the *Bloody-Monſter*, in a moſt inſolent and inhumane manner, concluded thus; That you ſhall have, by the *Grace of God*; ſee that execution be done on *Friday* next, according to Law. *You ſhall have the full benefit of the Law.*

It may ſeem proper in this place, to note to the *Reader*, the reaſon why the *Grace* and *Favour* (as termed by the *Chief Juſtice* and *Attorney General*) of being admitted to Tryal, was offered to *Holloway* upon the one and twentieth of *April* before; and now denyed to Sr *Thomas Armſtrong*; which cannot be better done, then by caſting an Eye to the proceedings upon *Holloway*; whereby it manifeſtly appears, that that unhappy

happy perſon, had been wrought upon, by the fear of Death and hope of Pardon, to be very prodigal in his Confeſſions, it being moſt evident, that what he had declared, was more then a thouſand Witneſſes againſt himſelf; and that he had put down a multitude of Hear-ſays and Reports of others; the truth whereof, never did nor will appear; Hereupon, they who had before wheedled & deluded him, do now careſs him; Mr *Attorney* told him, that at Law, he was gone, but if he had any thing to ſay to defend himſelf, the *King* would not exclude him, but *extend his Mercy ſo far, as to admit him to Tryal.* Upon which the *Chief Juſtice* ſaid, *Mr Attorney, it is exceeding well*; and told the *Priſoner* that the *King was pleaſed to ſignifie his gracious Intention towards him, in that he was contented to wave the* Out-lawry, *and allow him to try the matter, if he thought he could defend himſelf.* The *Priſoner* finding himſelf ſnared, and that this *Grace* would ſerve him, as it did all others that fell into their power at that time; did only anſwer, that he could not undertake to defend himſelf, he *having before thrown himſelf upon the* King's *mercy, and*

and confeſſed himſelf guilty of many things in the Indictment. So he was ſentenced, and *dyed without Mercy.*

At the place of Execution *Sr Thomas Armſtrong* deported himſelf with Courage, becoming a great Man, and with the Serioufneſs and Piety ſuitable to a very good *Chriſtian.*

Sheriff Daniel told him, that he had leave to ſay what he pleaſed, and ſhould not be interrupted, *unleſs he upbraided the Government*; *Sr Thomas* thereupon told him, that he ſhould not ſay any thing by way of *Speech*; but delivered him a Paper, which he ſaid contained his mind, he then called for Dr *Tenniſon* who prayed with him, and then he prayed himſelf.

In his Paper he thus expreſſed himſelf, *That he thanked* Almighty God, *he found himſelf prepared for Death, his thoughts ſet upon another World, and weaned from this; yet he could not but give ſo much of his little time as to anſwer ſome* Calumnies, *and particularly what* Mr Attorney *accuſed him of at the Bar*;

That he prayed to be allowed a Tryal *for his Life*, acording to the Laws of the Land, *and urged the* Statute of *Edward 6. which*

which was expreſly for it; but it ſignified nothing, and he was with an extraordinary Roughneſs condemned and made a precedent; tho' *Holloway* had it offered him, and he could not but think all the world would conclude his caſe very different, elſe why refuſed to him?

That Mr *Attorney* charged him for being one of thoſe that was to kill the *King*, *He took* God *to witneſs, that he never had a thought to take away the* King's *Life, and that no man ever had the Impudence to propoſe ſo barbarous and baſe a thing to him; and that he never was in any deſign to alter the* Government.

That if he had been tryed, he could have proved the Lord *Howard*'s baſe Reflections upon him, to be notoriouſly falſe——He concluded, that he had lived and now dyed of the *Reformed Religion*, a *Proteſtant* in the *Communion* of the *Church of* England, *and he heartily wiſhed he had lived more ſtrictly up to the Religion he believed:* That he had found the great comfort of the Love and Mercy of *God*, in and through his *bleſſed Redeemer*, in whom he only truſted, and verily hoped that he was going to partake of that fulneſs of Joy which is in his

his preſence, the hopes whereof infinitly pleaſed him. He thanked *God* he had no repining, but chearfully ſubmitted to the puniſhment of his Sins; He freely forgave all the World, even thoſe concerned in taking away his *Life*, *tho' he could not but think his Sentence very hard, he being denyed the Laws of the Land.*

I ſhall here (for the Readers more full Information in this matter) ſubjoyn the Sence of our preſent Houſe of Commons of this proceeding againſt Sr *Thomas Armſtrong*; and the Cenſure they have moſt juſtly paſſed upon it.

Martis 12. *November* 1689.

A Petition of the *Lady Armſtrong* and her *Daughters*, was Read; Whereupon a *Committee* was appointed to examine the matter, and make their Report to the Houſe. Reſolved,

That it be an Inſtruction to the *Committee*, That they examine who were the *Judges* that gave the Sentence againſt Sr *Thomas Armſtrong*, and who were the *Proſecutors* of him; and who had his Eſtate; and how the *Petitioners* may have Reparation; And alſo to examine what Proceedings were in order to a Writ of

Error

Error by him desired, and how it came to be denyed, and by whom: And they are to make their Report with all convenient speed.

Martis 19. *November*, 1689.

Mr *Chrisly* reported from the *Committee* to whom the *Pitition* of the *Lady Armstrong*, and the *Daughters* of Sr *Thomas Armstrong* was referred; An account of the whole Proceedings against him; And that thereupon they had come to these *Resolves*.

1. *That Sr* Thomas Armstrong's *Plea ought to have been admitted, according to the* Statute of Edward 6. *and that the* Execution *of him upon the* Attainder *by* Outlawry, *was illegal, and a Murder, by pretence of Justice.*

2. That the *Executors* and *Heirs* of Sr *Thomas Armstrong*, ought to have a Reparation of their Losses out of the *Estates* of those that were his *Judges* and *Prosecutors*.

3. *That a Writ of Error for the Reversal of a Judgment in* Felony or Treason, *is the right of the Subject, and ought to be granted at his desire, and is not an Act of* Grace

Grace or Favour; *which may be denyed or granted at Pleasure.*

To all which *Resolves* the *House* agreed. *Resolved*,

That leave be given to bring in a *Bill* to Reverse the *Attainder* of Sr *Thomas Armstrong*, and to make Reparation to his *Widow* and *Children*, out of the Estates of the *Judges* and *Prosecutors*: And the same to be without Fees.

Munday the 20th of June, 1689.

Mr *Chrisly* reported from the *Committee*, to whom the Bill for the annulling the *Attainder* of Sr *Thomas Armstrong* was recommitted; some Amendments to the *Bill*; as also who were his Prosecutors; & also what Losses Sr *Thomas Armstrong*'s Family had sustained, by reason of the *Attainder*; and thereupon it was *Resolved*,

That Sr *Richard Holloway*, Sr *Francis Wythens*, *the Executors of the late Lord* Jeffries, *and of the late Justice* Walcot, *Mr* Graham *and Mr* Burton, do attend the House on Saturday morning next, to answer to such matters, as are charged against them touching the Proceedings against Sr *Thomas Armstrong*.

Then Mrs *Mathews*, Sr *Thomas Armstrong*'s

ſtrong's Daughter was called in, and examined what ſhe knew of the Proſecution againſt her Father; And Sr *Robert Sawyer* (then *Attorney General*) being named by her, as one of the *Proſecutors*; After ſhe was with-drawn, he was heard in his place to what was objected againſt him, and then he withdrew, and upon debate of the matter it was *Reſolved, That Sr* Robert Sawyer*'s Name be put into the Bill, as one of the* Proſecutors *of Sr* Thomas Armſtrong. *Reſolved,*

That *Sr Robert Sawyer* be *expelled* the *Houſe* for the ſame.

Saturday the 25th of *January* 1689.

The Houſe being acquainted, that according to their Order, Sr *Francis Wythens*, Sr *Richard Holloway*, Mr *Graham*, and Mr *Burton*, attended at the Door, they were ſeverally called in, and examined, touching the Proſecution and *Proceedings* againſt Sr *Thomas Armſtrong*.

And alſo the *Executors* of the late *Lord Jeffryes*, that were attending at the Door were likewiſe called in, and asked what they had to ſay why Reparation ſhould not

not be made out of the *Lord Jeffryes* Eſtate, to the ſaid Sr *Thomas Armſtrong*'s Family.

No Perſons appearing as *Executors* to the late *Juſtice Walcot*; the *Houſe* was acquainted that he *dyed Inteſtate, and had not left an Eſtate ſufficient to pay his Debts.*

After the Perſons before-mentioned were heard and with-drawn, Mr *Blaney* was called in, who gave the *Houſe* an Account of the *Proceedings* in the *Court* of *King's-Bench*, upon the Awarding Execution againſt Sr *Thomas Armſtrong*.

And then the Houſe proceeded upon the Amendments made by the *Committee* to the Bill, for annulling the *Attainder* of Sr *Thomas Armſtrong*: And after having inſerted the Name of Sr *Robert Sawyer*, as a *Proſecutor*, and reſolved, *That the ſum of five thouſand Pounds ſhould be paid by the* Judges and Proſecutors, to Sr *Tho. Armſtrong*'s Lady, and Children, *as a Recompence of the Loſſes they had ſuſtained by reaſon of his* Attainder, the Bill was recommitted (upon the debate of the *Houſe*) to the ſame *Committee*.

Notes upon the *Tryal*, between *Sr William Pritchard* Alderman of *London*, and *Thomas Papillon*, Esq. at *Guildhall*, upon the 6th day of *November* 1684. before Sr *George Jeffryes* Lord Chief Justice of the *Kings-Bench*.

THat Mr *Papillon* was second to none in his zealous and undaunted oppolition, to the wicked attempts of introducing *Popery* and *Arbitrary Government*, is very well known; and deserves to be for ever remembred with honour; None out did him in a diligent and faithful discharge of his Trust in several *Parliaments*.

In the Year 1681, there appeared a *Race* of Men, fond of *Vassalage* and *Slavery* to that degree, that they made *Addresses of Thanks to the* King, *for breaking two* Parliaments, *in the compass of three Months*; meerly upon the score of their steady Resolution, to extirpate the *Popish Plot* and *Popery*; One of these fawning

ing *Addresses, with promise of venturing their Lives and Fortunes*, to maintain this Violation of the *Constitution* of the *Government*; having been presented to the *King* by Sr *William Pritchard*, Sr *George Jefferies* and others; Mr *Papillon*, in abhorrence of it, promoted and personally prosecuted a *Petition* to the *Lord Mayor, Aldermen*, and *Common-Council*; praying, *that the Thanks of the City might be returned to* Sr Robert Clayton, Sr Thomas Player, Alderman Pilkington and Alderman Love, *their worthy and well deserving* Representatives *in the* Oxford Parliament; and shewing, *That as matters then stood, the* Papists, *being animated in their Bloody designs*, by the hopes of a Popish Successor; *a Declaration to have frequent* Parliaments, *could not attribute to the safety of the* Kingdom, and the composing the minds of *Protestants*; but that *it must be the sitting of a* Parliament, *so as to search the* Plot *to the bottom*; *to Prosecute the* Conspirators, *and provide suitable Laws, against the impending* Evils; and that nothing else could be effectual. Further,

This *Gentleman*, having in the same year, 1681. greatly added to his guilt,

by baffling the *Popiſh* deſigns, upon the *Lives, Liberties and Eſtates* of all *Proteſtants*, in *the attempt upon the* Earl of Shaftesbury; He exerts himſelf in the year 1682. in the defence of the great and undoubted Right of the *Citizens*, to chuſe their own *Sheriffs*; but now, *arbitrary Power* being, by the aid of *ill Men*, become rampant and uncontroulable, *he muſt be ſacrificed to their Revenge.*

Mr *Papillon* having been duly elected one of the *Sheriffs* of *London* and *Middleſex*; he brought a Writ of *Mandamus* out of the Court of *King's Bench*, to command the *Mayor* & *Aldermen* to ſwear him into the *Office*; that being diſobeyed, he is adviſed by his *Counſel*, that he is entitled to an Action at Law for the wrong done him; he ſends in a reſpectful way, to the *Mayor* and *Aldermen*, requeſting them to give voluntary appearances to his Action; that being refuſed, he proceeds by a legal proceſs to bring them to anſwer him at Law, whereupon Sr *William Pritchard*, being arreſted by the *Coroner* of *London*, to whom the *King's Writ* was directed, and detained ſome hours, upon his refuſal to give an appear-

pearance to *Mr Papillon's* Action; Sr *William* brings an Action againſt him for thus arreſting him; and demands 10000 *l.* *damages*, wherein he committed a great over-ſight, for had he ask'd 100000 *l.* (the uſual damages given in that day) he had not failed of it, with the following Jury, which tryed the Cauſe.

Bartholomew Ferryman (an old Informer, one of the Jury of the *Guildhall* Riot.
Thomas Blackmore (One of Dr *Otes's* Jury, and alſo of the *Riot* Jury)
Thomas Symonds.
William Whatton, (One of the *Riot Jury.*)
John Greene,
Thomas Amy, (One of Sr *S. Barnardiſton's* Jury.)

Joſeph Baggs.	*John Allen.*
Daniel Chandler.	*Joſeph Caine*, and
John Reynolds.	*Will. Wythers* junior, (*Fathers own Son.*)

Mr *Mundy* opened the *Declaration*, to this effect, That the *Plantiff* being *Lord Mayor*, and to attend that Office in the diligent Government of the *City*; The *Defendant*, envying the happy Eſtate of the *Plantiff*, and contriving unjuſtly to diſturb him, in the Execution of his *Office*; did, to vex him, (*not having any probable Cauſe of Action againſt him*)

him) *maliciouſly* proſecute the *King's Writ* out of the Court of *King's-Bench* againſt him; directed to the *Coroner* of *London*, *commanding him to take Sr* William Pritchard *at* Mr Papillon's *ſuite*, *in an Action of Treſpaſs*; and did procure *Mr John Brome*, *The Coroner*, to arreſt him, and that he was detained in cuſtody ſix hours; To the diſgrace and ſcandal of the *Plantiff* and of his *Office*; Whereas in fact, *he had not any juſt Cauſe of Action againſt him*, to his damage 10000 *l.*

Then, the *Attorney General* told the *Jury*, that *the action was brought to vindicate the honour of the* Chair, *from ſuch Affronts*, *as theſe*, which in no Age (till our times of *faction* and *confuſion*) it ever met with: and he ſaid, We ſhall ſhew you, that *there lay a further Malice in this caſe*, and that there was *a deſign in it againſt the* Government; *This deſign was laid to carry on the great* Plot, *againſt the Lives of the* King *and the* Duke; *and for ſubverſion of the* Government —— The end of this buſineſs was, to have had a commotion, for the accompliſhing their great *Conſpiracy*; but *Parturiunt Montes*, For after this Tragical Out-cry, their own *Witneſſes* only proved, that *Mr Brome*

Brome the *Coroner*, went to my *Lord Mayor*, and told him that he had a *Writ* againſt him, at the ſuite of Mr *Papillon*, and another at the Suite of *Mr Dubois*; and prayed him, that he would pleaſe to give an appearance, and that upon his refuſing to do it, his Lordſhip went in his own *Coach* to the *Coroner's* Houſe.

Mr *Serjeant Maynard*, then offered to the *Jury*, *That my* Lord Mayor, *if he miſtake in his Office, and doth not that which belongs to him to do, he is as much ſubject to the proceſs of the* Law, as any private *Citizen*; That, the *queſtion* they were to try was, *Whether* Mr Papillon *had probable Cauſe of Action againſt the Mayor*; That the *Caſe* was thus, *Upon the conteſt about the choice of* Sheriffs, *the* Judges *of the* Election, *certifie to the* Mayor *and* Aldermen, *that Mr* Papillon *had moſt Suffrages*; *thereupon he conceived himſelf rightly choſen*; and that ſurely, gave him a *probable cauſe* to proceed upon it; and if ſo, no doubt he might well take the courſe he did; *here is no Arreſt without legal Proceſs*; nay, their own *Witneſſes* ſay, there was an offer to take an *appearance*, without an *Arreſt*; but, that being refuſed, *the proceſs*

ceſs of the Law was executed———He had no other courſe to take, but to bring his Action againſt the *Mayor*; This courſe he took; *here is a great deal of ſtir made* that a *Coroner* of *London*, ſhould Arreſt my *Lord Mayor*; *he might do it lawfully*; doth this prove, that this was *malitiouſly* done? Have they proved any particular diſcontent and *malice*, that was between them? No, the quite contrary appears; *did he Violently Arreſt him*? *That he might do*, and no offence in Law; no, but he did it not, but only deſired from time to time, that he would give an *appearance*, that would have put a Concluſion to this diſpute—— Beſides the *Sheriffs* having made a return of Mr *Papillon's* Election to the *Aldermen*; they being of another opinion, *gave order that thoſe who thought themſelves agrieved, ſhould take their remedy at Law*; which has been purſued, in the regular courſe, the Law preſcribes———Here is a great noiſe of *Damage* and *Diſrepute* and *Diſgrace*; and the *Plaintiff* has been pleaſed to reckon his own *Damages* at 10000l.—— We ſay, he has ſuſtained no Damage——*The very Court of* Aldermen *and the* Lord Mayor, *bidding them take*

take their courſe at Law; We, ſure, ſhall not be puniſhed for doing it.

Mr *Williams* then inſiſted, that the *Plaintiff's* Action muſt fall, if they ſhewed, that it was not Malitious, and that Mr *Papillon had a probable cauſe to bring his Action.*

Mr *Ward* then obſerved to the *Jury*, that Mr *Papillon* had been greatly reflected upon; That by way of *Crimination* againſt him, there was a moſt unjuſt reflection, as if he were privy to an intended *Inſurrection* and *Conſpiracy* againſt the *King's* Life; and procured the *Mayor* to be Arreſted, to promote an *Inſurrection*; That this was only inſinuated for *Reflection* ſake, and not one word of any ſuch thing proved; He then added, that the Caſe before them depended upon this point; *Whether Mr* Papillon *had a reaſonable cauſe or probable ground to bring an Action againſt Sr* William Pritchard; If ſo, all that was deſired, was only an *Appearance*, but that would not be given.———That the *Jury* had been told, of the great dangers in the Caſe, as to the Infringment of the *Peace, &c.* but had Sr *William Pritchard* complyed, with the reaſonable and oft repeated requeſt

queſt, of ordering an *Appearence*, the *Peace of the* Kingdom *had been in no peril from ſuch a deſign as this Arreſt.*

Here, the *Chief Juſtice* told Mr *Ward*, (*a Perſon never eſteemed to come ſhort of* Sr George Jefferies, *in any thing but Inſolence and Impudence*) That he had made a long Speech, and nothing at all to the purpoſe; and *that he did not underſtand what he was about*; and that made him ramble in his Diſcourſe; and did then, in a raving and moſt impetuous manner, repeat his expreſſion ſix or ſeven times, that Mr *Ward* did not underſtand the Buſineſs.

Mr *Brome* the *Coroner* (being called to give an account of the manner of his Arreſting my *Lord Mayor*) teſtified; That he had a former Writ in *Hillary Term*, and went to my *Lord Mayor*, and deſired him that he would appear to it, but he ſaid, *he would give no Appearance*; That he gave his *Lordſhip* a week or ten days to conſider of it; and then waited upon him at the *Court of Aldermen*, and had his anſwer, *that he had conſidered of it, and would give no appearance.*

That, a little before *Eaſter Term*, the *Attorney* brought him another *VVrit*, and threatned

threatned to complain to the Court of him, for neglecting the Execution of two of the *King*'s *VVrits*; That thereupon he went again to my *Lord*, and told him that the *VVrit* was renewed, and he was preſſed to make a return; and deſired, that his *Lordſhip* would pleaſe to give an Appearance; and that he told him that *he* was ready to ſubmit to the *King's Writ, but would not give an Appearance*; and thereupon the *Officers* named in the Warrant, Arreſted him by his Command.

Then, Mr *Criſp the common Serjeant*, (aiming at *Alderman Corniſh*) falls to interrogating *Mr Brome*, who were preſent at the meeting, when the Arreſting the *Mayor* was agreed upon; he having named two or three, the *Common Serjeant* further preſſed him to name others; and then, the *Chief Juſtice* explained the *Common Serjeant's* meaning, by demanding whether *Mr Corniſh* was there?

Alderman *Corniſh* and *Mr Serjeant* teſtified, That *Mr Papillon* and *Mr Dubois*, being at the *Alderman's* Houſe; their *Attorney* came to them, and told them, that he had addreſſed himſelf from time to time to my *Lord Mayor*, to get

gethi m to give an Appearance, but he would not; and that thereupon they told him, *it was fit the matter ſhould be brought to an Iſſue*; and ordered him to get an Appearance if he could, and to remember that the *Lord Mayor* was the *Chief Magiſtrate* of the *City*; and that he ſhould carry it with all imaginable reſpect and regard to him.

Here, the *Chief Juſtice* and *Attorney General*, made long and extravagant excurſions, running upon *Alderman Corniſh*, with abundance of Queſtions, wholly foreign to the matter in Queſtion; and *Jefferies* told him, that he had as much cauſe as any Man to remember the manner of his own being choſen *Sheriff*, *for ſeveral reaſons that he knew.* [A *plain Indication of what he deſigned againſt this honeſt* Gentleman.] And then his *Lordſhip* added; that he only asked things by the by, to ſatisfie the World what ſort of Men theſe are, that pretend to *Saintſhip*; and with his wonted bluſtering Impudence, ſaid, Do you think the *Government* will ever ſuffer it ſelf, to be ſnivelled at, and overthrown by a *Company* of ſuch *Whining Fellows?* ——Do you think to ſham *People* into Offices?

Offices? No, *I tell you, Villany was the Foundation of it*, and Knavery *the Superſtructure* —— *Neither* Bethel, *nor that very Fellow that ſtands there*, Corniſh, *would have taken the Oaths and Sacrament, till they found it would contribute to the deſign of ſubverting the* Goverment, *then theſe* Raſcals *could qualifie themſelves for an Office, only to put the* Kingdom *into a Flame.*

Mr *Gilbert Nelſon* then teſtified, That upon the holdling up of the Hands, at the *Election* of *Sheriffs* the 24*th* of *June* 1682. there were upon the view, moſt for *Mr Papillon* and *Mr Dubois*; and that upon the caſting up the *Poll Books*, there was the greateſt number for *Mr Papillon*. *Mr Wightman* added, that in the *Poll-Books*, there were 2400. and odd, for *Mr Papillon* and *Mr Dubois*.

Mr *Leonard Robinſon* added, that by the Hands, the majority was much more for *Mr P.* and *Mr D.* than for the other two; and the *Sheriffs* did ſo declare their opinion; and a *Poll* being demanded, and granted, after it was cloſed in the Evening; the *Sheriffs* declared the Numbers upon the *Huſtings*; *Mr P.* and *Mr D.* had above two thouſand, and *Mr North* and *Mr Box* ſome hundreds under two thouſand. Mr

Mr *Baker* teſtified, that the Action was brought by the advice of Mr *Wallop*, Mr *Pollexfen* and Mr *Thompſon*.

Then, the *Chief Juſtice* comes to ſum up the Evidence, and after a moſt tedious Introduction proceeds to diſcharge his Spleene thus; Come, *Gentlemen*, *it is beſt to be plain*; Tho' it is true, a Man may lawfully ſue for ſuch an Office, and it is no offence, yet it looks ſomewhat extraordinary, 'tis for ſome ſtrange purpoſe or other——It is notoriouſly known, *that for ſeveral Years the* Government *has been beſet*, and, which is a baſer thing than ever was thought of, or acted in the higheſt times of *Villany*; *the very Methods of* Juſtice *have been corrupted*; and all to ſerve the main deſign of ſubverting the *Government*.

Gentlemen, this is ſo black a Wickedneſs, that no honeſt Man, that has any ſenſe of *Loyalty*, *Religion*, *or common Juſtice*; but muſt tremble at the very thoughts of it: *When we ſee ſuch* Fellows *as are common Reproaches to the* Government; *ſhall get into Office*, *to make* Ignoramus Juryes ——When men begin to take Oathes to ſanctifie Villany, what ſhall we ſay? And all this you, all of you, *Gentlemen*, know to

to be true ——Was it not more ſafe to conſpire the death of the *King* & his *Brother*, than to give the leaſt frown upon one of theſe *ſnivelling Saints*? Did not we know, that Men were ſanctified to be *Jury-men*, that before, were never thought fit to be truſted, with the common Society of honeſt Men?

Mr Papillon *knows all this to be true eminently*: When pack'd Jurys were grown to that heighth, that when ſeven or eight *Witneſſes* ſwore down-right *Treaſon*, The *Traytor* could not by theſe Men ſo much as be accuſed by an *Indictment*; To that ſtupidity in Villany, were things brought by theſe *Fellows*; So far were the proceedings in *Courts* of *Juſtice* tainted, that *cropp'd Hair and a demure Look*, *were the beſt ſigns of a good Evidence*.

Gentlemen! There was not a purſuit of right in this caſe, *It was a deſigned piece of Villany*, *on purpoſe to affront the* Government, *nay*, *to deſtroy it*; and if he were ten thouſand times Mr *Papillon*, I would tell him ſo.

It is plain, *Gentlemen*, that the deſign, from the beginning to the end, was to cauſe a tumult and confuſion in the *City*; in order to put that damned *helliſh* Con-

Conſpiracy, for deſtroying the *King* and his *Brother*, and every man, that was *honeſt* and *loyal*, *in execution*; This *Gentlemen*, is plain *Engliſh*.

We all know Mr *Papillon* to be a wealthy Man; one that had rather have minded his Affairs, than the expenſive Office of *Sheriff*; but, *that ſomething was to be done, to wreak a damned Malice and Revenge upon the* Government——This I tell him openly, and let him and his party make their Remarks upon it as they pleaſe——There was queſtionleſs, a deviliſh Malice, fixed in his heart and mind; and he wanted an opportunity to effect it, and he thought it beſt for his own ſecurity, to take this courſe, and nothing elſe was in it.——Alack-a-day (as *Mr Pilkington* ſaid) *I am for the preſervation of the* Liberties *and* Properties *of the* Subject; but I find the *City* is ſtrangely run down, in their Rights and Priviledges, I will rather take a troubleſome Office, than let all run thus, and immediately ſets himſelf a *Cock-a-hoop*, as if there were none to take care of the *City*, but himſelf—— He, and Mr *Bethel* and Mr *Corniſh* forſooth, are the only Men of the times, the

the Men; *Men for the Liberties of the* Subject, *and the Rights of the* City.

Gentlemen, the Government is infinitely concerned in this Caſe; that puts a weight upon your enquiry into the damages; *your ſeverity in this Caſe, will deter all People from entring into Clans and Cabals to affront the Government.*

That I may not further nauſeat the *Reader* with the foul Language & venomous Malice of this *Inſolent*, *arrogant* and *intolerable Slanderer*, I ſhall tranſcribe no more of his virulent diſcourſe, though he run on to a ſtrange length, at a moſt wicked and infamous rate of Falſhoods and Defamations, againſt the beſt Men of the *City*, without any manner of colour for the truth of what he ſaid.

The *Jury* thus directed, found for the *Plantiff*, and aſſeſſed Damages to 10000 *l.*

The Chief Juſtice *ſaid*, Gentlemen, *you ſeem to be Perſons that have ſome ſenſe upon you, and conſideration for the Government, and I think have given a good Verdict, and are to be greatly commended for it.*

By this extravagant and moſt unrighteous Verdict, was this upright and Wiſe Citizen, Mr Papillon, *drove into* Exile, *till Heaven vouchſafed him, with the Nation,*

a most Miraculous and happy deliverance, by the glorious Undertaking of our now Soveraign then Prince *of* Orange.

That it may not be forgotten, how this *Plantiff* Sr *William Pritchard*, came to be *Lord Mayor*; I shall subjoyn the Account of the *Poll*, taken, when he was brought on.

Sr *Thomas Goold* had 2257 Votes.
Alderman Cornish had 2227.
Sr *William Pritchard* had but 2144.
Sr *Henry Tulse* had 236.

Being conscious, that in the foregoing Account of the *Tryal* of the *pretended Guildhall Riot*; I forgot to intimate to the Reader, that *Lieutenant Colonel Quincy* had a *Warrant*, for what he did, tho' he did not condescend to show it to such Men as Sr *Robert Clayton* and the other *Aldermen*, upon whom he put the Indignity before mentioned; to do him right (and to shew that though he might act too headily, 'twas not upon his own Head) I shall in this place insert the Names of those who ordered him, and the *Forces* he then commanded, to that *Post*; They were,

The Lord Mayor (Sr *John Moore*.)

Sr

Sr *George Waterman*,	*Thomas Cowden*,
Sr *James Edwards*,	*Edward Beaker*,
Sr *Will. Pritchard*,	*John Wallis*,
Sr *Hen. Tulse*,	*John Nicolls*,
Sr *James Smith*,	*William Parker*,
Sr *John Peak*,	*Henry Loads*,
Sr *John Chapman*,	*Peter Aylworth*,
Sr *Sym. Lewis*,	*John Short*,
Sr *John Mathews*,	*Richard Aily*,
Sr *Benj. Newland*,	*Benj. Skut*,
Sr *William Dodson*,	*Humphrey Stroud*, &
Sr *John Buckworth*,	*William Carpenter*,
Lt. Colonel *John Steventon*,	

Remarks upon the *Tryal* of *Alderman Corniſh*, at the *Old-Bayly*, upon *Munday* the 19th of *October*, 1685. Before the *Lord Chief Juſtice Jones*, the *Lord Chief Baron*, *Juſtice Wythens*, *Juſtice Levins*, *Juſtice Streete*, *Baron Gregory* and *Jenner* the *Recorder*.

WHen the Reader remembers what part this Eminent and Worthy *Citizen* acted, in the mighty Struglings

 between

between *Chriſtianity* and *Popery*; *Engliſh Liberties* and *Tyranny*; he will not be ſurpriſed to ſee him overwhelm'd; when by the Aid of the worſt of men; the Banks of our Security were broken down, and the Torrent of *Popery* and *Arbitrary Power* carried all before it.

That from the time of the diſcovery of the *Popiſh Plot*, the *Conſpirators*, did, with indefatigable Induſtry, apply themſelves to ſhift it off to the *Proteſtants*; is moſt undoubtedly and beyond contradiction true. This alarming the *City*, and it being well known, that the *Lives*, *Liberties* & *Eſtates* of *Engliſh-men*, againſt *Arbitrary Attempts* upon them; *Lay in Tryals by Juryes*; The *Citizens*, in the Year 1680, rouz'd out of the Lethargy in which they had long lain, and bethink themſelves how to ſecure ſubſtantial, honeſt *Juryes*; knowing, that that could only be accompliſhed by proper *Sheriffs*; They pitched upon and elected, Mr *Bethel* and Mr *Corniſh*, to ſerve in that *Office*; By ſo doing, and by a like Election of Mr *Pilkington* (*now deſervedly Lord Mayor*) and Mr *Shute*, in the ſucceeding Year 1681, the *Popiſh* deſign, *of murdering* Proteſtants *under colour of* Law, *was*

was Poſt-poned; until the Ancient Right of Electing *Sheriffs*, was raviſh'd from the *City* in the year 1682.

However, the *Conſpirators*, impatient of delay, made their attempt in the *Sheriffalty* of Mr *Bethel* & Mr *Corniſh*; The Earl of *Shaftesbury*, and divers others are now clapt up, upon pretence of a *Plot*; and an experiment is made upon Mr *Stephen Colledge*, a Man of great Honeſty and who wanted nothing but a Figure to make him every way valuable; But theſe *Sheriffs* not furniſhing a Jury to cut him off; The *Earl* of *Shaftesbury*, and the reſt who were impriſoned, are reſerved for the next *Sheriffalty*; When they hoped (*tho' as Heaven would have it, without ground*) to get *Sheriffs* and by them *Juryes*, for their purpoſe: And the *Conſpirators* being enraged at the diſappointment and baffle put upon them by an honeſt *City-Jury*, in the Caſe of *Mr Colledge*, They hurry that poor man to *Oxford*, and there, by moſt unpreſidented illegal Practices, *baſely murder him*.

Further, it cannot be forgotten, that the honeſt endeavour of theſe worthy *Sheriffs* (Mr *Bethel* and Mr *Corniſh*),

niſh) to have the *Sham-Plot* of *Fitz. Harris*, throughly ſearched into, did greatly contribute to their future Sufferings.

The mentioning this *Wretch*, forces a Remembrance of the Stratagems then uſed, to preſent his diſcovery of the Authors of his *Trayterous* Libel, and of the deſign for which it was framed; That that matter might not be pryed into by the *Magiſtrates* of *London*, he is removed from *Newgate*, to a moſt cloſe Confinement in the *Tower*; Then, *he being Impeached in the* Oxford Parliament, in *March* 1680, to hinder the Examination of it there, that *Parliament* is diſſolved: Quickly after, he is tryed and condemned in the Court of *Kings-Bench*; Then, tho' a *Papiſt*, he is left ſolely to the management of *Dr H.* of the *Tower*, and without controverſie, was held to the laſt Moment of his Life, under the hope and expectation of a Pardon, if he would confeſs, (*or to ſpeak more properly ſay*) as he was directed; But being deluded, and his Mouth ſtop'd; The *Doctor* in his Name emits to the World, a *Mock Confeſſion*, inconſiſtent in it ſelf, and moſt notoriouſly void of truth; but

but moſt wickedly contrived to render theſe *Sheriffs*, and alſo thoſe worthy *Gentlemen*, Sr *Robert Clayton*, (an *Alderman*) and Sr *George Treby* (*Recorder* of *London*) infamous and odious to the higheſt degree; and all this with deſign to create a belief of a *Proteſtant Plot*; particularly, the *Doctor's* Paper charged the *Sheriffs*, that they came to *Fitz. Harris* in *Newgate*, with a Token from the *Lord Howard*, which he knew to be true, and told him, nothing would ſave his Life, but diſcovering the *Popiſh Plot*; and gave him great encouragement from the *Lord Howard*; that if he would declare that he believed ſo much of the *Popiſh Plot*, as amounted to the introducing the *Roman Catholicks*; or if he would find out any that would criminate the *Queen*, or the *Duke*; *or make ſo much as a plauſible ſtory to confirm the* Plot; that the *Parliament* would reſtore him to his *Father's* eſtate, with the profits thereof, ſince his *Majeſty's* Reſtoration. How idle falſe, groundles and villanous ſoever this Story was; it highly irritated the *Conſpirators* againſt theſe *Gentlemen*.

About this time, *God* for the Scourge

of the Nation, had ſent into the *City*, *that common Nuſance to Mankind*; a Race of blind ſenſleſs Creatures, who hardly deſerved to be called Men, and therefore took to themſelves, the Name of *Tories*; Theſe *Animals*, ſeeming to delight in *Fetters* of *Iron*, rather than *Chains* of *Gold*, were the *Champions* for *Arbitrary* and *Deſpotick* Power; *They ſet themſelves to betray the Rights and Liberties of the* City; *and to bring all Free-born* Engliſhmen, *to live at the Will of an* Abſolute Prince; Theſe, by *Addreſſes* of *Thanks* for the *Violation* of the *Laws*; and of *Abhorrence* of thoſe who endeavoured to maintain them; invited the *Conſpirators* to attempt the overthrow of the Antient Priviledges and Government of *London*; Nay, their *Solicitation* (*Backt with aſſurance of a Surrender*) procured the bringing a *Quo Warranto* againſt the *City Charters*; But the *Wretches* failing their *Principals* herein; as they ever did in all things, but *Noiſy Huzza's*; and a *Committee* of *Aldermen* and *Commoners* (true *Engliſh-Men*) being appointed to guard the *City Franchiſes* againſt the *Quo Warranto Attack*; New Meaſures muſt be taken; hereupon,

The *Tories*, (now perceiving that their *Quo Warranto*, muſt paſs the *Formalities* of *Weſtminſter-Hall*) *with bended Knees, ſupplicate the aid of that* Tool *of State*, Secretary Jenkins; He readily eſpouſes them, and having the Aſcendant of Sr *John Moor*, at this time moſt unluckily *Lord Mayor*; directs him to conſtitute Mr *North* and Mr *Rich*, *Sheriffs* of the *City*; which he as obſequiouſly as daringly undertakes.

Many worthy *Citizens* (whoſe names deſerve eternal remembrance) boldly withſtood theſe Arbitrary & Illegal Attempts; Amongſt them Mr *Bethel* and Mr *Corniſh* were not the laſt; and they felt with the firſt, the rage of the *Conſpirators* and their *Adherents*; Their honeſt, innocent and peacable appearing, to Vote for the Election of *Sheriffs* in 1682. according to the undoubted right of the *Citizens*; was termed a *Riot*, and (in Mr *Corniſh's Tryal*, now before us) a Branch of the *Plot*. (*and moſt certainly it was the greateſt* Plot *and* Treaſon, *in which theſe moſt deſerving* Gentlemen *ever engaged themſelves*) For this imaginary *Riot*, they were, with others, brought to *Tryal*; The *Sheriffs* made by

Riot, *Force* and *Arms*, returned upon them ſome of the true *Rioters* for *Jury-Men*: Others of them were made the *Witneſſes*, and ſo they were found guilty, and moſt extravagantly Fined.

Mr *Bethel*, after about two years Impriſonment, for non-payment of the *Fine*, againſt all Law and Reaſon impoſed upon him, Obtained his Liberty, by payment of his *Fine*; he having wiſely obſerved, that the *Juries* of that day, *did Kill as ſure as Death*, every Man whom the *Conſpirators* marked out to them; and being thus at Liberty, and alſo at leiſure, reſolved for a time to take his leave of *England*, as he did; and ſo very happily lives at this day, to be further ſervicable to this famous *City*, and his *Generation*; But

Mr *Corniſh*'s *Family* and great Occaſions, having detained him, within the reach of the *Conſpirators*; The *wiſe diſpoſer* of all things, now permits him to be made a *Sacrifice to the* Tories *Rage*.

They charge him with an *Indictment* of *High Treaſon*, for *Conſpiring* the death of *King Charles* the ſecond, and the raiſing a *Rebellion*:

The

The *Jury* ſworn upon him were,
Thomas Rawlinſon,
Thomas Langham,
Ambroſs Iſted (of *Fleetſtreet*.)
Thomas Pendelton,
John Grice,
Thomas Oneby, (of Aldermanbury.)
William Clowdeſly, (of *Fiſhſtreet*, of whom it is generally and very credibly reported, that he was killed about three years after, with a piece of Wood called the *Corniſh of an Houſe*, upon the blowing up ſome Houſes at the Fire at *Paul's-Wharfe*.)
Richard Holford, (of *Breadſtreet-Hill*, Cheeſemonger)
William Long-boat,
Stephen Colman, (of *Leadenhall-ſtreet*, at the *Corner* of *Limeſtreet*)
Robert Clavel, (Book-ſeller *in St* Pauls Church-yard) and
William Long.

The *King's* Council, were,
The *Attorney General*,
The *Solicitor General*,
Mr *North*, and
Mr *Phipps*.

The *Attorney General*, aggravated the matter charged in the *Indictment*, thus,

Gentlemen

Gentlemen of the *Jury*; the *Priſoner* ſtands Indicted for Conſpiring the death of the late *King*; and for raiſing *Rebellion*; and conſenting to be aſſiſting to the *Rebellion* then deſigned——*I need not tell you what part he acted when he was* Sheriff, *that that was the ground-work of the* Rebellion, ſetting the *Commonalty* againſt the *Government* of the *City*.

Hereupon Mr *Corniſh* ſaid, that he was as Innocent as any Man in the *Court*, and the *Attorney* ironically replyed; So was my *Lord Ruſſel* to his Death, Mr *Corniſh*; do you remember that?

Then *Colonel Romſey* (*who to the certain knowledge of the* Judges and King's Council, *had perjured himſelf in the Tryal of my* Lord Ruſſel) teſtified, that about *October* or *November*, 1682. he went to Mr *Shepherd's* Houſe, to the *Duke* of *Monmouth*, my Lord *Ruſſel*, Lord *Gray*, Sr *Thomas Armſtrong* and Mr *Ferguſon*; That they were juſt going away when he came; That before they went, *Alderman Corniſh* was brought in by *Shepherd*, and made his Excuſe that he did not come ſooner, and ſaid he could not ſtay with them: That thereupon Mr *Ferguſon* opened his Boſome, and pull'd out a Paper,

Paper, and read it to him, Mr *Shepherd holding the Candle*; and after it was read he ſaid he liked it well; That he the ſaid *Romſey*, did not hear all the the Paper read, but it was a *Declaration* to have been diſperſed when the *Riſing* was to have been.

That there were, as he well remembred, two points in it, One was *Liberty of Conſcience*, and the other, That all, who wonld aſſiſt in the *Inſurrection*, that had any Lands of the *King's* or *Churches*, in the late War, ſhould have them reſtored.

Mr *Goodenough*, (*who to capacitate him to be a Witneſs, brought a Pardon for one* Treaſon, *for which he had been* Outlawed, *and ſtood awed with the guilt of another*) He teſtified, that being with *Alderman Corniſh* in the beginning of the year, 1683. He ſaid to him, Now the Law won't defend us, tho' we be never ſo innocent, ſome other way is to be thought on and that upon this, the *Alderman* ſaid, he wondered the *City* was ſo unready, and the *Country* ſo ready; That he thereupon told him, that ſomething was thought of to be done here, but in the firſt place the *Tower* ought to be ſeized; That

That the *Alderman*, after a little pauſe, ſaid, *I will do what I can, or what good I can.*

That ſome time after, the *Alderman* met him upon the *Exchange*; and asked him how Affairs went; *which he underſtood to relate to what they had diſcourſed*; and that he anſwered him, *Well*; *But he acknowledged that he had other matters with him, about the defence of the* Riot.

Upon this mention of the *Riot*, *Juſtice Wythens* reflected, ſaying, Mr *Corniſh*, *I tell you that was a branch of the* Plot, take that from me; and quickly after he told him ſomething as true, (*viz.*) Mr *Corniſh*, you have this *Happineſs*, that you will be Tryed by your *Fellow Citizens*, of very good Quality and Underſtanding, *I muſt tell you.*

On behalf of *Alderman Corniſh*, there appeared Sr *William Turner*, *Alderman Love*, *Mr Jekil*, and *Mr Gosfright* who teſtified, that the *Priſoner* had great averſion to *Goodenough*, and did oppoſe his being made *Under-Sheriff*; but the *Chief Juſtice* ſlighted their Evidence; and *Wythens*, ſaid Mr *Jekyl was in a Limb of the* Plot, *one*

Note, a Perſon under the guilt of *Treaſon is* allowed for a good Witneſs,

one of the greateſt of the Rioters. but this Learned *Judge* ſeems to doubt in the Caſe of a *Riater.*

Then Sr *Thomas Lane* teſtified, that in my *Lord Ruſſel*'s Tryal, *Romſey* ſwore *that he did not hear the Declaration read, it being done before he came.*

Dr *Calamy* Mr *Carlton* Mr *Cooke* Mr *Knap* and Mr *Smart*, then ſpoke to the Life, Reputation and *Loyalty* of the *Priſoner.*

It deſerves to be noted, that after the Evidence given, Mr *Solicitor* did here omit the drudgery (*which in all other Caſes of this nature he underwent*) by a long florid Speech, to impreſs the *Jury* in the matter: here it ſufficed that *Judge Wythens* had juſt before paſſed his word, that this *Jury was compoſed of* Citizens *of very good quality and underſtanding*; therefore they might be truſted, well enough; knowing what they had to do.

The *Lord Chief Juſtice Jones*, who had in the whole proceeding of the Tryal, diſcovered ſufficient tartneſs; ſumed up the Evidence to the Jury. Then,

The *Jury* being withdrawn, the Priſoner informed the *Court*, that he had omitted to call one material Witneſs, where-

whereupon the *Jury* being returned,

Mr *Shepherd* teſtified, That Mr *Corniſh came into his Houſe to ſpeak with the* Duke *of* Monmouth, or ſome other perſon, he could not poſitively, after ſo many Years, ſay whom; *and did not ſtay half a quarter of an Hour*; That *Shepherd went up Staires, and came out of the Room with him*; *and that there was not one Word read, or Paper ſeen while Mr* Corniſh *was there*; *That he was not look'd upon to be one of the* Company; *But before he came,* Mr Fergusſon *had pull'd off his Shooe, and took the Declaration out there, and read it*; and Mr *Corniſh* knew nothing of it.

[Note, *This evidence to a tittle ſtands with what* Romſey *ſwore at my* Lord Ruſſel's *Tryal, which was, that about the latter end of* October, *or the beginning of* November, *my Lord of* Shaftesbury *told him of the meeting of the Duke,* Lord Ruſſell, Lord Grey, Sr Thomas Armſtrong, *and* Mr Fergusſon *at* Shepherd's *and ſent him to them*; *which evinces that Mr* Corniſh *was not lookt upon, to be one of the* Company, *for if he had, the Earl of* Shaftesbury *would undoubtedly have named him alſo:* Romſey *then alſo ſwore poſitively that he was not there above a quarter.*

ter of an hour, and that he was not at the reading of the Declaration, *for it was done before he came.*]

However, the *Solicitor General,* and alſo the *Recorder* affirmed this evidence of *Mr Shepherd's* had cleared the matter againſt the *Priſoner, which before ſeemed dark*; if ſo, what need now (*the* Solicitor *having before left it without any Addreſs to the* Jury) of varniſhing the matter? But 'tis evident, they were now pinch'd, and therefore Mr *Solicitor's Rhetorick* was found requiſit to ſecure a *Verdict*, and he thus uttered it;

Gentlemen, there has been a very great Indulgence given to the Priſoner; After a full evidence, you were again ſent for, to hear what he had to offer to you; I cannot but obſerve, this looks like a ſubtile contrivance on the *Priſoner's* part; when you are with-drawn, *Shepherd* ſends intelligence to him, that he had ſomething to ſay, that might excuſe him; Truely I am very glad Mr *Shepherd* has been here, *he is ſo far from invalidating any part of the* Teſtimony, *that* by all the Circumſtances you can collect from this Evidence, *it is a Corroboration of it*: It hereby appears that *Mr Corniſh* was in that Company,

and came when they were met in private——No Man almoſt but muſt believe that he was privy to the Conſpiracy; therefore, tho' this Witneſs ſeems to forget ſome part of the Evidence, the reading the *Declaration*, and holding the Candle; yet theſe are ſuch Circumſtances, that in themſelves do carry a proof of the Charge, and do confirm (*He ſhould have ſaid contradict*) all the reſt that *Colonel Romſey* hath ſaid; *and this muſt be a great ſatisfaction to you, that he was there preſent and privy to that Deſign.*

Then the *Jury* with-drew for a ſhort time, and returning, brought the *Priſoner* in *Guilty*. Thereupon the *Recorder Jenner* (*a Perſon made up of Malice, Noiſe and Nonſence*) *ſpoke in this manner*;

Mr Corniſh, your Crime is for *Treaſon* committed in the time of his late *Majeſty*; being one of thoſe *notorious Conſpirators*, that deſigned to raiſe *Rebellion*; and it was carryed on ſometime, it may be a year or more, under colour and pretence of Law; *for ſo they did invade the* Government, *firſt of all by packing Juries*; there was the foundation laid, to bring on that buſineſs, which they had at laſt deſigned, when they could bring it to a ripe head——I muſt tell you, whatever

ever apprehenſions you have to the contrary, and may pleaſe your ſelf in: I *am ſorry to ſee ſuch a ſort of* * *pleaſure in your Countenance, as if you had had no Favour ſhewed you.*

* Juſt as good ſenſe as one handful of Grief and the other of Sorrow.

I am glad *Shepherd* was called, *for I think it hath* || *cleared the thing, beyond all manner of contradiction*; before it looked ſomething dark for want of *Shepherd*, and ſo it is an Happineſs that the Man was called. (*It would have proved ſo, before conſciencious* Judges and Jury-Men.)

|| That which puts out ſome Mens Eyes, muſt here be thought to enlighten others

Thus, having told him the true Reaſon why he muſt dye (*viz.*) his having been *Sheriff*, and returned *Juryes* to the diſſervice of the *Conſpiracy*; He pronounced Sentence of Death upon him.

Upon the 4th day following (the 23d of *October*) *to terrifie all* Citizens, *from aſſerting their Rights, and to put it out of doubt for what Treaſon he dyed, Whether for being at* Shepherd's, *or at the Election* of Sheriffs, in 1682, He was executed in *Cheapſide*; & was fixed upon *Guild-hall*, || in ken of the place, where Sr *John Moore* committed that *Riot*,

|| There being now a Vacancy, 'tis pitty another Head is not found to ſupply that place.

Riot, from whence the Death of this good *Citizen*, and many other accurſed and nefarious Miſchiefs ſprung.

There wanted not a ſort of Men at this time, who would have perſwaded the World, that *Murder* was a *Royal Sport*; for one *Hindmarſh*, a Book-ſeller, printed a *Ballad*, which he called, *Advice to the City, ſung to the King at Windſor*; wherein are theſe entertaining Lines.

Then *London* be wiſe, and baffle their power,
And let 'm play the old Game no more,
Hang, hang up the Sheriffs,
Thoſe Baboones in power,
Thoſe Popular Thieves,
Thoſe Rats of the Tower.

The Inſtruments of ſheding this Blood, may do well to reflect upon the fate of Clowdeſly, *one of the* Jury-men; And alſo to conſider, *whether the Judgment of* Heaven *was not proclaimed againſt that dayes work, by the violent & moſt impetuous* Tempeſt *of* Wind, Rain, Thunder *and* Lightning; *which was ſent upon the ſudden, and moſt ſurprizingly, to cloſe that Fatal Day.*

FINIS

The Second Part
Of the
DISPLAY
OF
Tyranny;
OR
REMARKS
UPON
The Illegal and Arbitrary Proceedings in the Courts of **Weſtminſter**, and **Guild-Hall** *London*.

From the Year, 1678. To the **Abdication** of the late *King James*, in the Year 1688.

In which time, the Rule was,
Quod
Principi placuit, Lex eſto.

Printed, *Anno Angliæ Salutis Secundo*, 1690.

Sold by Book-ſellers in *London* and *Weſtminſter*.

TO
The Eminently Deſerving
and Highly Honoured
Sr *Samuel Barnardiſton*,
Baronet.

Sir!

YOu are no more able to deliver your ſelf from the Perſecution of a dedication, than you were, in your ſingle Perſon, to ſtem the dreadful deluge of *Popery* and *Tyranny*, which very lately brought *Old England* within an Hair's breadth of that utter Ruin that was manifeſtly impending.

Indeed, when I firſt took the reſolution of inſcribing your *honoured Name*, to the firſt part of my *Scriblings*, I purpoſed to have petitioned your Licence ſo to do; but at the time when the thing was finiſhed,

I was at ſuch a great diſtance from you, that I had not opportunity to do it, and therefore (being no nearer to you at this time) I do implore your Pardon for my preſumption therein, and for my repeating that Tranſgreſſion; and do hope that you will the more readily grant it; when I have made this publick Acknowledgement to the World (in caſe any thing I have ſaid be deemed offenſive, which I hope there cannot) that *Sr Samuel Barnardiſton* was no way privy to the writing of the *Firſt*, or of this *Second* part of theſe *Stories*; and that I can (*upon very good ground*) ſay, that he doth not, to this day, know who is the *Collector* of them.

Sir! He who is not allowed to uſe a *Sword* in his *Countries quarrel*, may ſurely be indulged in crying out *Murder*, Treaſon; when he ſees a *Piſtol at his Prince's head*, or a *Dagger* at his *Heart*; and having, with grief, beheld that very ſame

Toryiſm, which murder'd the beſt of Men, my good *Lord Ruſſell*, and many others of our beſt *Patriots*; to be *rampant* and *impudent*; and as irreconcilably bent againſt the *true Government of England*, which the glorious and moſt *miraculous providence of Heaven*, has lately devolved upon our undoubted rightful *King* and *Queen*, as it was againſt our late *bleſſed Martyrs* for the *Engliſh Liberties*; I could not withhold my ſelf from attempting the ſervice of my Generation (according to my mean capacity) in expoſing thoſe *Principles* and *Practices* which but t'other day had brought the *Kingdom* to the very brink of irreparable ruin; eſpecially, when I ſee at this very day, *the Men who had ſuck'd in that Poiſon, Deſigning and Plotting* (not to *allure*, but) *to dragoon us into* French Bondage.

The truth of it is (*Sr.*) I was much irritated to the proſecution of this Work, by what I met with in

my return from the late *Tryal of Skill* in *Eſſex*; when thoſe moſt worthy Gentlemen, *Colonel Mildmay* and Sr. *Fran. Maſham* were elected *Knights* for that *County*; I have heard that it hath been an old Obſervation, that tho' many *Honourable*, *Reverend* and *Worthy Perſons*, have frequently voted againſt *your ſelf*, in *Suffolk*; and againſt *Colonel Mildmay* in *Eſſex*; yet, that it hath been rarely ſeen, that a *Tory* has voted for either of you: And it is well remembred, that at the time of the mighty ſtrugling between *Popery* and *Chriſtianity* in the *Critical Year* of 1681. the then *Lord Chief Juſtice Scroggs* ſent for many of the *Gentlemen* of *Eſſex*, and told them, that *whatever they did, they muſt not thuſe* Mildmay.

But I have digreſſed, what I was ſaying, is, that one Mr. *Rigby* of *Covent Garden* (*I name him becauſe he ſtands indicted in* Eſſex

Rigby was one of the Good and

Eſſex *for the Crime I am mentioning*) returning from voting at that Election (upon the 11th of *March* laſt) & being to a high degree enraged, that *Colonel Mildmay* and Sr. *Francis Maſham* were choſen (*for you muſt know he was of t'other ſide*) ſaid, that 'twas no matter who carried the day there; But if the King *would not do as they would have him* (*innuendo* himſelf, & he knows who beſides; But I am moſt certain my *Lord* of *Oxford* doth not) *They would make a King that ſhould do as* They *would have him*: And, this being upon the *Eve* of the *Faſt* appointed by their *Majeſties Proclamation*, he proceeded, adding, *We muſt keep a damn'd Faſt to morrow, but we will eat Roaſted Beef and* True Men, whom the great Care of Sr. *Dudley North* had returned to paſs upon my *Lord Ruſſel*'s Life, and he ſtood in that Pannel within two of *Oneby*, who was laſt ſworn.

This moſt Loyal Diſciple of Sr. *Roger's*, and deſign-

ed

ed Jury-man for my Lord *Ruſſel*, (taking Pet becauſe *Colonel Mildmay* was choſen a Parliament Man) muſt now by all means have a King of his own making, and 'tis ſix and twenty to one but if the Silly Woman had pledged him *K. James*'s Health, but the next Glaſs had bin to our *Lord Lewis*, King Elect. *be Drunk*. He then put a glaſs of Wine into a very Civil *Woman*'s hand, ſaying, *Drink King James's Health*; and upon her anſwering him, *No, I deny that*, but I will drink the Wine; he ſaid, *Damn you for a Bitch, would it might poiſon you where you ſtand*; and added, *A Bitch* to deny a *Gentleman* ſuch a Requeſt, *She deſerves to be Sacrificed.*

Sr. I cannot upon this occaſion of *Health-drinking*, hinder my ſelf from remembring the Caſe of Mr. *Elias Beſt*, a ſubſtantial *Citizen* (but *one who had been an Ignoramus Jury-man*, a great Reproach, and an unpardonable Crime in that day, as you

you (Sr.) very feelingly know) He was *indicted for the Frolick of drinking to the Pious Memory of Honeſt* Stephen Colledge, and condemned to a *Fine* of 1000 l. to ſtand Three Times in the *Pillory*, and *to give Sureties for the Good Behaviour for Life.* Upon this Judgment he was impriſoned Three Years; to the loſs of a good Trade, and to the ruin of his Health and his Eſtate; and when almoſt ready to expire, he was *graciouſly* pardoned, upon payment of 200 l. to the *Empſon* and *Dudley* of the late *Reign*; *Graham* and *Burton*: 'Tis well for Mr. *Rigby*, that the accurſed Practices of that day, are not to be Preſidents, in the preſent benign and moſt merciful Reign.

Sr! I have no ſiniſter nor mercenary end in emitting theſe Papers to publick view; I write not for reward (for *I gave away as many ſcores of the firſt part of this Tract, as the Printer gave me*, and have not one for my ſelf,) and I ſhould be vaine, to

the higheſt degree, to expect applauſe, for ſo confuſed and ill digeſted a Work, as this is; But I have with a good will (tho' in a very feeble manner) brandiſhed my Pen for the ſervice of that *good old Cauſe* which I ever loved and muſt love, ſhould it coſt me my life, I mean the *Liberties* of *England*; and it hath deeply wounded me, to hear and know ſo many inſtances as I do, of the *unpuniſhed* (nay, of the *uncheckt*) *Seditious* and *Trayterous diſcourſes* and *boaſtings*, of the *Factious* and *Malecontent Party*, which I encounter; (*I mean not* Papiſts, *for I know not one Perſon avowedly ſo, about* London) as tho' the whole *Nation* were ready (as the Men I talk of vainly flatter themſelves) *by a unanimous and univerſal conſent, to degenerate and apoſtatize to* Popery and Slavery: But Methinks they ſhould be too early and too quick in their expectation, that the *Engliſh Nation* ſhould no ſooner ſee the *Yoke* of the *Oppreſſors*

ſors in a moſt wonderful manner broken, by the immediate hand of *Heaven*; but it ſhould tamely ſubmit unto (nay *Court*, with *them*) the intolerable *Yoke* of *France*; and that at a Juncture when it is thrown off, by a *Bigotted Popiſh Prince*, who has been for a long time an unhappy *Inſtrument* in the hands of the *Bloody Tyrant* of *France*, to the *oppreſſing* and *deſtroying* the moſt *antient*, *pure* and *beſt Chriſtians* upon the Face of the Earth, the *Vaudois*.

That we have ſuch a Race of *Animals*, walking, and that *with no more than two Legs apiece*, amongſt us; is too well known to be denyed or diſſembled; and one would think that their Practices, which are ſo groſly evil, and eminently dangerous, ſhould not be countenanced or defended; but (which is to be lamented) they have their powerful *Abettors* and *Patrons*; and therefore, 'tis to be wiſht, that their Edge may be blunted, and their ef-

fronted Impudence duely cenſured.

Sir! As to theſe *Collections* (if that may be any invitation to your throwing away a very few hours upon their peruſal) I do aſſure you, that I have made them, with all due regard to *Truth*; and am not conſcious of one Miſtake or untruth in the whole Work; my Care in that point, has put me to much trouble and ſome charge; for where I doubted, I have travelled to receive true and certain Information of matters of Fact; and ſuch Materials as I wanted, which were upon *Record*, I fetcht from thence; and therefore, the certainty of matters here told, muſt atone for the want of Method and delighting Language.

I had the *Promiſe* (*and ſo I thought aſſurance*) of ſome things, at leaſt as valuable, as the beſt things in this Tract can be eſteemed to be; but *ſome Men are too zealouſly intent and buſie in their private Affairs, to be publick-ſpirited* (though I remember

ber the time when they were eminently ſo) & therefore, (*to touch that Point no further at preſent*) I ſhall only ſay, I have done *Ut potui*; and wiſh that ſome other Perſon, who could have done this to more advantage had undertaken the *Task*; I am (*what I alwayes was, and ever will be*)

SIR

July 10th, 1690. } Your Honourer and moſt humbly-devoted Servant.

To the Publick-Spirited *READER*.

'TIs not my deſign in this Addreſs *to commend this* Pamphlet, *or to invite Thee to throw away thy time or money upon it; for I muſt tell thee truly, that tho' the Matters here treated of are worthy of any Man's conſidering; and are not to be forgotten; yet the Diſadvantages and Diſcouragements which I have been under, in compiling the Hiſtory thereof, have been ſuch; that when thou goeſt to read them, thou wilt, I doubt, meet with diſappointment; and fall ſhort of the ſatisfaction thou mayſt promiſe thy ſelf; for it will appear ſhort, inmethodical and very confuſed; but I did my beſt: here is a great deal of matter brought into a narrow compaſs; and the thing had been ſomething valuable, if* ſome Perſons

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To the Publick

Persons had furnished the Materials which they promised; *and others had, in time, found leisure to lend what I at last obtained; but they came late to my hand, so that I could not methodize what thou here findest, better, or otherwise than thou seest: If thou dislikest the* Book, *upon these, or any other Reasons, thou mayst let alone; and then there's no Harm done. And,*

And after this fair Caution, thou wilt buy and read it, and the nature of the thing should render it any way grateful; and thou canst find in thy heart to employ a little time in a Work of this kind, in wich I have quite tired my self, I do here present thee with Heads sufficient to fill a Folio *(viz.) The* Tryal *and* Case *of him who is the* best Pattern *for* Magistrates *in* England: *That of the Right Honourable Sr* Thomas Pilkington *(most happily at this time,* Lord Mayor *of* London) *with the* Duke *of* York; *wherein a* Hertfordshire-Jury *gave the* Duke 100000 l. Damages.

His Lordship's *Tryal with* Bolsworth, *wherein a* Surry-Jury *gave the* Perfumer 800 l. Damages.

The Tryal *of Sr* Patience Ward, *upon a Pretence of* Perjury; *but in truth* for putting the Inscription upon the Monument, *notifying to the Ages to come,* that the *Papists* burnt *London.*

The Tryals *of Sr* Trevor Williams, *Mr* Arnold *and Mr* Colt *with the* Duke *of* Beaufort.

The Tryal *of the Grave and most Pious and* highly learned *Mr* Baxter.

The two Tryals *of the* Reverend *and eminently learned* Divine, *and incomparable good* English-man, *Mr* Johnson, *the* Confessor *for the* English Liberties

The Proceedings *between the* Duke *of* York *and Mr* Covert *of* Chichester; *wherein* 100000 l. *Damages were given to the* Duke.

The

Spirited *READER.*

The Prosecution *of Mr* Aaron Smith, *for his honest and undaunted Assistance of* Stephen Colledge *at* Oxford; *And for his not* Witnessing *against* Colonel Sidney, according to the Advice of Sr *A. P.*

The Tryal *of Mr* Gutch *of* Bath, *with a* Bishop.

The Prosecutions *and* Tryals *of Mr* Roswel *the* Minister, *Mr* Whitaker, *Mr* Wilmer, *Mr* Culliford, *Mr* Best, *Mr* Samuel Harris, *Mr* Joseph Brown, *cum multis alijs.*

My good Friend, *I have here cut thee out Work, and therefore not to detain thee from it, I bid thee heartily* Farewell.

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The

REMARKS

Upon the *Tryal* of *Mr Laurence Braddon*, & *Mr Hugh Speke*; Upon an *Information*, about the matter of the *Murder*, of the late Right *Honourable Arthur Earl* of *Eſſex*.

THis Excellent Perſon, and right *Noble Peer*, the *Earl* of *Eſſex*, did (to ſay no more) equal the beſt and moſt deſerving of his *Contemporaries*, in zeal and reſolution, ſteadily to aſſert and defend, our *Religion*, *Laws* and *Liberties*; in the day, in which they were moſt highly threatned, and moſt dangerouſly invaded: His *Lordſhip*, and that ſure and never ſhaken Friend to the right *Engliſh Government*, and to the Intereſt of his *Country*; His *Grace* the *Duke* of *Bolton* (then *Marqueſs* of *Wincheſter*)

were usually (if not always) in the *Chaire*, of the secret *Committees* of the *House* of *Lords*; which inspected the business of the damnable *Popish Plot*, and (which was a Consequent of it) the horrid *Murder* of *Sr Edmundbury Godfrey*; who was made the first Sacrifice to the *Popish* rage, for prying into that *Arcanum*. His *Lordship*, the *Earl* of *Essex*, added also greatly to his *Crimes*, in being *Chaire-man* of that *Committee* of *Lords*, which prepared matters, for the *Tryal* of that great *Conspirator Colman*, the *Duke* of *York*'s *Minion* and *Secretary*. And, he contracted a further and never to be forgiven *Guilt*, in that, soon after the astonishing *dissolution* of the *Parliament*, in *January* 1680, and the *King*'s *Declaration* of his Resolution, to hold the next *Parliament*, upon the 21st of *March* 1680, at *Oxford*; several *Noble Lords* agreed upon a *Petition*, to advise the *King* against that Resolution; and their *Lordship*'s pitched upon the *Earl* of *Essex* to present it; as he did upon the 25th of *January* 1680; and then made a Speech to his *Majesty* which deserves eternal Remembrance; it was to this effect,

☞ That the *Lords* there present, with other

other *Peers*; observing how unfortunate many *Assemblies* have been, when called remote from *London*; particularly the *Congress* at *Clarendon*, in *Henry* the second's time: Three *Parliaments* at *Oxford* in the time of *Henry* the third; and the *Parliaments* at *Coventry* in *Henry* the sixth's time; with divers others; which have proved fatal to those *Kings*, and brought great mischief on the Kingdom; And considering the *Jealousies* and *Discontents* amongst the *People*: They apprehended, the consequences of a *Parliament* at *Oxford*, might be as fatal to the *King*, and the *Nation*; as those were to the then Reigning *Kings*; and therefore they conceived, they could not answer it to *God*, to his *Majesty*, or to the *People*; If they, being *Peers*, should not offer him their advice, to alter that unseasonable resolution. *The Petition was to this effect*;

That, whereas the *King* by Speeches and *Messages*, to both *Houses*, had rightly represented the dangers threatning his *Majesty* and the *Kingdom*, from the *Plots* of the *Papists*, & the sudden growth of a *Foreign Power*, which could not be

ſtop'd, unleſs by *Parliament*; and an *Union* of *Proteſtants*.

That the *King*, in *April* 1679, having called to his *Council* many honourable and worthy Perſons; and declared, that being ſenſible, *of the evil Effects of a ſingle Miniſtry, or private Advice, or foreign Committee*, for the direction of Affairs; That he would, for the future, refer all things unto that *Council*; and that by their conſtant advice, with the frequent uſe of the *Parliament*, he was reſolved hereafter to Govern; They began to hope to ſee an end of their Miſeries; But,

They ſoon found their expectations fruſtrated, and the *Parliament* diſſolved, before it could perfect what was intended, for their relief and ſecurity; And tho' another was called, yet, by many *Prorogations* it was put off to the 21ſt of *October* paſt.

That, though the *King* then acknowledged, that neither his *Perſon*, nor the *Kingdom* could be ſafe, till the *Plot was gone thorow*; yet the *Parliament* was unexpectedly prorogued on the 10th of *January*, before any ſufficient Order could be taken therein.

That all their juſt and pious endeavours

vours to ſave the *Nation* were overthrown; The good *Bills* they had been induſtriouſly preparing, to *unite Proteſtants*, brought to nought; The *Witneſſes* of the *Plot* diſcouraged; Thoſe *foreign Kingdoms* and *States*, who by a happy Conjunction with us, might check the *French Power*, diſheartned, even to ſuch a deſpaire, as may induce them to take Reſolutions fatal to us: The ſtrength and courage of our *Enemies*, both at home and abroad encreaſed; And our ſelves left in the utmoſt danger, of ſeeing our *Country* brought into utter Deſolation.

That, in theſe Extremities, they had nothing under *God* to comfort them, but the hopes that the *King* (*touch'd with the Groans of his periſhing* People) would have ſuffered the *Parliament* to meet, at the day to which it was prorogued; and no further interruption ſhould be given to their Proceedings, in order to the ſaving the *Nation*: But, that that failed them too, for the *King*, by the private ſuggeſtions of *Wicked Perſons*, *Favourers of* Popery, *Promoters of* French *deſigns*, *and Enemies to the King and Kingdom* *

[* *Innuendo* Some Body; their Names are (even at this day) worth the knowing, leſt any of them ſhould creep into their preſent *Majeſties Councils*.]

(without the *Advice*,& againſt the*Opinion* of the *Privy-Council*) diſſolved that *Parliament*, and intended to call another to ſit at *Oxford*; where neither *Lords* nor *Commons* could be in ſafety, but would be expoſed to the Swords of the *Papiſts* and their *Adherents*; of whom too many were crept into the *Guards*; That the *Witneſſes* againſt the *Popiſh Lords* and *Impeached Judges*, could not bear the charge of going thither, nor truſt themſelves, under the Protection of a *Parliament*,that is it ſelf evidently under the power of *Guards* and *Souldiers*.

The *Petitioners*, out of a juſt *Abhorrence* of ſuch *pernicious Council* (which the *Authors* dared not to avow) and their *direful apprehenſions*, of the Calamities and Miſeries that may enſue thereupon; Moſt humbly prayed and adviſed, That the *Parliament* might not ſit at a place, where it would not be able to act with that freedom, which is neceſſary; but that it might ſit at *Weſtminſter*.

This Petition was ſigned,

Monmouth,	*Salisbury*,	*Shafteſbury*,	*Grey*,
Kent,	*Clare*,	*Mordant*,	*Herbert*,
Huntington,	*Stamford*,	*Eure*,	*Howard*,
Bedford,	*Eſſex*,	*Paget*,	*Delamer*.

This

This humble Application, and moſt neceſſary and ſeaſonable *Advice*, found the ſame entertainment which *King Charles* the ſecond ever gave, to the *Councils* offered to him in favour of the *Proteſtant Religion*, and of the true *Engliſh Government*; however, the honeſt zeal and undaunted Courage of theſe *Noble Lords*, made deep impreſſions upon the Breaſts of all true Lovers of the *Laws and Liberty* of their *Country*; And the *Citizens* of *London*, in *Common-Hall* aſſembled (upon the *4th* of *February*, 1680.) ſpoke their Approbation of their *Loraſhip's* Noble Enterprize, in what follows; which was agreed upon, with a general and loud Acclamation of thouſands of *Citizens*.

To the Worſhipful Slingesby Bethel, and *Henry Corniſh* Eſquires, *Sheriffs* of *London* and *Middleſex*.

WE *the* Citizens *of the ſaid* City, *in* Common-Hall *aſſembled, having diligently peruſed, the late* Petition *and* Advice, *of ſeveral* Noble Peers *of this* Realm *to his* Majeſty; *whoſe Counſels*

We *humbly conceive, are (in this unhappy* juncture) *highly ſeaſonable, and greatly tending to the ſafety of theſe* Kingdoms: We *do therefore make it our moſt hearty requeſt, that you (in the Name of this* Common-Hall) *will return, to the Right Honourable the* Earl of Eſſex, *and (by him) to the reſt of the* Noble Peers, *the grateful Acknowledgment of this Aſſembly.*

By theſe means, and indeed by the whole Courſe of this *Noble Lord's* Life, which was a ſteady Courſe, of Exemplary unſhaken *Vertue*, and ſhew'd an unalterable affection, to the true *Religion*; and deteſtation of *Tyranny*; He became inſupportable to thoſe, whoſe Study was *Miſchief*; and to whom no *Perſon* was acceptable, but ſuch as they found diſpoſed to *betray* the *Proteſtant Religion*, and the *Rights* of *England*; to their *Popiſh* and *Deſpotick* Deſigns; and therefore from this time, they grew more aſſiduous to contrive his Deſtruction.

The *Conſpirators* well knew, that this *Great Man*, had moſt deſervedly acquired a mighty ſhare, in the hearts of the *People*; And, that as he knew very much of their *Deſigns*; ſo that he was not, by any arts, or allurements, to be *Cozen'd*

zen'd or *tempted* to a *Complyance* therewith; therefore (as They told the brave *Colonel Sidney*) he muſt dye, that their *Plot* might live; and to avoid the Reproach, of bringing the Son to the *Block*, by that very *Prince*, for whom the *Father* had loſt his Head; and, (which is alſo very probable) *to prevent his diſcovery, of what he could tell, and others knew not*; They condemn him, without a Tryal, and in a moſt barbarous manner, *Murder* him in the *Tower*; But, *Heaven* intending to bring this accurſed *Aſſaſſination* of the brave Earl of *Eſſex* to light; a report of very ſuſpitious Circumſtances, in relation to that matter, was inſtantly ſpread, and reached the Ears of Mr *Braddon*; a *Gentleman* of great Integrity and of no leſs Courage, whoſe honeſt Zeal, prompted him to look into that helliſh *Intrigue*; and to endeavour a full diſcovery of that *horrid Villany*; but that Seaſon not allowing it, he and Mr *Speke* were run upon, and with great fury proſecuted, in the manner following.

They were brought to *Tryal*, upon an *Information*, charging them with *Subornation*, and endeavouring to raiſe a belief, that the *Earl of Eſſ.* did not *murder* himſelf.

The

The *Judges*, then in Court, were,
The *Lord Chief Justice Jeffryes*,
Judge Withens, and
Judge Holloway,

The Jury,

Sr *Hugh Middleton*, a Papist.	*Samuel Rouse*,
Thomas Harriot,	*Hugh Squire*,
Thomas Earsby,	*Nehem. Arnold*,
Joshua Gallard,	*John Byfeild*,
Richard Shoreditch,	*William Waite*, &
Charles Good,	*James Supple.*

The *King's Council*, were,
Attorney General Sawyer
Solicitor General Finch,
Jenner, *Recorder of London*,
Mr Dolben,
Mr North,
Mr Jones.

Council for the Defendants, were,
Mr Wallop,
Mr Williams,
Mr Thompson,
Mr Freke.

Mr *Dolben* opened the *Information* to this effect, That whereas the *Earl of Essex*

Essex upon the 10*th* of *July* last, was committed to the *Tower* for *Treason*, and did there Murder himself, as was found by the *Coroner's* Inquisition; yet, the *Defendants*, designing to bring the *Government* to hatred, the 15*th* of *August*, conspired to perswade the *King's Subjects*, that the said *Earl* was Murdered by certain Persons unknown; and to procure false Witnesses to prove, that he was not *felo de se*, but was Murdered; and that they did malitiously declare in writing, that Mr *Braddon* was the Person that did prosecute the said Murder, to the scandal of the *Government*, *&c.*

Then the *Attorney General* brought in Evidence, Sr *Leoline Jenkins* his *Warrant*, for the Commitment of the *Earl* to the *Tower*; and the *Inquisition* of Mr *Farnham* the *Coroner* taken by this *Jury*. *July* 14*th* 1683. *viz.*

Samuel Colwel,	*William How*,
William Fisher,	*Robert Burgoyne*,
Thomas Godsell,	*Eleazar Wickens*,
Thomas Hunt,	*Thomas Hogsflesh*,
Natha. Mountney,	*Henry Cripps*,
Thomas Potter,	*Richard Rudder*,

William

William Knipes,
John Hudſon,
John Kettlebeater,
Lancelot Coleſon,
Morgan Cowarne,
Thomas Bryan,
William Thackſton,
Richard Cliffe,
Zebediah Prichard,
William Baford, and
Theophilus Carter.

Which *Jury* had found, that the *Earl of Eſſex* was *Felo de ſe*.

Then, the *Witneſſes* for the *King* being called, Mr *Evans* was ſworn, and the *Attorney General* ſuggeſted, that he and old Mr *Edwards* would prove, that Mr *Braddon* went about and declared, that the *Earl of Eſſex* was Murdered; and that he was the *Proſecutor* of the *Murder*; but neither of them anſwered expectation in that ma ter.

Mr *Evans* teſtified, that Mr *Edwards* told it to him and others for News, at the *Cuſtom-Houſe* that fore-noon of the day of the *Earl of Eſſex* his death, that his *Son* ſaid, that he ſaw a *Razour thrown out of the* Earl's *Window*. That upon the *Munday* after (which was *July* the 16*th*) Mr *Braddon* came with Mr *Hatſel* to his Houſe, where Mr *Hatſel* ſhewed him the *Coroner's Inquiſition* in Print; which having read, Mr *Evans* told Mr *Hatſel* what

what he had heard from Mr *Edwards* at the *Cuſtom-Houſe*; And he ſaid, that Mr *B.* did not concern himſelf, or ſay any thing, though he might hear Mr *Evans* his diſcourſe with Mr *Hatſel*, he being walking about the Room.

Mr *Evans* added, that upon the 17*th* of *July*, Mr *Edwards* and Mr *Braddon* found him in a *Coffee-Houſe*; and Mr *Edwards* then told him, that Mr *Braddon* had been with him, examining his *Son* about a *Razour* that was thrown out of the *Earl of Eſſex* his Window.

Mr Edwards teſtified, that about ten of the Clock, the day of the *Earl's* death, he was informed by his Family; and by his Son, that ſame day at noon, that his Son came from the *Tower* about ten of the Clock, and ſaid, that he had ſeen the *King* and *Duke*, and that the *Earl of Eſſex* had cut his own Throat; and that the *Boy* ſaw an hand throw a *Razour* out of the Window; and a *Maid* in a white Hood came out of the Houſe and took it up, and then go in again; and that he heard a noiſe as of Murder cryed out.

Mr *Edwards* acknowledged, that he told ſeveral at the *Cuſtom-Houſe* the ſame day

day, what the *Lad* had declared; and that Mr *Braddon* came not to make enquiry about it, till *Tueſday* the 17*th* of *July*; before which time he never knew Mr *Braddon*; that he then told him what report the *Boy* brought home; and added, that the *Boy* never denyed it before Mr *Braddon* came, but did afterwards that ſame day deny it, as his *Wife* and *Daughter* informed him; his Siſter having put him into fear about it; and that Mr *Braddon* did not deſire the *Boy* to give it under his hand, till he had been there two or three times.

William Edwards the *Son*, aged 13 years, was then ſworn (his *Father* like a very honeſt Man charging him in the preſence of *Almighty God* to ſay nothing but the truth) he ſaid, that he told his *Father* that he ſaw an Hand caſt out a *bloody Razour*, and a Maid come out and take it up, and go in again. That Mr *Braddon* asked him what he ſaw at the *Tower*, and that he told him as he had told his *Father*; and that Mr *Braddon* bad him ſpeak the truth, and wrote down what he told him, and nothing more; and then read it to him; and ask'd him whether it were true, and that he told him,

him, that all that was in the Paper was true, and that he then put his Name to it.

Then, the *Chief Juſtice and King's Counſel* interrogating him, he ſaid, that he did at firſt refuſe to put his Name to it, becauſe he was afraid of coming into danger; and being further preſſed, he added, that the reaſon why he feared danger was, becauſe what was in the Paper was not true; but confeſſed that he did not tell *Mr B.* that it was not true, but that his *Mother* was afraid to have him ſign it; and declared, upon the queſtion put to him, that *Mr B.* did not offer or promiſe him any Money.

Thomas Hawkins, *Son of* Dr Hawkins *of the Tower* (Proteſtant *Confeſſor* to *Fitz-Harris* the Papiſt) being produced to contradict *young Edwards*: The *A. General* ſuggeſted, that they were together the whole Morning, and that there was no ſuch thing of the *Razour*, as *Edwards* had declared; but this *Lad* only teſtified that *young Edwards* and he, walked round the *Tower*, as long as the *King* walked; & that when the *King* went into the *Conſtable's* Houſe, they went to play, & after their play, he left *Edwards* & went home;

home; and that after he had been there a little time, *news* was brought to his *Father*, that the *Earl of Essex* had killed himself; and that thereupon his *Father* went down, and he followed; and after he had been a little while there, *William Edwards* came, and they stood looking up at the Window an hour or two; and went away together; and that he saw no *Razour* thrown out.

Upon this Mr *A. General*, in a reproachful way said, *My Lord*, This rumour began in a *Fanatick Family*; he might have been justly answered, that *M. Edwards* his Family, was, and is of as good reputation as one certain *Doctor's* (not to vie with more) where the stifling of such Evidence as ran against the Stream, had been some Years before notoriously practised.

But to return to the matter in hand, is it not most evident, that *Mr Attorney* was not rightly instructed; For 'tis manifest that the *Lads* were parted when the Murder was committed, and the *Razour* thrown out; the *young Doctor* declaring, that he was in his *Father's* House, when the news of the *Earl's* death came; and then went with his *Father* to the

place; and 'tis more then probable, that in the crowd and distraction, which must necessarily be there, he might not at his first coming see young *Edwards*.

Next Mr *Blathwayte* and Mr *Mon-Stevens* (the *Earl of Sunderland's* Secretary) were called and sworn.

Mr Blathwayte appeared, rather as an *Advocate*, than a *Witness*, against *Mr Braddon*.

They testified Mr *Braddon's* bringing the *Information* of young *Edwards*, to my *Lord Sunderland* the *Secretary's* Office, and that *Edwards* declared before the *King*, that what was contained therein was not true, and yet Mr *Braddon* would prosecute it.

The *Information* was then read, to this following effect, *July* the 18th 1683.

The Informant saith, that on Friday *the* 13th *instant, he heard that the* King *and the* Duke of York, *were going to the* Tower; *and that he went thither to see them; and then went about nine of the Clock, to see the* Lord Brandon's *Lodgings, and as he was standing between these Lodgings, and the* Earl of Essex's, *he saw an Hand cast out a bloody* Razour *out of the* Earl's Lodgings,

 and

and he was going to take it up, but before he came to it, there came a Maid *running out of* Captain Hawley's *House where the* Earl *lodged, and took up the* Razour, *and carried it into the House; and the* Informant *believes it was the same* Maid, *which he first heard to cry out* Murder; *and saith, that he heard the* Maid *say to some about the Door, after Murder was cryed, that she heard the* Earl of Essex *groan three times that Morning.*

Sr Henry Capel was then produced to shew, as the *Council* urged, that *Mr Braddon* prosecuted this matter on his head.

He testified that *Mr Braddon* was twice with him, and that he told *Mr Braddon*, that he was under great grief; and that whatsoever he had to say in the matter, he desired him to acquaint a *Secretary of State* with it.

* This very man *Beech*, was the head *Prosecutor* of all *Protestant Dissenters* in the North of *Wiltshire*; and many of them paid him a yearly Tribute to avoid his rage. When his present *Majesty* Landed, he said, that he hoped to see them hang'd that went in to him. But a more famous Story of his Life was; That his *Father* telling him, that never Man was curst in a *Son*, as he was in him; he replyed, That he knew one who was more unhappy, which was his *Grandfather* in him; upon which occasion, and for his constant course of disobedience, his *Father* deservedly disinherited him.

* *Beech* (who occasioned Mr *Braddon* to be seized

seized in *Wiltshire*, at the time when he went to make enquiry there, about the Reports of the *Earl*'s having murdered himself, before he was dead) testified, the taking from Mr *Braddon* a Letter of Mr *Speke*'s, to *Sr Robert Atkyns*, which was to this effect, (*viz.*)

That the bearer Mr Braddon, *was a very* honest Gentleman; *and it was his fate, to be the only Person that prosecuted the* Murder of the Earl of Essex: *That he had made a considerable discovery already of it, though he rowed against an hard stream.*

That it could never have fallen on so fit a Man; for he had been an hard Student, and was of very good Reputation and Life, and had a great deal of Prudence, and as much Courage as any Man. That Mr Braddon *went away Post towards* Marlborough, *to make some further discovery; and seeing he went into those parts,* Mr Speke *thought it not amiss for* Mr. B. *to advise with* Sr R. Atkyns, *how he had best proceed. That he had charged* Mr B. *not to discover who he*

was, leſt it ſhould be known that he had been with Sr Robert Atkyns; *for he would not for the World that* Sr Robert *ſhould come to any Prejudice for his kindneſs towards them, becauſe they laboured under many Difficulties, as the Tide then ran. He therefore deſired* Sr Robert *to call* Mr B. *by the Name of* Johnſon; *That they did hope to bring the* Earl's Murder *upon the Stage, before they could any of thoſe in the* Tower *to a* Tryal, *That* Sr H.Capel *had told* Mr B. *that it was a thing too great for him. That* Mr B. *had been at great trouble and charge about it, and that as times went he knew few would have undertaken it beſides himſelf.*

Mr Lewis of *Marlborough*, being called by *Mr Braddon*, witneſſed, That upon the day of the Earl's Death, riding within three or four Miles of *Andover* (fifty two Miles from *London*) between three and five in the Afternoon, a man told him for news, that he heard the *Earl of Eſſex* had cut his Throat; and that at his going home to *Marlborough* the next day, he told his *Neighbours* what he had heard the day before; and that they thereupon ſaid, It was done but yeſterday, how could you hear it ſo ſoon?

Mr Feilder of *Andover* witneſſed, That

That upon the *Wedneſday* and *Thurſday* of the Week, in which the *Earl of Eſſex dyed*, it was the common talk of the Town of *Andover*; † that he had cut his Throat; that the *Women* talked of it, as they came in & out of the Town; and that on the *Saturday* night in that Week, the certain news of it came.

† *Note*, in like manner it was proved in the Tryal of the Lord *Stafford*, that it was reported at a great diſtance, that *Sr Edmundbury Godfrey* had murdered himſelf before it was known at *London* what was become of him.

Mrs Edwards, (the *Boys Mother*) teſtified, that the *Boy* came from the *Tower*, and told her, that he had ſeen the *King*, &c. and that the *Earl of Eſſex* had cut his Throat, and then wept; and further ſaid, That he ſaw a *Razour* thrown out at the Window, and was going to take it up, but a ſhort fat Woman came and took it, and went in again, that he told her all this weeping and crying; and never denyed it, till after *Mr Braddon* had been there, and then denyed it upon this occaſion; when *Mr B.* came, his enquiry put them all into a great damp; and after he was gone, the *Boy* being then at School, her *Hus-*

band ſaid to her Daughter *Sarah*, Don't you ſay any thing to your *Brother*, and when he comes in, we will talk to him; that her *Daughter* was grievouſly affrighted thereat, and ſo amazed, that ſo ſoon as the *Boy* came in, *She* told him, that there had been a *Gentleman* to enquire about what he had ſaid; and that he thereupon ſaid to her, Why *Sifter*, will any thing of harm come? and upon her anſwering him, That *She* did not know, but it might be, her *Father* and the *Family* might be ruined; he then denyed what he had ſaid; but at the ſame time, he came to his *Mother*, and cryed he ſhould be *hanged (this was alſo acknowledged by the* Daughter.)

Sarah Edwards, (the *Boy's Siſter*) teſtified, what the *Boy* had declared of ſeeing the *Razour*, &c. And that *She* told him upon *Tueſday* the 17th of *July*, that a *Gentleman* had been there to enquire about it; and that the *Boy* did thereupon ask her, whether any harm would come of it; and that upon her anſwering him that *She* could not tell; he did deny what he had declared. That *Mr B.* came again ſoon after, upon the ſame day, and found them all daunted upon their

their hearing the *Boy* deny it; and *Mr Brad.* ask'd him about it; & bad him ſpeak the Truth, telling him, * It was a dreadful thing to be a *Lyar*; and bad him read the 5th of the *Acts*, where he would find, that two were ſtruck dead for telling a *Lye*.

She further teſtified, that Mr *Braddon* came the next day (*the Wedneſday*) about noon; and that then her Brother [*probably having read the 5th of Acts*] did again own that what he had declared about the *Razour*, *&c.* was true; that Mr *Braddon* wrote down what he acknowledged; and ſhe further confeſſed, that ſhe told the Boy, that his *Father* would be in danger of loſing his Place.

The matter pinching at this time, the *Chief Juſtice* to perplex the Cauſe, and divert from the Evidence, fell to hecto-

* Indeed *Jovian Hicks*, & many others of our *paſſively Obedient* and *Non-Reſiſting Gentlemen* of the *Caſſock*, have handled many *Texts of Scripture* at a very unwarrantable rate, to decoy Mankind, to the fooliſh Exchange of their glorious title to *Freedom*, for that of *Slavery*: But we have here the firſt inſtance, of a *Man's preaching up the lawfulneſs of Perjury*, from the dreadful Judgment of *Heaven* upon *Ananias & Sapphira*.

ring

ring Mr *Wallop* (*Counſel for the Defendants*) a *Perſon* of great Integrity, and *Maſter* of more *Law*, than all the *Judges* then upon the *Bench*; telling him, in a moſt ſcurrilous manner, that he was zealous for Faction and Sedition [*as every Man was deemed to be at that Conuncture, who was ſo hardy, as to ſtand up in any honeſt Cauſe, in that Court*] and impetuous in the worſt of Cauſes; and that his *Lordſhip* could ſee nothing in all this Cauſe but villany and baſeneſs, [*which in truth, to an high degree, was moſt evident in the carriage of the Court and Proſecutors of this Cauſe*] and that Mr *Wallop* ſhould not have liberty, to broach his *Seditious Tenets* there, [*Such, the aſſerting the native Rights of* Engliſh-men, *were in that day eſteemed, by the* Bene placito *Judges of that Court.*]

Mrs *Burt*, then produced by Mr *Braddon*, teſtified, That *She* was preſent when Mr *Braddon* came to ſpeak with the Boy; and that he ſaid to him, if it be true that you have ſpoken, own it; for 'tis a dreadful thing to be found in a *Lye*; and that Mr *Braddon* adviſed him to read the 5*th* of *Acts*; and that the Boy then ſaid, Sir, it is true, and what I ſaid

I will ſpeak, before any *Juſtice* of *Peace* in the World; and he then told Mr *Braddon* the whole Story.

Jane Lodeman (a Girl 13. years old) called by Mr *Braddon*, declared, that ſhe did not know young *Edwards*; and teſtified, that ſhe ſaw an hand throw a *bloody Razour* out of the *Earl* of *Eſſex*'s Window; and preſently after heard two *Shrieks*, or two *Groans*; and ſaw a *Woman* come out in a *White-Hood*; but did not ſee her take up the *Razour*; and ſhe added, that ſhe preſently told all this to her *Aunt*.

Here Mr *Solicitor* was pleaſed to ſport himſelf with the *Girl*, by way of *Dialogue*, thus.

Solicitor, Was the Razour bloody?

Girl, *Yes*.

Solicitor, Very bloody:

Girl, *Yes*.

Solicitor, Are you ſure 'twas a Razour or a Knife?

Girl, *I am ſure 'twas a Razour*.

Solicitor, Was it open, or ſhut?

Girl, *It was open*.

Solicitor, What colour was the handle?

Girl, *Sir, I cannot tell, I ſee it but as it flew out*.

Solicitor,

Solicitor, Was it all over bloody?

Girl, *No.*

Solicitor, All but a little ſpeck?

Girl, *It was very bloody.*

Then *Jeffryes*, finding the *Girl* to be more than a Match for her firſt *Aſſailant*, falls in to his aid, and firſt bellows out a terrifying *Exclamation*, *Bleſſed God!* What an Age do We live in? [*That the* King's *Learned* Council, *with all their Cunning, cannot confound theſe innocent, honeſt, Infant* Witneſſes] and then taking up the ſame Dialoguing Cudgel, falls roundly upon the *Girl*, thus.

Chief Juſtice. *Girl*, you ſay you did not know that 'twas the *Earl of Eſſex*'s Window.

Girl, *No, but as they told me.*

Chief Juſtice, Nor you did not ſee any body take up the Razour.

Girl, *No.*

Chief Juſtice, But are you ſure you did not?

Girl, *I am ſure I did not.*

Chief Juſtice, But, *Child*, recollect thy ſelf, ſure thou didſt ſee ſome body take it up?

Girl, *No I did not.*

The *Goliah* thus miſcarrying, Mr *Braddon*

proceeded in his Evidence, and called the *Girl's Aunt*, Mrs *Smyth*, who witneſſed, that the *Girl* coming from the *Tower*, upon the 13*th* of *July*, told her, that ſhe ſaw a Razour thrown out of a Window, *&c*; and that Mr *Braddon* hearing of it, came as a Stranger to enquire about it; and ever encouraged the *Girl* to ſpeak the truth; and bad her ſpeak nothing but what was truth; and that he never offered her or the *Girl* any thing.

Mr *William Glasbrooke* teſtified, That upon the 13*th* of *July*, he heard the *Girl* very loud with her *Aunt*, ſaying, the *Earl of Eſſex* has cut his Throat in the *Tower*; and that her *Aunt* chiding her, *ſhe* ſaid, *ſhe* was ſure it was true, for *ſhe* ſaw a *bloody Razour* thrown out of the Window; and that he the ſaid *Witneſs* was preſent, when Mr *Braddon* firſt diſcourſed the *Girl*; having never ſeen him before; and he heard her tell Mr *Braddon*, that the *Earl of Eſſex* cut his Throat; and that *ſhe* ſaw a *bloody Razour* thrown out of the Window, and that ſhe heard two *Groans*, or two *Shrieks*.

Then, Mr *Smyth*, being called by Mr *Braddon*, teſtified, that he went with Mr

Mr *Braddon* to the *Girl*, and heard her tell him, that *ſhe* ſaw an hand toſs a *Razour* out at the *Earl of Eſſex*'s Lodgings; and that *ſhe* heard two *Shriekes*; and ſaw a *Woman* come out, with *White head-Cloathes*; but did not ſee any one take up the *Razour*.

Mrs *Meux* was then produced by Mr *Braddon* to teſtifie, that *ſhe* went from *London* to *Berk-ſhire*, the day before the *Lord Ruſſell's Tryal*; and that a *Gentlewoman* in the *Coach* with her, then told her, that one of the *Lords* in the *Tower* had cut his *Throat*. At this the quondam *City Mouth*, ſtorm'd and huff'd at his wonted rate, refuſing to hear the Evidence, and demanding why they brought not the *Woman* which told this to Mrs *Meux*; and was anſwered, that *ſhe* was ſo big with Child, that *ſhe* could not come.

Mr *Burgeſſe* of *Marlborough* then teſtified, that he being at *Froome* (in *Dorſet-ſhire*) upon the day of the *Earl* of *Eſſex*'s death; he heard there, a Report that his *Lordſhip* had murdered himſelf.

Then, the *King's Council* produced the *Coroner*'s well inſtructed *Witneſſes*, to prove

prove that this Noble *Peer* was *Felo de ſe*; who were *Bomeney* (his *Lordſhip's Servant*, now in *France*, and a profeſſed *Papiſt*) *Hawley*, and *Ruſſell* the *Warder*, and *Lloyd* the *Centinel*.

Now, becauſe the *Depoſitions* of theſe *Fellows*, will appear in their moſt true and beſt light, in the *Abſtract* of ſome of the proofs, made about this moſt barbarous *Aſſaſſination*; which (*with the leave of the candid and ingenuous* Abſtracter *thereof*) I purpoſe to ſubjoyn, I ſhall not here enlarge upon them.

The Evidence on both ſides being given, in the laſt place comes *Jeffryes*, to deſcant and remark upon it, which he did in an harangue which makes ſix *leafs* in *Folio*; (*half as many, as the* Acts *of all the* Parliaments *in the Reign of* Charles the Martyr *do fill in our Statute Book*) He tells the Jury, *That there is ſcarce in nature a greater crime than this before them—It carries all the Venome and Baſeneſs, the greateſt Inveteracy againſt the* Government, *that ever any Caſe did*———*That the* Earl of Eſſex, *rather than he would abide his* Tryal, *he being conſcious, the great Guilt he had contracted, made him deſtroy himſelf, immediately after my* Lord Ruſſell

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(*one of the* Conſpirators) *was carried to* Tryal; *and it cannot be thought, but it was to prevent the methods of* Juſtice, *in his own Caſe; there was* digitus dei *in it, and 'tis enough to ſatisfie all the World of the* Conſpiracy——— *'Tis beyond all peradventure true, that my* Lord of Eſſex *did* murder *himſelf.*

Then, the *Jury* by their Verdict, brought in Mr *Braddon* Guilty of the whole matter charged upon him in the *Information*; and Mr *Speke* Guilty of all, but *conſpiring* to procure falſe *Witneſſes.*

The Court adjudged Mr *Braddon* to pay 2000*l. Fine*; to find *Sureties for good behaviour for Life*, and to be committed till perfouned. *Mr Speke*, to pay 1000*l. Fine, to find Sureties for good behaviour for Life*; and to be committed till performed.

An

An Abſtract of ſome material Proofs which have been made in Relation to the Death of the *Earl* of *Eſſex.*

Firſt for diſproof of the *Earl's* Self-Murder.

THE *Right Honourable* Arthur *late* Earl of Eſſex *was Committed to the* Tower, *upon* Tueſday *the* 10th of *July*, 1683, *and there were two* Warders *placed over him (viz.)* Monday *and* Ruſſell, *and one Servant (viz.)* Paul Bomeney *was permitted to attend upon him; The very next* Friday *Morning about nine of the Clock, his Lordſhip was found dead in his Cloſet, with his Throat cut through both Jugular Arteries to the Neck-bone.*

Now, ſeeing our Law preſumes every Man deſtroyed by violent Hands, is murdered by others, unleſs ſuch Evidence appears as gives ſatisfaction in the contrary, and proves him a Self-Murder; This Lord had been found to be barbarouſly murdered, had not Bomeney, Monday *and* Ruſſell *appeared to prove*

the

the contrary, and they endeavoured to prove it thus;

My Lord of Essex (*they say*) *called for a Pen-Knife to pare his Nails, which Pen-knife not being ready, he required a Razour, which was accordingly delivered him, with which his Lordship having pared his Nails, he retired into his Closet, and locks himself in, and there he cut his Throat; and the Razour* (*before delivered to pare his Nails*) *lying by the Body.*

But that this Relation is forged, and that there was, First, *No Razour delivered to my Lord to pare his Nails, nor had his Lordship pared his Nails with any.*

Secondly, *Neither the Body locked into the Closet: Nor*

Thirdly, *The Razour lying locked in by the Body, when my Lord was first known to be dead, is evident from what follows, which clearly detects this Forgery. For the first of these, that there was no Razour delivered to my Lord.*

This appears by the Contradictions of Bomeney, Russel *and* Monday, *as to the time of the delivering this Razour, for* Bomeney *first swears, he delivered this Razour to my Lord to pare his Nails on* Friday *Morning at eight of the Clock; & within two hours*

hours, positively swears in the deposition himself writ, that he delivered it on Thursday *morning at eight of the Clock* (*being the day before his death*) *and this as to the* Thursday, *he swears positively and circumstantially, positively, for he doth expresly name* Thursday, *as the day on which the Razour was delivered; and circumstantially, for he doth swear the Razour was delivered the very next morning after my Lord came to Captain* Hawley's; *and his Lordship went to* Hawley's, *on* Wednesday *the* 11*th of* July. *But,*

Russell *swears a point blank contradiction to* Bomeney's *Oath; for* Russell *deposeth, and now declares, that on* Friday *morning, in less then half an hour before they found my Lord dead in his Closet, he stood as Warder at my Lord's Chamber-Door,* (Monday *that morning having first stood as Warder on my Lord, and was then gone down to stand below Stairs*) *and heard my Lord ask* Bomeney *for a Pen-Knife to pare his Nails; which being not ready, his Lordship required a Razour; which he did immediately see* Bomeney *deliver his Lordship. But,*

Monday *doth as directly give the Lye to* Russell, *as* Russell *did to* Bomeney, *for* Monday, *the day my Lord died, declared, he*

he ſaw my Lord have a Razour in his Hand, paring his Nails with it, at ſeven a Clock that morning my Lord died, and this about two hours before Ruſſell *came up, to ſtand as Warder at my Lord's Chamber-door.*

Wherefore, unleſs it can be reconciled how this Razour ſhould be delivered a Thurſday *Morning at eight of the Clock, according to* Bomeneys *Oath; and yet not delivered till* Friday *Morning at nine of the Clock, within half an hour of the time his Lordſhip was found dead, and delivered whilſt* Ruſſell *ſtood Warder at the Chamber-door, as* Ruſſell *depoſeth; And notwithſtanding this, my Lord to have had the Razour, and pared his Nails with it two hours before* Ruſſell *came up Stairs to ſtand Warder at my Lord's Chamber, as* Monday *declared the very day my Lord died. I ſay unleſs theſe Contradictions can be reconciled, it can't be thought that any Razour at all was delivered; And then whereas all declared my Lord pared his Nails with the Razour; by ſtrict obſervation, it appeared my Lord's Nails were not newly, before his Death, either pared or ſcraped.*

2dly, *That the Cloſet-door was not locked upon my Lord's body, appears by the contradictions of theſe three, as to the opening the Cloſe-door.* Bomeney

Bomeney *firſt ſwore, he did open the Door (when my Lord would not anſwer upon his knocking at the Door) and there ſaw my Lord lying dead in his Blood, and the Razour by him, and he then called the Warders; but immediately ſwears in contradiction to his firſt Oath, that he peeped through a chink of the Door, and ſaw Blood and part of the Razour, and then without opening the Door, ran and called* Ruſſell, *who thereupon firſt opened the Door, and at Mr* Braddon's *Tryal, ſwears he knew not who opened the Door.*

Ruſſell *depoſeth he did firſt open the Door, and makes no difficulty in it; Then comes* Monday, *and gives the Lye to both: For,*

Monday (*the very day my Lord died*) *declared (what he hath ſince often confirmed) that neither* Bomeney *nor* Ruſſell *could ſtir the Door, my Lord's Body lay ſo cloſe and hard againſt it, and he being ſtronger then either, put his Shoulders againſt the Door, and preſſing with all his might broke it open.*

Whoſoever there is that can reconcile theſe Contradictions (in theſe three mens Relations) and make all appear credible.

——Erit mihi magnus Appollo.

A further Argument, that the Cloſet-

Door was not locked upon the Body, appears by my Lord's Legs lying upon the Threeſhold of the Cloſet-door, when the Body was pretended not to have been ſtirred from its firſt poſture.

3dly, *That there was no Razour lying locked in with the Body, when the Body was firſt found, appears by the bloody Razour's being thrown out of my Lord's Chamber-Window, (which is about ſeventeen Foot diſtant from the Cloſet-Door, where the Body lay) and no noiſe of my Lords death, till after the Maid carried up the Razour; which Maid thereupon firſt diſcovered my Lord's death.*

And, as yet other Argument, of the Perjury of theſe perfidious Villains, add the Mathematical impoſſibility of the Wound, ſeeing not above two Inches of the Razour muſt be without my Lord's hand, (had he done it himſelf) and yet the Wound above three Inches deep. Moreover, by many eminent Doctors and Chyrurgions; the Wound is thought to be naturally impoſſible to have been done by my Lord himſelf, becauſe upon cutting the firſt Jugular Artery, ſuch an effuſion of Blood and Spirit would have immediately thereupon followed, that Nature would not have been ſtrong enough for to

cut

cut through the other Jugular Artery, to the Neck-Bone on the other ſide, muchleſs, to make ſo many, and ſo large Notches, in the Razour againſt the Neck-Bone, as an old fooliſh or K—Chyrurgion ſuggeſted to the Coroner's Jury.

Wherefore, by what is before obſerved, as to the many Contradictions, it plainly appears, that theſe three (as it is ſaid in the Hiſtory of Suſanna, verſ. 6.) *are convicted of falſe Relations by their own mouths; and thoſe other Arguments before obſerved, are further Detections of theſe three mens Perjuries. It then remains as at firſt* (viz.) *That here is a Body found dead by violent Hands, and the manner of the Death not diſcovered (for it can't be according to theſe three mens Relations, for the Reaſons before obſerved) The concluſion that the Law makes in ſuch caſes; in this, therefore holds good,* (viz.) *that this honourable Lord was Murthered by the violent and cruel Hands of barbarous and bloody minded men.*

Secondly, *For the proof of the Murder; in this I ſhall firſt conſider, what is moſt material which paſſed before my Lords death.*

Secondly, The Day of his Death. And then

Thirdly and Laſtly, after the Day of his Death. In the

Firſt, *Before my Lords death, I ſhall conſider,*

1ſt, *The previous Reſolutions by* Papiſts *to cut my Lords Throat. And then,*

2dly, *The many previous Reports before my Lords death, That his Lordſhip had cut his own Throat in the Tower.*

For the firſt of theſe, D. S. *declares, that about nine days before the Death of the late* Earl of Eſſex, *ſhe heard ſeveral* Papiſts *conſulting together, concerning the ſaid Earl; And this Informant heard them ſay, the Earl of* Eſſex *was to be taken off, and that they had been with his Highneſs, and his Highneſs was firſt for poyſoning the Earl; but that manner of Death being objected againſt; it was then ſaid, one did propoſe to his Highneſs; Stabbing the* Earl; *but this way his Highneſs did not like; at length his Highneſs concluded and ordered his Throat to be cut; and his Highneſs had promiſed to be there when it was done. Some few days after ſome of the aforeſaid Perſons declared, it was reſolved the* Earl's *Throat ſhould be cut, but they would give it out that he had done it himſelf, and if any ſhould deny it, they would take them, and puniſh them for it.*

Secondly,

Secondly, For the previous Reports before my Lords death.

Its proved, by eight ſeveral Witneſſes, that before my Lords death (or before it could be known) it was reported, that the Earl of Eſſex *had cut his Throat in the Tower, amongſt the reſt, it was at* Frome, *which is about one Hundred Miles from* London, *the* Wedneſday *Morning; and at the ſame time at* Andover, *about ſixty Miles from* London, *though at neither of theſe places, eſpecially the former, could it then be known the Earl was a Priſoner in the Tower, his Lordſhip being not committed to the Tower, till the* Tueſday *in the Afternoon. All theſe Reports agreed in the manner how* (viz.) *cutting his Throat, and the place where* (viz.) *the Tower; and* (which is further) *at* Andover *the* Wedneſday *Morning before my Lords death, it was reported not only in the manner how, and place where, but likewiſe the pretended Reaſon wherefore, was given, for it was then, and there ſaid, that the* Earl of Eſſex *being a Priſoner in the Tower, and underſtanding that the* King *and* Duke *were come into the Tower, his Lordſhip was afraid the King would have come up into his Chamber, and ſeen him; of which his Lordſhips guilt and ſhame would not bear the Thought,*

and

and therefore he did cut his Throat to avoid it. This being declared two days before my Lords death, when it could not have been in the leaſt fore-thought, that the King *and* Duke *would have come together into the Tower, where they had not been above twice together ſince the Reſtoration; I ſay, this previous Report, which ſo particularly cloathed this action, with the how, where, and wherefore; clearly proves, That all things were ſo reſolved upon to be done; or otherwiſe it is impoſſible it ſhould have been reported under theſe three eſſential Qualifications, as to manner, place, and reaſon, before it was indeed done; eſpecially at* Andover, *where it could not then be ſuppoſed to be known that my Lord was ſo much as a Priſoner in the Tower; this Reaſon the* Papiſts *themſelves gave out juſt after my Lords Death.*

Secondly, What paſſed the day my Lord Dyed.

Theſe then attending on my Lord (*viz.*) Ruſſell *and* Monday *the* Warders, Bomeney *the* Servant, *and* Lloyd *the* Centinel *at the door, did all deny that day my* Lord *died, that there were any Men let into my* Lords Lodgings *that morning before my* Lords *Death. But now it appears, that there*

there were ſome Ruffians, *a little before my* Lords *death, ſent into his Lodgings to Murder him, which they did accordingly.*

R. Meake, *a* Soldier *in the* Tower, *that morning my* Lord *of* Eſſex *was Murdered, about one of the Clock that very day, near* Algate, *told* B—*and his Wife, That the* Earl *of* Eſſex *did not cut his own Throat, but was barbarouſly Murdered by his Royal* Highneſſes *Order; For the ſaid* Meake *declared, That juſt before the* Earl of Eſſex's *Murder, his* Highneſs *ſent two Men to the* Earls *Lodgings to Murder him, which after they had done, they threw the* Razour *out of the Window. Likewiſe a* Soldier *that morning in the* Tower, *about a eleven a Clock that morning my* Lord *dyed, in* Baldwines-Gardens, *informed* G. *and* H. *that the* Earl *of* Eſſex *did not cut his own Throat, but was barbarouſly Murdered by his* Royal Highneſſes *own Order. For the Souldier then declared, that a little before the* Earl's *Murder, his* Royal Highneſs *parted a little way from his* Majeſty, *and then two Men were ſent into the* Earl's *Lodgings, to Murder my* Lord, *which when they had done, they did again return to his* Highneſs.

Mr E—*declares, That he ſaw his* Royal

al Highneſs *juſt before the* Earl's *Death, part a little from his* Majeſty, *and then beckned to two* Gentlemen, *to come to him, who came accordingly, his* Highneſs *thereupon ſent them towards the* Earl of Eſſex's *Lodgings, and about a quarter of an hour after, this* Informant *ſaw theſe very two Men return to his* Highneſs, *and as they came, they ſmiled, and to the beſt of this* Informants *hearing and remembrance, ſaid,* the Buſineſs was done; *upon which his* Highneſs *ſeemed very well pleaſed, and then went to his* Majeſty, *to whom the News was immediately brought, that the* Earl *of* Eſſex *had cut his Throat.*

Lloyd *the* Centinel *at my* Lords *door, the day my* Lord *died (till the twenty firſt of* January *laſt) did deny the letting in of any men, (and* Ruſſell *and* Monday *ſtill deny it) but now* Lloyd *doth confeſs that juſt before my* Lords *Death, two or three men, by* Major Hawley's *ſpecial* Order, *were let in, and immediately he heard them, (as he did ſuppoſe they were) go up Stairs into my* Lord's *Room, where there was a very great buſtle and ſtir, ſo great, that the* Centinel *declared, he would have forced after them, had not the firſt door been made faſt; upon the buſtle he heard ſome-what thrown*

thrown down like the fall of a man, which he did ſuppoſe was my Lords *Body; ſoon after which, it was cryed out, my* Lord of Eſſex *hath cut his own* Throat.

Here is not only theſe mens going in, but a great buſtle confeſſed immediately thereupon, to enſue in my Lords *Room, and the Body of a man in this buſtle to be thrown down; this is in a cloſe Priſoners Room, where no one is admitted, but his Servant, and thoſe that kept the door, denyed upon Oath, that any were in my* Lords *Chamber that morning my* Lord *dyed, before his Death. But theſe* Warders, *being ſuppoſed privy to the Fact, would not own the admitting of thoſe men, which themſelves let in with ſuch a Murtherous deſign; and it is to be preſumed that this* Centinel *was not a ſtranger to the matter, but enjoyned to ſecrecy; for otherwiſe he would never have declared to a Friend, under a repeated requeſt of ſecrecy, that this Confeſſion (as before) laid upon his Conſcience, and troubled him night and day, for tho' it was indeed very true, that he did let in theſe men, it was what he ſhould not have confeſſed. This Confirmation to his acquaintance (under a great and repeated injunction of ſecrecy) argues firſt, that this Confeſſion was indeed true.*

Secondly,

Secondly, *That there is some cursed Confederacy (its probable by Oath) entred into to stifle this Murther, for what other probable reason can be assigned for that trouble of Conscience in this Confession, seeing himself at the same time declared it was true, tho' he should not have said it? There are some other arguments that this* Centinel *was* particeps Criminis *in the Privity; first his retraction in part of what he did confess; for, upon his being first apprehended, he owned the throwing out of the* Razour, *before my* Lords *Death was known, but now he retracts and disowns it; Another instance of his privity, is his now prevaricating, in his now pretending, that these men were let in an hour, or more before my* Lords *Death; whereas at first he declared they were let in before my* Lords *Death; for, as soon as let in, he heard several go up Stairs into my* Lords *Room, and heard the bustle,* &c. *as before.*

A third argument of this Centinels *privity, is his not declaring the whole truth, which he must know; for one at a greater distance that saw these* Ruffians, *as they were bustling with my* Lord, *and heard the bustle, did likewise hear one of these in the bustle (as it seemed to be, (and therefore presumed to be my* Lord) *cry out very loud, and very dolefully*

fully, Murther, Murther, Murther; *The* Centinel *who could hear the trampling, or indeed the very walking in my* Lords *Chamber, could not but hear this* Murther, *so loud and often repeated: It appears by five Cuts in my* Lords *right hand, (viz.) two upon his fore-finger, one upon the fourth-finger, another on the little-finger, and the fifth about two Inches long in the palm of his right hand, that his* Lordship *in this bustle made great resistance; for these Cuts can be supposed to be done no otherwise, then by endeavouring to put off the cruel Instrument of his Death.*

The next thing that I should observe, which happened the day my *Lord* dyed, and gives us reason to believe the Murther, is the Irregularity committed upon the Body before the *Jury* saw it, the Body was strip'd and washed, and the Room and Closet washed, and my *Lords* Cloathes carried away (tho' all Men know the Body should have remained in its first posture, till the *Coroners Jury* had seen it.)

Sr T. R. *as himself saith, declared to the* Lords, *that the Body was not stirred from its first posture, till the next morning about*

about ten of the Clock. To this Sr Tho. has not sworn (for he was not sworn before the Lords) and 'tis well he has not, for herein he is so much mistaken, that the contrary can be proved by almost twenty Witnesses, that the Body remained in its first posture, by my Lords Cravat being cut in three parts, the Jury would have plainly seen, that his Lordship could not so do it, with a Razour; And then, Secondly, they would have perceived the print of a bloody Foot upon my Lord as he lay in the Closet, by which it appeared some one had been with the Body in the Closet, and several other material circumstances might have been discovered, which by the total (illegal) alteration of the Circumstances of the Body &c. were destroyed.

About three of the Clock in the afternoon that day my Lord dyed, some of those bloody men (who had been at the Consult) met at Holme's House, and one of them leapt about the Room as overjoyed, and as the Master of the House came into the Room, he strikes him upon the back, and cryed, The Feate was done, or We have done the Feate; upon which the Master said, Is the Earls Throat cut? To which the other replyed, Yes; And further said, He

He could not but Laugh to think, how like a Fool the *Earl of Essex* looked, when they came to cut his Throat.

To destroy the Testimony of this Dorothy Smyth, Holms hath produced two Witnesses who (by many Witnesses) appear to be for-sworn in every part of their Depositions. His defence being false, his Charge therefore may be concluded true.

Thirdly and lastly, What passed after the day of my *Lords* Death.

That very morning, several Soldiers (which were presumed able to discover what was material, with relation to his Death) were called together (As Meakes then said) and enjoyned to secrecy, under very severe Penalties.

About ten of the Clock in the morning, the next day, the Jury met, and were surprized to see all the Circumstances of my Lords body changed from what was first discovered.

After the Jury had seen the naked Body at Hawley's, the Coroner adjourned them to a Victualling-House in the Tower; one of the Jury demanded a sight of the Cloaths, but the Coroner was immediately called into the next Room, from which returning to the Jury in some Heat, he told them, It was the

Body

Body, and not the Cloathes they were to ſit upon, the Body was there, and that was ſufficient.

One of the Jury then ſaid, My Lord of Eſſex was eſteemed a very ſober, ſedate, and good Man (which Bomeney then confirmed, ſaying, His Lord was a very pious Man) and therefore it was improbable ſo good a man ſhould be guilty of the worſt of Actions. Upon which Hawley told the Jury, They were miſ-informed in my Lords Character, for every man that was well acquainted with my Lord, well knew that it had ever been a fixed Principle in him, that any man might cut his Throat, or any otherwiſe diſpoſe of his Life, to avoid a diſhonourable and infamous Death; wherefore this Action, which they thought unlike him, was according to his avowed and fixed Principles. This made the Jury the more eaſily believe that my Lord had indeed done it.

Some of the Jury were for adjourning their Inquiſition to ſome further day, and in the mean time to ſend notice to the Earls Relations, ſo that if any thing appeared on my Lords behalf, it might be produced. Hawley hereupon aſſured the Jury, that they could not adjourn their enquiry, for his Majeſty had ſent one for their Inquiſition, and would not

not riſe from the Coun. till it was brought him; This the Jury believing, immediately made all haſte poſſible, whereas otherwiſe they might have been more ſtrict, and particular in their Examinations; Hawley in anſwer to this totally denyes all, and proteſts that he was not nigh the Jury in the Victualing-Houſe all the time the Jury ſat, tho' moſt of the Jury can ſay the contrary. And as for the ſuggeſting Self-Murder to be my Lords Principle, he did proteſt he did never hear it ſaid, till their Lordſhips in this Committee told him it had been ſo declared. This clearly proves that the pretended Principle of Self-Murder, was a forgery of that bloody Party which Murthered my Lord, And Hawley pitched upon as the moſt proper perſon to corrupt the Jury with the belief of it.

The backwardneſs of the then Government to examine this matter, and their unjuſt proceedings againſt the Proſecution (for they diſcouraged and ruined him who did humbly offer the matter to a judicial conſideration, tho' no crime or colour of offence was proved againſt him) is further evidence of this Murther.

The Government turned old Edward's out of his Place for what his Son ſaid in this matter, and hereby inverted the old Pro-

verb, For here the Sons eating four Grapes, had set the Fathers teeth an edge.

A poor Soldier was barbarously Whipt (after he had been cruelly managed in Prison) for only saying, That he would not say, that he believed the Earl of Essex *cut his own Throat. But a more barbarous Cruelty is justly suspected to have been committed in the after Murther of several* (viz.) *of* Meake *and* Hawley, *&c. to prevent a detection of this Murther.*

Tho' the Government *heretofore had received private Intimations, and in Print publick Applications for a Pardon, and thereupon a promise of a full Discovery, and in both these the* Duke *of* York *particularly charged as the chief Contriver of this horrid Cruelty, yet the then* Government *would never permit such an Inquisition to be made, but punished those that dispersed those publick Challenges; Had his* Highness *been really Innocent, none would have been more zealous for such a* Proclamation *of Pardon, for Innocence desires a Tryal, and its only Guilt that flies from Justice. Another Argument of this* Murther, *and likewise of* Major Webster's *Guilt therein, is* Webster's *producing my* Lords *Pocket-handkerchief*

chief all bloody to some of his Neighbours, rejoycing at the blood of a Traytor, *and the very next day to some of the same Persons he produced part of the price of Blood,* viz. *a Purse of Gold, wherein there were Forty nine Guineas, and a Pistol which he shewed in great Ostentation, but all this was but a small part of that villanous Reward, for sometime after my* Lords *Death, when his Wife was upbraided with her Husbands Poverty, she replyed, her Husband long since was not so Poor, for he had Five hundred Guineas, at which the other being startled, answered, most certainly he could not come by them honestly, to which it was said, that he got them by his Trade, but to that it was replyed, that his Trade could hardly get Bread, therefore there must be some other way.*

Its very probable that Websters *Wife speaking of his Trade, might intend* Murther, *in which it is supposed he has been more then once concerned, tho' the other mis-understood her.*

That she was not a stranger to his Guilt appears, by her often telling him (upon her hard Usage) that he was a Fool, as well as a Rogue to use her so ill, he knowing it to be in her power to Hang both him and another

ther in the Tower; *A like Inſtance there happened upon a Quarrel between* Holmes *and his Wife, ſoon after my Lords Death, ſhe thereupon told him, he was a Murthering Rogue, and he well knew, that ſhe could at any time hang him for it, to which* Holmes *anſwered (with his uſual ſcurrilous Language, you Bitch, you Whore, you of all the World have no reaſon to ſpeak, for do not you remember I bought you a good Satin Gown and Petticoat, whereupon the wife replyed, you are a Murthering Rogue for all that.*

REMARKS Upon the Proceedings in the Caſe of *Edward Fitz-Harris* Eſq: in the Court of *Kings-Bench*, in the Year 1681.

IT may not be forgotten, that the *Poniſh Plot* in 1678, was to have been uſhered into the World, by a *Preſbyterian*, or *Fanatick Conſpiracy*; to that end, in *July* 1678, when the *Papiſts* had reſolved to diſpatch *King Charles*, to make

make way for *King James* the Second; Mr *Claypoole* (becauſe *Son-in-Law to* Cromwell) was clap'd into the *Tower*, (upon the Accuſation of *Sing* a *Papiſt*) upon a pretence, that he was to ſeize the *King* in his way to * *Newmarket*; And it doth as well deſerve Remembrance, that the *Conſpirators*, having been diſappointed and vexed, with the unlucky diſcovery of their *Plot*; Reſolved, to make one *Fanatick Plot*, or other, to thruſt theirs off the Stage; and to turn the *Popiſh* into a *Proteſtant Plot*; Thereupon, the danger of Forty one, and of *Fanaticiſm*, was moſt induſtriouſly diſcourſed and preached; And, which was more, a great *Prelate*

* That *Newmarket*, or the way to it, was the place deſigned for diſpatching the *King*, long before *Keeling* made it ſo, in the year 1683; is very evident, for by the *Journal* of the Houſe of *Lords* (upon the 12th of *November* 1678) it appears, that *Conyers* (*Confeſſor to the Lord Bellaſis*) had at this very time, in 1678, undertaken to kill the *King*, in his morning Walks, at *Newmarket*; Were the *Newmarket Fire* throughly (even at this day) examined, it might be found, that that Town was as certainly burnt by the *Papiſts*, to countenance *Keeling*'s *Plot*, which immediately ſucceeded; as tis certain that they Burnt *London*; and that the great *Earl* of *Eſſex*'s Throat was cut, in order to the Murther of the good *Lord Ruſſell*.

declared, that tho' it was true, That there was a *Popiſh Plot*, *there was alſo a greater deſign carrying on by the Forty one Party.*

Matters being thus prepared(coſtwhat it will) we muſt have another *Plot*, that the belief of that of the *Papiſts* may be blaſted, and the management thereof is now committed to *Madam Wall*, (*Chamber-Maid to the Dutcheſs of Portſmouth*, always a Creature of the D. of *York's*, and now the ſame *Lady Ogelthorp* who was lately ſeized at *Cheſter* going for *Ireland*) this Woman of Intrigue introduces and recommends to *K. C.* the ſecond, *Mr Edward Fitz-Harris*, an *Iriſh Papiſt*; and he was directed to make a Counter-Plot, in which we find *Rome* and Hell united with our Conſpirators, for the deſtruction of *Proteſtants*; and *Fitz. H.* is encouraged to it with great Rewards and greater Promiſes.

In order to the framing and fitting this new intended *Plot*, againſt the meeting of the *Parliament at Oxford*, upon the 21ſt of *March* 1680. *Fitz. Harris* renews an old acquaintance which he had with *Mr Everard*, who pretended himſelf a *Confident of the Earl of*

of Shaftesbury's, and entertained his old Friend *Fitz- H.* with complaints of that *Noble Lord*, and his *Party*; hereby was *Fitz-H.* encouraged to tamper with *Everard*, to joyn with him in framing a moſt *Trayterous Libel* againſt the *Government*; There were great as well as little *Villains* in this deſign; and *Fitz. H.* was daily inſtructed at *White-hall*, and directed to adapt their *Libel* to the humour, and make it ſpeak the Language of the higheſt *Male-Contents*; that thereby their Plot might gain belief, and appear plauſible to the World; accordingly they ſet about it, *Fiz. H.* furniſhing Materials, and *Everard* drawing it into form; The *Conſpirators* were Cockſure of catching the *Earl* of *Shaftesbury*, and the diſcontented party (as they termed all the avowed Enemies of *Popery*, and true Friends to the *Engliſh Liberties*) in this ſnare; it being reſolved to diſperſe this helliſh Paper amongſt them, and then to ſeize it upon them.

After ſeveral meetings about this Intrigue, between *Everard* and *Fitz-Harris* they appointed to compleat their work at *Everard's* Lodgings, about the laſt of *Febrnary* 1680, againſt that time,

Everard planted *Sr William Waller*, and *Smyth* (known by the Name of *Narrative Smyth*) within hearing; They then perfecting their *Libel*, and each of them taking a Copy of it, *Fitz-Harris* runs with great joy with it, to *Nell Wall*, to *White-hall*, but the *King* being unluckily at *Windsor*, he fatally missed the opportunity of being before-hand with *Everard*; and was seized in his Bed by *Sr William Waller*, and carried to *Secretary Jenkins*; and being the next day brought before the *Council*, the Witnesses were examined, and he was committed to *Newgate* for *high Treason*; Notwithstanding a *great Man* said, that *Fitz-Harris* was his Friend, and that *Waller* was a *Rogue*, *and had spoiled all.*

Fitz-Harris being fast, and reflecting, no doubt, upon *Colman*'s fate, began to relent, and offers to make full discovery of the *Villany*, and of those who employed him in it; Thereupon, Sr *Robert Clayton* and *Sr George Treby* (as *Justices* of *London*) took his Examination; This gave great offence at *White-hall*, insomuch, *that he who had the Power of* Life *and* Death, *positively declared that he should dye*; and to prevent his further discovery,

discovery, which he had promised to make, he is instantly removed, and kept most closely in the *Tower*, where he was most rigorously handled, to make him retract his *Confession.*

The *Conspirators*, being thus defeated, of this hopeful *Fanatick Plot*, calculated for the entertainment of the *Oxford Parliament*; and well knowing that *Fitz-H.* and his *Wife* could make it out, who set them to work; *and that he was paid* 250l. *at* White-hall *for this Service*; They came to a resolution, that the *Parliament* must not pry into this mistery of *Iniquity*; however,

The *Parliament* being met, the *House of Commons* fell upon it, and on *Friday* the 25th of *March*, 1681. Upon the reading *Sr Robert Clayton*'s, and *Sr George Treby*'s Examination of *Fitz-Harris*; *Sr John Hotham* moved, that it might be printed, to shew the World the deviliſh *Conspiracies* of the *Papists*; which motion was seconded by *Sr William Jones*, who said, that People had been prevailed upon to believe, the *Plot* not true, and *that that Examination confirmed the Informations of Otes* and *Bedloe.*

Sr Francis Winnington added, that the Trea-

Treaſonable Paper of *Fitz-Harris*, was to have been ſent to many *Gentlemen*, and they to have been ſeized thereupon, as Traytors in a Conſpiracy againſt the King; That all was at ſtake, therefore let not our Courage leſſen; Let us go to the bottom of this buſineſs of *Fitz-Harris*; I move, he may be impeached of *High-Treaſon*; and it may be he will relent and tell you all.

Sr Robert Clayton then ſaid, That, when *F. Harris* his Examination was taken at *Newgate*, he told him, that he thought he had not dealt ingenuouſly, unleſs he would tell what Council he had for drawing the Paper; and that he bad him be ingenuous in the whole matter, and he would come and take his further Examination; and that *F. Harris* having promiſed this; he was removed out of their reach into the *Tower*.

Wherepon, an *Impeachment* was ordered; & Sr *L. Jenkins* commanded to carry it to the *Lords*; and *Col. Birch* ſaid, That we ought all to give *God* thanks for this diſcovery of *Fitz-Harris* next to the firſt diſcovery of the Plot.

Upon *Saturday* the 26th of *March*, 1681, the Houſe of *Commons* being informed, that the Houſe of *Lords* had refuſed

fuſed to proceed upon the *Impeachment*.

Sr Thomas Lee ſaid, That he ſaw, by the *Lords* refuſing the *Impeachment*, no further uſe of *Parliaments*, *That they would be a Court, or not a Court, to ſerve a preſent purpoſe.*

Then *Sr William Jones* ſpoke to this effect; Indictments were brought againſt the *Lords* in the *Tower*, and yet that was no impediment to their *Impeachment* in the *Lords Houſe*; but, here is no Indictment, or Proſecution brought againſt *Fitz-Harris*. We have an inſtance freſh in memory, *Scroggs* a *Commoner*, and not indicted at Common-Law, yet the *Lords* without ſcruple accepted his *Impeachment*; We find the *Lords* have determined a great point, *The Lords Spiritual*, as well as Temporal, *have voted the refuſal of the Impeachment of* Fitz-Harris; which we own not in this Judicature, nor I hope never ſhall; and, *We are denyed Juſtice by the* Lords Spiritual, *who have no right to Vote*; This is a double act of Injuſtice; Let us then Vote, *That the Commons have a Right to impeach in capital Caſes; and that the Lords have denyed us Juſtice in refuſing the Impeachment*, in a *Parliamentary* way; At a Conferrence

ference, ſhow how unwarrantable the *Lords* Actions have been, and if the diſſolution of the *Parl.* follows, *its the fault of thoſe Men who will not hear our Reaſons.*

Sr Francis Winnington backt this Motion, and ſaid; This *Impeachment* is not an ordinary Accuſation, but it *relates to our* Religion, and Property *and how the* Biſhops *come to ſtifle this, let* God *and the World judge*———If the *Lords* will vote, that the *Commons* ſhall not impeach him; They may as well vote, they ſhall not be *Proſecutors.* This is a *new Plot* againſt the *Proteſtants*, of which *F. Harris* is accuſed; and *We muſt not Impeach him*; In this, the *Lords* ſay, we muſt not hear it;——I deſire you would come to ſome *Vote*, you are willing to diſcover the *Plot*, if you could; ——If our time be ſhort (as I believe it is) pray come to ſome Reſolution to aſſert your Right;——A little while ago, when the *Duke* was preſented for *a Papiſt*, the *Grand-Jury* was diſmiſſed by the *Chief Juſtice*; This ſeems, as if the *Lords* would juſtifie the *Judges Proceedings*, by their own;——If no Man doubts our Right, pray vote it.

Sr Robert Howard then ſpoke to this effect, This of *Fitz-Harris* ſeems to me, to

to be a more dangerous breath then uſual, a breath fit to be ſtifled; *There is ſomething in this more then ordinary.* If there be ſo ſacred a reſpect to common Tryals, in *Inferiour Courts*; 'tis ſtrange, that the *Houſe of Commons* ſhould be below a *Common-Jury*;——It ſeems the *Lords* value *Fitz-Harris* to keep him from us, ——If *Dangerfeild* would ſpeak what he knew, nothing of Mercy was too big for him; but they hurry *Fitz-Harris* away to the *Tower*, when he began to confeſs in *Newgate*; *Are you ſo loſt, that you have no Mercy left for the* Proteſtant Religion———We hear that the *French Ambaſſador* had a hand in this *Plot*, which a Jury will not enquire into. I muſt confeſs, that by the carriage of this, I have enlarged my ſuſpition, for I cannot but ſuſpect unuſual ways——Something depends upon this Man——Sure We muſt not lay down all Proſecution of the *Plot*, and ſay, that the *Proteſtant Religion* ſhall have no Mercy. *Fitz-Harris* may merit Mercy by Confeſſion, and if his breath be ſtoped by the *Lords*, I am ſorry that People will ſay, If it were not for the *Lds. F.H.* might have diſcovered all the *Conſpiracy*, and the *Proteſtant Religion* might have been ſaved.

Mr

Mr *Serjeant Maynard* then added, We all know what Arts and Crafts have been uſed, to hide the *Plot*; it began with *Murder*, *Perjury* and *Subornation*; This of *Fitz-Harris* is a ſecond part of it; The *Lords* deny to receive our *Impeachment*; In effect, they make this no *Parliament*; if We are the *Proſecutors*, and they will not hear our *Accuſation*; Tis ſtrange, when their own lives, as well as ours, are concerned in the *Plot*— When all is at ſtake; We muſt not proſecute; If this be ſo, *Holland* and *Flanders* muſt ſubmit to the *French*; and they run over all: This is a ſtrange breach of *Priviledge*, and tends to the danger of the *Kings Perſon*, and deſtruction of the *Proteſtant Religion*.

Sr *Thomas Player* then ſaid, This of *Fitz-Harris* is a conſiderable confirmation of the former *Plot*; I call it the *Old Plot*, *but tis ſtill new upon us*; when he inclined to diſcover what he knew, he was fetched to *White-Hall*, and ſent to the *Tower*; and ſo We were deprived of all further hopes of diſcovery; and now they ſtop his Mouth; I move therefore, That you will declare, *That if any Judge, Juſtice, or Jury, proceed upon*

on him, and he found guilty; that you will declare them guilty of his Murder, and Betrayers of the Rights of the Commons *of* England; Hereupon the *Houſe* came to theſe *Reſolves*.

That it is the undoubted right of the Commons *in* Parliament *aſſembled; to impeach, before the* Lords *in* Parliament, *any* Peer, *or* Commoner *for* Treaſon, *or any other Crime or Miſdemeanour; and that the Refuſal of the* Lords *to proceed in* Parliament *upon ſuch* Impeachment, *is a denyal of* Juſtice, *and a violation of the Conſtitution of* Parliaments.

That in the Caſe of E. Fitz-Harris, *who by the Commons, has been impeached for* High Treaſon, *before the* Lords, *with a Declaration, That in convenient time, they would bring up the Articles againſt him; For the* Lords, *to reſolve, that the ſaid* Fitz-Harris *ſhould be proceeded with, according to the courſe of the* Common-Law; *and not by way of Impeachment in* Parliament; *is a denyal of* Juſtice; *and a Violation of the Conſtitution of* Parliaments; *and an Obſtruction to the further diſcovery of the* Popiſh Plot; *and of great danger to his* Majeſties *Perſon, and the* Proteſtant Religion.

That

That for any Inferiour Court *to proceed against him, or any other Perſon, lying under an* Impeachment *in* Parliament, *for the ſame Crimes, for which he or they ſtand impeached, is an high breach of the* Priviledge of Parliament.

This matter, thus agitated in the Houſe of *Commons*, was countenanced by a *Proteſtation* of many *Temporal Lords*, which was to this effect,

That in all Ages, it had been an undoubted Right of the Commons, *to impeach before the* Lords *any Subject for* Treaſons, *or any other Crime whatſoever.*

That they could not reject ſuch Impeachments, *becauſe that* Suit *or* Complaint, *can be determined no where elſe; for an* Impeachment *is at the Suit of the* People; *but an* Indictment *is at the Suit of the* King;

† Which was always to be preferred, and upon notice thereof, all Proſecutions at the Kings Suit were to ſtop, till the Proſecution at the Suit of the Party was determined.

As, the King *may Indict at his Suit, for Murther, and the Heir, or the Wife of the Party Murthered may bring an* † Appeal; *And the* King *cannot Releaſe that* Appeal; *nor his* Indictment *prevent the Proceedings in it.*

It is an abſolute denial of Juſtice; *in regard*

regard it cannot be tryed any where elſe; The Houſe of Peers, *as to* Impeachments, *proceed by vertue of their* Judicial Power; *and not by their* Legiſlative; *and as to that, act as a* Court *of* Record; *and can deny* Suitors (*eſpecially the* Commons *of* England, *that bring legal Complaint before them*) *no more than the* Judges *of* Weſtminſter, *can deny any ſuite, regularly commenced before them.*

Our Law ſaith, in the Perſon of the King, Nulli negabimus Juſtitiam, *We will deny Juſtice to no ſingle Perſon; yet here, Juſtice is denyed to the whole Body of the* People, *This may be interpreted an exerciſe of* Arbitrary *Power, and have an influence upon the Conſtitution of the* Engliſh Government; *and be an encouragement to all* Inferiour Courts, *to exerciſe the ſame Arbitrary Power, by denying the Preſentments of* Grand-Juries, *&c. for which, at this time, the* Chief Juſtice *ſtands impeached in the* Houſe *of* Peers.

Theſe Proceedings may miſ-repreſent the Houſe of Peers *to the* King *and* People, *eſpecially at this time; and the more, in the particular Caſe of* Edward Fitz-Harris, *who is publickly known to be concerned in vile and horrid* Treaſons *againſt his* Majeſty;

and

and a great Conſpirator *in the* Popiſh plot, *to Murther the* King, *and deſtroy and ſubvert the* Proteſtant Religion.

Monmouth,	*Macclesfield*,
Kent,	*Mordant*,
Huntington,	*Wharton*,
Bedford,	*Paget*,
Salisbury,	*Grey* of Werke,
Clare,	*Herbert* ofCherbury,
Stamford,	*Cornwallis*,
Sunderland,	*Lovelace*,
Eſſex,	*Crew*.
Shaftesbury,	

This *Proteſt* was no ſooner made upon *Munday* the 28*th* of *March* 1681, but the *Parliament* was inſtantly diſſolved.

Well, The *Parliament* being diſmiſſed, *Fitz-Harris* muſt be Hang'd out of the way, and the Term approaching, *Scroggs* the *Chief Juſtice*, who lay under an Impeachment for *Treaſon* in *Parliament*, is removed with marks of Favour and Reſpect; being allowed a *Penſion for Life*, and his *Son Knighted and made one of his* Majeſty's *Learned* Council; and Sr *Francis Pemberton* being advanced to the Seat of *Lord Chief Juſtice*, the Buſineſs

Buſineſs of *Fitz-Harris* is brought before him, and Juſtice *Jones*, Juſtice *Dolben*, and Juſtice *Raymond*; and proceeded upon in the manner following.

UPon the 27*th* of *April* 1681, an *Indictment* for *high Treaſon*, was offered to the *Grand-Jury*, for the *Hundreds* of *Edmonton* and *Gore* in *Middleſex*, againſt *Fitz-Harris*, whereupon,

Mr *Michael Godfrey*, the *Foreman*, in the name of the *Grand-Jury*, deſired the opinion of the *Court*, whether it were lawful and ſafe for them, to proceed upon it; in regard *Fitz-Harris* was *Impeached* in the late *Parliament* at *Oxford*, by the *Houſe of Commons*, in the name of all the *Commons* of *England*.

Mr *Attorney General* then ſaid, That Mr *Godfrey* and two more, were againſt accepting the *Bill*; but the body of the *Jury* carryed it, to hear the Evidence; and that thereupon, himſelf and Mr *Solicitor* went on upon the * Evidence, and ſpent ſome time in opening it to the *Jury*; and *We* thought they would have found the *Bill*; but it

* A new way of dealing with *Grand-Juries* to procure the finding *Bills* of *Indictment*.

ſeems,

ſeems, They have prevailed to put theſe ſcruples in the others heads; Then

The *Lord Chief Juſtice Pemberton* ſaid, your ſcruple is this; here was an *Impeachment* offered againſt *Fitz-Harris* to the *Lords*, which was not received, and thereupon there was a Vote of the *Houſe of Commons*, that he ſhould not be Tryed by any other *Inferiour Court*; We do tell you, 'tis our Opinion, that, If an *Indictment* be exhibited to you, you are bound to enquire, by vertue of your Oathes; you cannot, nor ought to take notice of any ſuch *Impeachment*, nor *Votes*; and We ought to proceed according to Juſtice, in Caſes that are brought before us: This *We declare as the* Opinion *of all the* Judges of England.

Then the *Jury* went away, and afterwards found the *Bill*.

Upon *Saturday* the 30*th* of *April*, Mr *Fitz-Harris* was brought to the *King's Bench-Bar*, and Arraigned upon the *Indictment*; whereupon, he offered a *Plea* in writing, to the *Juriſdiction of the Court*; and the *Chief Juſtice* ſaid, We do not receive ſuch Pleading as this, without a *Counſels* hand to it.

Upon which, the *Priſoner* deſired the Court,

Court, to aſſign Sr *Francis Winnington*, Mr *Williams*, Mr *Pollexfen*, and Mr *Wallop*, for his Council; which was accordingly done.

Upon *Monday* the 2*d* of *May*, the four Council moved the *Court* to have longer time for drawing the *Plea*; and that they might have a ſight of the *Indictment* as neceſſary to the drawing it; but they were oppoſed therein by Mr *Attorney*, and the *Court* denyed both; Then Sr *George Treby*, and Mr *Smith*, were alſo aſſigned as *Council* for the *Priſoner*, at his requeſt.

Upon *Wedneſday* the 4*th* of *May*, *Fitz-Harris* being brought from the *Tower*, to the *King's Bench-Bar*; Mr *Wallop* ſaid, That they had not had thoſe Inſtructions that were fit to direct them in drawing the *Priſoner's Plea*; not having prevailed for a ſight of the Impeachment or Indictment; and that he conceived, that by the Law, as that Caſe was, upon a ſpecial Plea; The *Priſoner* ought to have a Copy of the *Indictment*.

Then the *Plea* was read in theſe Words, *viz.*

Et predictus Edwardus Fitzharris in propria perſona ſua ven. & dic. quod ipſe ad Indictament. predict. reſpondere compelli

non debet, quia dic. quod ante Indictament. pred. per Jur. pred. in forma pred. compert. ſcil. ad Parl. Dom. Reg. nunc inchoat. & tent. apud Oxon. in Com. Oxon. viceſimo primo die Martii anno Regni dict. Dom. Reg. nunc triceſimo tertio, ipſe idem Edw. Fitzharris per Milites Cives & Burgenſes in eodem Parl. aſſemblat. nomine ipſor. & omnium Com. Angliæ, ſecundum legem & conſ. Parl. de alta proditione coram Magnat. & Procerib. hujus Regni Angl. in eodem Parl. aſſemblat. impetit fuit; quæ quidem impetitio in plenis ſuis robore & effect. adhuc remanet & exiſtit, prout per Record. inde inter Recorda Parliamenti remanens plenius liquet & apparet. Et pred. Edw. Fitzharris ulterius dic. quod alta Proditio in Indictamento pred. per Jur. pred. in forma pred. compert. ſpecificat. & mentionat. & alta Proditio unde ipſe predict. Edw. Fitzharris in Parl. pred. modo ut prefert. impetit. fuit & exiſtit, ſunt una & eadem alta Proditio, & non alia neque diverſa; & quod ipſe pred. Edw. Fitzharris in Indictamento pred. nominat. & pred. Edw. Fitzharris in Impetitione pred. nominat. eſt una & eadem perſona, & non alia neque diverſa: & hoc parat. eſt verificare, &c. Unde ipſe pred. Edw. Fitzharris petit Judicium ſi Cur. Dom. Reg. hic ſuper Indictamentum pred. verſus ipſum ulterius procedere vult. &c.

The

The *Attorney General* then prayed *Judgment* upon the *Plea*; ſaying, 'Tis an *inſufficient Plea*; nay, 'tis no Plea to to bar you of your *Juriſdiction*; Whoſoever will plead to the *Juriſdiction*, if he have any *Record* to plead, muſt produce it in *Court*; and for this matter, it will appear a plain *frivolous Plea*; for there is no ſuch matter depending as this *Plea* alledges; Another thing is this, They have pleaded no *Record* at all, nor any Impeachment at all; For they ſay he was impeached by the *Commons de alta Proditione*; but that is nought; The *Plea* ought to ſet forth, for what Crime particularly; this is no *Plea* to the *Juriſdiction*, upon that point. ——*Upon an Impeachment, or Indictment, the King hath his Election to proceed upon which he will*—— This is not only apparently, *a falſe Plea, but frivolous in it ſelf*, being to the Juriſdiction; For, *there was never any thing of a Crime ſo great, but the* Court of King's-Bench (*which hath a* Soveraign Juriſdiction, *for Commoners eſpecially*) *could take Cognizance of it.*

The *Chief Juſtice* then ſaid, Pray conſider, whether if it be an *inſufficient Plea*, and ſuch that no Iſſue can be taken upon

it, whether you would not demur to it; Conſider whether you think fit to *demur*, or to take *Iſſue* upon it, or reply to it; that it may come *judicially* for our *Opinion*.

The *King's Council*; *Mr Solicitor*, *Serjeant Jeffryes*, *Sr Francis Wythens*, and *Mr Saunders* ſpoke much to the effect with Mr *Attorney*, and preſſed to have the *Plea rejected*; but after much contraſting about the matter, the *Attorney* agreed to *demur* generally, and the *Priſoner's Council* immediately joyned in *Demurrer*.

Then Mr *Attorney* moved thus; I deſire your Judgment, that the *Plea* may ſtand *over ruled*, *for a plain fatal Error in it*; This is a particular *Indictment* for the framing a moſt pernicious ſcandalous *Libel* againſt the *King*; They, to out the *Court* of this *Juriſdiction*, plead, that he was *Impeached of high Treaſon* in general; Now, *Pleas to the Juriſdiction*, ought to be the moſt certain of any *Pleas* whatſoever.

Mr *Solicitor* added, *This Plea is neither good in matter nor forme*; he that pleads an *Indictment* or *Impeachment* in another *Court*, muſt ſet it forth in the *Plea*; which is not done in this Caſe, and We take

take that to be fatal to it.

Mr *Williams* (for the *Priſoner*) then ſaid, We hope the *Court* in this Caſe will not tye us up preſently to argue this matter; Mr *Attorney* ſayes, he never found that any *Plea* to the *Juriſdiction* required a *Demurrer*, but was over-ruled, or allowed by the *Court* preſently; The *Precedent* in *Elliot's* Caſe, is full in it; He was *Indicted* for Miſdemeanors in the *Houſe of Commons*; he Pleaded this to the *Juriſdiction* of the *Court*, the *Attorney* at that time, inſiſted to have it rejected but the *Court* over-ruled him, and put him to *demur*; *This is a Precedent* Mr Attorney *hath not ſeen*: The *Court*, in that Caſe, did not tye them up to argue the *Plea* preſently, but gave them till the next *Term*. *Here is a Mans Life in queſtion, and the Priviledge of* Parliament *concerned in it*; *We deſire a reaſonable time*; in the Caſe of *Plunket*, you gave him till next *Term*; which is as high a *Treaſon* as this, I am ſure of it.

Sr Francis Winnington, ſpoke to the ſame purpoſe, and ſaid, *This is a Caſe well worth our taking care of, and yours too*; We hope you will not deny us what time is reaſonable.

Mr

Mr Wallop added, That he had been an unprofitable *Attendant* in that *Court* near forty Years, and *never ſaw ſo ſwift a proceeding as this, which is as ſwift as lightning*; That, whereas they called it a *frivolous Plea*; he believed the *Plea* to be of the greateſt import, that ever thoſe *Gentlemen* came there about; That, *de Morte Hominis, nulla eſt Cunctatio longa*; That he humbly prayed a reaſonable time to be allotted.

Then, the *Lord Chief Juſtice* propoſed to the *Priſoner's Counſel*, that he ſhould *plead over*. *Mr Pollexfen* anſwered, We cannot do it, we have conſidered it, and are of Opinion, that if we ſhould plead over, it would deſtroy our Plea; by doing it, we give up the Juriſdiction. It is as indifferent to me, as any Body, to be forced to argue it now; but, No Body can ſay, they ever ſaw many Inſtances of the like nature; Therefore, pray *my Lord*, let us not go on ſo haſtily with it; If you will not give us leave and time to be prepared to argue it, you muſt take it as we are able, ſince we can't have time to make our ſelves able.

The *Attorney*, *Solicitor General* and *Sr George Jeffryes*, vehemently oppoſed the

the allowing any time, to argue the matter, and preſſed for preſent Judgment; but after much tugging about it, the *Court* allowed time till the *Saturday* following.

Then, upon *Saturday* the 7th of *May*, the *Attorney General* began, ſaying, This is a Plea to the Juriſdiction of the Court, and ſome of our Exceptions are to the form, and one is to the matter. To the Form,

1*ſt*, The general Allegation, that he was impeached *de alta Proditione*, is uncertain, it ought to have been particularly ſet out, that the *Court* might judge, Whether it be the ſame Crime; *and it is not helped by the Averrment.*

2*dly*, Here is no *Impeachment* alledged to be upon Record; They make a general Allegation, that *F. Harris* was Impeached, *Impetitus fuit*, by the *Commons*, before the *Lords*, *Quæ quidem Impetitio in pleno robore exiſtit, prout per Recordum inde, &c.* Now, there is no Impeachment mentioned before; And *quæ quidem Impetitio*, is a relative Clauſe; and no Impeachment being mentioned before in the Plea, there is nothing averred upon the Record to be continued, or diſconti-

discontinued; for *Impetitio*, does not actively signifie the Impeaching, or passively the Person Impeached; but it signifies the Impeachment, the Accusation which is to be upon Record: Therefore, when they say, he was impeached, and afterwards alledge, *Quæ quidem Impetitio*, remains upon Record; that cannot be good, for the Relative there, is only Illusive.

For the matter of the *Plea*; 'tis a Plea to the Jurisdiction of the *Court*; There the point will be, *Whether a Suite depending, even in a Superior Court, can take away the Jurisdiction of an* Inferiour Court, *which had an* Original Jurisdiction *of the Cause, and of the Person, at the time of the Fact committed*; I insist upon these Exceptions.

Mr Williams (for the *Prisoner*) then said, I take these things to be admitted, (*Mr Attorney having demurred generally.*)

1. *That the Prisoner stands Impeached.*
2. *That the Impeachment is now in being.*
3. *That this was done,* secundum Legem & Consuetudiem Parliamenti; *and being so, remains in plenis suis robore & effectu*; And more particularly, the Plea, refers to the *Record*, for the parts and Circumstances

Circumstances of the *Impeachment*; *prout patet per Record.* So that it refers the *Impeachment* to the *Record*, and tells you, 'tis amongst the Records of that *Parliament.*

4. Moreover, *That the Treason in the Impeachment, and the Treason in the Indictment, are one and the same; and that this Person* Fitz-Harris *indicted, and* F. H. *impeached, are one and the same Person*; And withal, it appears upon the Record, that this *Impeachment* was depending, before the *Indictment* found, for the *Parliament* was the 21st of *March*, and it appears this is an *Indictment* of this *Term*; And further, it appears not, by any thing to the contrary in the Record, but that this *Parliament* is still in being, and then it must be admitted so to be —— Whether your *Lordship*, now, will think fit in this Court, to proceed upon that *Indictment*, is the substance of the Case.

I think it will not be denyed, but that the *Commons* may Impeach any *Commoner*, before the *Lords*; *That was the Case of* Tresilian *and* Belknap, *in the time of* Richard *the second*; *Upon that Impeachment, one of them was* Executed, *and the other* Banished *in* Parliament.

Mr

Mr Attorney allows the *Parliament*, to be a *Superior Court*; but says, yet the *Inferiour Court*, having Original Juriſdiction of the Perſon and Cauſe, may proceed, notwithſtanding an *Impeachment* in *Parliament*; I will ſhew how manifeſtly, an *Indictment* and an *Impeachment* differ. ——The Caſe of an *Appeal*, is like the Caſe of an *Impeachment*: *An Appeal* of *Murder*, is at the ſuite of the *Party*; and in this caſe, 'tis at the ſuite of the *Commons*; tis not in the Name of the *King*, but of all the *Commons of England*; So that 'tis like an *Appeal*, and not like an *Indictment*, *an* Indictment *is for the* King, *an* Impeachment *for the* People—— *It is not ſafe to alter the old ways of Parliament*; 'tis out of the road of Compariſons, when they will compare an *Indictment*, and an *Impeachment* together.

It becomes not the Juſtice of this Court, to weaken the Methods of Proceedings in Parliament; Your proceeding upon this *Indictment*, is to ſubject the Method of their *Proceedings* there, to the *Proceedings* of this *Court* ——It is not fit, that the Juſtice of the Kingdom, and the *High Court* of *Parliament*, ſhould be crampt, by the Methods of an *Inferiour Court*, and a *Jury*. The

The *Parliament* is the *ſupreame Court*; and this Court every way inferiour to it; and 'twill be very ſtrange, that the Supreame Court ſhould be hindred here. For the higheſt Court is always ſuppoſed to be the wiſeſt, and the *Commons* in *Parliament*, a greater and wiſer Body, than a *Grand Jury*, of any one *County*: And the *Judges* in that *Court* (the *Peers*) *to be the Wiſeſt* Judges: *Will the* Law *of* England *ſuffer an Examination, Impeachment and Proſecution for Treaſon, to be taken out of the Hands of the greateſt and wiſeſt* Inqueſt *in* England? *And will it ſuffer the* Judicature, *to be taken out of the hands of the* wiſeſt Judges? ——It ſtands not with the Wiſdom of the *Law*, or of the *Conſtitution* of the *Government*.

Another thing is this (*the common Argument in an extraordinary Caſe*) there is no *Precedent* for this way of Proceeding; 'Tis my *Lord Cok's* Argument (*Coke's Littleton*, fol. 108. and in the 4th *Inſtit.* fol. 17.) in the Caſe of the Indictment againſt the *Biſhop* of *Wincheſter*; and of that againſt Mr *Plowden*, ——He ſays, *'tis a dangerous attempt for Inferiour* Courts *to alter, or meddle with the Law of Parliaments.* So, in this caſe

case, in regard it never was done from the beginning of the World till now, it being without Presidents, there is no Law for it.

Another mischief, which follows upon this, is; If you take this Case out of the power of the *Parliament*, and bring it into this *Court*; where the Offence may be pardoned; you change the method of proceedings, which make the Offence, without consent of the *Prosecutors*, not pardonable by Law; This may be of dangerous consequence to the Publick——by giving this *Court* a *Jurisdiction*, and possessing it of these Causes, expose them to the will of the *Prince*.

This way of proceeding, inverts the Law in another thing; 'Tis a *Principle, that no man's Life is to be put twice in danger, for the same thing*: If you proceed upon this Indictment, and he be acquitted, will that acquittal bind the *Lords* in *Parliament*? If they may proceed upon the *Impeachment*, then you invade every *English-man's* right, and his Life may be brought in question, twice upon the same account.

I take it to be a Critical thing, now at this time, to make such attempts as

these

these are; There are *Lords* now that lie under *Impeachments* of *Treason*; if you goon in this; do you not open a Gap that may be a ground to deliver them; By the same Justice, the *Lords* may be tryed by another Court;——This proceeding will have this effect; it will stir up a Question, between the *Jurisdiction* of this *Court*, and the *Parliament*; for in probability, if this Person be acquitted, the *Commons*, and the *Lords* too, will look into it;——*If he be found guilty; here is the Power of the* Commons, *in* Impeaching; *and the* Jurisdiction *of the* Lords, *in* Tryal *and* Judgment, *taken away by an* Inferiour Court: This being said in general, I come to the particular *Exceptions* made by *Mr Attorney*, to the form of the *Plea*.

He insists, that this *Plea*, doth not set forth any *Record* of an *Impeachment*; nor the particular matter of it; and compares it to the Case of a Plea, of *Autre foitz acquit*; If a Man has been Indicted and Acquitted, he may plead it in another Court, that hath Jurisdiction of the Cause, if again Indicted for the same matter.

I say, I take this to be a very good

Plea,

Plea, and that according to the pleading of *Auter foitz acquit*; In pleading a General *Act of Parliament*, We need not set forth the whole *Act*, but refer to the *Record*;——In the Case of *auter foitz acquit*, there is an *Indictment*, *Proceeding* of the *Court* upon the *Plea*, a *Tryal* and an *Acquittal*, and a *Record* of all this matter; and if the party be again Indicted, he hath a Record to plead, which will shew the whole matter; and if he does not plead it, 'tis his own default; But in this Case, here is no such Record to plead; and there is *Mr Attorney*'s mistake; you must in this Case, be governed by the *Rules* and *Methods of Parliament*, which is this; the *Commons* Impeach a Man, and bring up the *Impeachment* to the *Lords*, in general; and have Liberty to present *Articles* after due consideration.——It is said in this Plea, that it is *secundum legem & consuetudinem Parliamenti*,——you are to take notice of the Law of *Parliaments*, and *Customs* of *Parliaments*.

The *second Exception* is, That it is not said in the body of the *Plea*, that *Fitz-Harris* is Impeached for this *Treason*, but it comes in only in the *Averment*.

As

As to that; we must pursue the *Impeachment* as it is in the *Lords Journal*; 'tis for *Treason* generally, there; and 'tis said to be, *secundum Legem, & consuetudinem Parliamenti*; which goes to all, and there is a Record of it, among the Records of *Parliament*; and *Mr Attorney* hath confessed it by the *demurrer*; And this is the same Treason, we do aver, in fact; which also is confessed by the *demurrer*.

Mr Attorney hath fancied an exception of *Grammar*; an Adjective for a Substantive; but, I take it to be as well as any Man can plead in this case; The Prisoner says, the *Commons* Impeached him; which *Impeachment* is still in force before the *Lords*; It is as plain as can be, if they did *Impeach* him, then there was an *Impeachment*; it can bear no other sence.

Another *Exception*, and which was strongly urged, is, *That the King may chuse his Court*; 'Tis no doubt, the *King* may chuse his Court, for his own Action; but the *Impeachment* is the Suit of the *Commons*; and that is to be tryed in *Parliament*, and no where else.

I have offered theſe Reaſons, as to the form of the Plea to maintain it; As to the *Precedents*,

There was the *Biſhop* of *Wincheſter*'s Caſe 3 *Edw.* 3. in *Coke*'s 2 *Inſt.* fol. 15. the Record is recited *de verbo in verbum*, It was not an *Indictment* my *Lord Coke* ſays, it was a *Declaration*; the *Record* ſets forth, that the *Biſhop* was attached to anſwer the *King*; for that, whereas it was ordained, *Per Ipſum Regem, Ne Quis ad domum Parliament. ſummonitus, ab eodem recederet ſine Licentia Regis*; And that the *Biſhop*, in contempt of the *King*, *receſſit*, without his leave; The *Biſhop* comes and ſays, *Si Quis deliquerit erga dominum Regem in Parliamento aliquo, in Parliamento debet corrigi & emendari, & non alibi in minori Curia Quam in Parliamento, &c.* We find no Judgment given upon this Plea, *nor would they venture to do it*; My *Lord Coke* ſays, *It looks as if there was a deſign to weaken the Parliaments, by bringing their Proceedings into Weſtminſter-Hall*; but they would not do it.

Then, there is the Caſe of *Mr Plowden*, and others, 1ſt. and 2d. *Phi.* and *Mar.* the *Information* is this; *That they were*

were ſummoned to Parliament, and departed without leave of the King *and* Queen, *tho' they had prohibited that any ſhould depart*; Mr *Plowden* pleads a Plea, a hundred times as faulty as ours, if ours be faulty; and yet this Caſe continued all the time of that *Queen*, and it appearing, upon the face of the *Information*, that the Caſe concerned the *Commons*, *the Court would not give Judgment for or againſt the* Commons.

There is alſo *Elliot's* Caſe, 5 *Car.* There was an *Information* againſt my *Lord Hollis*, *Sr John Elliot*, and many more; *They plead to the Juriſdiction of the Court*; their *Plea* is, in a manner, as faulty as *Plowden's*; but the *Court* goes not upon the inſufficiency of the *Plea*; *but gives Judgment generally*; *that this Court had a Juriſdiction*; The aſſault happen'd in *Parliament*, the Words were ſpoken there, and upon the *demurrer*, they gave Judgment upon the whole matter; This *Judgment* was reverſed 19 *Car.* 2. The Judgment was given againſt theſe *Gentlemen* of the *Houſe of Commons*, Their *Plea* was a *Plea* in *Abatement*; They thought it a very hard Judgment, and were obſtinate, and

would not plead over; and Judgment was given for want of a Plea; they were fined ſeverely, and continued in Execution for the Fines, & were delivered by the *Parliament*, 16 *Car.* 1. & in the ſecond Impreſſion of *Croke's Car.* it is ſaid, *That the Houſe of Commons*, 19 Car. 2. *voted, That the Judgment was illegal, and againſt the freedom and liberty of Speech*; and that the *Lords* concurred in that *Vote*; And, upon the *Reſolution* of both *Houſes*, the *Judgment* was reverſed by *Writ* of *Error*; *If in our* Caſe, *you ſhould give* Judgment *againſt the* Priſoner's *Plea, and he ſhould prove obſtinate, and not plead over, and you give Judgment of Death upon him. It may come to be a very hard Caſe, if your Judgment ſhould be reverſed by* Writ *of* Error *in Parliament, when the party is dead.* *

* *Sr Francis Winnington* (in his Argument) added to this, that it was agreed by the *Lords*, unanimouſly, that the Judgment was erroneous, and that the Parties ſhould be reſtored to all that they had loſt, *but if this Man ſhould loſe his Life by your Judgment, what help would there be, upon a* Writ *of* Error?

20 *Rich.* 2. Ro. Parl. 12. *Ruſhworth* 47. 48. A Perſon preſented a Petition to the *Commons*, and ſomething ſuggeſted therein, amounted to *Trea-*

Treaſon; He was Indicted out of *Parliament*, and found guilty; But, (though he was pardoned) becauſe the *Commons* would not lie under that *Precedent* of an *Invaſion* of their *Priviledge*, tho' he was a Perſon without Doors, and no more hurt done to him, but the proſecution; the Judgment was voided.

Mr Williams then concluded his *Argument*, thus; *My Lord*, I have done with my Reaſons for the matter and for the form; *Here is the Life of a Man before you, here is the right of the Commons to Impeach in* Parliament, *before you*; *Here is the* Judicature *of the* Lords *to determine that* Impeachment *before you*; *Here is the Method and Proceedings of Parliament before you*; and I hope you will proceed no further on the *Indictment*.

The *Cheif Juſtice* then ſaid, *Here is nothing of the* Commons *Right to* Impeach, *before us*; *nor of the* Lords *Juriſdiction*; *nor the Methods of* Parliament, *in this Caſe*; the ſole matter is, whether this be a good Plea, to ouſt the Court of its Juriſdiction in this matter; To which,

Judge Jones added, Here is nothing of any fact done in *Parliament*, inſiſted on here; this is for a thing done without Doors.

Mr Williams replyed, 'Tis a hard matter (*my Lord*) for the *Bar* to anſwer the *Bench*.

Sr Francis Winnington, then argued for the *Priſoner*, thus; The *King's Attorney* has demurred generally; and if our *Plea* be well and formally pleaded, I am ſure, *all the matter of fact is confeſſed by the* demurrer. And upon the matter of fact ſo agreed, the general Queſtion is,

Whether an Impeachment by the Commons, and ſtill depending, be ſufficient to ouſt the Court to proceed upon an Indictment for the ſame offence?

The *Lord Chief Juſtice* ſaid, That cannot come in queſtion in the Caſe.

Sr *Francis Winnington*, replyed, Why my Lord?

Chief Juſtice, The Queſtion is, Whether you have pleaded ſufficient matter to ouſt us of our Juriſdiction.

Sr *Francis Winnington* proceeded, ſaying, My meaning is the ſame; It is agreed that there were no doubt to be made of the Plea, if there had been a particular *Impeachment*——*The Houſe of* Lords *is a Superiour Court to this, and a Suit in a Superiour Court, may be pleaded to*

ſtop the Proceedings of an Inferiour Court; and if once the Suit be well commenced in the Superiour Court, it cannot after go down to the Inferiour; and what is begun in one *Parliament*, may be determined in another; So is the Caſe 4. *Edw.* 3. N. 16. of the *Lord Berkley*, and thoſe accuſed of the death of *Edw.* 2. It was there objected, as 'tis here, that by this means there might be a ſtop of Juſtice, by the diſſolution of the *Parliament*; yet the true anſwer is, That it is preſumed in Law, that *Parliaments* will be called frequently, according to the *Statute*, 4 *Edw.* 3. 14. 36 *Edw.* 3. 10.

This Record is well pleaded, and could not be otherwiſe, unleſs Mr *Attorney* would have us plead what is falſe; the *Commons* Impeached *Fitz-Harris* generally, and We alledge in our Plea, that 'twas, *ſecundum legem & conſuetudinem Parliamenti*, and ſo 'tis confeſſed by the *Demurrer*.

A general *Impeachment*, is good by the Law and courſe of *Parliament*; *Coke* 4 Inſt. 14, 15 ſays, *What the Law and courſe of Parliament is, the Judges will never intermeddle with*. We find 11 *Rich.* 2. *Rot Parl.* part 2. and *Ruſhworth*, part 1. in the *Appendix*,

pendix. 51. *Treſilian* and others, *were appealed againſt for Treaſon*, the *Judges* of the *Common* and *Civil Law*, were called by the *King*, to adviſe of the matter; they all agreed, that the Proceedings were neither agreeable to Common, or Civil Law; *But, the* Lords *ſaid, it belonged not to thoſe* Judges *to guide them; but they were to proceed according to the* Courſe *and* Law *of* Parliaments; *and no Opinion of theirs, ſhould ouſt them of their Juriſdiction.*

31 *H.* 6. *Rot. Parl.* N. 26. The *Judges* were demanded, whether the *Speaker* of the *Commons*; during an Adjournment, might be Arreſted; They excuſed themſelves, ſaying, *That in this great matter, they ought not to interpoſe, it being a matter of* Parliament.

In the great *Council* 1*ſt.* and 2*d. Jac.* The *Judges refuſed to give their Opinions*, upon queſtions put to them, about the *Union* of both *Kingdoms*; *for that ſuch things did not belong to them, but were matters fit for Parliament only*; Hence I infer, that ſince 'tis Pleaded here to be according to Law of *Parliaments*, and Mr *Attorney* hath acknowledged it; that *you are fore-cloſed from meddling further with this Caſe*; *it being*

being a matter whereof you cannot judge.

But,

'Tis objected, That, *if the* Impeachment *be admitted to be according to the courſe of* Parliament; *yet, 'tis ſo general the* Court *cannot judge upon it.*

Anſwer, The Houſe of *Commons* would not Impeach a Man for no Crime; *The* Priſoner's *Plea avers, that that it was for the ſame Treaſon in the* Indictment; this makes the matter as clear to the *Court*; as if the *Impeachment* had mentioned the particular *Treaſon.*

26 *Aſſiz.* Pl. 15. *Stamf. Pla. Cor.* 105 A Man Indicted for the Murder of *I. S.* pleads a Record of *Acquittal*; where he was Indicted for the Murder of *I. N.* but avers, that *I.S.* in this Indictment, is the ſame Perſon with *I. N.* in the other Indictment; and it was adjudged a good *Plea*, tho' the *Averment* ſeemed to contradict the *Record*; This makes it clear, that *if an Averment may conſiſt with the Record, the Law will allow it.*

Mr *Attorney* had his Election, either to plead *Nul Tiel Record*; Or he might have taken Iſſue upon our Averment, that it was not for one and the ſame Offence; but, *he has demurred, and thereby confeſſed,*

ſed, there is ſuch a Record; and confeſſed the Averment to be true, that he was Impeached for the ſame Crime, and that he is the ſame Perſon.

I ſhall now offer ſome Reaſons in general,

1*ſt*, That when the *Commons* in *Parliament*, in the name of all the *Commons* of *England*, have lodged an *Impeachment* againſt any Man; it ſeems againſt natural Juſtice, that any *Commoners* ſhould afterwards try or judge him for that Fact; *Magna Charta* ſays, *That every Man ſhall be tryed by his* Peers; *or by the Law of the Land*; This is a way of *Tryal* by the *Law* of the *Land*, but not by his *Peers*; for 'twould be hard, that any Man ſhould come to *Try* or give *Judgment*, upon a Perſon, who hath been his *Accuſer* before; The Lords are here *Judges*, in point of Fact, as well as Law; the *Commoners* may come in as *Witneſſes*, but not as *Judges*.

2*d*, Reaſon, If an *Appeal of Murder* were depending before the *Statute* 3 *H.*7.1. The *King* could not proceed upon an *Indictment* for the ſame Fact, becauſe the *King* only takes care, that the *Offender* ſhould not go unpuniſhed; but the preferrence

rence was given to the Perſon more particularly concerned, *and the* King's Indictment *muſt ſtay, till the year and day were out, to ſee whether the Perſon immediately concerned, would proſecute the Suit*; ſo ſays *Lord Hales*, in his *Pleas* of the Crown; Then a *Minor iad Majus*; does the Law ſo regard the Intereſt of the *Wife* or *Heir* &c, in their Suit; and has it no regard to the *Suit* of all the *Commons* of *England*? for, manifeſtly *an Impeachment, is the Suit of the* People, *and not the* King's *Suit*.

3*d* Reaſon, *If this Man be tryed and acquitted here, Can he plead this in Bar to the* Impeachment? it cannot bar that *great Court*, by ſaying he was acquitted by a *Jury* in *Weſtminſter-Hall*; and if ſo (contrary to a fundamental Rule of Law) *a Man ſhall be twice put in danger of his Life, for one Offence.*

I will now mention *Precedents* to prove that this *Impeachment* is according to the *Courſe and Law of Parliaments*. *Michael de la Poole, Rot. Parli.* 18 or 28 *H.* 6. *N.* 18. was accuſed by the *Commons* of Treaſon, and there 'tis ſaid, that the Courſe of *Parliament*, is to find out the Truth by Circumſtances, and ſuch Degrees as

the

the nature of the thing will bear; and they are not confined to the ſtrict Rules of other Courts; The *Earl of Clarendon* was Impeached generally, and the *Commons* took time to bring in their Articles. I have had the Experience in three or four *Parliaments*, (*wherein We have been bleſſed with Impeachments, tho' We have had no great ſucceſs in them*) That, tho' the *Commons* may carry up particular *Articles* at firſt, yet the Courſe is, for the *Lords* to receive the *general Impeachment*; and the *Commons* ſay, that in due time, They will bring in their *Articles*; So it was done in the Caſe of the five *Poliſh Lords*; and in that Caſe, tho' the *Parliament* was Diſſolved before any Articles ſent up; yet, in the next *Parliament*, the *Articles*, upon the former *Impeachments*, were ſent up and received; yet, *Indictments* were againſt them, before any *Impeachment*, and preparations made for their *Tryals*; but there hath been no attempt to try them upon the *Indictments*, tho' there have been ſeveral Intervals of *Parliament*.

Our Caſe, is ſtronger than that of the *Lords*; for in this, the firſt Suit was in the Houſe of *Lords*; but in the other Caſe, the firſt was the Suit of the *King*, by

by *Indictment*; and yet, by a ſubſequent *Impeachment*, that was ſtop'd, and the *Lords* are yet *Priſoners*.

For the Objection, *That the* King *may chuſe in what Court he will ſue; It is agreed, when it is at his own Suit; but this is not ſo, but at the* Commons *Suit, and can be no where elſe proſecuted but where it depends.*

To conclude, This *Plea* cannot be *overruled*, without deciding, *whether the* Lords *can proceed upon ſuch* general Impeachments, *and whether the* Commons *can Impeach in ſuch a general way; This Caſe highly concerns the* Juriſdiction *of the* Lords; *the* Priviledges *of the* Commons, *and the Rights of all the* People *of* England.

Mr *Wallop* (*for the Priſoner*) then argued thus; There are in this *Plea*, three principal parts, upon which it turns, which are expreſly alledged, 1*ſt*, *That the Priſoner, before the Indictment, was according to* Law *and* Cuſtom *of* Parliament *Impeached.* 2*d*, *That the* Impeachment *remains in force.* The 3*d*, great Point and Hinge upon which it turns, is this, *That the Treaſon in the Indictment, and the Treaſon for which he was Impeached, is one and the ſame Treaſon*; Theſe three things are confeſſed

ſeſſed by Mr *Attorney*, for all things well alledged and pleaded, are confeſſed by the *demurrer*.

I paſs the two former points; there being no difficulty in them; I take the third to be the only point in the Caſe; and if We have well averred it, and can by Law be let into ſuch an *Averment*; *I hope this Court will not pretend to go on in this Caſe*; They object; becauſe he is *Impeached* generally, that cannot be averred to be the ſame; and a *Demurrer* confeſſes not the Truth of that, which by Law cannot be ſaid; But if it may be ſaid, and is ſaid plainly, Then the *Demurrer* confeſſes it.

I conceive the matter is well averrable, and We have well averred; I grant, *a Repugnant and impoſſible Averment cannot be taken*; But if there be no impoſſibility, repugnancy, or contradiction, between the matters averred to be the ſame; it is not only allowable to averr it, but moſt proper; For, *quod conſtat clarè, non debet verificari*; In this Caſe, 'tis not neceſſary, that it ſhould appear upon view of the *Indictment* and *Impeachment*; that the matter contained in both, is the ſame; But its ſufficient, that it be provable upon an Iſſue to be taken; and ſo much is

admitted by the *Judges*, in *Sparrye's* Caſe, *Co. 5. Rep.* 51.——If this matter may appear at firſt or at laſt, and the thing is poſſible to be proved, We are well enough, *Corbet* and *Barnes Caſe firſt*, *Croke fol.* 320.

By taking the *Averment*, We offer them here a fair *Iſſue*, *an Iſſue of fact tryable by a Jury*; but the *Attorney* refuſes that; and having *demurred*, it muſt be taken to be true, as if found by a *Jury*; And, if they had taken *Iſſue* upon this *Queſtion of fact*, We might have gone to a *Jury*, where the matter would have been eaſily proved; For upon evidence given, *The* Jury *might fairly take into conſideration, the reading of this very Numerical Libel, ſet forth in the* Indictment, *and the particular and ſpecial* Debates, *of the* Houſe *of* Commons *thereupon*: *And that, upon thoſe very* Debates, *the* Houſe *voted that* Fitz-Harris *ſhould be* Impeached *for matters in that* Libel, *and that upon thoſe Votes, the* Impeachment *was carryed up to the Lords*; This is Evidence ſufficient, that the *Houſe* of *Commons* intended to accuſe him of the ſame *Treaſon*; which proves the *Iſſue* (viz.) *That the Treaſon in the* Impeachment, *is the ſame with that*

in the Indictment; This is not to put the Intention of the Mind, or ſecret Thoughts of the Heart in iſſue, but to put them into a way of proof—— In the preſent Caſe, the *Intention* of the *Commons*, upon the *Iſſue* we offered, and the *Attorney* refuſed, might, and ought, and would have been proved, and without doubt, found by the *Jury*; Neither is this *general Impeachment* ſuch a notional thing as is pretended, but 'tis, as if the *Commons* in *Parliament* ſhould ſay, We charge him with Crimes that are *Treaſon*; Now, whether thoſe Crimes are the ſame, with thoſe for which he is Indicted, is a good and proper *Iſſue*: And if it appears to the *Court* to be the ſame, *you will certainly take off your Hands from theſe Proceedings.*

Again, they ſay, *The Impeachment is too general, and no Man ſhall be put to anſwer to ſuch a general Accuſation.*

And I ſay ſo too; neither ſhall *Fitz-Harris* be put to anſwer to it, without ſpecial *Articles*;—— But here, *by the Law of Parliament, general Impeachments are held good*; and *Articles*, and *Additional Articles* alſo, are uſually brought in afterwards; And therefore, We muſt take

take the *Impeachment* as We find it, which ſtands againſt us as a Record, and We muſt plead it in the ſame generallity.

This *Impeachment*, according to the courſe of *Parliament*, is well lodged in the *Houſe of Lords*; where it only ought to be tryed; and we muſt plead it, as we find the Caſe to be; And having averred the Crimes to be the ſame; We have done what we could, and therefore enough. And,

That a general Impeachment *without Articles, is a bar to any* Indictment *for the ſame matter*, was reſolved by all the *Judges* (*as I am informed*) in the Caſe of the *Lords* in the *Tower*, *who were indicted for Treaſon*, and afterwards (5th of *December* 1678.) *generally Impeached*, and no *Articles* exhibited, till the 3d of *April*, 1679; And yet, in the mean time, the *Judges reſolved it at the* Council-Table, *that they could not be proceeded againſt upon thoſe* Indictments; *tho' the* Parliament *was diſſolved*. That was a ſtronger Caſe, than this of *Fitz-Harris*, for there, the *Inferiour Court* was firſt poſſeſſed of the Cauſe, and yet, the *general Impeachment tyed up the Hands of the Court*; But here, the *Parliament* was firſt poſſeſt of the

Cauſe; which the *Inferiour* Court cannot take out of their Hands.

An *Impeachment* differs alſo from an *Indictment*, in that in an *Indictment* you cannot plead *auter foitz Arraigned*; but muſt plead *Auter foitz Convict, or Acquit*; as in Sr *William Wiſhople's Caſe*; But in an *Impeachment*, They will acknowledge, that after *Articles* exhibited, They cannot proceed upon an *Indictment*, for the ſame Offence; although the Defendant be neither Convict or Acquit.

I ſhall ſay no more, but obſerve how ſcrupulous the *Judges* have been, to touch upon a Caſe, where they had the leaſt ſuſpition that the *Parliament* had, or pretended a *Juriſdiction*; or were poſſeſſed of the Cauſe; *I am ſure, I could never obtain any thing by any Labours of mine in thoſe Caſes; But upon ſuch Motions They (being aware of the Conſequence) would alwayes worſhip afar off, and never come near the* Mount: *They ever retired, when They came near the Brink of this* Gulf.

My Lord! If you retain this Cauſe; in conſequence *you charge your ſelves with this Mans Blood*, ——— I leave it to your Wiſdom to conſider it.

Then

Then *Mr Pollexfen* proceeded thus; I ſhall not make any long Argument; But I would fain come to the *Queſtion*, if I could; for I cannot ſee what the other ſide make the Queſtion; Our *Plea* is objected againſt, both for the matter and form; But, if for the matter, it be admitted, *that an* Impeachment, *for the ſame matter, will out this Court of* Juriſdiction, I will ſay nothing of it, for that is not then in Queſtion.

The *Chief Juſtice* aſſented to this, ſaying, *No, not at all.*

Then *Mr Pollexfen* added, The matter then ſeems to be agreed, and only the manner and form of the *Plea* are in queſtion; for the manner, they ſay, 'tis not alledged there is any *Impeachment* upon Record; I confeſs Form is a ſubtile matter in it ſelf, and 'tis eaſie for one that reads other Mens Words, to make what Conſtruction he will of them, even *Nolumus* to be *Volumus*; To anſwer the *Objection*, I think 'tis as ſtrongly and cloſely penn'd, as can be; *He was Impeached, Quæ quidem Impetitio, &c.* What can the *Quæ quidem* ſignifie, but the *Impeachment* juſt mentioned before.

The great Queſtion now is, whether

 this

this be not too general, to alledge that he was *Impeached* in *Parliament*, and not saying how, or for what Crime; tho' there be an *Averment* that 'tis for the same Crime; whether this *Plea* should therefore be naught.

1*st*. For this of the *Averment*, be the Crimes never so particularly specified in the Record that is pleaded, and in that upon which the party is brought in Judicature; yet there must be an *Averment*, which is so much the substantial part of the Plea, that without it, it would be naught; and it must come to be tryed *Per Pais*, whether the Offence be the same or not; Then the Objection to the generallity, is not to the substance, but rather an Objection to the Form, on their side, because the *plea alledges* the substance, that 'tis for the same *Treason*; which, had not *Mr Attorney* demurred, but taken Issue on, must have been tryed *Per Pais*.

To speak to the general Allegation; that he was *Impeached* for *Treason*, and not saying particularly, what the fact was.

If they admit the Law, *That an Impeachment suspends the Jurisdiction of this Court*; They admit a great part of the Fact; and then the *Question* will be, what *Impeachment* will take away the *Jurisdiction*?

diction? and there can be but two sorts; the one at large, where the Offence is specified; the other in general words, where the *Commons Impeach* such a one of *Treason*; Now, if such an Impeachment be good, then have we the most plain Case pleaded that can be; as plain as the Fact; that this is an *Impeachment* in *Parliament*, and then this *Court* is ousted of its *Jurisdiction*.

The *Court*, and *We*, are to take notice of the proceedings in other *Courts*; as other *Courts* are to take notice of the proceedings of this; generally the *Writ* or *Declaration* (as 'tis in *Sparrye's Case*) does in all Civil Causes, set forth the particularity of the thing in question; yet in some Cases it doth not do so; but the Course and Practice of some Courts admits general proceedings; Now where that is so, the party cannot mend himself, by making their Course otherwise then it is; for he must not say, it is more particular then the Course of the Court does make it; Therefore, he hath no other way by the Law, to bring his matter on, and help himself, but by an *Averment* that 'tis the same;——The Law must be go-

vern'd by its own proceedings, and take notice of the nature of the things depending before the Court; and if there is as much of certainty set forth, as the Case will admit, and is possible to be had; We must permit the party to plead as he can, and help himself by the *Averment*.

Then, the *Question* is, Whether an *Impeachment*, *generally be good or no*? If they say, it is not, then the bottom of the *Plea* is naught, and all is quite gone; But if they say it is, then I have pleaded my matter as it is; For I cannot say, that that is particular, or make that particular that is not; and I have done all that is possible for me to do in my Case; I have pleaded what is in the *Record*, and as 'tis in the *Record*, from which my *Plea* must not vary; and *I have averred 'tis for the same matter*, and you have confessed it by the *demurrer*.

I would not entangle the *Question*, but I see not how they can extricate themselves out of this *Dilemma*, if they admit a general *Impeachment* is good

In *December* 1678. the *Lords* in the *Tower* were Indicted, and after (*Decem.* the 5*th*.) the *Commons* considering that it

it was intended to bring them to *Tryal* before the *Peers*; They, purposely to have the carriage and prosecution of this horrid *Treason*, and to take off the Prosecution upon the *Indictment*; *Impeach* the *Lords*, and the *Impeachment*, is just the same as this in our *Plea*; of *Treason*; but not of any particular Fact; Now the *Judges* took so much notice of it, that tho' the *Parliament* was dissolved, before the particular *Articles* were carried up; yet in *February* following (*Some of the* Judges *are here, and they will rectifie me, if I am mistaken*) the *Opinions* of the *Judges* being asked about it, at the *Council-Board*; upon the *Petition* of the *Lords*, to be either bailed or tryed; *They declared*, *that the* Impeachment, *tho' thus general, was so depending in Parliament, that they could not be tryed.*

We have pleaded, as our Fact is, an *Impeachment* of *Treason*; what would They have had us to do, or wherein is our fault? What would They have had us said, We were *Impeached* of *Treason*, so and so particularizing? how can that be? There is no such thing; Then they would have us said, *Nul tiel Record*, and We must have been condemned for failing in

our

our *Record*; then indeed we had been, where They would have had us; but having done according to our Fact, if that Fact will ouſt this *Court* of *Juriſdiction*; I ſee not how we ſhould plead otherwiſe; or what anſwer they will give to it.

This muſt needs be agreed to me; *If this Impenchment be in the nature of an Appeal*; ſurely an *Appeal* does ſuſpend the Proceedings upon an *Indictment* for that Fact; and ſo 'tis expreſly, in my *Lord Dyer*, fol. 296. *Stanley* was indicted and convicted of Murder, and before Judgment, the *Wife* brought her *Appeal*; and They moved for *Judgment*; No, ſaid the *Court*, here is an Appeal brought; They could not go to *Judgment* till the *Appeal* was determined; So the *Stat.* 3. *H.* 7. *Cap.* 1. and *Vaux's Caſe*, 4 *Rep.* 39. If this then be of the nature of an *Appeal*, this Suit ought to have its Courſe and Determination, before you proceed on this *Indictment*.

Inferiour Courts have never taken upon them to meddle with the Actions of *Superiour Courts*; but leave them to proceed according to their Laws; and if that be done in any Caſe, there will be as

as much regard had, in this great Cauſe to the *Court* of *Parliament*, as in others.

In the *Earl* of *Northumberland's* Caſe, (*Cotton's Records* 5 *H.* 4. fol. 426.) He confeſſes himſelf guilty of an Offence againſt his *Allegiance*; the *King* would have the *Juſtices* to conſider of it; No, ſaid the *Parliament*, *'tis matter of Parliament, and the* Judges *have nothing to do with it*; The *Lords* make a *Proteſtation* to this purpoſe, and went on themſelves, and adjudged it to be no *Treaſon*; There is that *Record* more, *Rot. Parl.* 11 *R.* 2. *Pars* 1. *N.* 6. I only offer theſe things, with what my *Lord Coke* ſayes, *Hath been formerly thought Prudence in the* Judges *to do.*

So I hope, That *if the matter be good, the form is as good as the matter can be put into*; and therefore we hope you will allow us the benefit of it.

The *Attorney General* argued thus for the *King*; Notwithſtanding what hath been ſaid, I take it, this is a *Naughty Plea*; and there is no matter diſcloſed therein, that we can take *Iſſue* upon.

The great ſubſtance of the *Arguments* of the *Priſoners Counſel* is againſt him; for

for 'tis leaſt he ſhould eſcape, but he pleads this *Plea* that he might eſcape.

For the Cautions given you; what a difficult thing it is, for two *Juriſdictions* to interfeir; *Fitz-Harris* is much concerned in that matter, who hath forfeited his Life to the Law; yet he would fain live a little longer; and is concerned that the *Judicature* of *Parliament* ſhould be preſerved.

I obſerve 'tis an unuſual *Plea*; It concludes *Si Curia procedere vult*; I wonder they did not put in, *aut debeat*; you have no Will but the Law, and if you cannot give Judgment, you ought not to be preſſed in it; but it being according to Law, that *Malefactors* be brought to condign puniſhment, We muſt preſs it, whatſoever the Conſequences are; It is the Intereſt of all the *Kingdom*, as well as of the *King*, that ſo notorious a *Malefactor* ſhould not eſcape, or the Truth be ſtifled, but brought into Examination in the face of the Sun; but They ſay, if it be not Law, you will not proceed, it ties up your Hands; But they give not one Inſtance to make good what they ſay.

Put the Caſe, it had been a good *Impeachment*

peachment, & he had been arraigned upon it and acquitted; and had afterwards come to be Indicted in this *Court*, and would not plead this in *Bar*, but to the *Juriſdiction*; it would not have been a good *Plea*; Then certainly, an *Impeachment* depending ſingly, cannot be a good *Plea* to the *Juriſdiction*.

This *Court* hath a full *Juriſdiction* of this *Caſe*, and of this *Perſon*; and this you had at the time of the Fact committed; What then is it, that muſt ouſt this Court of *Juriſdiction*; For all the Caſes that have been put, about matters not originally examinable in this *Court*, make not to the matter in queſtion; where the Fact is done out of the *Juriſdiction* of the *Court*, that may be pleaded to the *Juriſdiction*; but, where the *Court* may originally take *Cognizance* of it, I would know, what can ouſt that *Juriſdiction*, leſs than an *Act* of *Parliament*; I will be bold to ſay, the *King* by his *Great Seal* cannot do it. To ſay the *Proceedings* in *Parliament* ought to be a *Bar*; that is another Caſe, the Party may plead it in *Abatement* or *Bar*, as the Caſe requires: For the *Caſes* they put, the Reaſons are, that the *Court* had

had no *Original Jurisdiction*. There is not one of the *Cases* cited, but where it was out out of the *Jurisdiction* of the *Court originally*.

As for the *Case* of the *five Lords* in the *Tower*, I observe the *House* of *Lords* removed the *Indictments* into their *House*, fore-seeing that the *King* might have proceeded upon them, if not removed thither; But our Case is quite another thing, for those *Lords* were not fully within your *Jurisdiction*.

The *Case* of 11 *R.* 2. will be nothing to our purpose at all; that was in the *Case* of the *Lords Appellants*; *a proceeding contrary to* Magna Charta, *contrary to the* Statute of Edw. 3. *and the known Privi-ledges of the Subject*. Those proceedings had a Countenance in *Parliament*; and they would be controuled by none, nor be advised by the *Judges*; but proceed to the trying of *Peers* and *Commoners*, according to their own Will and Plea-sure. And between the time of 11 *R.* 2. and 1 *H.* 4. see what Havock they made by those illegal proceedings, and in 1 *H.* 4. these very *Lords* were sentenced; and it was resolved by *Act* of *Parliament*, That no more *Appeals* should be any more in *Parliament*.

The

The other great point is this; There is nothing at all certainly disclosed to you by this *Plea*; therefore, there is nothing confessed by us, only the Fact that is well pleaded.

They say, They have pleaded it to be, *secundum Legem & Consuetudinem Parliamenti*; but I say, They must disclose to you what is the *Law* and *Custom* of *Parliament*, in such Case; or you must take it upon you, upon your own know-ledge, or you cannot give Judgment.

There are three things to be consider-red of the *Parliament*; the *Legislative part*, *the matters of Priviledge*, *and the Ju-dicial part*; For the two first, both *Houses* proceed only *Secundum Legem & Consuetudinem Parliamenti*; But for the *Judicial* part, they have in all times been guided by the *Statutes* and *Laws* of the *Land*; and have been ousted of a *Juris-diction* in several Cases; as by the *Statute* of 4 *Edw.* 3. & 1 *H.* 4. And the *Lords*, in all *Writs of Error* and matters of *Judg-ment*, proceed, *Secundum Legem Terræ*, and so for *Life and Death*; And there is not one Law in *Westminster-Hall*, as to matters of Judgment, and another in the *Lords House*.

It

It is not sufficiently discloſed to you, that there is any ſuch thing as an *Impeachment* depending there; 'tis only alledged that he was *Impeached*, and ſo much the *News-Books* told us; but to infer thence, that there was an *Impeachment* carried up, and lodged for the ſame *Treaſon*; is no conſequence; And then 'tis alledged, *Quæ quidem Impetitio*, when no *Impeachment* is before ſet forth; but only that he was *Impeached* generally.

When a *Record* is pleaded in *Bar*, or in *Abatement*; the Crimes ought to be ſet out, to appear the ſame; ſo are all the *Preſidents* of *Cok*'s *Entries* 53. *Holcroft* and *Burgh*'s *Caſe*, and *Watt*'s and *Bray*'s *Caſe*, in 41 & 42 *Eliz. Cok*'s *Entries* 59. *Wrot* and *Wigg*'s *Caſe* 4 *Rep.* 45, *&c.* The *Record* muſt be ſet out, that the *Court* may judge upon it; and the *Record* muſt not be tryed *per Pais*, but by it ſelf.

Mr *Wallop* was of opinion; that upon this *Averment*, the *Jury* may try the Fact; what a pretty Caſe would it be, that a *Jury* ſhould judge upon the whole debates of the *Houſe* of *Commons*, whether it be the ſame matter or No?

I did *demur* with all the care I could, to

to bring nothing of that in queſtion; I take it there is nothing of that matter before you, concerning an *Impeachment* depending before the *Parliament*; but whatſoever was done, 'tis ſo imperfectly pleaded, that this Court cannot take any notice of it.

The *Solicitor General's Argument* was to this effect, *The Point in queſtion is, whether this Plea be ſufficient in point of Law.*

They on the other ſide, argue the Plea to be good both in matter and form—— I will not now debate, whether *Magna Charta*, which Ordains that every Man ſhall be tryed by his *Peers*; and the *Statute* 4 *Edw.* 3. which ſays, that the *Lords* ſhall not be compelled, nor ſhall have power, to give *Judgment* upon a *Commoner*, have ſufficiently ſecured the *Liberty* of the *Subject* from *Impeachments*; Nor is it the queſtion before you, *whether you ſhall judge of any matter that is a Right or Priviledge of Parliament*; This is an *Indictment* for *Treaſon*. Neither will it be the *Queſtion*, *whether an* Impeachment *depending in the* Houſe of Lords *againſt a Commoner, by the* Commons; *will bar this* Court *of its* Juriſdiction.

They

They ſay, the *Commons* are the *grand Inqueſt* of the Nation, and They make their *Preſentments* to the *Lords*; Now, when ſuch a *Preſentment* is made, 'tis worthy conſideration, whether it be not a *Preſentment* for the *King*; for an *Impeachment* does not conclude, as an *Appeal* does; but, *contra Ligeantiæ ſuæ debitum, & Coronam & dignitatem domini Regis*; ſo far 'tis the *King*'s *Suit*; In an *Impeachmens*, the Witneſſes for the *Priſoner* are not ſworn, neither hath the *Priſoner* Counſel in matter of Fact, as he has in an *Appeal* at the *Subjects Suit*; The *King* may pardon part of the Sentence; It was ſo done in *Richard* the ſecond's time; and in my *Lord Stafford*'s Caſe; but ſuppoſe it, that 'tis the *Suit* of the *People*, yet that cannot preclude the *King* from his *Suit*.

The Conſequence which they urge, as ſuch a diſmal one, will be nothing; which is, If he ſhould be acquitted here, he could not plead *anter foitz acquit*, and ſo would be twice brought in Jeopardy for the ſame Offence; for it is the ſame in all Caſes of *Appeals*.

This is not like the Caſe of an *Appeal* for Murder, neither; for tho' it hath been

been uſed diſcretionarily, to ſtay the *Suit* of the *King*, and prefer the *Subjects Suit*; it was becauſe the *Subject* had the neareſt concern; as the *Son* in the Death of the *Father*; The reaſon of that turns quite contrary here; in this Caſe, that very reaſon, will have the *King*'s *Suit* to be preferred; for there is no *Treaſon* but againſt the *King*, he has the neareſt concern, and the wrong is primarily and originally to himſelf.

Now, for the *Objection*, *that if you try this Man, upon the ſame reaſon you may try the* Lords in the Tower; Their Caſe is different, and the *Lords* removing the *Indictments* againſt them into *Parliament*, that no Proſecution might be upon them; ſeems to imply, that this *Tryal* may be in this Caſe; for certainly they thought, the *King*'s *Court* might proceed; had not the *Indictments* been removed.

As to the form of the Plea; I conceive 'tis not a *formal Plea*.

We know here, of no form of Pleading an *Indictment*, but what ſets forth the *Indictment* particularly; 'tis ſo in all the Preſidents I have ſeen; and the Law-Books reſolve it muſt be ſo, as *Wrott* and *Wiggs* Caſe;

But they ſay, there is a difference be-

tween their Case and those I put; for that 'tis the Course of *Parliament* to Impeach generally; so they could not have pleaded otherwise then the Case was; This Reason holds rather the other way; For if in any Case such a general way of pleading, with reference to the Record, were to be admitted, it were in Case of an *Indictment*; because there is no *Indictment*, but what particularly sets forth the *Felony*; and when produced, is capable of being applyed; but here, if the *Record* be brought in, 'twill no more ascertain the matter of the *Impeachment*, then the *Plea* does already.

And as the *Plea* is naught, for not setting out the *Record*; so is the *Averment* insufficient too; for tho' he does averr, *That the Treason in the* Indictment *and the Treason for which he was* Impeached; *are one and the same, and not diverse, affirmatively and negatively*; yet he ought to have said; *That the Treason for which he is* Indicted, *and the Treason mentioned in the* Impeachment *is one and the same*; For if he was Impeached generally, without mention of particulars; it is impossible to be reduced to a certainty; so 'tis an Averment of a Fact, not capable to be tryed.

We

We do think upon the whole matter, without entring upon the debate, whether a particular *Impeachment*, lodged in the *House* of *Lords*, does preclude the *King* from his proceedings; We have a good *Case* upon this *Plea*, for that is not a Question necessary to be resolved, tho' it be not granted by the *King* neither; But the *Question* is, whether this be a *formal Plea*; and whether here be sufficient matter set forth upon a *Record*, to bring the other matter into Question, and tye up the hands of the *Court*.

Serjeant Jefferies then said, I shall only offer one word to the *informality* of the *Plea*.

They cite the *Case* of the *Lords* in the *Tower*, as a Judgment for them, which seems to be against them; for by the *Lords* removing the *Indictments* into *Parliament*, They seem to be of Opinion, that notwithstanding they were *Impeached* before the *Lords*, yet there might have been proceedings upon those *Indictments*, had they not been removed; and there they remain to this day; nay further, to those *Impeachments* they have pleaded to Issue, which is ready for Tryal; but

in the Case at the Bar, there is only an Accusation, without any further proceedings thereupon.

I take not this to be such a dangerous Case, as the *Gentlemen of the other side* do pretend, for you to determine; For I am sure it will be better for the Court to answer, if ever they shall be required; That they have performed their Duty, and done Justice according to their Consciences, & Oathes; than ever to be afraid of any *Threats* or *Bugbeares* from the *Bar*.

For would not they by this manner of Pleading, put upon your *Lordships* a difficulty to judge; without any thing contained in the *Impeachment* to guide your Judgment; whether the Prisoner be *Impeached* for the same thing for which he is Indicted? May not the Treason intended in this *Impeachment* be Cliping or Coyning?

We rely upon the informality and uncertainty of the Pleading only; and meddle not with the Question, whether an *Impeachment* in the *House of Lords* superseds an *Indictment* in the *King's Bench*; For We say, they have not Pleaded it so substantially, as to enable the Court to *Judge* upon the Question; and therefore We

We pray your Judgment that the *Plea* may be over-ruled.

Sr *Francis Wythens* added, I say that this *Plea* cannot be good to oust this *Court* of *Jurisdiction*. The *Prisoner* shall by no means be admitted to averr the intention of the *House of Commons*, before they have declared in themselves; and therefore I conceive the Plea to be naught, for that reason; also for another, because the *Court*, in this Case, by anything expressed in the Plea, cannot discern or take notice, whether it be the same *Treason* or not. *Treason* generally alledged in the *Impeachment*, is the *Genus*, and the *particular Treason* in the *Indictment*, is only a *Species*; And the *Averment* in the *Plea* is, That the *Genus* and the *Species* is the same; which is absurd; and if allowed, tends to *hood-wink and blind the Court*, instead of making the matter plain for their *Judgment*. The *Arguments* being ended,

The *Chief Justice* said; *We* never intended, when *We* assigned four *Council* to *Fitz-Harris*, that they all should make *formal Arguments*, in one day; 'tis the first time that ever it was done; but, be-

cause 'tis in a *Case of Blood*; We were willing to hear all you could say: But I must tell you, you have started a great many things, that are not in the Case at all: *We have nothing to do here whether the* Commons, *at this day can* Impeach a Commoner *in the* House of Lords; *nor what the Jurisdiction of the* Lords *is; nor whether an* Impeachment *(when the Lords are possessed fully of it) does bar the bringing any Suit, or hinder the Proceeding in an* Inferiour Court; but here We have a Case, that rises upon the Pleadings, Whether your *Plea* be sufficient, to take away the *Jurisdiction* of the *Court*, as you have pleaded it; And you have heard what *Exceptions* have been made to the form, and to the matter of your *Pleading*; We ask you again, whether you are able to mend your *Pleading* in any thing; for the *Court* will not catch you, if you can amend it, either in matter or form; But if you abide by this *Plea*, then We think 'tis not reasonable, nor will be expected of us, in a matter of this Consequence, to give our Judgment concerning this *Plea*, presently.

All the *Cases* cited, concerning *Facts done*

done in Parliament, and where they have endeavoured to have them examined here, are nothing to the purpose, for We call not to question here for Words spoken, or Facts done in the *Commons House*, or in the *Lords*; which takes off the Instances you have given; but our *Question is, barely upon the Pleading of such an* Impeachment, whether it be *sufficient to fore-close the Hands of the* Court? And we will not precipitate in such a Case, but deliberate well upon it, before we give our *Judgment*. *Take back your Prisoner.*

Upon *Wednesday* May 11th, *Fitz-Harris* was again brought to the *Bar*, and the *Attorney* moved for *Judgment* on the *Plea*, and

The *Chief Justice* thus delivered the Opinion of the Court: Why, *Mr. Fitz-Harris*, you have pleaded to the *Jurisdiction* of the *Court*, that there was an *Impeachment* against you, by the *Commons* before the *Lords*; and you do say, that that *Impeachment* is yet in force; and by way of *Averment*, that this *Treason* whereof you are Indicted, and that whereof you are *Impeached*, are one and the same *Treason*; And upon this, the

Attorney

Attorney for the *King* hath *demurred*, and you have joyned in *demurrer*; And we have heard the *Arguments* of your *Counsel*, and have considered of your Case among our selves; and upon full consideration and deliberation concerning it, and all thath hath been said by your *Counsel*; And upon conference with some other of the *Judges*; *We* are, three of us, of *Opinion*, that your *Plea* is not sufficient to bar this *Court* of its *Jurisdiction*; my *Brother Jones*, my *Brother Raymond*, and *my self*, are of Opinion, your *Plea* is insufficient; My *Brother Dolbeen* not being resolved, but *doubting* concerning it; And therefore, the *Court* does order and award, that you shall answer over to this *Treason*.

Thereupon he pleaded *Not guilty*, and the Court appointed his Tryal to be upon the first *Thursday* in the next *Term*.

Upon *Thursday* the 9th of *June* 1681.

Fitz-Harris being brought to the *King's Bench Bar*, the *Court* ordered the *Jury* to be called; and *Major Wildman* being returned upon the Jury, and appearing;

The *Attorney General* demanded whether

ther he were a *Freeholder* in *Middlesex*. He answered, I was a *Parliament Man*, and one that voted the *Impeachment* against this Person, and dare not serve upon this *Jury*; and he was set aside as not being a *Freeholder*.

John Kent being called, *said that he was no Freeholder, and the* Chief Justice *declared, that then he could not be sworn of the* Jury.

Then *Giles Shute*, *Nathaniel Grantham*, *Benjamine Dennis*, *Abraham Graves*, *Henry Jones*, and *Isaac Heath*, were set aside, as not being *Freeholders*; And the *Jury* sworn, were,

Tho. Johnson,	*William Withers*,
Lucy Knightley,	*William Cleave*,
Edward Wilford,	*Tho. Goffe*,
Alexander Hosey,	*Ralph Far*,
Martin James,	*Samuel Freebody*, &
John Vyner,	*John Lockyer*.

Then the *Indictment* was read, comprising several Treasonable passages, in a *Libel* called, *The true English-man speaking plain English*.

Then *Mr Heath* as Counsel for the *King*, opened the *Indictment*; and the *Attorney*

Attorney General enlarged upon it, and called the Witneſſes.

Mr Everard teſtified, that he and *Fitz-Harris* became acquainted in the *French King's Service*; and *F. Harris* invited him to frame a *Pamphlet* to reflect upon the *King*; and gave him Heads and Inſtructions tending to it; and told him that he ſhould have forty Guineas, and a Monthly Penſion, which ſhould be ſome thouſand Crowns.

Fitz-Harris then demanded of *Everard*, Whether he was not put upon this to trapan others? which *Everard* anſwered, with this queſtion, Can you mention any Perſon that I was to *trapan*? But being again asked, Whether he was put upon it, to trapan the *Proteſtant Lords* and the *Houſe of Commons*? He ſaid, No, I was not. I was put upon it by none but *Fitz-Harris*, of whom I asked, what will be the uſe of this? and he ſaid, *We will deſperſe them, We know how*; And that he was to deliver it to the *French Ambaſſador's Confeſſor*, and it was to be drawn in the Name of the *Non-conformiſts*, to father it upon all the diſcontented party.

Mr

Mr Smith then gave evidence, that he was planted in a Cloſet in *Everard's* Chamber, and ſaw him and *F. Harris* through a hole; and heard *Everard* read a Seditious Paper to him, and enquire of him, what Heads he would have more, than were there; To which *Fitz-Harris* replied, that he would have him repreſent the *King* as a *Papiſt*; and mentioned many other Trayterous things expreſſed in the *Libel*; And that when *Everard* told him thoſe were Treaſonable things, *Fiz-Harris* ſaid, *The more Treaſon the better.*

Sr William Waller was then ſworn, and declared, that he was placed in a Room within *Everard's* Chamber, where through a crevaſs of the Door, and a Hole in the Hangings, he could ſee him and *Fitz-H.* and he heard *Fitz-H.* enquire of *Everard*, whether he had finiſhed the Paper, according to his Inſtructions; and *Everard* produced two Papers, and gave him one; and after he had read a little in it, *Everard* asked whether it was drawn according to his Inſtructions; and he anſwered, It was exactly done; And that *Everard* ſaid, This is a buſineſs of very dangerous conſequence

sequence; what Reward shall I have for running so great a hazard; and he told him; I think I run an equal hazard with you, for you have a Paper under my Hand, which will render me liable to danger; and *Sr William* said, he saw *Fitz-H.* alter several passages with his Pen, and then, the Paper being produced, he declared it to be the same; And that *Fitz-H.* told *Everard*, that the *French Ambassador* was to Recompence him for his pains.

Then *Fitz-H.* demanded of *Sr William*, Whether that were the Paper, for which he was Impeached, and *Sr William* answered, that it was, and that he read that Paper in the House. And *Mr Johnson*, Fore-man of the *Jury*, demanded whether *Fitz-H.* stood Impeached upon the same Treasons in the Indictment; and *Sr William* answered that he did, but being checkt by the *Attorney* and *Solicitor General*, he said, That as soon as he had communicated that Paper to the House, the House proceeded to the *Impeachment*.

Then the Libel was read, in these Words, *viz.*

The

The true English-man *speaking plain English, in a Letter from a Friend to a Friend.*

"I Thank you for the Character of a "Popish Successor which you sent me, "wherein our Just Fears, and the grounds "of them, are justly set out. But I am in greater fear of the present Possessor, why do "we frighten our selves about the Evil that "is to come, not looking to that which is "at hand? We would cut off the Budding "Weeds, and let the Poysonous Root lie "still; We would stop the Channel of "our Evils, and let the Fountain still run: "My meaning is this, can *Pylades* Know "and Act all these Bloody Conspiracies, "and not impart them to his dear *Orestes*? "if *James* be Conscious and Guilty, *Charles* "is so too. Believe me, these two Brethren in Iniquity, they are in Confederacy with *Pope* and *French* to introduce "Popery and Arbitrary Government, as "all their Actions demonstrate: the Parliament, *Magna Charta*, and Liberty of "the Subjects are as heavy Yoaks which "they would cast off to be as absolute as "their Br. of *France*; and if this can be "proved to be their only aim and endeavour

"vour, why ſhould not every True Brit-
"tain be a *Quaker* thus far? Let the *Eng-*
"*liſh* riſe, and move as one Man to ſelf-
"defence, to open Action, and fling off
"their intollerable Riders. Blow the
"Trumpet, ſtand on your Guard, and
"withſtand them as Bears and Tygers.
"And ſince there can be no truſt given to
"this goodly couple of Popiſh Brethren,
"nor no relief expected from a Parlia-
"ment, Truſt to your Swords in defence
"of your Lives, Laws, Religion and Pro-
"perties, like the ſtout Earl of Old, who
"told a King, that if he could not be de-
"fended by *Magna Charta*, he would be
"relieved by *Longa Spada*.

"Yet to convince the World that this
"*Scotiſh* Race is Corrupt Root & Branch,
"and Popiſh from the very beginning, be
"pleas'd to *conſider* theſe *reaſons* following.

"The Grand-Father of theſe Men, *James*
"the *Scot*, was of no Religion at the bot-
"tom, but entred by a pretence of a Sham-
"Plot of the *Papiſts* againſt his Life, whilſt
"really he collogued with the *Popiſh* Par-
"ty under-hand; his Mother, his Kin-
"dred and Companions were *French* and
"*Papiſts* when come into *England*; he
"wrote to the Pope with great Submiſſion,
yet

"yet afterwards thinking it for his pur-
"poſe to cajole the Parliament, and
"write againſt the *Pope* and *Cardinals*,
"he ſends a *Scots* Bird to blind the Eyes
"of the *Vatican* Keeper with Money, and
"to ſteal his *Letters* from off the *Roman*
"*File*, and then he crows as boldly as an
"unſuſpected Harlot for the *Proteſtant*
"*Religion* and *Intereſt*.

"That Man's Son *Charles* the Firſt,
"held a ſecret Correſpondency with the
"*Pope*, calling him his Dear and Holy
"*Father*, as is to be ſeen in his *Letters*
"recorded in *Ruſhworth*'s Collections:
"Were not his *Wife* and *Courtiers Papiſts*?
"Did he not countenance and promote
"the Rebellion in *Ireland*? As the *Iriſh*
"Grandees & his very Commiſſions teſti-
"fie and declare, was there not a *Popiſh*
"*Plot*, and an Univerſal *Conſpiracy* of
"the *Papiſts* diſcovered to him and his
"Confeſſor *Laud*, and did they not pi-
"ouſly ſtifle it leſt they ſhould have diſ-
"covered the Nakedneſs of their Mo-
"ther Church? Whilſt that goodly
"*Proteſtant Prince* pretended to relieve
"the poor beſieged *Proteſtants* at *Rochel*
"by his confident *Buckingham*, did he
"not hold Correſpondency with the

 French

" *French Cardinal* how to betray them
" for a Sum of Money (which his ob-
" ſtinacy with his Parliament made him
" ſtand in need of.) But they who ſo ill
" approved themſelves to be heads of the
" *Proteſtant Church*, *Charles* and *Land*,
" did they not looſe their own Heads by
" a manifeſt Judgment of God? And
" was not the falſe Heart of their Emiſ-
" ſary *Buckingham*, found out by an Aſ-
" ſaſſins Knife?

" But to come nearer to our purpoſe,
" theſe two goodly Imps of our days
" are ſtark naught; arrived at the heigth
" of Wickedneſs, and of profeſſed *Ar-*
" *bitrarineſs* and *Popery*.

" As for *James*, he was a *Papiſt* whilſt
" he had a Regiment in the *French*, and
" afterwards in the *Spaniſh* Service be-
" yond Seas. And as for *Charles*, he
" was reported, e're he came into *Eng-*
" *land*, to have been reconciled to the
" *Church of Rome* in one of the *French*
" *Kings* Country-Houſes; and ſince they
" came in, how have they wheedled and
" played faſt and looſe, in their profeſ-
" ſion of Religion as Occaſion and their
" Affairs required? Have they not all
" along maintained ſecret Correſpon-
dency

" dency with *France* and *Rome*? As *Cole-*
" *man's* Letters may ſufficiently inſtruct
" ſuch who have not ſeen more ſecret
" Memoires.

" But let us come to Examine their
" Actions which are a better proof of
" their hearts, were not the *Duke's* Ser-
" vants and Confidents all *Papiſts*? Wit-
" neſs his *Talbots*, *Patricks* and other
" *Iriſh Teags*, were not the *Duke* and ſuch
" of his *Creatures* as were known *Papiſts*
" promoted to all publick Offices of truſt,
" both at *Sea* and *Land*? Witneſs *Bel-*
" *laſis* now a *Traytor* in the *Tower*; did
" not *James* by *Coleman*, *Throgmorton* and
" others, hold open Correſpondency
" with the *Pope* and *Cardinals*? and could
" *Charles* be Ignorant of all this? Nay
" he lik'd all ſo well, that he hardly em-
" ployed any about him but *Papiſts*, as
" *Clifford* whom he made *Treaſurer*; or
" employed any abroad but Perſons of
" the ſame ſtamp, Witneſs *Godolphin*
" whom he ſent *Embaſſador* into *Spain*, as
" he did others elſewhere, what more
" obvious than that, though the *Duke's*
" Treachery againſt the *Kingdom* and *Pro-*
" *teſtant Religion* be fully made out, and
" the *People* and *Parliament* ſeek to bring
him

" him to a legal Tryal, yet *Charles* ob-
" ſtructs Juſtice, and will not ſuffer it?
" How can this be, but that he is joyned
" in Will and Deed in all the *Duke's*
" Villanies, and that he is afraid to be
" diſcovered and found out to be a *Papiſt*,
" and a Betrayer of his *People* and the
" *Proteſtant Religion*? If he was heartily
" concerned for our *Religion*, would he
" not oppoſe a *Popiſh Succeſſor*, who will
" Infallibly overthrow it? Can there be
" any thing more evident than that he
" continues the *Duke's* Adherents, and
" thoſe who were advanced by him, in
" all Offices of Truſt? And hath he not
" turn'd out of his Council the moſt Zea-
" lous *Proteſtants*, ſuch as *Shaftesbury*,
" *Eſſex* and others, and introduced in
" their Rooms other meen Tools, or
" thoſe that are *Popiſhly* and *Arbitrarily*
" affected? Hath he not modell'd all the
" Sheriffs and Juſtices throughout *Eng-*
" *land* in ſubſerviency to a *Popiſh* Deſign?
" Was not Sir *William Waller* and
" Dr *Chamberlain*, and divers others
" turn'd out of the Commiſſion in and
" about *London*, meerly for being Zea-
" lous Proſecutors of Prieſts and *Papiſts*?
" Doth not *Charles* all he can to hinder
the

" the further detection of the *Popiſh Plots*?
" And doth he not to his utmoſt diſ-
" countenance the Diſcoverers of it, and
" ſuffer them to want Bread? And doth
" he not in the mean time plentifully en-
" courage and reward *Fitz-Gerald* and all
" the Sham-Plotters? Whereas *Danger-*
" *field* had 8*l*. a week whilſt a Forger of
" *Plots* againſt the *Proteſtants*, he is caſt
" off with ſcorn, and in danger of his
" Life ſince he laid open the *Popiſh En-*
" *gineers*. Is not *Charles* ſo much in love
" with his *Popiſh Iriſh Rebels* (therein
" treading in his Fathers ſteps) that he
" promotes *Montgarret Carlingford*,
" *Fitz-Patrick* and others who were the
" Heads of the *Rebellion*, to Honours and
" Preferment; tho' *Charles* took the Co-
" venant and a Coronation Oath to pre-
" ſerve the *Proteſtant Religion*, yet hath
" he not palpably broken them? He
" made large promiſes and proteſtations
" at *Breda* for the allowing a perpetual
" Liberty of Conſcience to *Non-conform-*
" *ing Proteſtants*, but he ſoon forgot them
" all: To what end was the Act which
" was made ſoon after his Reſtoration,
" prohibiting any to call him *Papiſt*, or
" to ſay he was *Popiſhly* enclined, and

 render

" render such as should offend, Guilty of
" a *Premunire*, but to stop the Peoples
" Mouthes when ever he should Act any
" thing in Favour of *Popery* as he was
" then resolved to do?

" Is it not manifest therefore, that
" *Scotch* Oaths, *Breda* Promises, *Pro-*
" *testant Profession*, *Liberty of Conscience*,
" War with *France*, saving of *Flanders*,
" is all in Jest to delude *Protestant Sub-*
" *jects*? Is it not apparent that breaking
" of Leagues, *Dutch* War, *Smirna Fleet*,
" *French* measures to favour their Con-
" quests, loss of Ships, War in Christen-
" dom, Blood of *Protestants*, reprieving
" of *Popish Traytors*, is all in earnest,
" and done in favour of *Popery*? And
" are not his fair Speeches, his true *Pro-*
" *testant* Love to *Parliaments*, just Rights,
" and *English* Liberties, his pretended
" Ignorance of the *Plot*, and his Hang-
" ing of Traytors to serve a turn, but in
" meer jest? Are not his great Debauche-
" ries, his Whoring Courtiers, *Popish*
" Councils, Cheating Rogues, Hellish
" Plottings, his saving of Traytors, his
" *French* Pensioners, his Nests of Whores
" and Swarms of Bastards, his Macks,
" his Cut-throats, his Horrid Murderers,
his

" his Burning of *London* and the Pro-
" voſt's House too, his Sham-Plotting,
" his suborn'd Villains, his *Popish* Offi-
" cers by Sea and Land, his Struglings
" for a *Popish* Successor, his agreements
" with *France*, his frequent Dissolutions
" of *Parliaments*, his buying of Voices,
" his false returns, all of them designs to
" ruine us in good earnest, and in fa-
" vour of Arbitrary Government? And
" is it not in order to this Blessed end
" that you see none Countenanced by
" *Charles* and *James*, but Church *Papists*,
" betraying Bishops, Tantivy Abhor-
" rers, barking Touzers, *Popish* Scriblers
" to deceive the People and fix the *Popish*
" Successors Illegal Title? Are not
" *Jesuits* Counsels, *French* Assistance to
" conquer *Ireland*, subdue *Scotland*, winn
" *Flanders*, beat the *Dutch*, get their
" Shipping, be Masters of the Seas?
" And are not facing a Rebellion, the
" letting the Plot go on, the endeavour-
" ing to retrieve the *Popish* Cause by get-
" ting a *Popish* pentionary, abhorring
" *Parliaments*, who shall betray their
" Country, enslave posterity and destroy
" themselves at last, means only to save
" a *Popish* Trayterous Successor, and a

"preſent *Popiſh* Poſſeſſor? *James* and "*Charles* are Brethren in Iniquity, cor-"rupt both in Root and Branch, and "who ſtudy to enſlave *England* to a "*French* and *Romiſh Yoke*, is not all this "plain? Have you not Eyes, Senſe or "Feeling? Where is the Old *Engliſh* "Noble Spirit? Are you become *French* "Aſſes to ſuffer any load to be laid up-"on you? And therefore if you can get "no remedy from this next *Parliament* "(as certainly you will not) and if "*Charles* doth not repent and comply "with it, then up all as one Man. O brave "*Engliſh* Men, look to your own defence "e're it be too late; rouze up your "Spirits, remember your Predeceſſors, "remember how that the aſſerting of "their liberties, juſtified both by ſucceſs "and Law, the War of the Barons a-"gainſt wicked Councellours who miſ-"led the *King*. And will you now let "that go which coſt them ſo dear? How "many oppreſſing *Kings* have been de-"poſed in this Nation, as appears in "Records referr'd unto in that worthy "*Patriots* Hiſtory of the Succeſſion; "were not *Rich.* 2*d.* And *Hen.* 6. both "laid aſide, not to mention others, & was there

"there ever ſuch a *King* as this of ours? "was not *King John* depoſed for going a-"bout to imbrace the *Mahometan* Reli-"gion, and for entring into a League "with the *King* of *Morocco* to that pur-"poſe? Though *Mahometaniſm* and the "*King* of *Morocco*, were no ſuch Ene-"mies to our Rights and Liberties as "*Popery* and the *French King* are. Is "not time then that all ſhould be ready. "Let the City of *London* ſtand by the "*Parliament* for the maintaining of their "Liberties and Religion in an extream "way, if Parliamentary ways be not "conſented unto by the *King*, let the "Counties be ready to enter into an As-"ſociation, as the County of *York* did in "*Henry* 6*th* time.

Sr *Philip Lloyd* and Mr *Bridgman*, *Clerks* of the *Council* then teſtified; that *Fitz-Harris* acknowledged the Paper of Inſtructions given to *Everard*, to be his own hand-writing.

The *Priſoner* then called his *Witneſſes*; and Dr *Otes* teſtified, that after the Buſi-neſs was talked abroad, he diſcourſed *Everard* about the *Libel*; and asked him what the deſign of it was; *and he told him*

him it was to be Printed, and sent by the Penny Post, to the Proteſting Lords, and leading Men *of the* Commons; *and they were to be taken up, as ſoon as they had it, and to have it found about them*; And that *Everard* told him, the *Court* had a hand in it; and the *King* had given *Fitz-Harris* Money already, and would give him more if it had ſucceſs.

Sheriff Corniſh was then called, and the *Priſoner* demanded of him, what the *King* ſaid to him, when he came to his *Majeſty* from him from *New-Gate*; whether the *King* did ſay *Fitz-Harris* was employed by him, and received any Money, and what for?

The *Sheriff* anſwered; when I gave his *Majeſty* an account that I found the *Priſoner* diſpoſed to make a Diſcovery, he was pleaſed to tell me, he had often had him upon Examination, and could make nothing at all of what he did ſay, or diſcover to them, and that he had for near three Months before acquainted him, that he was in purſuit of a *Plot, and the* King *did ſay, That in as much as he made great Proteſtations of Zeal for his Service, he did Countenance and give him ſome Money.*

Mr

Mr *Attorney*, (ſeeming to be under a ſurprize at this Evidence) demanded of the *Sheriff*, whether the *King* ever declared that he ſaw *Fitz-Harris* in his Life, or that he ever was in his Preſence, Mr *Sheriff* anſwered, yes.

The *Attorney* ſaid, Ay! but did the *King* ſay he ever ſaw him, before he was Arreſted for this Fact?

The *Sheriff* replyed, yes, his *Majeſty* ſaid he came to him about three Months before, and pretended he would diſcover a great *Plot to him.*

Then the *Priſoner* called *Colonel Manſel*, and demanded what he heard Sr *William Waller* ſay, after the Diſcovery was made.

Colonel Manſel teſtified, that he heard Sr *W. Waller* ſay; that when he had acquainted the *King* with this buſineſs, he told him, he had done a great piece of Service, and gave him thanks; but that Sr *William* was no ſooner gone, but two worthy *Gentlemen* told him, that the *King* ſaid, he had broken all his meaſures, and he would have him taken off one way or another; And *Colonel Manſel* added that Sr *William* ſaid, *That the deſign was againſt the Proteſtant* Lords *and the Proteſtant* Party.

Serjeant

Serjeant *Maynard*, upon hearing this, declared, that he did not doubt, that it was against the *Protestant* Party.

Mr *Hunt* being called by the *Prisoner*, said, that Sr *W. Waller* told him and others, That the *King* gave him particular thanks for detecting *Fitz-Harris*; but that he was told by two *Gentlemen* of undoubted Credit, that heard the *King* speak it; that his *Majesty* was in extream Passion, and said, *He would give any thing to take him out of the World; that he was an insufferable vexation to him, and that he had broken all his measures*; and that Sr *William* said the same at *Oxford*, in the presence of Sr *Philip Harcourt*; and of my *Lord Radnor*'s Son, Mr *Roberts*; and did also say, it was a design, to make these Papers Evidences of *Rebellion*; and that this was the Counterpart of *Dangerfield*'s *Plot*; and that he hoped he would not deny it, if he be asked, here he is.

Sheriff Bethel then testified, that *Everard* told him, he wrote the *Libel*, and that before *Everard* knew him, or heard him speak a word in his days, he put in an Information of Treason against him, at the instigation of his Mortal Enemy;

nemy; and it was so groundless, that tho' it was given in three years ago, he never heard a word of it till Friday last.

Mrs *Wall* was then called by the Prisoner; he demanded of her, whether he had not conveyed some *Libels* and *Treasonable* Papers to the *King* by her means, and received Money upon that account? but *she* would not acknowledge it.

He then asked her, whether it was not about *Christmas* was twelve Month, that he gave her the *Libel* about the *King* and her *Lady*; and the *King* thanked him extreamly, and he had 250 *l.* given him? and he said to her, Come Mrs *Wall*, don't think to trick me out of my Life, can you deny that I had the 250*l.* speak, had I the 250*l.*

Mrs *Wall* answer'd, That was not the Question you ask'd me at first, There was 250*l*; I think it was 200, or 150, or 250*l.* you know it was not for any *Libel*——you once told me, you could bring in People to the *King* and *Duke*'s Interest, that were very considerable, and the *Secretary* of *State* desired to know who they were, and you named one *Thomas Merry* and my *Lord Howard* of

of *Escrick*; and the *Secretary* desired me to get him in if I could.

Fitz-Harris then demanded of her, whether he did not come to her the *Wednesday* before he was taken, and tell her he desired to speak with the *King*; and that he had a *Libel* to present to him.

Mrs *Wall* answered, No; it was the *Thursday*; you desired me to bring you to the Speech of the *King*, which was a thing you never desired before; and you said, you believed you could say something to him, that might do him Service, but *she* denyed that he said any thing to her of the *Libel*.

Upon further questions put to her, she said that *Fitz-Harris* was never admitted to the *King*, and that the *King* never took notice of him, or spoke to him, by her means; and that the Money was paid for the bringing of my *Lord Howard*; who came first to her two years ago; and whether it be a year and an half since his *Lordship* met with the *King*, she said she could not tell.

Mr *Cowling* declared, That Mrs *Wall* told him, that the second or third night before he was taken, *Fitz-Harris* came

came to her, to bring him to the *King*, but she asked him why he did not go to one of the *Secretaries*, and he said that he could not do that without being taken notice of, and that she then said to him, Write down your Business, and I will carry it to the *King*; and he said, No, I will not do that; and that she thereupon replyed, I must then beg your pardon, if I don't bring you to the *King*.

My Lord *Howard* then testified, That about ten or fourteen days before the Sitting of the *Parliament* in *October* last; *Fitz-H.* applyed to him in the *King's* name, to have him wait upon the *King*, but that he declined it, and that he then prefsed his *Lordship* to wait upon the *Duchess* of *Portsmouth*, and when he came to her, he found the *King* there; his *Lordship* added, that if the 250 *l.* were given for bringing him thither, he feared the *King* did not think he deserved it; That about ten days after he saw the *King* again by the means of *Fitz-H.* and that when the *Parliament* was ended, he waited again upon the *Dutchess*, and then requested her to represent *Fitz-H.* his condition to the *King*.

His

His *Lordship* further acknowledged (upon the Question put to him by *F. H.*) that he came to him the night before my *Lord Stafford* was Condemned, and told him, the *King* desired his *Lordship* would go the next day, and give his Vote for my *Lord Stafford*, and that he thereupon answered him, seeing there is so great an account put upon it, If I had but breath enough to pronounce his Doom, he shall die

Here, Dr *Otes* desired leave to go away, saying, the Crowd was so great he could not stand; upon which, Mr *Attorney* scoffingly said, my *Lord*, that may be part of the *Popish Plot* to keep Dr *Otes* here, to kill him in the Crowd.

The *Prisoner* then demanded of the *Dutchess* of *Portsmouth's* Porter, how long it was since he paid him the Money from my *Lady Portsmouth*, but he said he could not tell, it was so long.

The *Earl of Arran* was then called by the *Prisoner*, and acknowledged upon his questions, that he did shew him a *Libel*, (perhaps it was this) the day he was taken, and his *Lordship* told him, he would do himself a mischief one time or other by meddling with such Papers; and that they

they drank a Bottle or two of Wine and parted, and that as soon as his *Lordship* came home, he heard *Fitz-H.* was taken.

My *Lord Conway* and *Secretary Jenkins* denied that the *King* did own that he had employed *Fitz-H.* but my *Lord C.* acknowledged, that he had heard the *King* say, *he did formerly employ him in some* * *trifling things*; and that he had got Money of him; and that, his *Lordship* said, was for my *Lord Howard's* Business; He added, that the *King* never spoke with him till after he was taken.

* Making a Protestant Plot, or so.

The *Dutchess* of *Portsmouth* then appeared, and *Fitz-H.* asked her, Whether he was not employed to bring Papers to the *King*, and amongst the rest the *Impeachment* against her *Grace*; and he said that thereupon she told him, that it was a great piece of service to bring those sort of Papers; and that he told her he knew one Mr *Everard*, who knew all the *Intrigues* and *Clubs* in the *City*; and could tell all the designs of my *Lord* of *Shaftesbury*, and all that Party; and her *Grace* encouraged him to go on, and

by her means he came to ſpeak with the *King* about it.

The *Dutcheſs* anſwered, I have nothing to ſay to Mr *Fitz-H.* nor was concerned in any ſort of Buſineſs with him; he deſired me to give a Petition to the *King*, to get his Eſtate in *Ireland*, and I ſpoke three or four times to the *King* about it, and he had the Money for Charity.

Hereupon *Fitz-H.* ſaid, I am ſorry your *Grace* is ſo much under Mrs *Wall*'s Influence; and then addreſſing himſelf to the *Court* ſaid; I will tell you what I know, ſince my *Witneſſes* will not; I ſhall rely upon the Conſciences of the *Jury* for the Iſſue; Tho' my *Lady Portſmouth*, *Mrs Wall* and the reſt ſay, that I was not employed, nor recieved Money for ſecret Services, yet 'tis very well known I did ſo; As to *Everard*, he told me, he was well acquainted with my *Lord Shaftesbury*, and my *Lord Howard*, and he knew their *Intrigues* in ſeveral *Clubs* in the *City*; I humoured him in his diſcourſe, and diſcourſed him to reduce the Paper he accuſes me of, under ſome heads; And I no ſooner had the Paper, but I came to *White-Hall* with it; and was

was adviſed to go to my *Lord Clarendon*, or Mr *Hide*, and ſhew'd it to a *Gentleman* who was to give it to my *Lord Clarendon*, but before he could get to him, I was taken; What I did was with deſign to ſerve the *King*, according as I was employed, tho' both the *Secretaries* will not declare it; Theſe are great Perſons that I have to do with, and where great State matters are at the bottom, 'tis hard to make them tell any thing, but what is for their Advantage; and ſo I am left in a ſad Condition.

If the *Jury* Convict me, They overthrow the Law and Courſe of *Parliaments*; Whereas if they bring me in Not Guilty, my *Impeachment* ſtands good ſtill, and I am liable to anſwer it before the *Parliament*; I hope you will conſider the Perſons I have had to deal with, and that it cannot be made ſo plain, as in matters wherein We deal with common Perſons. I deſire notice may be taken that *Sr William Waller* declares, that for this very thing, I was *Impeached* by the *Houſe* of *Commons*.

Then the *Solicitor General* and *Sr George Jeffryes* ſummed up the Evidence, and the *Chief Juſtice* directed the

Jury, his *Lordſhip*, and the three other *Judges*, *Jones*, *Dolben* and *Raymond*, telling them, that they were ſworn to the Point, whether *Fitz. H.* were guilty of the Treaſon or not; but that it lay not before the *Jury*, whether the *Court* have Authority to try him; that was a queſtion proper for the *Judges* determination, and they had determined it.

Thereupon, the *Jury* found him *Guilty*; Before the Sentence was paſſed upon him, he ſaid, that he thought it would be prejudicial to the *Kings* Service, that Sentence ſhould paſs; before he had made an end of the *Evidence* he had given in againſt my *Lord Howard*; but the *Chief Juſtice* ſaid, They could take no notice of any thing of that nature, and he was Sentenced to dye as a Traytor, which was Executed the 1ſt of *July*, 1681.

An Abſtract of the Examination of *Edward Fitz-Harris*, relating to the Popiſh Plot, taken the 10th of *March*, 1680. by Sr *Robert Clayton* and Sr *George Treby*.

THe *Examinant ſaith that he was born in* Ireland, *and was bred, and is a* Roman Catholick; *That he had a* Commiſſion, *and Raiſed a* Company of Foot *in* Ireland *for the* French King's Service, *and Conducted them into* France.

That in 1672, *going to take his leave of* Father Gough *an* Engliſh Prieſt *at* Paris, *he told him, within this two years, you will ſee the* Catholick Religion *Eſtabliſhed in* England *as it is in* France; *the* Examinant *asking how that could be, the* King *being a* Proteſtant, *he anſwered, If the* King *would not comply, there was Order taken, and things ſo laid, that he ſhould be taken off or killed; That the* Duke *of* York *was a* Catholick, *and in his Reign there would be no difficulty of doing it; That the* Father *then told him, that the* Declarati-

on

on of Indulgence, *was for the Introducing the* Catholick Religion, *and that to the same end, the* War *was made against* Holland, *it being a* Nest of Hereticks; *and that* Madam *came over to* Dover *upon this Design.*

That the Examinant, *about* February, 1672, *had a* Lieutenants Commission *in* Captain Sidenham's Company, *in the* Duke *of* Albermarl's Regiment, *in the* Black-Heath Army; *and that he knew many of the* Officers *to be* Roman Catholicks; *and that the Act passing to disable* Roman Catholicks, *he and others of them were forced to quit their* Commands; *that the common opinion amongst them was, for the setling the* Roman Catholick Religion *in* Engd. *but that the measures being broken, by means of the Peace with* Holland, *and the* Duke *of* York's, *and other* Catholick Officers *quitting all* Commands, *and the* King *failing in his expectations from them, the* Roman Catholicks *came to a Resolution to Destroy the* King, *as* Father Parry, Confessor *to the* Portuguieze Ambassador *told the* Examinant *in* 1673; *who put this Confidence in him being his* Confessor; *and that the same* Father *repeated the same discourse to him with more assurance in* 16[illegible]8. *ad-*

adding then, that the Business then was now near, and he should soon see it done. That about April 1679. *the* Duke *of* Modena's Envoy *having sworn him to Secrecy, told him, That if he would undertake the Killing the* King, *he should have* 10000*l. which he refusing, the* Envoy *said, The* Dutchess *of* Mazarine *understands* Poysoning *as well as her* Sister, *and a little* Viol *when the* King *comes there will do it; and that upon the* King's Death, *the* Army *in* Flanders *and Parts adjacent to* France, *was to come into* England *to destroy the* Protestant Party, *and that after that, there should be no* Parliaments, *and that the* Duke of York *was privy to all these designs.*

That about April 1680. Kelly *the* Priest *whom he had known above* 12. *Years, and had some times Confessed him, owned to him at* Calis, *that he was concerned in the Murder of* Sr Edmund-Bury Godfrey, *and that the same was done as* Prance *had related it.*

That the Examinant *had been six or seven Years acquainted* Monsieur de Puy, *Servant to the* Duke *of* York, *and that he told him soon after the Murder of* Sr Edmund-Bury Godfrey, *That that Murder was consulted at* Windsor, *and about that time*

time said, that the Duke was very desirous to come to the Crown, the King being uncertain, and not keeping touch with them; and that De Puy said, there was a necessity of taking off the King, and that it would be soon done; That the Duke of York possessing part of the Examinant's Fathers Estate in Ireland, the Examinant being acquainted with Father Bedingfeild, asked him, how he could give Absolution to the Duke, till he had made Restitution; to which the Father said, that every Penitent was supposed to know his own Sins, and to declare them to his Confessor; to which the Examinant replying with warmth, But since you know it, you ought to take notice thereof; the Father answered, be not angry, for e're it be long you may be in a better condition.

That in March 1680. he met Father Patrick at Paris, and talking of a Rupture that might be between England and France, the Father said, that the French intended in such Case, to send Marshall Bellfonds into Ireland, with 10000 Foot, and 2000 Horse, and Arms and Ammunition for 30000 Men to be raised there; and the Father promised the Examinant a Regiment of the Men to be so Raised, and the design was

was to restore that Kingdom to its former Owners in Subjection to France.

That Father Patrick desired him to send him all the Libels that came out in London, and said, that Libelling the King was a thing necessary in order to distaste and make him jealous of his People; that the Examinant knew Mr Everard at Paris in 1665, and hath since encreased his acquaintance with him; and that the Opinion of Father Patrick about Libelling the King, incouraged the Examinant to concur with Everard, as to the Libel lately Written by Everard.

It was most evident from the demeanour of *Fitz-Harris* (from the first to the last, after his apprehension) that he was ready to say, deny, affirm, or do any thing to save his Life.

Mrs Fitz-Harris (his Widow) upon the 15th of *August*, 1681. deposed, that her *Husband*, a little before his Execution, told her what great offers were made him at first, to have charged the *Libel* upon the *Earl* of *Shaftesbury*, and my *Lord Howard*; and that he advised her to do it, as the only means to save his Life, tho' he protested at the same time, they were wholly innocent; and that she was

assured that she should have what Money she pleased, if she would accuse those Lords of the *Libel*.

Nay, *Fitz-H.* himself, the very Night before his Execution, wrote a Paper which he ordered to be delivered to his Wife, in order to prevent the spilling innocent Blood; informing her, by whom he was advised to accuse those *Lords*, and others of the *Libel*; and of having put him upon the discovery of the *Popish Plot*; and that he had the promise of a Pardon to prevail upon him to do it; but finding that he was deluded, he declared, as before *God*; that they were innocent, and that what he had deposed against the *Papists* was true, and *that he had been only too sparing, in accusing great People among them.*

It is observable, that for about fourteen dayes, between the time of the *Condemnation* and *Execution* of *Fitz-Harris*, the poor wretch was wholly under the management of *Dr Hawkins* of the *Tower*; in which time, the *Doctor* having held several Consults with some at *Windsor*; there was modelled a Paper, stuff'd with abominable Malice and Falshood, to serve the wicked Designs of that day, which the

Doctor after his Death, emitted to the World, under the Title of the *Confession of Fitz-Harris*, and therein he is made to declare abundance of extravagant Falshoods, in particular.

That the Treason of the Libel came from the Lord Howard; But his Conscience could not but witness, that he had at several times complained to *Sheriff Bethel*, and *Sheriff Cornish*; that he had been pressed to accuse the *Lord Howard*, and also the *Earl of Shaftesbury*, of the Libel.

Then the *Sham Confession* proceeds to a *Protestant Plot* (viz.) *that the* Lord Howard *told him of a design to seize upon the King, to carry him into the City, and there detain him, till he had yielded to their desires; and that himself and* Haynes *were privy to the design, and had several Meetings with the Lord* Howard.

A strange Tale of a *Protestant Plot*, between two *Irish Papists* and a *Protestant English Lord.*

In the next place, this *Mock-Confession* is to perswade the World, that the *Protestant Magistrates* of *London*, did endeavour to suborn him to make a Confession that might confirm a *Popish Plot.*

It declares, *That in* Newgate *the* She-

riffs, Bethel *and* Cornish *came to him, with a Token from the* Lord Howard, *and told him nothing would ſave his Life, but diſcovering the* Popiſh Plot; and *greatly encouraged him to declare, that he believed ſo much of the* Plot, *as amounted to the introducing the* Roman Catholicks; *or to criminate the* Queen, his Royal Highneſs; *or to make ſo much as a plauſible Story to confirm the* Plot.

Beſides, That as it hath been heretofore obſerved, and is moſt undoubtedly true; that Neither of the *Sheriffs* ever ſpake privately with *Fitz-H.* until he had been thrice examined by the *Secretaries* of *State*, and ſworn to the ſubſtance of his Examination, taken by *Sr Robert Clayton* and *Sr George Treby*; So, this idle Tale in it ſelf, could never deſerve the leaſt credit, in that it made the *Sheriffs* ſo fooliſh and vain, as to think a Declaration from ſuch a Wretch as *Fitz-H.* of his belief of the *Popiſh Plot*, to have been of great value, and that it was worth a high Reward, for him to have invented a plauſible ſtory, to confirm the Plot, after the belief thereof, had been confirmed by many *Proclamations*, by the *Votes* of four *Parliaments*, and the *Condemnation* and *Execution* of ſeveral of the *Plotters*. Fur-

Further, *Dr Hawkins* his Paper brings in *Fitz-H.* charging it upon the *Sheriffs*; that they extorted from him falſe Confeſſions about the *Popiſh Plot*; and it makes him to ſpeak thus; *I finding my ſelf in* Newgate *fettered, Moyleſs and Friendleſs, and I could ſee no other refuge for my Life, but complying with them* (the Sheriffs) *ſo, to ſave my Life I did comply.*

But as ſoon as the *Doctor* had publiſhed this Sham, the falſhood thereof was detected, and the World rightly informed in the matter; that *Fitz-H. was never fettered, or put in Irons*; but was treated with all imaginable civility, for which he thanked the *Sheriffs*, even with his dying Breath.

The *Doctor's* impudent *Libel* then fell upon *Sr Robert Clayton* and Sr *George Treby*; and inſinuates, that they would have induced *Fitz-Harris* to ſay more than was true, and ſays, that what he depoſed before them about *Father Patrick*, was forced out of him, and was not true.

F. H. himſelf well knew, that Sr *Robert Clayton* and Sr *George Treby*, came to take his Confeſſion, upon his earneſt importunity; and that after he had been thrice examined by the *Secretaries* and

Attorney General, and he had ſworn before them all the matters in ſubſtance, contained in the Examination by Sr *R. C.* and Sr *G. T.* except that one paſſage about *de Puy*; and when that Examination was read to the Houſe of *Commons*, at *Oxford*; *Secretary Jenkins* acknowledged, that he had confeſſed the ſame to the *Lord Conway*, the *Attorney General*, and himſelf, except that about *de Puy*; yet, the *Contriver* of the *Sham Retractation*, took no care to retract, or excuſe his Swearing the ſame matters, before the *Secretaries* and *Mr Attorney*; becauſe, *Reaſon of State* did at that day require, that not They, but the *City Magiſtrates* muſt be expoſed.

Then, the impudence of Hell is aſſumed, to bring in *Sr George Treby*, inviting *Fitz-H.* to accuſe the *Earl of Danby*, and the *Popiſh Lords* in the *Tower*, by ſpeaking thus; *do but you ſay it, We have have thoſe that will ſwear it.*

Had they been provided with falſe Witneſſes, and had they had ſuch an accurſed deſign; There was no need of *Fitz-H.* his ſaying any thing: Neither the falſe Suggeſtions, nor the Perjuries, could have gained any weight or credit from

from the Authority of *Fitz-H.* by his ſaying what they were to Swear.

To conclude, there are Perſons who can unriddle this whole Myſtery, & pull off the Diſguiſes and Vizors, wherewith this affair is even to this day obſcured; and therefore, I have made this Recapitulation of the fore-going particulars, to incite thoſe who are better able, to oblige the World, with a more full knowledge of the vile Practices, with this poor, deluded, timerous Wretch; and then it may be evident, that the *Doctor* gave him expectation, if not aſſurance of Life, to the very laſt Moment that he drew breath.

Remarks upon the Tryal of Mrs *Elizabeth Gaunt* at the *Old-Bayly*, *London*, upon the 19th day of *October*, 1685.

WEre my Pen qualified to repreſent the due Character of this *Excellent Woman*, it would be readily granted, that ſhe ſtood moſt deſerved-

ly entitled to an eternal Monument of honour, in the hearts of all sincere Lovers of the *Reformed Religion*; All true *Christians* (tho' in some things differing in perswasion with her) found in her a universal Charity and sincere Friendship, as is well known to many here, and also to a Multitude of the *Scotch Nation*, *Ministers* and others; who, for Conscience sake, were thrust into Exile by *Prelatick Rage*; These found her a most refreshing Refuge; She dedicated her self with unwearied industry to provide for their supply and support; and therein (I do incline to think) she outstripped every individual Person (if not the whole Body of *Protestants*) in this great *City*? Hereby she became exposed to the implacable fury of the *bloody Papists*, and those *blind Tools*, who co-operated to promote their accursed designs; and so there appeared little difficulty to procure a *Jury* (as there were well prepared *Judges*) to make her a *Sacrifice* (as a *Traytor*) to *Holy Church*.

Upon *Monday* the 19th day of *October* 1685, Mrs *Gaunt* was arraigned, upon an *Indictment*, to this effect, (viz.)

That

That she intending to disturb the Peace and Tranquility of the Kingdom, and to stir up Rebellion *against the* King, *and to subvert his Government, and depose and put him to death; for bringing her Traytorous purposes to pass, she, well knowing* James Burton *to be a* Traytor, *did secretly and Traiterously entertain and conceal him, and did give him Meat, Drink, and* 5 l. *in Money, for his Maintenance and Sustenance.*

She having pleaded Not guilty, the following Jury was sworn.

Tho. Rawlinson,	*William Cloudesley,*
Tho. Langham,	*Richard Holford,*
Ambrose Isted,	*William Longboate,*
Tho. Pendleton,	*Steven Colman,*
John Grice,	*Robert Clavel* and
Tho. Oneby,	*William Long.*

Then *Mr Attorney General* said, The *Prisoner* is indicted for harbouring *Burton*, a great *Traytor*, and procuring a way for his escape beyond Sea, and giving him 5 *l.* to bear his Charges; *She* and her *Husband* were the great *Brokers* for carrying over such *Traytors*, as *my Lord Shaftesbury* and others; He then called *James Burton*, and demanded an account of him, whether he were engaged in

the

the matter of the *Rye-House*; and how *Mrs Gaunt* harboured him?

Burton testified, that *Keeling* brought him and *Barber*, and *Thompson* into the company of *Rumbold*; That upon *Keeling*'s discovery, he was put into the *Proclamation* for being at that Meeting, and absconded about two Moneths, and then *Mrs Gaunt* came to enquire of his Wife for him, who brought her to him; and she told him, that there were some Persons about to make an escape, and she would have him go along with them; and sent him (with *Rumbold*) to *Rochford-Hundred* in *Essex*, to take Ship, but not liking the Vessel, and the Weather being bad, they returned to *London*.

It looks as tho' *Keeling* had been employed at *White-hall* to make, as well as to discover this Plot, for of the very small number accused of it, We have him here, drawing in three at once.

That many Moneths afterwards, *Mrs Gaunt* came and gave him 5 *l.* and sent him in a Boat to *Gravesend*; from whence he went in a Vessel to *Amsterdam*.

Mary Gilbert (*Burton*'s Daughter) was sworn, and said, that she met *Mrs Gaunt* with her Father in *Houndsditch*, and they

they went to a House without *Bishopsgate*, and that she there saw him with a Man that had but one Eye, and was full of Pock-holes.

Burton's Wife then testified, that Mrs *Gaunt* came to enquire where her Husband was, and she told her he was at her Daughter's; and Mrs *Gaunt* told her, That if she were willing her Husband should go away, she would take care therein; and Mrs *Gaunt* appointed them to meet without *Bishopsgate*.

The *Lord Chief Justice Jones* and *Judge Wythens*, and also the *King*'s Counsel (viz.) the *Attorney*, the *Solicitor General*, *Mr North*, and *Crispe* the *Common Serjeant*, rack'd their Inventions to draw *Burton* and his Wife, to charge *Mrs Gaunt* with the knowledge of his being in a *Plot*, or in the *Proclamation*; but nothing of that could be made out; Nor is here any sort of proof, that *Mrs Gaunt* harboured this ungrateful *Wretch*; or that she gave him either Meat or Drink, as the *Indictment* charges her; And it must be further noted, that here is only the single Testimony of *Burton*; of her giving him Money, and sending him away; The Evidence being short in this,

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The *Chief Juſtice* fell upon the Priſoner with enſnaring Queſtions; demanding of her, What was the reaſon ſhe would ſend *Burton* away? whether ſhe gave him Money? Whether ſhe heard that his Name was in the *Proclamation*, &c?

Here *Captain Richardſon* officiouſly interpoſed, ſaying, She ſays ſhe is not come here, to tell your *Lordſhips* what ſhe did.

The *Chief Juſtice* then ſum'd up the Evidence thus, *Burton* ſayes this *Woman* was very ſolicitous to ſend him beyond Sea; That her *Husband* being concerned in the *Plot*, and ſhe (as *Burton* believes) knowing that he could make ſome diſcovery concerning her *Husband*, endeavoured to convey him away; It is true, there is not direct proof, that there was any particular mention that *Burton* was in the *Proclamation*; but *he* and his *Wife* ſay, that they verily believe the *Priſoner* knew that he was in the *Proclamation*; and ſhe her ſelf being examined, ſays, that ſhe might hear that he was in the *Proclamation*, and that his Houſe was ſearched, and he could not be found, and yet ſhe conceals him; what

what could be the meaning of this, but that *ſhe* was very zealous to maintain the *Conſpiracy*, and was a great Aſſiſtant to all concerned in it? *She* will not tell you any other cauſe, why ſhe ſhould be concerned to convey this Man beyond Sea; and therefore, in all reaſon, you ought to conceive it was for this.

The *Jury* being thus ſent out, and returning, *Mrs Gaunt* deſired to be heard, declaring, that ſhe hoped they would not take any advantage againſt her, and that ſhe had ſome Witneſſes to call; But,

Wytheris ſaid, It ought not to be done, you ought to take the *Verdict*; and ſo the *Jury* pronounced her Guilty, and *Jenner* the *Recorder* paſſed this Sentence,

You are to be carried back to the place from whence you came, from thence you are to be drawn upon a Hurdle to the place of Execution, and there you are to be burnt to Death. Mrs *Gaunt* only ſaid, I ſay, this Woman did tell ſeveral Untruths of me; I don't underſtand the Law.

The Sentence was executed upon this *Excellent Woman*, upon *Friday* then following, being the 23d of *October* 1685. When *ſhe* left her *Murderers* the following *Memorial*.

New-

Newgate, 22d of October, 1685.

NOt knowing whether I ſhould be ſuffered or able, becauſe of Weakneſſes that are upon me, through my hard and cloſe Imprisonment, to ſpeak at the place of Execution, I write theſe few Lines, to ſignifie I am well reconciled to the way of my God towards me, tho' it be in ways I looked not for, and by terrible things, yet in Righteouſneſs; for having given me Life, he ought to have the diſpoſing of it, when and how he pleaſeth to call for it; and I deſire to offer up my all to him, it being but my reaſonable ſervice; and alſo the firſt terms that Chriſt offers, that he that will be his Diſciple muſt forſake all and follow him; and therefore, let none think it hard, or be diſcouraged, at what hath happened unto me; for he doth nothing without cauſe, in all that he hath done unto us; he being Holy in all his Ways, and Righteous in all his Works; and it is but my lot in common with poor deſolate Sion *at this day; neither do I find in my heart, the leaſt regret of any thing that I have done, in the ſervice of my Lord and Maſter Jeſus Chriſt, in favouring and ſuccouring any of his poor Sufferers, that have ſhewed favour to his righteous Cauſe; which Cauſe, tho' it be*

now

now fallen and trampled on, as if it had not been anointed; yet it ſhall revive, and God will plead it at another rate, then yet he hath done, with all its Oppoſers and malitious Haters; and therefore let all that love and fear him, not omit the leaſt duty that comes to hand, or lieth before them, knowing that Chriſt hath need of them, and expects that they ſhould ſerve him; and I deſire to bleſs him that he hath made me uſeful in my Generation, to the comfort and relief of many diſtreſſed Ones, that the Bleſſing of thoſe that have been ready to periſh hath come upon me, and I have been helped to make the Heart of the VVidow to ſing; and I bleſs his holy Name, that in all this, together with what I was charged with, I can approve my Heart to him, that I have done his Will, tho' I have croſſed man's Will; and the Scripture that ſatisfied me in it, is the 16th *of* Iſa. 3,4. Hide the Out-caſts, betray not him that wandreth; let my Out-caſts dwell with thee. *Obadiah* 12. 13, 14. Thou ſhouldſt not have given up him that eſcaped, in the day of diſtreſs. *But Man ſaith, You ſhall give them up, or you ſhall dye for it. Now whom to obey, judge ye. So that I have cauſe to rejoyce & be exceeding glad, in that I ſuffer for Righteouſneſs ſake, and that I am*

ac-

accounted worthy to ſuffer for well-doing, and that God hath accepted any Service from me, that hath been done in Sincerity, tho' mixed with manifold Weakneſſes and Infirmities, which he hath been pleaſed for Chriſt's ſake to cover and forgive. And now as concerning my Fact, as its called, alas it is but a little one, and might well become a Prince to forgive, but, He that ſheweth no Mercy, ſhall find none; and I may ſay of it, in the Language of Jonathan, I did but taſte a little Honey, and lo, I muſt dye for it; I did but relieve a poor, unworthy and diſtreſſed Family, and lo, I muſt dye for it. I deſire in the Lamb-like Will, to forgive all that are concerned; and to ſay, Lord lay it not to their Charge; but I fear and believe, that when he comes to make Inquiſition for Blood, Mine will be found at the Door of the furious. *Judge, who, becauſe I could not remember things, through my damnedneſs, at Burton's Wife & Daughter's witneſs, and my Ignorance; took advantage thereat, and would not hear me, when I had called to mind, that which I am ſure would have invalidated their Evidence; and tho' he granted ſome things of the ſame nature to another, yet he granted it not to me; my Blood will be alſo found at the

* Wythens.

the Door of the Unrighteous Jury, who found me Guilty upon the ſingle Oath of an Outlawed man; for there was none but his Oath about the Money, who is no legal Witneſs, tho' he be pardoned, his outlawry not being recalled; and alſo the Law requires two Witneſſes in point of Life; and then about my going with him to the place mentioned, it was, by his own Words, before he could be Outlawed, for it was two Months after his abſconding, and tho' in a Proclamation, yet not high Treaſon, as I have heard; ſo that I am clearly murdered by you; and alſo bloody Mr. Atterbury, who ſo inſatiately hunted after my Life; and tho' it is no profit to him, yet through the ill-will he bore me, left no Stone unturned, as I have ground to believe, until he brought me to this; and ſhewed favour to Burton, who ought to have dyed for his own Fault, and not to have bought his Life with mine: And laſtly, Richardſon, who is cruel and ſevere to all, under my Circumſtances, and did at that time, without all Mercy or Pity, haſten my Sentence, and held up my Hand that it might be pronounced; all which, together with the great one of all, * by whoſe Power all theſe, and multitudes of more

* King James the ſecond.

Cruelties are done, I do heartily and freely forgive, as done against me: But as its done in an implacable mind against the Lord Christ, his Righteous Cause, and Followers, I leave it to him who is the Avenger of all such Wrongs, and hath said, I have raised up one from the North, and he shall come upon Princes as upon Morter, and as the Potter treadeth Clay, *Isa.* 41. 25. He shall cut off the Spirit of Princes, and be terrible to the Kings of the Earth, *Psal.* 76. 12. *And know this also, that though you are seemingly fixed, and because of the Power in your Hands, and a weighing out your Violence, and dealing with despightful Hand, because of the old and new hatred, by impoverishing, and by every way distressing those you have got under you; yet unless you secure Jesus Christ, and his holy Angels, you shall never do your business, nor your Hands accomplish your Enterprizes; for he will come upon you ere you are aware; and therefore, O that you will be wise, instructed and learn, is the desire of her that finds no Mercy from you,*

Elizabeth Gaunt.

Postscript.

Such as it is, you have it from her, who hath done as she could, & is sorry she can do not better; hopes you will pitty and cover weakness, shortness, and any thing that is wanting; and begs that none may be weakned or humbled, at the lowness of my Spirit; for God's designs to humble and abase us, that he alone may be exalted in this day; and I hope he will appear in the needful time, and it may be reserves the best Wine till last, as he hath done for some before me; none goeth to Warfare at his own charge, and the Spirit bloweth, not only where, but when it listeth; and it becomes me, who have so often grieved, quenched and resisted it, to wait for and upon the motions of the Spirit, and not to murmur; but I may mourn, because through want of it, I honour not my God, nor his blessed Cause, which I have so long loved and delighted to love; and repent of nothing about it, but that I served him and it no better.

Remarks upon the Tryal of Mr *Joseph Hayes*, at the *King's Bench* upon an Indictment of high Treason, for corresponding with *Sr Thomas Armstrong*.

MR *Hayes* was brought by *Habeas Corpus* upon the 3d of *November* 1684, from the *Gate-house*, and was arraigned, upon an Indictment to this effect, *viz.*

That he being a false Traytor *against the* King, *&c. the* 31*st of* August, *in the* 35*th Year of the* King; *knowing* Sr Thomas Armstrong *to have conspired the death of the* King, *and to have fled for the same; did traytorously relieve, comfort and maintain him; and for his Relief and Maintenance, did pay the sum of* 150 l. *against the duty of his Allegiance*, &c. To this, he pleaded *Not Guilty*.

Upon the 21st of *November* 1684, He was brought to Tryal, before the Lord Chief Justice *Jeffryes*, *Judge Holloway*, *Judge Wythens* and *Judge Walcot*; and the

Jury

Jury being called, he prudently challenged the following Persons; which if he had not done, it is more than probable, that he had dyed as poor *Colledge* did at *Oxford*.

Sr Thomas Griffith,	*Richard Burden*,
Richard Ellis,	*John George*,
Thomas Langham,	*John Steventon*,
Henry Whistler,	*Robert Watkins*,
Nicholas Smyth,	*George Twine*,
Thomas Soper,	*Thomas Short*,
Tho. Passenger,	*Robert Townshend*,
Henry Minchard,	*James Bush*,
Peter Jones,	*Walter Masters*,
William Crowch,	*Thomas Larkham*,
Peter Devet,	*Edward Cooke*,
Henry Lodes,	*William Fashion*,
William Fownes,	*John Flowerdew*,
Charles Gregory,	*John Greene*,
William Peele,	*John Grice*,
Richard Weedon,	*Charles Fowler*, and
Thomas Pory,	*James Smyth*.
Tho. Peircehouse,	

In all 35.

The Jury ſworn, were,

Samuel Sheppard,	*Edward Piggot*,
Daniel Allen,	*Tho. Brailesford*,
Rowland Platt,	*Edward Cheeke*,
Adam Bellamy,	*Edw. Underwood*,
Daniel Templeman,	*Robert Maſters*, &
William Dewart,	*William Warren*.

It is likely that he would have challenged one, if not more of the laſt four, but that he had challenged the number of 35. before theſe four were called; and the Law allowed him not to challenge more.

Then, the *Indictment* being read, *Mr Dolben* as *Counſel* for the *King*, opened it to the *Jury*.

Mr Attorney General then enforced the Charge thus; After *Sr Tho. Armſtrong* had fled, the *Priſoner* relieved and aided him with Money; and that, after he was *Indicted*, and ſued to the *Exigent*; beſides, a *Proclamation* followed upon his flight, which was a ſufficient notice to all the *King's Subjects*; *Sr Thomas* went by the Name of *Henry Laurence*, beyond Sea; by that Name the *Priſoner* held a Correſpondence with him, and ſent him a Letter, dated the 21ſt of *Auguſt*, and tells him, he had ſent him a Bill of *Exchange*, for

for 165 *l.* drawn upon his *Brother*, *Iſrael Hayes*, who was acquainted with *Sr Thomas*.

If it were not for theſe, receiving and nouriſhing of *Traytors*, they would not lurk at *Amſterdam*, as they do. The Letter was taken about *Sr Thomas*, and we ſhall prove it is the Priſoner's Hand-writing, and that *Sr Thomas* received the Money.

I hope you will take care, by Convicting this *Gentleman, to ſtop the Fountain*, that iſſues ſo much ſupply to theſe Traytors, that lurk abroad.

But like good Men, they took all the care they could, to ſtop the Fountain of Blood, that to the ſcandal of the Nation had too long iſſued from the *Old-Bayly*.

Mr Hayes then affirmed, that he never knew *Sr Thomas* in his life.

Then, the *Indictment* againſt *Sr Thomas* was read, which was found the 12th of *July*; and Mr *Glover* proved a Copy of the *King's Proclamation* againſt *Sr Thomas* dated the 28th of *June*, 1683.

Then, *Ezekiel Everis* was ſworn, and teſtified, that in *Auguſt* 1683, he was at *Cleve* in *Germany*, with the *Lord Grey*, who went by the name of *Thomas Holl*, and *Sr Tho. A.* came thither, by the

Name of *Mr Henry Laurence*, and shew'd him a Bill of *Exchange*, from *England*, upon *Mr Israel Hayes* in *Amsterdam*, for 160 *l.* odd Money; and that it was, for 150 *Guineas*, paid in *England*; and he told him, it was drawn by *Joseph Hayes*; and it was signed *Joseph Hayes*; and the Bill was accepted, and he saw *Israel Hayes* his Letter to *Sr Thomas*, by the Name of *Laurence*, which mentioned the sending the said sum to *Cleve*.

The *Common Serjeant (Crispe)* then delivered a parcel of Letters into the Court, and swore that he received them of the *Lord Godolphin*, and they had been ever since in his hands.

The *Lord Godolphin* then testified, that he received three Letters produced in Court, from Mr *Constable*, Mr *Chudley's* Secretary, who told him they were taken about *Sr Thomas*, that one of them, without any Name, mentioned 150 Guineas returned to *Henry Laurence*.

Constable testified, that he was present, when the *Scout* of *Leyden* apprehended *Sr Tho. A.* and that the Letters were taken out of his Pocket, and he himself delivered them to *Mr Chudley*, who sealed them up and sent them, by him, to the *Lord Godolphin*.

Charles

Charles Davis testified, that taking Boat from *Amsterdam* to *Rotterdam*, he met *Israel Hayes* and *Sr Tho. A.* coming to take Boat, and *Sr Thomas* went with him in the Boat, and he told him his Name was *Henry Laurence*.

Davis added, that he lodged a Month in one *Briscowe's* House at *Amsterdam*, where there was a *Club* every *Thursday*; There were Mr *Israel Hayes*, Mr *Henry Ireton*, one *Wilmore*, *Emerton*, *Dare*, and some other *English Merchants*; and he heard them several times, abuse the *King* at the *Table*.

The *Attorney General* then shewed *Mr Hayes* a Letter, saying, It may be he will save us the labour of proving it; but Mr *Hayes* disowning it,

Mr *Walpoole* was called, and Mr *Hayes* said, he was my Servant, and went away, after a rate, that possibly would not be allowed.

Walpoole testified, that he served *Mr Hayes* almost four Years and three quarters, and did believe the Letter to be Mr *Hayes* his hand.

Mr *Hayes* said, *My Lord*, in matters of *Treason*, *I hope you will not admit of comparison of hands and belief, for Evidence.*

The

The *Chief Juſtice* anſwered, Yes, no doubt of it.

Mr Hayes replyed, It has not been ſo in other Caſes, that have not been Capital; as particularly in the *Lady Carr's* Caſe.

The *Chief Juſtice* ſaid, that is a miſtake, you take it from *Algernon Sidney*, but without all doubt, it is good Evidence.

Judge Wythens ſaid, Compariſon of Hands was allowed for good Evidence in *Colman's Caſe*.

Mr Hayes anſwered, That, with ſubmiſſion, vaſtly differs; Thoſe Letters were found in his own Cuſtody; This was not found in my poſſeſſion, but in another Man's, and in another Nation.

Sr John Trevor, Counſel for the *King*, ſaid, This *Gentleman* was a Trader with the *Eaſt-India-Company*, and made Contracts with them, which are entred in their Books; We will compare them with the Writing in this Letter.

The *Common Serjeant* then called *Harman* and *Brittle*, and demanded of them, where the Books were; and they produced them.

Harman teſtified, that he knew *Mr Hayes*

Hayes, and that he made ſeveral Contracts in 1683, and that he ſaw him in *September* 1683, ſubſcribe his Hand to a Book of the Companies, ſhewn to him.

Brittle teſtified, that he is *Porter* in the Street to the *Eaſt-India-Company*, and that he ſaw Mr *Hayes* write his Hand, to a Book ſhown to him.

Capt. *Piercehouſe* produced a Note, which he ſaid was Mr *H.* his, and that he ſuppoſed it to be his hand, and compared it with the hand in the Book, and ſaid, that he delivered the Goods upon it; and *Walpoole* then ſaid, he believed it to be *Mr Hayes* his hand.

Query, if not the ſame *Peircehouſe* in the Pannel of the Jury.

Then Mr *Sturdivant* was called, and they ſhew'd him the Letter, and he ſaid, Here is *Joſeph Hayes* writ, but I do not know it to be his Hand.

The *Common Serjeant* warmly ſaid, that Mr *Sturdivant* ſwore he did know Mr *H.* his hand, before the *Grand Jury*; but Mr *Sturdivant* affirmed, the *Common Serjeant* was under a miſtake.

Then

Then *Sr John Trevor* called for Mr *Hardreſſe*, but the * *Common Serjeant* anſwered, That he was out of Town, before he could be ſerved with a *Subpena*.

* The *Common Serjeant*, as hath been elſewhere obſerved, upon the diſcovery of *Keeling's Plot*, in 1683, boaſted what work that *Plot* would make, when it came into the *City*; We now have him pulling it into the *City*, by Head and Shoulders; and find him, in this Caſe, appearing and exerting himſelf, in a three or four fold capacity, (viz.) the *Manager*, (if not Contriver) of this proſecution; and a *Counſel*, *Solicitor*, and *Witneſs*, againſt the worthy *Citizen*, now deſigned to deſtruction.

Then the Letter was read, it was ſubſcribed *Joſeph Hayes*, and dated the 31ſt of *Auguſt* 1683. directed to Mr *Henry Laurence* ſenior, at *Amſterdam*; and began thus, *Sir, at your deſire I have ſent you a Bill, &c.*

The Letter and the *Eaſt-India*-Books were then ſhewn to the *Jury*, and to the *Priſoner*.

Mr *Hayes* denyed the Letter to be his Writing, and ſaid, 'Tis very ſtrange I ſhould not know my own hand; May not *Counſel* be admitted to plead, *Whether compariſon of hands and belief, are any evidence*

dence in Criminal Cauſes? I have been informed, it hath been denyed to be evidence.

The *Ch. Juſtice* told him he was under a miſtake; ſome body has put it into your Head, and puffed you up with a vain Story; there is no ſuch thing, 'Tis a Fiction, a meer Whim, only ſaid by *Mr Sidney*, and no ground in the World for it.

Mr Hayes replyed, Was it not ſo in the Caſe of my *Lady Carr?* there is a Record of that I ſuppoſe.

The *Chief Juſtice* affirmed, it was not ſo, and ſaid, Don't talk of it,* there was no ſuch thing at all——Compariſon of hands was allowed for good proof, in *Sidney's Caſe*; *We* muſt not alter the Law for any Body.

* It was in Trinity Term 1669. Anno 21 Car. 2.

Mr *Attorney General* ſaid, Beſides this compariſon of hands, *We* ſhall give an account of the Correſpondence of the *Priſoner's Brother*, and that he received the Money of him; and then ſaid, *Mr Common Serjeant*, Where had you this Paper?

The *Common Serjeant*, to ſhow his care and zeal in this matter, ſaid, *Pray have a care of the Papers*; and then gave evidence that he had them from my *Lord*

Lord Godolphin, and ſaid, This is an Account of the Receipt and Diſburſement of the Money; Shew it Mr *Conſtable*.

Conſtable ſaid, This is one of the Papers was taken out of *Sr T. A*'s Pocket.

It being ſhewn to the *Jury*, one of them demanded, whether any one proved the hand, that was in that Note?

The *Attorney* anſwer'd, No, but *Everis* ſwears, that *Sr T. A.* ſhew'd him a Bill, ſubſcribed *Joſeph Hayes*; for ſo many hundred *Guilders*.

The *Common Serjeant* ſaid, He ſays it was 160 odd Pounds; now the ſum of this Note is 161 *l.* 5 *s.* which is the change of 150 *Guineas*.

Mr North concluded, ſaying, We have done at preſent.

Mr Hayes then ſaid, Here is no body proves this Letter to be my hand, poſitively; They only prove it by ſimilitude, and compariſon, and belief.

I conceive there is but one Witneſs, that that Letter was found in *Sr T. A*'s hands. *Everis* ſays, he ſaw a Bill had my Name to it; Sir, you did not know me, nor ever ſaw my hand.

Everis anſwered, No, never in my Life.

Mr

Mr Hayes then ſaid, 'Tis only an evidence of Reputation; he heard it was my Bill; you ſaw no Money paid upon it, did you?

Everis, No; but I ſaw a Letter from Mr *Iſrael Hayes*, that gave ſome account of it.

Mr Hayes ſaid, All this is but Similitude and Circumſtance; and *I thought in caſe of Treaſon there ought to be two Witneſſes*, and hope you will let it be ſo here; ——here is no evidence but the Letter, and that is not two Witneſſes; There is no body has proved, the *knowingly*, in the *Indictment*; that runs, that I knew *Sr T. A.* and his *Treaſon*, that *ought* to be proved; but I am ſure 'tis not; your *Lordſhip* ſays that the *Indictment* and the *Proclamation*, are ſufficient notice, that he was a *Traytor*; that may admit of *Counſel* to debate it; There ought to be Witneſſes that could ſhew me to be concerned with him; which no Body in the World can prove; or that I ever ſaw him; and that *Witneſs*, that ſays he ſaw the Bill, or this Letter, does not know that I wrote it; There are them that ſay, they heard of Money paid upon this Bill, but there is not one of them ſays, he ſaw any Money paid;

paid; and these are several Witnesses, every one to a several thing.

Here is no proof, but by the *East-India Porters*, and those who say, they believe this Letter to be my hand; No body says he saw me write this Letter, or had any Correspondence with *Sr T. A.*

If they pretend there was Money paid beyond *Sea*; Is this *Indictment* well laid, for it is laid to be paid in *London*? The payment of Money beyond Sea, can be no evidence of the Fact upon this Indictment, for the *Jury* of *London*, are to enquire of matters arising in *London* only; If I am to be tryed for payment of Money beyond *Sea*, the fact should have been laid there, and the *Tryal* were to proceed upon the *Statute* of 35 *H.* 8. cap. 2. *The Indictment* should be taken, by Special *Commission*, from the *King*; and the *Tryal* be in the *County*, that the *King* should chuse; I desire *Counsel* upon this point.

Lord Chief Justice, No; 'tis an idle Whim, and I would fain know the *Counsel*, that put that foolish Notion into your head.

Mr Hayes. If you will allow me *Counsel*, you shall hear who they are; I have been informed the Law is so. *Chief*

Chief Justice. We are of another opinion: If any whimsical Notions are put into you, by some *Enthusiastick Counsel*, the *Court* is not to take notice of their *Crochets*.

Mr *Hayes* proceeded, and said, The *Witnesses* are Strangers to me; There is is one that has been sworn, to whom I have paid several thousands of pounds, that says he does not believe it to be my hand; then he called *Mr Sturdivant*, who looking upon the Letter, said, *I do not believe it to be his hand*; I have had dealings with him, and he hath given me many *Receipts*.

Mr Hayes then said, There have been a great many *Forgeries*; and this Letter is forged; there have been *Forgeries* so like, that the Persons themselves have not known their own hands.

Chief Justice. Every body knows, that a hand may be counterfeited, very like; in *Mr Sidney's* Case, Mr *Wharton*, a young *Gentleman*, not above one or two and twenty, said, he could undertake to counterfeit any Man's hand whatsoever.

Mr *Hayes* then told the *Jury*, that he

was not a Man of that Quality, to give *Sr T. A.* 150 *Guineas.*

Chief Justice. We all know you have been a very † *active Man, a busie Fellow about the City; as forward a* Spark, *as any I know, of a great while.* I don't know what you talk of your Quality, but We know your qualifications, *you have always been factious and turbulent, against the* King *and the* Government.

† The resolution in that day, was to enslave the City & the Nation, and every one who was found to withstand it, was treated with this sort of Language, and then made a Traytor, if they found an opportuniry, unless by chance, as in this case, a Jury failed them.

Mr *Hayes* then affirmed, that he neither gave, nor lent, nor returned, any sum of Money to this Person; and then called Mr *Langley*, who testified, that a *Letter* was Counterfeited, and a Bill of *Exchange* for 450 *l.* and so exactly like, that if he had not known of it before he saw it, he must have owned it, for his hand; and the party that paid the Money, paid it in his own wrong, for he never drew any such Bill.

Mr *Hayes* added, Mr *Common Serjeant* had my Books several dayes in his hands, *where*

where there is an Account of 20000*l. between my Brother and me*; and if I would set my hand to such a Letter and Bill, and write my Name at length, is it not as reasonable that I should put the Name of *Laurence* in my Books; and if it were there, it would appear.

Indeed, here is an Account produced, of divers parcels of Money disbursed, in little sums; but, I appeal to the *Merchants*, whether ever any Bill of *Exchange*, was ever paid, in such parcels; No *foreign Bill*, was ever paid by 3 *l.* or 5 *l.* or 20 *l.* at a time: it must be paid at the day, or it will be protested—— here is a computation of a sum, like to the sum in the Bill; but these are Suppositions, and not proof.

Then Mr *Hayes* called *Alderman Jeffryes*, to speak to his Reputation and Conversation; who said, that he had known him many Years, and never knew any hurt by him.

The *Chief Justice* demanded of the *Alderman*, whether he had been at any of the *Elections* at *Guild-hall* for *Mayors* or *Sheriffs*, when *Mr Bethel* and *Mr Cornish* and *them People* were chosen; and whether he had seen Mr *Hayes* there,

and how he did behave himself? * A very forward *active* Man, I will warrant you.

* It is true, that he was, upon every occasion, active in the maintenance of the City-Rights; and his Lordship, and the Common Serjeant had ever been as forward *Sparks* on the other side; & that made them so intent, upon the destruction of every well deserving, worthy Citizen, whom they could draw under an Accusation.

Alderman Jeffryes answer'd, I suppose I may have seen him there, but I cannot say any thing to his behaviour.

Then Mr *Hayes* called Mr *Pellet*, Mr *Lloyd*, Mr *Withers* senior, *Mr Withers* junior, and *Mr Hugh White*, who gave a fair account of his dealing and Conversation. *He* then said, that he would trouble the *Court* with no more Witnesses.

Mr *Attorney General* then said, that he would call one Witness more against him; and ordered *Atterbury* the *Messenger* to be sworn, and the Letter was shewed to him.

Atterbury said, that he apprehended *Mr Hayes*, and brought him before the *King*, and was present when the Letter was shew'd to him, and the *King* and *Lord Keeper North*, press'd him to own, whether

whether it was his hand or no; and he said, he should say nothing to it, if they could prove it upon him well and good.

Mr Hayes contradicted this *Mischievous* and *Bloody Man*, saying, his *Majesty* was not there.

Atterbury answered, As I remember, the *King* was there; but by and by said, he did only imagine the *King* was there.

The *Chief Justice* then back't *Atterbury*'s Evidence, saying, I was there, what he says is true; you said, *I am not bound to accuse my self*; 'tis true, you did deny that you knew *Laurence* or *Armstrong*; and 'tis as true you would not absolutely deny the Letter, but said, you were not bound to accuse your self.

Mr Hayes then said, *My Lord*, I did hope, that in point of Law, my *Counsel* should have been heard to those things I mentioned; and I wish you would favour me in it; But that being denyed him, he addressed himself to the *Jury*, saying, Nothing has more troubled me, since my Confinement, than the imputation of *high Treason*, a thing I alwayes detested; I never knew any, the least thing of the *Conspiracy*, but by the *Tryals*, or other printed Papers; not one of the *Conspi-*

rators, who have come in, or been taken, have charged me in the leaſt; nor did he himſelf accuſe me, with whom I am charged to have this Correſpondence. *Gentlemen*, I deſire you to conſider, that 'tis my Life is concerned, & I beg you would conſider what theſe *Witneſſes* have teſtified; They are not poſitive in any reſpect, nay, there are not two, to any one thing that is charged; *Conſtable* ſays, the Letter was found amongſt Sr *T. A's* Papers; he ſays no more; and here are not two Witneſſes to that; *Everis* tells you, he ſaw this Bill, but did not know my hand; There is No body tells you I wrote this Letter, but it is found in another Man's cuſtody, in another Nation.

Gentlemen, 'tis very hard, that by compariſon of hands, a man's Life ſhould be in danger; when, in leſſer Crimes, it has been denyed to be good evidence; and none of you can eſcape theſame danger, if this be allowed to be evidence; for your hands may be counterfeited, as well as mine.

If there had been any probability of my knowing him, it had been ſomething; but there is not one that teſtifies, that ever I knew him, nor indeed did I;

There

There is a great deal of Circumſtance made uſe of, upon the account of his acquaintance with my *Brother*, in *Holland*; but, 'tis ſtrange, there ſhould not be ſome evidence, of a further Correſpondence between him and me, if there were that intimacy, that ſuch a Letter as this doth import.

I muſt, with Reverence to the *divine Majeſty* ſay, and I call *God*, *Angels* and *Men*, to witneſs the truth of it; as I ſhall anſwer it to him, before whom, for ought I know, I am quickly to appear; that I never in my Life ſpoke with *Sr T. Armſtrong*, nor was ever in his Company, nor ever wrote to him, by the Name of *Laurence*, or any other Name; And I do ſolemnly ſay, in the preſence of *God*, that I never gave, ſent, lent, paid, or ordered to be paid, any Money, directly or indirectly, to *Sr T. A.* or *H. Laurence*, or to him by any other Name, or to his uſe; I ſpeak it without any counterfeiting or equivocation.

Gentlemen, *There have been Overtures, if I would ſay ſome things, that my Life might be ſaved*; and 'tis not to be believed, that I would run the Riſque of my Life, if by ſpeaking the Truth, I could

ſave it——

The *Chief Juſtice* did here appear enraged, and interrupted him, ſaying, What do you mean by this?

Mr Hayes. I ſay——

Chief Juſtice. Ay, but you muſt ſay thoſe things that are decent and fit for us to hear; you muſt not inſinuate, as if the *Government* would make any ſuch Compacts as you talk of.

Mr Hayes. I ſay that Mr *Foſter* told me——

Chief Juſtice. If you offer that, I can tell you a Story, that perhaps you will be very unwilling to hear; on my word, 'twill be very unpleaſant to hear it; you had better let thoſe things alone, for you will but draw a load upon you.

Mr Hayes. I beſeech your *Lordſhip* to hear me——

Chief Juſtice. Yes, I will hear you, provided you keep within due bounds, but we muſt not ſuffer theſe things.

Mr Hayes. I ſay nothing but this, It has been told me, the way to ſave my Life is to confeſs.

Chief Juſtice. As you repreſent it, 'tis a reflection upon the *Government*—— you talk of Overtures having been made you;

you; don't make me ſay, what I have no mind to ſay.

Mr Hayes. I ſay, *Mr Foſter* by Name told me, there was no way for me to eſcape, but by Confeſſion.

Chief Juſtice. You had beſt call *Mr Foſter*, to know how he came to tell you ſo; If you do, I will tell you of another thing, of * 4 or 5000 *l.* that was offered for your eſcape, you had better forbear, or elſe I ſhall put you in mind, of a *Brother* of ſome Body, that is at the *Bar*.

Mr Hayes. My *Lord*, I was told that was the way; *Gentlemen* of the *Jury*, I have declared to you the whole truth, with all the ſolemnity that becomes an innocent Man, & not an ill Man——Beſides, that you have heard

* The Story of the 4 or 5000 *l.* was this, an eminent *Papiſt* very acceptable to King *Charles* the ſecond, undertook to ſome of the Friends of Mr *Hayes*, that a *Pardon* ſhould be had, for 4000 *Guineas* to the *King*, & 1000 to himſelf; but he afterwards declared, that the *King* had refuſed him therein, and told him, that he was adviſed, that he had better give that *Popiſh Friend* 4000 *l.* out of the *Exchequer*, than pardon *Hayes*; but that he gave his *Royal Word*, that the Overture ſhould not hurt *Mr Hayes*; nevertheleſs, the *murdering Adviſer* of that *King*, doth here publiſh it, to inſinuate the *Priſoner*'s guilt.

heard, in all this evidence, is nothing but *Circumſtance and Hear-ſay*; and ſhall a Man's Life be taken away, for *I believe*, and *I think*, or *I have heard*?

Gentlemen, I know you are my *Fellow Citizens* and *Fellow Chriſtians*, and of the ſame *Reformed Religion* that I am; and I hope you are ſworn into this ſervice without any prejudice againſt me; but with an impartial Reſolution to do Juſtice; and therefore I cheerfully leave the matter with you; I am ſure, that if *God* help me and deliver me in this Exigency, that it is he and you under him, that preſerve my Life——

Gentlemen, The great Incertainties, Improbabilities and Conſequences in this caſe, I hope will be weighed by you; and make you the better to conſider the proof, which is made, by none but ſuch as are Strangers to me; ſince then, they know me not, I hope you will weigh it, before you give it againſt me; We muſt all dye, and I am ſure it will be no grief to you, to acquit a Man that is innocent; I leave it with you: *The Lord direct you.*

Then *Jenner* the *Recorder*, to aggravate the matter ſpoke thus; The *Treaſon* charged on the *Priſoner*, is of that ſort,

ſort, that if he be guilty; he will be a juſt example, to terrifie others from doing the like; for if Traytors had not perſons to ſupply them with Money abroad, it may be, *they would not have ſo much Courage to run away.*

We have ſatisfied you, that *Sr T. A.* was indicted, that an Exigent was gone againſt him, upon that account; here was a *Proclamation*, and *Sr T. A.* named in it; and ſo, at his rate of talking, the *Recorder* repeated the Evidence of the Witneſſes, and concluded.

Gentlemen, We think that his defence has been ſo little, and our proof ſo ſtrong, that you have good ground to find him Guilty.

The *Chief Juſtice*, then ſummed up the matter to the *Jury*, in a Speech of of a vaſt length, which was in ſubſtance this.

Gentlemen of the *Jury*, This is an *Indictment* of *high Treaſon*, againſt the *Priſoner* at the Bar; and you are to try it, according to your evidence; The *Priſoner's* affirmation of his innocence, is not to weigh with you. Nay,

I muſt tell you, I cannot, but upon this occaſion

occaſion, make a little Reflection upon ſeveral of the horrid *Conſpirators*, that did not only, with as much ſolemnity, imprecate Vengeance upon themſelves, if they were guilty of any Treaſon; but thought they did *God Almighty* good ſervice in that helliſh *Conſpiracy*: It is not unknown, one of the Perſons proſcribed in this *Proclamation*, did declare, they ſhould be ſo far from being eſteemed *Traytors*, That they ſhould have Trophies ſet up for them; and all this, under the pretence and enamel of *Religion*: Nay, I can cite to you, an inſtance of another of the *Conſpirators*, that after a full and evident proof, and plain Conviction, of having an hand in it, when he comes upon the Brink of Death, and was to anſwer for that horrid fact, before the great *God*, he bleſſed Almighty God, that he dyed by the hand of the *Executioner*, with the *Ax*, and did not dye by the *Fiery Tryal*: *He bleſſed* God, *at the place of Execution, that he dyed a* Traytor *againſt the* King *and* Government, *rather than dyed a* Martyr *for his* Religion.

I think it neceſſary to make ſome Reflection upon it, when Men under the pretence of *Religion*, are wound up to that heigth,

heigth, to foment Differences, to diſturb and diſtract the Government, to deſtroy the Foundations of it, to murder his ſacred *Majeſty*, and his *Royal Brother*; and to ſubvert our Religion, and Liberty and Property; and all this carried on, upon pretence of doing *God* good ſervice.

You are to go according to evidence; as the Blood of a Man is precious, ſo the *Government* alſo is a precious thing; the Life of the *King* is a precious thing; The preſervatiou of our *Religion* is a precious thing; and therefore, due regard muſt be had to all of them.

I muſt tell you, in this horrid *Conſpiracy*, there were ſeveral Perſons, that bore ſeveral parts; Some, that were to head and to conſult; *there was a* Council *to conſider*; Others were deſigned to to have a hand, in the perpetrating of that horrid Villany, that was intended upon the Perſons of his *Sacred Majeſty* and his *Royal Brother*, and with them, upon the Perſons of all his *Majeſties Loyal Subjects*, that acted with duty, as they ought to do; There were others, that were to be aiding and aſſiſting (as in the caſe of the *Priſoner*, if you find him guilty)

guilty) aiding, abetting, assisting by Money, or otherwise, or harbouring any of those Persons, that were concerned therein.

Then he recounted the Evidence given against the *Prisoner*, and made such Remarks upon the same, as he thought fit.

The *Jury* withdrew, and *spent two hours in consideration of the matter*; and then returning, gave their *Verdict* (to the disappointment and vexation of the *Chief Justice*, *Common Serjeant* and others) that the *Prisoner* was *Not Guilty*.

Mr *Attorney General* thereupon said, *My Lord*, tho' they have acquitted him, yet the Evidence was so strong, that I hope, your *Lordship* and the Court will think fit, to bind him to his good behaviour, during his Life.

The *Chief Justice* answer'd, *Mr Attorney*, that is not a proper Motion, at this time.

So the Prisoner *was discharged, after he had been imprisoned five Months.*

Tho' *Mr Hayes*, to the eternal Honour of some good Men, who were upon his *Jury*, came off with his Life; he was by this Prosecution, beaten out of as good

good and valuable a Trade, as most *Linnen Drapers* in *London* had; and was, by consequence, highly impaired in his Estate.

About the same time, Mr *Roswell*, a very worthy *Divine*, was tryed, for Treasonable Words in his Pulpit, upon the Accusation of very vile and lewd *Informers*; and a *Surry Jury* found him Guilty of *high Treason*, upon the the most villanous and improbable evidence, that had been ever given, notwithstanding *Sr John Talbot* (*no Countenancer of Dissenters*) had appeared with great generosity and honour, and testified, that the most material *Witness*, was as scandalous and infamous a Wretch as lived.

It was at that time given out, by those who thirsted for Blood, that Mr *Roswel* and Mr *Hayes* should dye together; and it was upon good ground believed, that the happy deliverance of Mr *Hayes*, did much contribute to the preservation of Mr *Roswel*; tho', it is very probable, that he had not escaped, had not *Sr John Talbot's* worthy, and most honourable detestation, of that accursed Villany; prompted him, to repair from the Court of *King's Bench*, to *King Charles* the second;

ſecond; and to make a faithful repreſentation of the Caſe to him; whereby, when *inhumane bloody Jeffryes*, came a little after, in a tranſport of Joy, to make his Report of the eminent ſervice he, and the *Surry Jury* had done, in finding Mr *Roſwel* guilty; the King (to his diſappointment) appeared under ſome reluctancy, and declared that Mr *Roſwell* ſhould not dye. And ſo he was moſt happily delivered; and being, by this remarkable Providence of *God*, ſtill alive; he would (at leaſt in my opinion) do a very uſeful and ſeaſonable piece of ſervice to this Age, and to thoſe which are to ſucceed; in publiſhing a full Account of the whole Proceedings againſt him.

Remarks

Remarks upon the Tryal of *Mr Charles Bateman*, at the *Old-Bayly*, Upon the 9th day of *December* 1685, before the *Lord Chief Juſtice Herbert*, &c.

IT was very well known that *Mr Bateman*, as a good *Citizen* & true *Engliſhman*, had conſtantly aſſerted and ſtood up for his native Rights & Priviledges; and by conſequence, he became obnoxious to thoſe, who had conſpired and reſolved the ruin thereof, and of the *Proteſtant Religion* with them.

It is an undoubted truth, that this worthy *Citizen's* ſeaſonable and neceſſary endeavour (with many others of eminent deſert) to withſtand the fatal Uſurpation of *Sr John Moore*, in impoſing *Sr Dudly North* and *Sr Peter Rich*, upon the *City* for *Sheriffs*, in the year 1682, did expoſe him to the implacable rage of the *Conſpirators*.

Our *Parliaments* and *Courts* of *Juſtice* had been for ſome years, moſt ſtrenuouſly attempting to extirpate the helliſh

 Popiſh

Popiſh Plot, and accurſed *Popery*; but there were then found Miſcreants, who ſet themſelves to run the Kingdom upon a wrong ſcent; and they never wanted a *Proteſtant Plot*, when it might cover and ſecret their own; and all wiſe men ſaw them ready to ſtart one, when *Sr John Moore* had conſtituted proper *Sheriffs*.

At that time the *Earl* of *Shafteſbury*, well knowing that his Innocence would not be able to guard him, againſt hired and ſuborned Raſcals, and *pack'd Juries*; and he remembring what baſe and villanous Arts had been uſed to deſtroy him; hisSagacity prompted him to put himſelf out of the reach of that implacable rage, which had ſo long purſued him; and in order to it, he concealed himſelf, for ſome time, in *Mr Bateman's* Houſe; and afterwards (till he retired into *Holland*) in the houſe of that worthy upright *Engliſh-man Captain Tracy*, in *Goodman's Fields*, whoſe Life was therefore threatned, and eminently endangered, but the divine Providence delivered him, after he had ſuffered a long and cloſe Impriſonment (in Irons) in *Newgate*, under the Tyranny of *Richardſon*.

Mr

Mr Bateman was alſo the Refuge of that eminent and well-deſerving *Citizen Sr Patience Ward*, whoſe innocence could not defend him againſt thoſe wrathful Enemies, with his undaunted appearance againſt *Popery*, had ſtirred up againſt him; He retired to *Mr Bateman's* Houſe, and was, by him concealed, until diſcovered by that *Blood-hound Atterbury*.

About that time (viz.) in *June*, 1683, the *Conſpirators* had brought *Keeling's Plot* upon the Stage; and thereupon, *Mr Bateman* was taken up by *Atterbury*, and carried before *King Charles* the ſecond, and there accuſed by * *Lee* the *Dyer*. The *King* had declared of that *infamous Varlet*, that if he were not checkt, he would ſwear all mankind into the *Plot*; Nevertheleſs, the *King* demanded of *Mr Bateman*, whether the *Earl* of *Shafteſbury* and *Sr Patience Ward*, did lodge at his Houſe; which *Mr Bateman* acknowledging; he was committed *Priſoner* to the *Marſhalſeas*, and there kept eighteen Weeks; and then, there being no Proſecution, he was diſcharged upon Bail.

* He ſwore many of his Neighbours into Priſons and Irons, tho' till now (*Rouſe* excepted) no man was ever tryed upon his Evidence.

At the time of the *Duke* of *Monmouth's* Landing, not only the *Prisons* about *London*, but the *Halls* of many of the *City Companies*, were filled *by the then Lieutenancy*, with the best *Citizens*; under the imputation of being *Trayterously affected*, or *Enemies to the Government*; without any manner of accusation; and amongst them, *Mr Bateman* was imprisoned in *Cloth-workers-Hall*; but, being discharged from thence; in a short time afterwards, *Atterbury* (*who in that day took up whom he pleased*) fetched him from his House at *Highgate*, and kept him some time Prisoner in his own House (which he made a Goal, as long as Men would feed his Avarice) and then delivered him over to *Richardson*, by whom he was kept in a close Room, (with the Windows boarded up, sixteen or seventeen Weeks, before he was brought to Tryal.

That Mr *Bateman*, was a Person of very good sense and understanding, will not be denyed, by any Man to whom he was known, but by the rigour, severity and inhumane usage, wherewith he was treated, during his long Imprisonment; It was found, at the time of his Tryal to

be very much shattered in his understanding, and very uncapable of making a defence; and that defence which he made, was by the assistance of his Son, a very young Man, of about twenty years of age.

The Jury returned and sworn to pass upon him were,

Richard Aley,	*Edward Rhedish*,
Richard Williams,	*George Lilburne*,
John Cannum,	*Daniel Fowles*,
Patrick Barret,	*Peter Floyer*,
John Palmer,	*Laurence Cole*,
James Raynor,	*John Cooper*.

Mr *Phips* opened the *Indictment*, to this effect, (viz.) That the *Prisoner*, the 30th of *May* 1683, trayterously, with other *Rebels*, conspired to depose and kill the *King*, and to change and subvert the *Government*; and did promise and undertake to be assisting and aiding, in the apprehending the *King*, and in taking and seizing the *City* of *London*, and the *Tower*; the *Savoy* and *Whitehall*.

Then *Serjeant Selby* and *Mr Maloy*, aggravated the charge in the *Indictment*, And,

Josia Keeling witnessed, that *Rumbold* * said he had a House, very convenient to plant Men in, to seize the *King*; and that *he had heard it discoursed*, that *Mr Bateman* was lookt upon, as a Person fitting to manage one *Division*, in order to an *Insurrection*, to seize the *Tower*, &c.

* Note, all this is hear-say, and no manner of Evidence against the Prisoner. *Keeling* had heard it discoursed, but for ought appears, it might be by Secretary *Jenkins*, for he named no Body.

Tho. Lee the *Dyer*, testified, that, he being acquainted by *Goodenough*, how the *City* was to be divided into twenty parts, and managed; he the said *Lee*, nominated *Mr Bateman*, as a fit Man, to manage one part; and thereupon, he was desired by *Goodenough*, to speak with him about it; and that when he discoursed him, he plainly apprehended *Mr Bateman* was no stranger to it, nor boggled to give his consent.

This *Lee* at the same time, that he swore against Mr *Bateman*, also offered to swear Treason against a Person with whom, (to my certain knowledge) he never exchanged one word in his Life, and who never was in company with him, nor otherwise seem by *Lee*, than at a considerable distance, in a Coffee-house.

That he went with Mr *Bateman* to the *Duke* of *Monmouth*'s House; and after he had had some discourse with one of the *Duke's Servants*; he came to him, and told him, the *Duke* was willing *to engage in the business*; and had Horses kept in the Country, to be in readiness, when matters should come to extremity.

That he the said *Lee* and *Mr B.* went to the *Devil-Tavern*; and there *Mr B.* proposed the seizing the *City*, *Tower*, *Savoy* and *Whitehall*, and *the King's Person*; And that *Mr B.* told him, at the *Half-Moon-Tavern* in *Aldersgate-street*, that if he could but see a Cloud as big as a Mans hand, he would not be wanting to employ his Interest.

That *Mr Bateman* had told him, that he intended to take an House near the *Tower*, to place Men in, in order to surprize it.

Just as likely a story as that of *Colledge's* Plot, in his single person, to seize the King at *Oxford*.

Mr Bateman objected to this evidence, that if he had been guilty of such discourse, he had been fit for *Bedlam*; and if *Lee* had heard him speak such words, he wondered he had not sooner accused him.

Richard Goodenough then witneſſed, that in diſcourſe with *Mr B.* at the *King's Head*-Tavern in *Swithens Alley*, about the intended *Inſurrection*, *M. B.* promiſed to uſe his intereſt in raiſing Men; and to be aſſiſting in ſurprizing the *City*, *Savoy*, *&c.* and in driving the *Guards* out of Town.

Mr Bateman having ſubpenaed *Sr William Turner*, to give an Account of an *Information*, given in upon Oath before him; by one *Barker*, above two Years before; that *Lee* would have ſuborned him againſt the *Priſoner*; *Sr William* would teſtifie nothing thereof, but ſaid, that it being above two Years ſince, he could not charge his memory, with any of the particulars contained therein.

Mr Tomkins, Sr *William Turner*'s *Clerk*, being askt about *Baker*'s *Information*, ſaid, there was ſuch an Examination taken, *Anno* 1683; but, to the beſt of his remembrance, it was returned before the *King* and *Council*; and he could not give any account of the particulars.

Baker being called, declared, That being in *Lee's* company, in the year 1683, *Lee* would have perſwaded him, to inſinuate himſelf into *Mr Bateman's* company

company; and he demanding of *Lee*, to what end he ſhould do it, and about what he ſhould diſcourſe; *Lee* told him, he might talk *about State matters, and by that means he would find a way to make him a great Man*, and *Baker* teſtifi'd, he was examin'd about this, before *Sr William T.*

Lee, by theſe horrid practices, made himſelf a great Man, being put into the place of a Meſſenger, which he enjoyed till of late, tho' ſome time before he became a Witneſs, he borrowed Money to buy Bread for his Family.

The *Court*, upon this Evidence, declared, that what *Baker* ſaid, was nothing to the purpoſe, but that *Lee* had a deſign therein, to make a diſcovery of the *Conſpiracy*, if he could have procured a Witneſs to corroborate his Evidence.

A wicked, but cuſtomary practice of that day, to abet and juſtifie Suborners and Trapans.

The *Jury* being ſent out, without Heſitation, brought *Mr Bateman* in guilty of the *Treaſon*, (tho' 'tis certain King *Charles* laught at *Lee*'s evidence.)

It being demanded of *Mr B.* what he had to ſay, why *Judgment* ſhould not be pronounced; He deſired to know whether *Mr Goodenough* was fully pardoned; and he was anſwered, that as for the

Out-

Outlawry, he was pardoned; and for any thing elſe, he was not proſecuted; and then, he was condemned, and was executed upon the 18th of *December*, 1685.

That the matter relating to *Sr William Turner*, may appear in it its true Light; I ſhall ſubjoyn the following accompt thereof.

Mr *Bateman's Son*, having (as he thought) very providentially heard, that *Baker* had, about two Years before, given an *Information*, upon Oath, to *Sr William Turner*, of the *Villain Lee's* tampering with him, to enſnare and accuſe *Mr Bateman*; The *Son* was adviſed by *Counſel*, to apply himſelf to *Sr William*; and in ſeveral attendances upon him, when he was engaged in other matters, and his Books of Entries lay upon his Table; he turning over the Leaves, found the Entry of *Baker's Information*, about *Lee's* attempting to ſuborn him, againſt Mr *Bateman*.

The *Son* thereupon, in the firſt place, applied to *Tomkins*, Sr *William's Clerk*, to get a Copy of that *Information*; and did once think him inclined to let him have it; but at laſt, he told him he muſt ask *Sr William*: Thereupon he applied himſelf

ſelf to *Sr William* for it, who demanded of him, *Whether it were againſt the King*; and *young Mr Bateman* anſwered him, *No*; *it may ſave the Life of one of his Subjects*; whereupon *Sr William* ſaid, *You ſhall not have it.*

The only Refuge then was, to ſubpena *Sr William Turner*, and his *Clerk*; which was done; and *Sr William* being examined, & ſaying, he could not charge his Memory with any of the particulars in the Information of *Baker*; young *Mr Bateman* ſaid, Let the Book be ſent for, it is in ſuch a Book, and ſuch a Page.

Whereupon, *Herbert* the *Chief Juſtice* in a paſſion, commanded young Mr *Bateman* to be removed out of the Court, as he was.

If the truth of what is here related, in reference to *Sr William Turner*, be any way doubted, it will evidently, and beyond controul appear, by the Proceedings before the *Houſe of Lords*, where it hath been very lately made out, by *Mr Bateman's Son*, and alſo by another Witneſs, who was privy to the whole tranſaction thereof, with *Sr William Turner*.

Mr *Bateman* being thus condemned to Death, by the foregoing wicked Practices;

ces; expreſſed himſelf thus to his Son, *Richard, Your Father needs not to dye, if he will accuſe others, but he dyes becauſe he will not be a Rogue.* And 'twas moſt undoubtedly true, as 'tis, that a greater Rogue lives not, than this *Lee*, (Mr *Bateman's* firſt Accuſer) who having miſcarried in his curſed Attempt to ſuborn *Baker*, is now ſeconded by *Goodenough*, who was brought with a *Halter* (in effect) about his Neck, to ſwear this good Man out of his Life.

In relation to the Witneſſes and their Evidence, ſome things deſerve to be further remarked.

The late *King James* had no ſooner poſſeſſed himſelf of the Throne, but by his order, and ſpecial recommendation, a moſt malitious Tract was emitted to the World, under the Title of *A true Account and Declaration of the horrid Conſpiracy againſt the late* King, *his preſent* Majeſty, *and the* Government; The temporizing *Pen-man* (who ever he was) ſhewed more Art than Honeſty, in compiling that Hiſtory, and omitted nothing therein, which might ſerve the turn of *Popery*; but moſt wickedly magnified the

the Evidence of the *Conſpiracy* he treated of. His looſe and virulent Pen runs thus, as to *Keeling*, one of the Witneſſes in the caſe before us;

Joſia Keeling (*a moſt perverſe Fanatick*) *was the Man whom God choſe to make the firſt diſcoverer; It pleaſed the divine Goodneſs ſo to touch his Soul, that he could not reſt till after much conflict in his mind, he had fully determined to diſcharge his Conſcience of the Helliſh Secret.*

Now the truth of it is, *Keeling* was found, about that time, to be under ſome Conflict; but it was with *Satan* and his *Inſtruments*; who quickly vanquiſhed and made him a Witneſs; as hath been lately made out beyond contradiction; by the Teſtimony of many unblemiſhed Perſons, before the *Houſe* of *Lords* (of which more in it is proper place) he had indeed before that time, frequented an Aſſembly of *Chriſtians*, who diſſented from the *Church* of *England*; but being thrown out (*as a perverſe Fanatick*) he made his way by a Profligate Fellow, like himſelf, one *Peckham*; to Sr *Leoline Jenkins* the Secretary of State, who liſted him of his *Church*, and the firſt in his Roll of *Witneſſes*; and ſince he became ſo,

'tis

'tis notoriously known, that he hath given up himself to all manner of Vices, and is a prophane lewd *debauchee*.

This *Keeling* is brought in as the first Witness against *Mr Bateman*; tho' his Evidence, touch'd him no more in Law, than it did every of the Jury-men; and it is remarkable, that in the four Informations, which he at several times gave in to *Jenkins*, Mr *Bateman* is not so much as once named, and yet we here find *Keeling* a witness against him.

Page 1. &c. of the true Account, &c.

The fore-mentioned bitter and malitious History doth likewise present us at large, (as it did *Keeling*'s) with the Information of *Lee* the *dyer*, against *Mr Bateman*; therein *Lee* swears, that he told *Mr B.* a story he had from *Goodenough*, of our Rights and Priviledges being invaded; and that some *Gentlemen* had taken into consideration, how to retrive them, *&c.* That *Mr Bateman* thereupon told him, he must have a care, and speak at a great distance; that he was willing to assist, *if he could see but a Cloud as big as a Man's hand*; And that *Mr B.* told him, that the *Duke* of *Monmouth*

Page 34. of the true Account, &c.

mouth told him the said *Mr B. that he was glad that he came acquainted with those* Protestant Lords; and that *Mr B.* assured *Lee*, that the *Duke was very right for the* Protestant Interest; *and that we need not mistrust him*; And *Lee* added, in that *Information*, *That* Goodenough *told him, that they must seize the Tower, and take the City, and secure the* Savoy *and* Whitehall, *and the King and the Duke.*

The Case, as to poor *Mr Bateman*, was much altered, between the time of *Lee*'s giving the foregoing Information, and this Tryal; for at first, the *managers* were for hanging *Goodenough*, (of whom, the Author of *the True Account*, pag. 55. saith, that he, with monstrous Impiety, maintained and recommended the Murder of the King and the Duke, as a pious design, and a keeping of one of the ten Commandments, and the best way to prevent shedding *Christian* Blood) rather than *Bateman*; and to that end, *Lee's* main force was then bent against *Goodenough*; but now, it being found, that *Goodenough* (and the City-*Juries* of that day) could hang Alderman *Cornish* and *Bateman* (and also Sr *Robert Peyton* could they have catcht him) the story,

of

of a Cloud as big as a man's Hand, is expatiated, and breaks in a dreadful ſtorm upon Mr *B.* That, of the *Duke* of *Monmouth's* being right for the *Proteſtant Intereſt*, is now mightily improved; and *Bateman* made to have ſaid, *The* Duke *would engage in the buſineſs, and had Horſes in readineſs*, &c. And, that he the ſaid *Bateman, would take an Houſe near the* Tower, *in order to ſurprize it*, &c.

As matters were at firſt concerted, the Evidence ran thus, *Goodenough* told *Lee, that they muſt ſeize and ſecure the* Tower, *the* City, *the* Savoy, Whitehall; *the* King *and the* Duke; Now *Lee* ſwears (and *Goodenough* backs him in it) that all this diſcourſe of ſeizing and ſecuring, *&c.* proceeded from Mr *Bateman*.

To conclude, the whole was a helliſh Contrivance to deſtroy the moſt valuable men of the Age, and with them the *Proteſtant Religion*; and the wicked *Hiſtory* I have mentioned, is a lying & moſt malitious *Libel*, upon the great and noble Names and Families of the *D.* of *Monmouth*, the *Earls* of *Bedford*, *Leiceſter*, *Eſſex*, *Shafteſbury*, *Argyle*, and others; and alſo upon the preſent learn'd *Biſhop* of *Salisbury*; and therefore, ſeeing that *Author* doth

doth not unwrite it, 'tis pitty that 'tis not condemned to be burnt by the hands of the *Common-Hangman*; And ſhould it receive that deſerved Sentence, the *Executioner* is hereby advertiſed, that he may find the Book in Cuſtody (unleſs eſcaped ſince the *Prince* of *Orange's* Landing) and alſo in Irons; it being affixed, (very fairly bound) with a Chain (*not far from Newgate*) at *Sadlers Hall*; with an Inſcription on the Title Page, *The Gift of* Mr Nott *of the* Pall Mall.

Remarks upon the Tryal of the Right Honourable *Henry Lord Delamere*, upon the 14th Day of *January* 1685. Before the *Lord Jeffryes*, Lord High *Steward* on that occaſion.

SOon after the defeat of the *Duke* of *Monmouth*, in the Year 1685, a *Proclamation* was iſſued, requiring my *Lord Delamere* to render himſelf, which his *Lordſhip* accordingly did; and upon the 26th of *July* 1685, the *Earl* of *Sunderland*,

derland, *Secretary* of *State*, committed him to the Tower for *high Treaſon*.

The *Parliament* ſitting in *November* following, the Houſe of *Lords* began to enquire into his *Lordſhip's* caſe, but were quickly after prorogued to the 10th of *February* following, and never ſate more.

The *County Palatine* of *Cheſter*, did, at that time, furniſh the *Conſpirators* with as good *Juries*, as could be pack'd in the *City* of *London*, by *Sr John Moore's Sheriffs*; as is well known to the right honourable the *Earl* of *Macclesfield*, my *Lord Delamere*, *Sr Robert Cotton*, and many other eminently deſerving *Patriots* of *Cheſhire*.

Thither, was a *Commiſſion* of *Oyer* and *Terminer* ſpeeded, and an *Indictment* was preferred againſt his *Lordſhip*, before Sr *Edward Lutwich*, Chief Juſtice of *Cheſter*, and the Bill was readily found againſt him, by a well prepared and inſtructed *Grand-Jury*. Thereupon his *Lordſhip* was brought to *Tryal*, before the *Lord Jeffryes*, *High Steward*, and the following Peers (*viz.*)

Laurence, Earl of *Rochester*, *Lord high Treaſurer of England*.

Robert

Robert, Earl of *Sunderland*, *Lord Preſidente of the Council*.
Henry, Duke of *Norfolk*, *Earl Marſhal of England*.
James, Duke of *Ormond*, *Lord Steward of the Houſhold*.
Charles, Duke of *Somerſet*.
Chriſtopher, Duke of *Albemarle*.
Henry, Duke of *Grafton*.
Henry, Duke of *Beaufort*, *Lord Preſidente of Wales*.
John, Earl of *Mulgrave*, *Lord Chamberlain of the Houſhold*.
Aubery, Earl of *Oxford*.
Charles, Earl of *Shrewsbury*.
Theophilus, E. of *Huntington*.
Thomas, E. of *Pembrooke*.
John, E. of *Bridgewater*.
Henry, E. of *Peterborow*.
Robert, E. of *Scarſdale*.
William E. of *Craven*.
Richard, E. of *Burlington*.
Lovis E. of *Feverſham*.
George, E. of *Berkley*.
Daniel, E. of *Nottingham*.
Thomas, E. of *Plymouth*.
Thomas Viſcount *Fanconberg*.
Francis Viſcount *Newport*, *Treaſurer of the Houſhold*.

Robert

Robert, Lord *Ferrers*.
Vere Eſſex, Lord *Cromwell*.
William, Lord *Maynard*, *Comptroller of the Houſhold*.
George, Lord *Dartmouth*, *Maſter General of the Ordnance*.
Sidney, Lord *Godolphin*.
John, Lord *Churchill*.

Who being called over, and appearing, the *High Steward* began thus;

My *Lord Delamere*, you ſtand indicted of *High Treaſon*, by a Bill found againſt you, by *Gentlemen* of *great Quality* and *known Integrity*, within the County Palatine of *Cheſter*, the place of your reſidence, and the *King* has thought it neceſſary, to order you a ſpeedy *Tryal*.

My Lord, if you know your ſelf innocent, do not deſpond, *For you may be aſſured of a fair and patient hearing*; and a free liberty to make your full defence.

A Complement which *Jeffryes* never put upon any Man before.

He then ordered the *Indictment* to be read, which was to this effect, (*viz.*)

That my *Lord D.* as a *Traytor* againſt *King James* the ſecond, the 14th of *April* laſt, conſpired, with other *Traytors*, *the depoſing and death of the* King, *and did*

trayterouſly aſſemble, conſult and agree with the Lord Brandon *and other* Traytors, *to raiſe Money, and procure* Armed Men, *to make a* Rebellion, *and to ſeize the* City *and* Caſtle *of* Cheſter, *with the* Magazines; *and that upon the 27th of* May, *he took a Journey from* London, *to* Mere, *to accompliſh his Treaſonable intentions*; *and that upon the 4th of* June, *he incited divers to joyn with him in his* Treaſon.

To this *Indictment* his Lordſhip pleaded *Not Guilty*.

Jeffryes then addreſſed himſelf to the *Lords*, to this effect; *That their* Lordſhips *could not but remember the inſolent Attempts made upon the unalterable* Succeſſion *to the* Crown, *under the ſpetious pretence of* Religion, *by the fierce, froward and Fanatical Zeal of ſome of the* Commons, which had been often found the occaſion of *Rebellion*.

Note, my Lord *Delamere* was at that time in the Houſe of Commons, and a great Promoter of the Bill of Exluſion.

That, that not prevailing, the *Chief Contrivers* of that horrid *Villany*, conſulted how to gain the advantage by open force; and in order thereto, had ſeveral Treaſonable Meetings, *made bold and*

 riotous

riotous * *Progresses in several parts of the* Kingdom, to debauch the minds of the well-meaning, tho' unwary part of the *King's Subjects*.

* The Duke of *Monmouth's* progress into *Cheshire* & the West.

That *God* frustrated their evil purposes, by bringing to Light that *cursed Conspiracy*, against the Life of the late *King* and his present *Majesty*.

That one would have thought, these *hellish* and *damnable Plots*, could not have survived the just Condemnation and Execution of some of the † *Chief Contrivers* of them; especially considering, that no sooner the present *King* was seated in his *Throne*, but he endeavoured to convince the world, *that he had quite forgot those impudent and abominable Indignities, that had been put upon him, only for being the best of* Subjects, *and best of* Brothers; *and also gave the most benign Assurances imaginable, that he would approve himself the best of* Kings.

† Innuendo, Lord *Russel*, Col. *Sidney*, &c.

And, to evince the reality of his gracious Resolutions, *he called a* Parliament, *and there repeated, and solemnly confirmed, his*

his former Royal Declarations, *of having a particular care of maintaining our* Established Laws *and* Religion.

And yet, at that Juncture, that wicked and unnatural *Rebellion* broke out; and thereupon, the *Arch-Traytor Monmouth*, was, by a Bill brought in the *lower House*, and passed by the general consent in both Houses, *and I could wish, my Lords, for the sake of that* Noble Lord *at the Bar, that I could say, it had passed with the consent of every particular* * *Member of each House*) justly attainted of *High Treason*.

* The Lords are here told, that my Lord *Delamere* opposed the Bill to attaint the D. of *Monmouth*.

After this harangue, he concluded thus, *My Lords*, what share *my Lord* at the Bar had in those other matters, I must acquaint you, is not within the compass of this Indictment, for which you are to try him; for that is a *Treason*, alledged to have been committed, in the present *King's* Reign.

To what end then, was this malitious Tale told?

Then *Sr Tho. Jenner*, the *Recorder* of *London* opened the *Indictment*.

The *Attorney General* then aggravated the Charge, saying; We crave leave to give a short Account of a former * *design*;——*Cheshire*, the Province of this *Noble Lord*, was one of the Stages, where that *Rebellion* was principally to be acted; and preparatory to it, *great Riotous Assemblies and Tumultuous Gatherings of the People*, were set on foot by the *Conspirators*.

* The Plot in 1683.

We shall prove, that a little before the *Rebels* came over, this last *Summer*, the *Duke* of *Monmouth* dispatched one *Jones* into *England*, to let his Friends know, that tho' he had intended to go into *Scotland*, and begin there, he was resolved for *England*; with this he was to acquaint some *Lords*, particularly the *Prisoner*; And also to acquaint them, that they should have notice four or five days before, of the place of his Landing, and that then the *Lords* should repaire immediately into *Cheshire*, there to wait for the News.

We shall give you an account, that the late *Duke* of *Monmouth* lookt upon *Cheshire* as one of his main supports; and upon my *Lord Delamere*, as a principal *Assistant* there. *Jones*

Jones was to communicate his Message to *Captain Mathews*, who was to transmit it to this *Lord*, and those concerned with him; *Jones* arrived upon the 27th of *May*, but *Mathews*, (nor *Major Wildman*, to whom he was to apply, in the absence of *Mathews*) was not to be found; Thereupon he sends for one *Disney*, since executed for *Treason*, and one *Brand*, whom your *Lordships* will hear of; and communicates his Message to them, and they undertake to deliver it to the Persons concerned.

That very night, *My Lord*, this same *Brand* & *Disney* met this *Noble Lord*, and *give him an account of the Message*; and as soon as ever he received it, upon the 27th of *May*, at ten at Night, my Lord dispatches out of *Town*, with only one Servant, and two other Friends that he had *pick'd up*.

With all these Badges of Plot and Design, does my *Lord Delamere* set out, the same night *Jones* came to Town; he chose to go all the By-Roads, and went with great speed, to repair into *Cheshire*, by the name of *Brown*, by which he was known among all his own Party; by that name, several of the late *Duke* of *Monmouth's*

Monmouth's Trayterous Declarations, were ſent for, to be ſent to him, or by him into *Cheſhire*.

When he comes into *Cheſhire*, he actually ſets about the work, to put that County in a forwardneſs, to aſſiſt in the *Rebellion*; endeavours to ſtir up the People to joyn with him; *and acquaints one that he employed in that Affair, that he was engaged to raiſe ſo many Thouſand Men, and ſo much Money to be ready by ſuch a day.*

This means the impudent, but *ridiculous ſtory* of *Saxon*, which could never obtain upon any, but the Credulous Proſecutors of this Noble Lord, who were diſpoſed to believe any thing.

My Lords, *We ſhall plainly ſhew you all this in plain proof.*

Then Mr *Attorney* called their old *Drudge* at ſwearing, my Lord *H.* of *E.* and demanded of him, his oft repeated Hiſtory, of a deſign of an *Inſurrection*, that was to have been, in the late *King's* time, and what ſhare *Cheſhire* was to have in it?

The *Lord H.* told his thrid-bare hiſtory of the *Plot*, in 1682, and 1683; but not a word of *Cheſhire*; and ſaid, that he knew nothing concerning my *Lord Delamere*. The

The Lord *Grey* was then called, and ſaid, That about the time of the conteſted Election of Sheriffs, The *Duke* of *Monmouth* and *Earl* of *Shaftesbury*, reſolved, that they would make what intereſt they could, to procure a *Riſing* in three ſeveral parts of the *Kingdom* at once; one in *Cheſhire*, whether the *Duke* of *Monmouth* was to betake himſelf, and *there to be adviſed by my* Lord Macclesfield, *my* Lord Brandon, *my* Lord Delamere *that then was, and the* Priſoner; what *Gentlemen* to apply to, for joyning in the *Deſign*; The ſecond was in *London*, which was aſſigned to be the *Province* of my Lord *Shaftesbury*; and the third in the *Weſt*, under the care of my Lord *Ruſſell*, and that the *Duke* accordingly, went his *Progreſs* into *Cheſhire*.

That ſoon after Mr *Crag* came over to *Holland*, (as I was informed) from *Major Wildman*, and gave an account that Men and Money were prepared; thereupon, the *Duke* ſent over *Captain Mathews*, to *Major Wildman*, to deſire him to meet with my Lord *Macclesfield*, Lord *Brandon*, Lord *Delamere*, and I think Mr *Charleton*; and acquaint them, that he had ordered his own Affairs, to

joyn

joyn with the *Earl* of *Argyle*.

He likwiſe ſent *Crag* with a Meſſage to the ſame purpoſe, to other Friends in *London*; and he diſpatched away one *Battiſcomb*, into the *Weſt*, to prepare things there.

When *Crag* returned to the *Duke*, he gave him an account, that *Major Wildman* had procured a Meeting with thoſe *Lords* and *Gentlemen*, who were all of opinion, that the *Duke* ſhould go for *Scotland*; That *Crag* ſaid the *Priſoner* was there. There was alſo a particular Meſſage from Major *Wildman* to the *Duke*, that he deſired, he would bring over with him a *Broad-Seal*, to ſeal *Commiſſions* with; *And would take upon him the Title of King*——

Jones came ſome time after *Crag* returned, and gave an account of other things, conformable to what *Crag* had ſaid, and was ſent again to *England* by the *Duke*, to give an account that he was ready to Sail, and would land by that time he could get thither.

The *Attorney General* demanded of the Lord *Grey*, upon whoſe aſſiſtance the *Duke* of *Monmouth* relied.

He anſwered, I ſuppoſe few will believe

lieve we were ſo weary of our Lives, as to come and throw them away with threeſcore, or a few more, Men; except we had expectation of good Aſſiſtance——The *Duke* did very much depend upon *Cheſhire*, and upon my Lord *Macclesfield*, my Lord *Brandon*, and my Lord *Delamere*.

Mr *Nathaniel Wade* being ſworn, teſtified, that after the death of *King Charles*, *Captain Mathews* came to *Amſterdam*, and brought word that the *Duke* of *Monmouth* would ſhortly come thither, to conſult with my Lord *Argyle*; and thereupon Mr *Wade* was ſent into *Freezland*, to deſire the *Earl* of *Argyle* to come to *Amſterdam*, which he did.

That the *Duke* and his *Lordſhip*, having concerted matters, the *Duke* ſent *Captain Mathews*, to *England*; who amongſt other things, was to go to the *Duke's* Friends in *Cheſhire*, amongſt whom my Lord *Delamere* was named; and the buſineſs was, to deſire them to aſſiſt him when he ſhould land.

That a little after *Captain Mathews* went, *Crag* came over from *Major Wildman*, to deſire them to endeavour a good underſtanding between the *Duke* and *Argyle*,

Argyle, who were then at ſome difference; That a little after, he was ſent back to Major *Wildman*, *to deſire him to aſſiſt them with ſome Money*; and he went and returned, but *brought no Money*; that thereupon, *Crag* was ſent again by the *Duke*; becauſe he did not ſend him at firſt; the ſumm demanded was 6000 *l.* or 4000 *l.* and *at laſt he ſent for* 1000 *l.*

That *Crag* returned with anſwer, *that they could not aſſiſt them with Money*, for that they did not know, to what end they ſhould have Money, but to buy Arms, and for that the People were well provided already. Whereupon the *Duke* ſent *Crag*, and *pawned all his Jewels*, and fitted out three *Ships*, laden with Ammunition; and reſolved to go for *England*, having ſo promiſed the *Earl* of *Argyle*; and deſired (by Mr *Crag*) that ſince the *Lords* and *Gentlemen* who were to aſſiſt him, had ſent no Money; they ſhould repair into their own Countries, to be ready when he ſhould come.

That after the *Duke Landed*, he ſo ordered his *March*, as moſt conveniently to meet his *Cheſhire Friends*; and in purſuance of it, They came to *Keinſham-Bridge*, where a Party of the *King's Horſe*

Horſe ſet upon them, and the *Duke's* Party took ſome Priſoners; but went not over the *Bridge*, thinking it adviſable, not to let the *King's Army* joyn, but to go back and engage thoſe that were come together.

That before *Crag's* going laſt away, *Jones* came over, to know why *We* ſtay'd ſo long; and he was diſpatched to acquaint them, the *Duke* was coming; and was directed to *Major Wildman*; and amongſt the reſt, to my Lord *Delamere*, my Lord *Macclesfield*, and my Lord *Brandon*, to raiſe what Forces they could to aſſiſt him.

My Lord *Delamere* then declared, that he had never ſeen Mr *Wade's* face.

Then *Richard Goodenough* witneſſed, That Mr *Jones* was ſent to my Lord *Delamere*, to give him notice to be ready againſt the *Duke's* Landing; and to take care to ſecure himſelf, that he might not be ſeized in Town.

That they were informed in *Holland*, that my Lord *Delamere* was one of the Lords, that had *promiſed to draw his Sword in the Duke's behalf*; and that the *Duke* told him, that he hoped my Lord *Delamere* would not break his promiſe with him.

The

The *High Steward* ſaid, My Lord *Delamere*, will you ask him any Queſtions?

My Lord *Delamere* anſwer'd, *No my Lord, I never ſaw his face before.*

The *High Steward* replyed, That is pretty ſtrange, ſo famous an Under-Sheriff of *London* and *Middleſex*, as he was.

Mr *Jones* being next ſworn, teſtified, That he went to *Holland* (where he had buſineſs) about the latter end of *April* laſt.

That Mr *Diſney* had darkly communicated to him, that there were intentions of doing ſomething; and deſiring to know more of the Deſign, the night before he went, he acquainted *Diſney* with his intended Journey, and that he intended to ſee the *Duke* of *Monmouth*, and if he had any Meſſage to him, he would deliver it ſafely.

That Mr *Diſney* told him all the Meſſage he ſhould deliver, was, To deſire the *Duke* to keep to the laſt concluſion, which he would find in a Letter, that had been ſent to him, by the *Crop-hair'd Merchant*; which Meſſage was, That the *Duke's* Friends, would not by any means have him come for *England*, but to

to continue where he was; or if he thought fit to go for *Scotland* they approved it.

That when *Jones* came to the *Duke*, and delivered the Meſſage, he was in a great Paſſion, and reflected very much on *Major Wildman*, and ſaid, 'twas too late to ſend ſuch a Meſſage now, for he was reſolved to come for *England*, and would make *Wildman Hang with him, or Fight for it*, with him; That *Wildman* did think by tying his own Purſe, to tye his Hands, but he ſhould find it ſhould not be ſo.

That the *Duke* told him, Money was very ſhort, *and he had pawned all he had, to raiſe what Money was raiſed*; That he would be glad *Jones* ſhould return to *England*, as ſoon as he could; and that he ſhould tell *Wildman*, that he would come for *England*, and he ſhould either Fight with him, or Hang with him; and that was all he had to ſay to him.

That going again to the *Duke*, the ſame evening, he told him he would have him ſtay till Tueſday morning; That then (the *Duke* being gone out of Town) the Lord *Grey* told *Jones* from the *Duke*; That he intended to be in

England within nine days; and bid him remember to tell *Brand*, *that when he heard the* Duke *was Landed, he ſhould acquaint* Sr Robert Peyton *with it, but not till he was Landed.*

That *Jones*, miſſing paſſage to *England* from *Roterdam*, he returned to *Amſterdam*, and went to the *Duke*, and told him the reaſon why he was not gone; and the *Duke* ſaid he was glad he was not gone, for he had a further Meſſage, and would have him ſtay two or three days.

That upon the 21ſt of *May*, the *Duke* ordered him to come to him in the Evening, and when he came, the *Duke* took a Paper that lay upon the Table, and ſealed it, and told him, that when he came to *London*, he muſt ſee for *Captain Mathews*, and deſire him to acquaint my Lord *Macclesfield*, my Lord *Brandon*, and my Lord *Delamere*, that he was reſolved to ſet out the next *Saturday* morning.

That the *Duke* then ſaid, that *Mathews* was to ſend one Poſt to that place that was named in the Note, to receive Intelligence of his Landing; and that News he deſigned, ſhould be brought to his Friends here, 24 hours before the

the Court had notice of it; and thoſe *Lords* were to be in readineſs, and as ſoon as they knew he was Landed, they were to repair to their Poſts to aſſiſt him.

That *Jones* askt the *Duke*, what he was to do with the Paper, who ſaid, I do by you, as *Princes* do by their *Admirals*, they have their Commiſſions ſealed up, and not to open them till at Sea; ſo I deliver your Inſtructions ſealed up, which you are not to open till you are at Sea; and when you have opened and read what is contained in them, I would have you tear the Paper, and throw it into the Sea, leaſt you be ſurprized and ſearched at your Landing; And that the *Duke* ordered him, that if he miſſed of *Captain Mathews*, he ſhould deliver the Meſſage to Major *Wildman*.

That the Inſtructions in the Paper were to this effect, (*viz.*)

Taunton *is the place to which all are to reſort, The Perſons to be acquainted with the time of Landing are the* Lord Macclesfield, *the* Lord Brandon, *and the* Lord Delamere. *The place to ſend the Coach to, is to* Mr Savage's, *the* Red Lyon; *The Poſt is to return to* Captain Mathews, *or as he ſhall appoint.*

Jones added, that he came home the 27th of *May*, (the *Wednesday* forthnight before the *Duke* Landed) and *Disney* came immediately to him, and told him, that Captain *Mathews* and Major *Wildman* were both out of Town; whereupon he delivered the Message to *Disney*, and left it to him to convey it to the *Lords* concerned.

That *Disney* met him the same night in *Smithfield*, with Mr *Crag*, Mr *Liste*, and Mr *Brand*; and *Disney* took *Jones* and *Brand* aside, and askt *Jones*, what was the place to which the Post was to go.

That *Jones* met the *Duke* at *Lyme*, and told him what he had done with the Message, who said he was satisfied he had done what he could, but seemed troubled that *Mathews* was out of Town.

It being demanded of my Lord *Delamere*, whether he would ask *Jones* any Questions, his Lordship answered, No, I never saw his face before.

Mr *Story* (the *Duke* of *Monmouth*'s *Commissary General*) testified, that Mr *Brand* (*who lived about* Bishopsgate, *and was killed at* Keinsham Bridge) told him, upon the 28*th* of *May* last; that Mr *Jones* was returned from *Holland*, and brought a

a Message from the *Duke*, *and that he the said* Brand *was to go to* Taunton, *to expect, from* Mr Dare *or* Mr Williams, *the account of the Duke's Landing.*

That *Brand* told him, that *Jones* his Message was delivered to *Disney*, who went and had some discourse with my Lord *Delamere*, and that that night, his Lordship went out of Town, and two Friends of Mr *Brand*'s went with him, and conveyed him by a By-way, through *Enfield-Chase*, towards *Hatfield.*

That *Story* went out of Town, the 28*th* of *may*, and overtook *Brand* that night; That he heard the *Duke* of *Monmouth* say at *Shepton-mallet*, *that his great dependance was upon my* Lord Delamere *& his Friends in* Cheshire; but he was afraid they had failed him; and he said, he could have been supplied otherwise, but that he had a dependance upon them.

My Lord *Delamere* then demanded of *Story*, whether he knew one *Thomas Saxon.*

Mr *Story* answered, yes, my Lord, I was a Prisoner with him in *Dorchester Prison.*

The *Attorney General*, then called *Vaux*, and said, My *Lord*, this is an un-

 willing

willing Witneſs, and we are forced to pump all out of him by Queſtions. And then demanded of him, what day it was my Lord *Delamere* ſent for him.

Vaux anſwered, It was the 26*th* of *May*, his Lordſhip ſent for me to the *Rummer Tavern* in *Queen-ſtreet*; and the next day I went out of Town with him, about nine or ten in the Evening; My Lord went by the name of *Brown*; We got to *Hoddeſden* about twelve at night.

Mr *Attorney* demanded whether they went next; whether my Lord *Delamere* was going; and whether that was the direct Road to *Cheſhire*?

Mr *Vaux* anſwered, We then went to *Hitchin*, and I returned home the next day; My *Lord* was going to ſee his Son, who was ſick in the Country, and we made that the way, it being the freeſt Road from Duſt.

Mr *Edlin* then teſtified the ſame in ſubſtance with Mr *Vaux*, that upon the 27*th* of *May*, he went with my Lord *Delamere* to *Hoddeſden*, &c.

Mr *Attorney* then ſaid, my Lord, to confirm and explain this Evidence, I ſhall prove, that this *Gentleman* went by the name of *Brown*, *in the Cant of thoſe that*

were engaged in this Buſineſs; that the name was known as his name, by all the Party, and called ſo conſtantly in their Letters and Meſſages.

Tracey Paunchforth being called, witneſſed, That he was at *Diſney's* houſe, the 14*th* of *June*, with *Joſhua Lock*, one *Hooper*, and one *Horſley*; and *Lock* ſtayed for ſome of the *Duke* of *Monmouth's Declarations*, which were finiſhed about nine of the Clock, and three were delivered to him; and there was a diſcourſe of having them ſent into *Cheſhire*, to one Mr *Brown*, whom he underſtood to be my Lord *Delamere*; and Mr *Diſney* uſed to mention him by the name of *Brown*.

That *Paunchforth* was at the *Caſtle Tavern*, with Mr *Vermuyden*, his Brother *Babington*, and Mr *Manning*; but there was no mention (as he remembers) of my Lord, or Mr *Brown*, but only ſomething in relation to the *Duke's* Landing; & Mr *Vermuyden* (who alſo went by the name of *Brown*) ſaid, he did not know where he was to Land.

Babington (*the Betrayer of that worthy Gentlemen* Mr Diſney) then ſwore, That when he firſt knew of any of the Tran-

factions, he was with Mr *Vermuyden*, his Brother *Paunchforth*, and Mr *Cradwick*; where there was discourse of Mr *Brown*, and that his Uncle *Vermuyden* afterwards told him, it was my Lord *Delamere*; and ordered him to call my Lord by that name.

That he was at Mr *Disney*'s, over the water, with *Paunchforth*, and *Horsley*; and *Disney* shewed him a *Declaration* that was not quite perfected; and some body said, some of the *Declarations* were to be sent to my Lord *Delamere*; and Mr *Disney* said he was afraid my Lord *Delamere* was not capable of doing that Service that was expected from him in *Cheshire*, for want of some of those *Declarations*, which would be mighty useful to inform the People. And that *Disney* said, he hoped to have 500 Printed in twenty four hours, and a good number of them were to be sent to my Lord *Delamere*.

Non bospes ab hospite tutus; Those who travel that Road, will do well to beware of such a Landlord, for he kept a Dis-arm and was a Spy upon this Noble Lord.

Hope (of the *three Tuns* in *Coventry*) then witnessed, that upon the *Sunday* before the *Coronation*, came Post to his House,

House, towards *Cheshire*; and sometime after that, he came down Post again; and a little after went up Post, and told him he went down another way: and upon the 21th of *June* (the *Sunday* sennight after the *D.* of *M.* landed) he came down Post again; and then his *Lordship* told him, that it was said the *Duke* of *Albemarle* was killed, and that the *D.* of *M.* had several Field Pieces, and Arms for near 30000 Men; and that his *Lordship* shewed him in a Mapp, which way *Monmouth* went; and pointed out such and such Towns, that he was possessed of; and withal said, *That he feared there would be many bloody Noses, before the business was at an end.*

Mr *Attorney* then called *Thomas Saxon*, & said, *Pray* Mr Saxon, *will you give an account what you know of my* Lord D. *the* Prisoner *at the* Bar, *concerning any Insurrection or Rebellion designed by him in* Cheshire, *and when?*

Their dependance was upon this well instructed Witness therefore he is Mr *Saxon*, & those before *him* were only *Wade, Jones, Vaux*, &c.

Saxon swore, that he was sent for to *Mere*, my *Lord Delamere*'s House at the beginning of *June*, (he believes the third or

or fourth day) and was conveyed into a lower Room, where were my *Lord D.* *Sr Robert Cotton*, and *Mr Crew Offley*; who told him, he was recomended to them by my *Lord Brandon*, who said, he was an honest useful Man, and they hoped he would prove so; For they had sent to the *D.* of *M.* and received an answer by *Jones*; and as soon as they had an answer, my *Lord D.* came down Post under another Name (being conveyed through *Moore-Fields*) to raise ten Thousand Men for the *D.* of *M.* in *Cheshire*, by the 1st of *June*, but they found they could not raise them till *Midsummer*, for they must have time to raise 40000*l.* in that Country, to maintain the Men.

That they askt him to undertake to carry a Message to the *D.* of *M.* and he told them he would; and my *Lord D.* gave him eleven *Guineas*, and 5*l.* in Silver for his Journey; and he went and delivered the Message to the *Duke*.

* His Lordship was well appriſed of the Answer their Witness would make, and to them who discern it, in this Question, it may well seem strange, that they should bring this great Man to Tryal, upon such nauseating Evidence, as some had put into this Varlets Mouth.

The *High Steward* demanded of *Saxon*, how he came to be recommended to them

them, by my *Lord Brandon*; & whether he were acquainted with my *Lord Brandon*? [*Saxon tho' a very willing Witness, had forgot to tell the Story of drinking Ale with my* Lord Brandon; *and therefore, the* Monster, *then called his* Grace, *pumps it out by this Question.*] *Saxon* (knowing what my Lord wanted) answered, I was acquainted with him; the first time I was with him, was at *Over*; the next time was at my *Lord's* House.

The *Attorney General* thereupon said, *Ay, pray tell my* Lord, *how you became acquainted with my* Lord Brandon.

Saxon said, Upon *Munday* in *Easter*-Week last, being at *Over*, my *Lord* sent for me, *to drink a Glass of Ale, and take a Pipe of Tobacco with him*; and when I came, *my Lord* told me, *he had a desire to be acquainted with me*; *so* We *drank a considerable while*; and my *Lord* discoursed, how unfairly the *Elections* of *Parliament Men* had been carried; which had so exasperated the Country, that they were resolved to rise in *Arms*, *under pretence of maintaining the Christian English Liberties*,

Liberties, and that they had a design to send for the *D.* of *M.* and make him *King*; and that *they must use such men as me*, that were Men of Interest in the Country, *to stir up the People to rise in Arms*; And if I would come the next *Munday* to his * House, he would tell me more of the business; and I went accordingly, and *he told me a great deal to the same purpose*, and shewed me a *Letter* that he had written to the *D.* of *M.* which I afterwards saw at *Bridgewater*.

* 'Twas happy that my Lord *Delamere never* took a *pipe* with this *Villain*, nor courted his Acquaintance.

My *Lord D.* then said, *I desire to know when was the first time that he declared this, he has now sworn against me, and to whom?*

Saxon answer'd, *I suppose* I told Mr *Storey* of it first, at *Dorchester*, after I was taken Prisoner for the Rebellion; and *I think* it was a forthnight, after my acquaintance with him, (I lay with him in the same Bed.)

My *Lord D.* demanded *when was the first time he made Oath of this, and upon what occasion?*

Saxon said, I remained a Prisoner at *Dorchester*, from the 10th of *July* to the beginning of the last *Term*, when I was re-

moved to *Newgate*; and *I gave my first Information before his Majesties Counsellors, who were sent* * *to take my Examination, immediately after I was brought to* Newgate.

* To instruct him, he would have said, but that it must be Perjury throughout.

My *Lord D.* then demanded, *Whether ever he had employed him about any of his Concerns, that should give him an occasion of trusting him with such Secrets?*

Saxon answer'd, *I never was in his company but only then*; and then, as recommended by my *Lord Brandon*; for they said, they must make use of such as me, to make their Designs known to the Country, for the accomplishing what they did intend.

I was to inform the Country of the time of Rising; my Acquaintance abounded that way; and by their discourse, they had got Men in every place, to acquaint the Country when they should rise.

My *Lord D.* then said, *I desire to know who was the Messenger was sent for him to my House?*

Saxon answer'd, *I askt his Name, but he would not tell me*; he said he was a Tenant

Tenant to my *Lord*, and had been employed in ſuch buſineſſes for my *Lord's* Father *Sr George Booth*; he was a Lame Man in one Arm, for he had his Hand ſhot away at the Siege of *Nantwich*.

My *Lord D.* demanded what time of day or night it was, when he came to his Houſe; and whether, when he came, he alighted at the Stables or not; and who took his Horſe; and at what Door he was let in; and who let him into the Houſe?

Saxon ſaid, It was juſt when it began to be dark; that he alighted juſt at the Old Buildings; and that the Man that came with him, took his Horſe; and he went into the Houſe, and brought out a Candle; that he never was at the Houſe before, and cannot tell which Door he went in at; That the Man went with him juſt to the Door, and let him within the Door; and *he ſaw no other man, but that man, till he came into the Room, where my Lord, and the two Gentlemen were.*

My *Lord D.* a ked him, whether no body elſe but they were there?

Saxon anſwer'd. No; you were ſo wiſe, you would let no Body be by.

Mr Attorney then ſaid, *My Lord*, We ſhall

ſhall give no more evidence at preſent, but ſhall reſt here, till *We* ſee what defence this *Noble Lord* will make for himſelf.

My Lord Delamere then proceeded, ſaying, *May it pleaſe your Grace*, and you *my Lords*; It is an Offence of a very high nature for which I am this day to anſwer, before your *Lordſhips*; yet I thank *God*, I am not affraid to ſpeak in this place, becauſe I am not only very well aſſured of my own innocence, but alſo well aſſured of your *Lordſhips* Wiſdom and Juſtice, which cannot be impoſed upon, or ſurprized by *Inſinuations and florid Harangues*, nor governed by any thing but the Juſtice of the Cauſe.

——I think that in matters relating to the *Church*, and the things injoyned therein, few have conformed more in practiſe, than I have done; and yet I am not aſham d to ſay, that *I have always a tenderneſs for all thoſe who could not keep pace with me*; and *Charity* for thoſe that have out-gone me, and differed from me, tho' never ſo far, nay, tho' of a *different Religion*; for I always thought *Religion lay more in Charity than Perſecution.*——In every publick Truſt, I was faithful in the

the discharge of it, for *I never voted nor spoke in any manner but as my Conscience and Judgment did dictate to me. I have always made the* Laws *the measure of my* Loyalty,——and have endeavoured as far as in me lay, to live peaceably with all men.

This, *my Lords*, was not only the dictates of my own Inclination, but it was *the Principle of my Father*, and the Lesson that he taught me——Whosoever did know him, I dare say did believe him to be a good Man. For my part, I endeavoured always to imitate his Example, and that I hope, will go very far, to vindicate me from the imputation of being inclined to any such Crime as I stand charged with.

Here have been a great many *Witnesses, and a great deal of Swearing*, but little or nothing of legal Evidence to affect me; for there is but one Man that saith any thing, home and positively against me; All the rest are but *Hear-says*, and such remote Circumstances as may be tack'd to any Evidence, against any other Person; but are urged against me, for want of greater matters to charge me with; and therefore, I hope the produced

ducing & pressing of these things against me, is rather a strong Argument that I am innocent, and that *there have been mischievous and ill Designs of some against me*; than that I am guilty: *Had they had greater matters*, your Lordships *would have been sure to have heard of them.*

My *Lord* of *Nottingham*, when he sate in the same place, that your *Grace* does now, at the Tryal of my *Lord Cornwallis*, speaking to the *Peers*, had this passage.

I know your Lordships will weigh the fact with all its Circumstances, from which it is to receive its true and its proper doom; your Lordships are too just, to let pitty make any abatement for the Crime, and too wise, to suffer Rhetorick to make any Improvement of it; This only will be necessary to be observed by all your Lordships, That the fouler the Crime is, the clearer and plainer ought the proof of it to be; *There is no other* * *good reason can be given, why the Law refuseth to allow the Prisoner at the Bar Counsel, in matter of*

'Tis then great pitty that the Law, as to this is not altered, and every *English* man (who may have what Counsel he will, in a Cause of 40 *s.* value) allowed Counsel, when he is concerned for his Life.

of Fact, when Life is concerned, but only this; becauſe the Evidence, by which he is condemned, ought to be ſo very evident, and ſo plain, that all the Counſel in the World ſhould not be able to anſwer it.

My Lords, I think the Evidence given againſt me doth not come up to this; and I hope your *Lordſhips* will regard this of my *Lord Nottingham's*, as more worthy of your conſideration, than the fine *Flouriſhings* and *Inſinuations* of the *King's Council*, which tend (*if it be not ſo deſign'd*) rather *to miſguide* your *Lordſhips*, than to lead you to find out the truth.

My Lords, I ſhall begin with *Saxon*, for he I perceive is the great *Goliah*, whoſe evidence is to maintain this *Accuſation*, and if I cut him down, I ſuppoſe I ſhall be thought to have done my own buſineſs; I ſhall firſt call ſome of his Neighbours who have converſed with him, and know him.

My Lord *Delamere* then called Six Witneſſes, who proved *Saxon* to be a very ill Man, and to have been guilty of Forgeries, and ſeveral Cheats.

That being done, his *Lordſhip* ſaid, I ſhall

ſhall paſs over this part of my Evidence, tho' I have many more Witneſſes to this point, and come to matter of fact, to encounter this poſitive proof againſt me.

Saxon has teſtified, that about the 3d or 4th of *June*, he (*as an extraordinary Perſon, being confided in*) was ſent for by me, to *Mere*, where he found me, *Sr Robert Cotton* and *Mr Offley*; *who employed him to tranſact the ſtiring up the Country, to riſe and joyn with the* D. *of* M. Now I will prove, that Sr *Robert* was not in *Cheſhire* for ſeveral Months, both before and after the time he ſpeaks of; and I ſhall prove he was then in *London* at that time.

Mr *Billing* (Sr *Robert Cotton's* Steward) teſtified, that Sr *Robert* came to *London* the 10th of *April* laſt, and that he ſaw him conſtantly once or twice a day; That *about the end of July*, he went for three dayes to *Epſam*, and came to Town again, and continued here, till he was committed to the Tower, and never was in *Cheſhire*, ſince the 6th of *April* laſt.

Margaret Davis witneſſed, that Sr *Robert Cotton* came to Town the 10th of *April*, and has not been out of Town any night ſince, *except it were in Auguſt.*

The *Lord High Steward* catcht hold of this, saying, *You say he did not go out of Town till* † *August*; The other Man says, it was *the latter end of July.*

My *Lord Delamere* thereupon said, The other *Witness* saith, it was the latter end of *July*, and *that may be very well consistent, neither of them speaking to a day.*

† See here the vast difference between this Tryal, before an *August* Assembly, and the Tryals in that day, by Common Juries; had this petty difference of the end of *July*, and *August*; happen'd in an ordinary case (as the like did, in the Case of *Otes* his Perjury) what bawling would have been upon it; and had this Excellent Person, been upon his Tryal, before my Lord *Russel's* Jury, or Colonel *Sidney's* three Carpenters, with the Taylor, and their Crew; it might have been improved (by this Mushroom Lord *Jeffryes*, and the King's Counsel) to his Destruction.

Mrs Sidney Lane (who lived in Sr *Cotton's House*) testified, That *Sr Robert* came to Town in *April* last, and never lay out of Town all those Months of *April*, *May* and *June*, after he came to Town.

Charles Reeves (*Sr Robert's* Foot-man) testified, That Sr *Robert* was in Town before the *Coronation* (the 23d of *April*) and he saw him every day that time till after *July*.

Then, *Mr Ashburnham*, *Sr William Twisden* and *Mr Hevening ham* witnessed, that they saw *Sr Robert Cotton* in Town

in *June*; *Mr Hevening ham*, in particular, that upon the 3d of *June*, he was walking with *Robert* in the *Court* of *Requests*, when *Mr Neale* came and told him, the *House* of *Commons* had then determined a point, about the *Election* of *Thetford*.

Sr *Willoughby Aston* then proved, that upon the 26th of *May*, Mr *Offley* and his *Lady* came to his House; and he gave a particular account, how he spent his time there till the 4th of *June*, when he returned home to his own House, which is directly another way from my *Lord Delamere's*, whose *House* is eleven of those Northern Miles from *Sr Willoughby's*.

Mr *Gregory* and *Tho. Kid* (Servants to Mr *Offley*) witnessed, that Mr *Offley* went from Sr *Willoughby Aston's*, upon the 4th of *June*, directly home to his own House, *Crew-Hall*, in *Cheshire*; and did not go from thence that night.

Mr *Booth* my Lord *Delamer's* Brother proved that he saw my Lord in Town, the 3d of *June* in the evening, and also the 4th, 5th, 6th, and so on to the 10th of *June*, sometimes twice or thrice a day.

Mr *George Booth*, another of my *Lord's Brothers* testified, that he saw my *Lord*

in Town, the 4th of *June*, by the particular circumſtance, that he went with him, the next day, to the *Houſe* of *Lords*, to hear my *Lord Maccleſfield's* Cauſe upon *Fitton's* Appeale.

My *Lord Lovlace* proved that he ſaw my *Lord D.* in the *Houſe* of *Lords*, at the hearing of my *Lord Maccleſfield's* Cauſe (the 5th of *June*) and that my *Lord D.* ſtood by the Bar, and took notes.

My *Lord D.* then ſaid, I hope I have now ſatisfied your *Grace*, and the reſt of my *Lords*, that none of us three, whom this Fellow has mentioned, were at that time at *Mere*, when he ſaid we were. I affirm in the preſence of *Almighty God*, that I have not ſeen *Sr Robert Cotton* at my Houſe theſe many years, and I believe Mr *Offley* was never there ſince I was Maſter of it: and I do proteſt, that, to my knowledge, *I never ſaw the Face of this Man till now*: I am ſure I never ſpoke with him, nor ſent for him to my Houſe.

If his Story be conſidered, it will eaſily appear to be very improbable, for he neither tells, who the Meſſenger was, that was ſent for him, nor the way that he came into the Houſe, and he muſt needs diſcern which way he came in, for

I have but one Door into my Houſe, except that by the Stables, which is a great way off the Houſe.

Beſides, *my Lords*, Is it probable, that he ſhould ſee no Body ſtiring about the Houſe, except the *Man without a Hand*, that he ſayes was ſent for him? I aſſure your *Lordſhip*, I have not, nor had my Father ever, that I know of, any *Servant* or *Tenant*, that was maimed in the manner he ſpeaks of; Is it to be imagined that I would take a Man I knew nothing of, into ſo great a confidence, as to employ him about a buſineſs of this nature? I beſeech your *Lordſhips* to look at him; *Is this* Fellow *a likely* Fellow *to be uſed in ſuch an affair? Does he look as if he were fit to be employed for the raiſing* 10000 Men? your *Lordſhips* likewiſe ſee, that he is ſo well thought of, *that he dare not be truſted out of* Newgate; but is kept ſtill a *Priſoner*, and as ſuch, gives evidence here; *He Swears to ſave himſelf, and would fain exchange his Life for mine.*

My Lords, The *King's Council* lay a great weight upon my going down the 27th of *May*, and my *frequent riding Poſt*; I ſhall ſatisfie your *Lordſhips* of the

Reaſons of my *Journies*; the firſt time I went to take Poſſeſſion of a *Leaſe* of ſix or ſeven Thouſand pounds value, which was renewed to me by the *Biſho* , and I had word that the *Biſhop* was ill, and that obliged me to make haſt down.

All this being fully proved by *Mr Edmond's* and Mr *Henry*; my *Lord Delamere* proceeded, ſaying, I had reſolved to go ſee a ſick *Child*, but hod not taken my journey ſo ſoon as the 27th of *May*, nor with ſuch privacy ; but that I had notice there was a *Warrant* to apprehend me; and I was willing to keep out of cuſtody, as long as I could; Being at my Houſe in *Cheſhire*, my *Wife* ſent me an *Expreſs*, that, as to the *Warrant*, *She* hoped it was a miſtake; but my *Eldeſt Son* was very ill, and if I intended to ſee him alive, I muſt make haſte up; This was the occaſion of my quick return.

Mrs *Kelſey* then witneſſed, that my *Lord* came to his Houſe in *Cheſhire* the 31ſt of *May* being Sunday, and that his Child was ill; and my *Lord* told her, that

that he heard there was a *Warrant* to take him up; That he ſtayed Monday the 1ſt of *June*, and went away on Tueſday morning.

My *Lady Delamere* (my *Lord's Mother*) teſtified the Child's being ill in the Country; and that while my *Lord* was there, his *Lady* ſent for him *Poſt*, if he intended to ſee his eldeſt *Son* alive.

Mr *Kelſey* proved, That my *Lord D.* came down upon the *Sunday* night, at eleven of the Clock; and ſtay'd at home all *Munday*, and on *Tueſday*, at three in the Morning, he took Horſe for *London*; and that Mr *Kelſey* had Letters from my *Lady Delamere*, and *Mrs Vere Booth*; dated the 4th of *June*; that told him my *Lord* was come to Town the night before.

Sr *Thomas Millington* (the Phyſitian) witneſſed; that upon the 28th of *May*, he was ſent for to my *Lord Delamere's Son*, and found him very ill, and he continued ſo two dayes, and he told my *Lady Delamere*, that he thought the Child would not eſcape. That he knows punctually this was the time, by the

the *Apothecaries Bills*, which he wrote, and finds the date on them.

My *Lord Delamere* then ſaid, My *Lord*, I hope I have given their *Lordſhips* ſatisfaction in all points, and need to give no further Evidence.

I acknowledge I did go at that time privately a By-Road, by the name of *Brown*; as for *Jones*, I appeal to him himſelf, and call *God* to witneſs, I never ſaw the Man before now, in my Life; All that has been ſaid againſt me, (except what this *Fellow Saxon* teſtifies) is but *Hear-ſay, nay indeed but Hear-ſay upon Hear-ſay*, at the third and fourth Hand.

It is at the pleaſure of any two Men in the World, to take away the Lives, Honours & Eſtates of any of your *Lordſhips*, if it be a proof ſufficient to make you guilty of *Treaſon*, for them to ſwear you were intended to be drawn into *Treaſon*.

Upon the whole matter, *my Lords*, I muſt leave my Caſe to the conſideration of your *Lordſhips*; *I am not Maſter of ſo much Law or Rhetorick as the Kings Council, to plead in my own Cauſe*; But I hope what Evidence

Evidence I have offered, has given your *Lordſhip* full ſatisfaction that *I am not Guilty*, of what I ſtand charged with.

My *Lords*, I would beg you to conſider this, that if I, with thoſe other two *Gentlemen* that he has named, had had any tranſactions of this kind with ſuch a Fellow as *Saxon*; ſo as at firſt ſight, to put ſuch large confidence in him; Can it be imagined I ſo little regarded my own Life, and all that is dear to me; as to have ſurrender'd my ſelf; were it not, that I was certain of my own innocence and integrity? *Life* it ſelf, my *Lords*, is to be preferred above all things, but *Honour* and *Innocence*; and *Job* ſaith, *Skin for Skin, and all that a Man hath will he give for his Life*; and why ſhould I be preſumed to have ſo little a value for it, as voluntarily to deliver up my ſelf to deſtruction; had I been Conſcious that there was any one, who could really teſtifie any thing that could hurt me?

Beſides, my *Lords*; This very *Fellow Saxon*, is but one Evidence; and ſurely, *one Witneſs* will never be ſufficient to convict a Man of *Treaſon*, *tho' thouſands*

of

of Hear-ſays, and ſuch trivial circumſtances be tack'd to it; eſpecially, when tack'd to an evidence, which, I dare ſay, your *Lordſhips* are far from thinking it deſerves credit.

Would not any of your *Lordſhips* think himſelf in a very bad Condition as to his Fortune, if he could produce no better Evidence to prove his Title to his Eſtate, than what has been now produced againſt me, to take away my Life, and if ſuch *Evidence* as this, would not be ſufficient to ſupport a Title to an Eſtate, certainly it can never be thought ſufficient to deprive a Man of *Life*, *Honour*, *Eſtate and All*.

My Lords, *God* knows how ſoon the Misfortune of a *falſe Accuſation* may fall to the Lot of any of your *Lordſhips*; ſince that may happen; I queſtion not but your *Lordſhips* will be very cautious, how, by an eaſie Credulity, you give encouragement to ſuch a Wickedneſs; For *Knights of the Poſt will not end in my Tryal, if they proſper in their Villany; and perhaps it may come home to ſome of your* Lordſhips, *if ſuch Practices be encouraged*.

My *Lords*, the Eyes of all the Nation are upon your Proceedings this day; Nay I

I may ſay, your *Lordſhips* are now judging the Cauſe of every Man in *England*, that ſhall hereafter happen to come under the like Circumſtances with my ſelf; For *accordingly as you Judge of me now, juſt ſo will Inferiour Courts be directed to give their Judgment in time to come*.

Your *Lordſhips* very well know, Blood once ſpilt can never be gather'd up again; and therefore, you, I am ſure, will not hazard the ſheding of my Blood upon a doubtful Evidence;——If it ſhould be *indifferent*, or but *doubtful* to your *Lordſhips* (*which upon my Proofs, I cannot believe it can be*) whether I am *Innocent* or *Guilty*; Both *God* and the *Law* require you to acquit me.

My *Lords*, I leave my ſelf, My Cauſe, and all the Conſequences of it, with your *Lordſhips*; And I pray the *All-wiſe, the Almighty God*, to direct you in your determination.

Mr *Solicitor General* then ſaid, May it pleaſe your *Grace*, and you my *Noble Lords*,

The Evidence againſt this *Noble Lord* is of two Natures, part of it is poſitive Proof, and part is Circumſtantial, and tho'

tho' it be allowed, that *there must be two Witnesses in cases of Treason*; and that Circumstances, tho' never so strong to fortifie one positive proof, cannot make a second positive Witness; yet, I crave leave to say, that *there may be Circumstances, so strong & cogent, so violent and necessary, to fortifie a positive Testimony; That will in Law amount to make a second Witness; such as the Law requires.*

My *Lords*, If a man comes and swears against another, That he said, he will go and kill the *King*, and another Man, that did not heare these words, testifies his lying in wait; That Circumstance of lying in wait, that was an Action indifferent in it self, when applied to the positive Proof, will be a second Witness to satisfie the Law.

It is not my *duty* to carry the *Evidence* in this Case, *further than it will go*; and *I am sure it is not my Duty, to let it lose any of its Weight.*

My *Lord*; Our positive proofs, is but one single Witness, and that is *Saxon*, (Mr *Solicitor then repeated his Evidence, and went on saying*) This, I must acknowledge standing single, will make but one Witness; but *whether the Circumstances that*

that have been offered by the other Witnesses, be such violent Circumstances, as necessarily tend to fortifie and support that positive Evidence, and so will supply the defect of a second Witness; is the next Question I come to consider.

Mr *Solicitor* then repeated the Evidence of the Lord *Grey*, and Mr *Jones*; (*how truly let any who will be at the trouble of reading the Tryal at large, judge*) and proceeded saying, Here, my *Lord*, is the main Circumstance that renders the matter suspitious; That very night that *Jones* came to Town (the *27th* of *May*) does my Lord *Delamere*, at ten at Night, go out of Town, under the disguise of the Name of *Brown*, and a By-Road, into *Cheshire*; this I say, is the Circumstance that renders the thing suspitious.

But, tho it was not observed in the whole Proceeding of the Tryal, *Vaux* witnessed, that my Lord sent to him, and engaged him the *26th* of *May*, to go out of Town with him the next day.

But now, my *Lords*, comes the *Question*, the *main Question*, how it is made out, that my Lord *Delamere* had notice, *Jones* brought the Message from the *Duke* of *Monmouth*.

Jones indeed does not say that he imparted it to him, But *Story* says that

Brand,

Brand, who knew of the Meſſage, *did acquaint him, that my* Lord *had received it at the Coffee-Houſe, and that Night went out of Town.*

It is true, this is but a hear-ſay, but that which followed, being matter of Fact; My *Lord's* going out of Town that Night, and in ſuch an unuſual ſuſpitious manner, gives more credit to the Relation, than, as a bare hear-ſay, could have of it ſelf.

For unleſs there be a good account given of my *Lord's* thus going out of Town; it is a kind of neceſſary preſumption, that he acquainted him with the Meſſage; and if ſo, it can have no other Conſtruction, than to be in purſuance of the directions brought him from the *Duke* of *Monmouth*.

Another thing, my *Lords*, that renders this matter ſuſpitious, is, the Name which my *Lord* aſſumed; *a Name by which the Party uſed to call my Lord*; which is proved by *Babington* and *Paunchforth*.

Paunchforth tells you, that one *Lock* came for ſome of the *Duke* of *Monmouth's Declarations*, for Mr *Brown*, to be ſent into *Cheſhire*; So that tho' ſome body elſe was called by the Name of *Browne*

yet

yet you have had no account given you, that there was any other *Brown* in *Cheſhire*.

It is very ſuſpitious, that if my *Lord* went into *Cheſhire* under the name of *Brown*, and ſome came on *Brown's* behalf, for *Declarations* to be ſent into *Cheſhire*; and my *Lord* commonly, with that Party, went by that Name; *That will be a great Evidence of his Correſpondence with* Monmouth.

I confeſs, my *Lords*, all this while, our proof is circumſtantial; and indeed there is no poſitive proof, but that of *Saxon's*; and here I muſt confeſs there are Objections made, which I cannot readily anſwer——There is no good account given, what reaſon there was for ſo many *Poſt-Journeys*, backward and forward; ——Theſe are matters of ſuſpition; But I confeſs matters of ſuſpition only, unleſs clear, poſitive, probable proof be joyned with them, will not weigh with your *Lordſhips* to convict a Man of *High Treaſon*; but whether theſe matters of ſuſpition, be ſuch violent and neceſſary preſumptions, as tend to fortifie the poſitive Teſtimony, I muſt leave that to the conſideration of your *Lordſhips*.

The *High Steward* then concluded, saying, my *Lords*, There is something I cannot omit taking notice of, that one mistake in point of Law might not go unrectified; *viz. That there is a necessity in point of Law, that there should be two positive Witnesses to convict a Man of Treason.*

Without all doubt, what was urged by that learned *Gentleman* who concluded for the *King*, is true; There may be such other substantial Circumstances, joyned to one positive Testimony; that by the Opinion of all the Judges, has been several times adjudged to be a sufficient Proof.

As in this Case; If your *Lordships* should believe *Saxon* swears true; and shall believe there was that Circumstance of *Foxe's* coming over from *Holland*, with such a *Message* the 27th of *May* (*which is directly sworn in Evidence*) and what the other Witnesses have sworn likewise, that my Lord *Delamere* went out of Town *that Night, changed his Name, and went an indirect By-Road; certainly these Circumstances*; if your *Lordships* be satisfied he went for that purpose; *do necessarily knit the positive Testimony of* Saxon; *and amount to a second Witness.* *Your*

Your Lordships are Judges, And if you do not believe the Testimony of *Saxon*, which has been so positively contradicted by divers Witnesses of Quallity; The *Prisoner ought to be acquitted of this Indictment.*

'Twas well for my Lord *D.* & a multitude more, that they were so; for had his Lordship fallen, we should not have known where they, would have stop'd; and the High Steward could have made this Evidence to have passed, to the cutting off hundreds of Men in the West.

The *Peers* having thereupon withdrawn, for about half an hour; returned and took their Seats, and *unanimously declared, upon their Honours, that the Lord Delamere was not Guilty*; and so his *Lordship* was most happily delivered; and with him the Right Honourable my Lord of *Stamford*, my Lord *Brandon*, Sr Robert *Cotton*, Mr *Offley*, and many other valuable Persons and good Patriots, who were lockt up in the Tower, and other Prisons, in order to their Tryals; and Tryal and death in that day, were rarely found to be far asunder.

Thus *Saxon*, one of the vilest Miscreants of human Race, had a fair blow at one of the most valuable and deserving Persons of this Generation; the *Right honourable Henry Lord Delamere*, Grand-Son of the most worthy and never to be

forgotten Patriot Sr *G. Booth*; and Son & Heir, as well of the Vertues, as of the Estate, of the incomparably good and great Man, Sr *George Booth* (Lord *Delamere*) But when the Villain came to be detected of Perjury; And his Suborners found that the sham would not pass; they were ready to wish themselves half hanged, that ever they pretended to believe him at all.

The repeated Imprisonment, Vexation and eminent danger of this excellent Person, my *Lord Delamere*; and many other honourable & highly deserving Patriots of the *Vale Royal of England*; having been promoted and abetted by a *Fanatical* Presentment or Address of a *Grand Jury* of *Cheshire*; which bears the Stile of *Sr Roger L' Estrange*; I shall here subjoyn it, (*viz.*)

WE *the* Grand Jury, *sworn to enquire for the Body of the County of* Chester, *at the Assizes held in the Common-Hall of Pleas in the Castle of* Chester, *upon* Munday *the 17th day of* September, *in the 35th year of his now Majesty's Reign, and in the Year of our Lord* 1683, *having heard his Majesty's* Declaration *to all his Loving Subjects*, touching the treasonous Conspiracy against his sacred Person and Govern-

ment

ment, *lately discovered, openly read to us in Sessions, by order of the Court, as well as in our respective* Parish Churches by Royal Command, *and seriously considering the extensiveness of the said Conspiracy and dreadful Consequences thereof, had it taken effect; since notions of Sedition and Rebellion have been cultivated to such an amazing height, that some have not only dared to draw them into practice in their Lives, but to propogate them with their latest Breath, by Devillish Insinuations of their consistency with Religion and Law*; We *conceive it high time to manifest our Separation from such Persons and Principles; their Favourers and Abettors, with detestation of that* dreadful Climax, the Bill of Exclusion, Treasonous Association, Ignoramus Juries, and seducing Perambulations; *by which the* Accomplices *advanced towards their intended* Assassination & Massacre; *which barbarous design, it cannot be imagined that* Forty, *or the* Council of any Six, *durst undertake, without confident reliance on Confederate Auxiliaries, and not knowing the Latitude of such dire Combinations, but heedful of our present charge and duty with the indispensable Obligation the Oaths of Allegiance and Supremacy, lay upon all; We hold our selves bound in this distempered*

 juncture

juncture of Affairs, to present, that We have ſtrong apprehenſions of danger from a diſſatisfied party in this Country; *who not only ſhewed their* defection *openly, by an* Addreſs *made to* Henry Booth, Eſq; *and* Sr Robert Cotton, Knight *and* Baronet, *at the laſt Election of* Knights *of the Shire*, tending to alter the Succeſſion of the Crown; *with other dangerous and ſeditious purports, giving aſſurance of ſtanding by them, in that deſign, without reſpecting their Oath of Allegiance to the* King *and* his *Heirs*; *but alſo by their ſeveral* Meetings *and* Cabals *ſince, which adminiſter greater ſuſpition, from the ſtore of Arms many of them were provided with*; *And for that the ſame Perſons unanimouſly aſſembled with* Schiſmaticks *and* diſaffected *Perſons in the publick reception of* James Duke *of* Monmouth, *who has appeared a prime Confederate in the late treaſonable Conſpiracy the concourſe of armed Perſons then attending him, eſpecially in and near ſeveral populous Towns in this County, where, the invited and inſtigated Rabble, in a broad mixture of various Sectaries*; *with ſuperfluous joy and popular noiſe, tumulted on that occaſion, has had an evil influence upon this yet unſettled Country, and brought a terror upon his Majeſties good and peaceable Subjects*; *for remedy whereof, with relation to the publick Peace, and to prevent as far as in us lies, the ſpreading of ſuch contagion, as alſo* to waſh our Hands from all miſpriſion, *by concealing proceedings that may encourage greater Evils in other parts of his Majeſties Dominions*; We *conceive it expedient that the* Principal Perſons *who promoted the aforeſaid Seditious Addreſs, and alſo thoſe who were notorious*

notorious in conſorting, aiding and abetting, in the Routous reception *and entertainment of the ſaid* Duke *of* Monmouth *and his Aſſociates in this County*; *together with the* frequenters of Conventicles, *and thoſe that harbour and countenance any* Non-conformiſt Miniſter *or* Preacher ſhould be obliged to give ſecurity of the Peace, *And particularly*;

Charles, *Earl of* Macclesfield,
Richard, *Lord* Colcheſter,
Charles, *Lord* Brandon,
Henry Booth *Eſq*;
Sr Robert Cotten, *Knight and Barronet*,
Sr Willouby Aſton, *Barronet*,
Sr Thomas Mainwaring, *Barronet*,
Sr Thomas Bellat, *Barronet*,
Sr John Crew, *Knight*,
Nathaniel Booth, *Eſq*;
Colonel Thomas Leigh *junior*.
John Mainwaring *of* Baddeley, *Eſq*;
Peter Leigh *of* Boothes, *Eſq*;
Colonel Roger Whitley *of* Peele, *And*
Mr Thomas Whittley *his Son*.
Roger Mainwaring *of* Kiruuntham, *Eſq*;
Tillſton Bruen *of* Stapleford, *Eſq*;
Sr Robert Duckenfield, *Barronet*,
Thomas Lea *of* Dernal, *Eſq*; *And*
Mr Robert Hide *of* Cattenhall,
Edward Glegge *of* Grange, *Eſq*;

Richard Leigh *of* Highleigh, *Esq*;
Mr Roger Whittley,
Mr Robert Venables *of* Winthcombe,
William Minshall *of* Namptwith, *Esq*;
John Hurlston *of* Newton, *Esq*; *And*
Charles *his Son*, *And*
William Whitmore *of* Thutstaston, *Esq*;

We *present also*, *that* all persons not frequenting the Church according to Law are Recusants; *it being impossible to know the hearts of men, for what cause they refuse to come to Church*; *And that* all connivance *and indulgence* in that case, is the ready Road to Rebellion, Popery and Arbitrary Power; *And further* We *desire humbly to present to his most* sacred Majesty *our repeated Congratulations of Joy, for his and his* Royal Brother's *happy deliverance from the late Treasonable Conspiracy*; *with our assurances that* We will, with our Lives and Fortunes, stand in defence of his sacred Person and Government, his Heirs and Lawful Successors; *To all which we subscribe our Names*;

The Grand Jury,

T. Grosvenor,	Jo. Dod,	Edw. Bromley,
W. Cotten,	John Daniel,	J. Hockenhull,
Edw. Legh,	T. Minshall,	Francis Leche,
Peter Shakerley,	J. Starkey,	Tho. Barufton
Tho. Warburton,	Hen. Meales,	John Dayis,
Anthony Eyre,	Rob. Alpart,	
Hen. Davies,	Ran. Dod,	Heads

Heads of some *Informations* and *Examinations*, taken upon Oath before a *Committee* of the *House of Lords*, appointed to inspect, *Who were the Advisers and Prosecutors of the Murders of the Lord Russell, Colonel Sidney, Sr Thomas Armstrong, Mr Cornish* & others; And who were *Advisers of issuing* Quo Warranto's *against Corporations*; & *who were Assertors of the dispensing Power*; whereof a *Report* was made, by the Right honourable the *Earl of Stamford*, upon the 20*th* day of *December*, 1689.

Also Copies of some other material Papers, relating to the *Murders* and *Oppressions perpetrated* upon pretence of a *Conspiracy* against *King Charles* the second, and the *Duke of York*, in the year 1683.

MR *John Phelps*, Mr *Thomas Morris*, Mr *Peter Hagar*, Mr *Robert Batts*,

Bates, Mr *Richard Haly*, Mr *Hornsby* and Mr *Crispe Grang* (all Persons of good value and unspotted Reputation) being examined upon Oath in relation to *Josia Keeling*, deposed in substance as follows, (*viz.*)

That *Keeling* three or four days, or a week, before his *Discovery*, of the *Presbyterian Plot*, came into their Company at the *Fleece Tavern* in *Cornhill*; where, he appearing to be much disturbed and confused; one of their Company enquired of him, why he seemed to be so disordered; to which he answered, that *he lay under a great Temptation*, for he was sent to, by the *Lords* The Popish Lords were then in the *Tower*. in the *Tower*; and some *Gentlemen* that came to him from them, told him, *his own Party had disobliged him*, and he had now an opportunity to be revenged of them; That *he could not be insensible of some Persons that designed against the Government*; and that if he would *discover*, he might make himself and his Family; That he had great

He had, as a loose Fellow, been cast out by the Congregation, to which he belonged.

Subornation was, at that day, carried on, by the tender term of discovering.

proffers of Money, and a *Place* of 100 *l.* *per annum*; and might go in a *Coach* and six *Horses* to *Windsor*. And that he was to meet those who treated with him, again that Night, at the *Bull-head Tavern* near the *Tower*.

That upon *Keeling's* talking at this rate, one of the Company askt him, why he troubled them with this discourse, and told him, *if he knew any thing against the Government*, he ought to discover it; but if he knew nothing, he would do well to keep out of such Temptations; and not go to the meeting appointed; but he said he would go, because he had promised them in the morning, that he would meet them again; but declared that he knew nothing, & said that he acquainted them with it, because *if he should be prevailed upon, by Temptation of Money*, to witness any thing, they should be able to witness against him, that he had declared that he knew nothing in agitation against the *Government*, and that they should testifie, that *he was the greatest Rogue and Villain living, if he should swear against any Man.*

Mr *Phelps* (in particular) deposed, That he, attended to have testified this at my Lord *Russell's* Tryal, but was not

askt to come in at any of the other Tryals, and durſt not appear, unleſs deſired; That he remembers not, whether or not, he knew of *Walcot's* Tryal, before it was over; but that he knew not that *Keeling* was a Witneſs againſt him, till after the Tryal was over.

Mr *Morris* depoſed. That he knew not that *Keeling* was a *Diſcoverer of a Plot*, till after *Walcot's* Tryal; but believes *he acquainted Sr William Poultney what he heard* Keeling *ſay*, before the Lord *Ruſſell's* Tryal; and alſo told it to Mr *Stevens*; whereupon he was ſubpænaed to that *Tryal*, and went, but the Tryal was not till three or four days after the time he was directed to attend; That a ſecond *Subpœna* came the night before the Tryal, but he being from home, did not receive it till after the *Tryal*.

Mr *Hagar* depoſed, That he thinks he knew *Keeling* was a Witneſs againſt Captain *Walcot*, but did not then offer himſelf to be a Witneſs, becauſe times were ſo difficult; but when he heard of my Lord *Ruſſell's* Tryal, he acquainted his Lordſhip's Servant with what he has now

now ſworn, and that he attended at the Tryal, but *Keeling* was no Witneſs.

Mr *Bates* depoſed, That he believes he told what he hath now ſworn about *Keeling's* Declaration at the *Fleece Tavern*, to twenty perſons, before the Lord *Ruſſell's* Tryal; and that he heard *Keeling* ſay, in the *Amſterdam Coffee-Houſe*, *It is reported, that I have diſcovered a Plot, of the* Duke *of* Monmouth, *my* Lord Ruſſell, *and others; but I know nothing of it, and am innocent and falſly accuſed.*

Mr *Haly* depoſed, that he remembers not that he ſpoke of what he has now ſworn to any Perſon, for *times were ſuch he was affraid to ſpeak of it.*

John Keeling depoſed, that *Joſia Keeling* his Brother (*who gave his firſt Information upon Oath to Sr* Leoline Jenkins, *upon the 12th of* June 1683.) came to him the next day, and called him out, and carried him into the *Company* of *Goodenough*, at the *Dolphin-Tavern*, where they talkt of taking off the *Black-Bird and the Goldſmith* (meaning the *King* and the *Duke*) That the Company being parted, he the ſaid *John Keeling*, told his

his Brother, that he did not understand that *Gibberish*, and therefore would not be concerned.

That his *Brother* then carried him to one *Mr Peckham*, at the *Fleece-Tavern* in *Southwark*; where *Peckham encouraged him, and told him, if he would be a Witness, he should be well rewarded*; Then he carried him to two *Gentlemen (whom he knew not)* to the *Flanders Coffee-House*, who encouraged him, and would have had him to a Dinner, but he declined it.

That then his *Brother* told him, he must go with him to *Secretary Jenkins, to give Information of what he had heard*; to which he shewing aversion, his *Brother* told him, *he must go thither or to* Newgate; and so he was compelled to comply.

That he gave notice to Mr *Tory* (his *Brother's Master*) how his *Brother* had trapan'd him, and made him to swear; and that he acquainted *Mr Jones* therewith, *and desired him to give notice to the Persons accused.*

An honest *Whigg Tory* Citizen, living in St *Martins Le-grand*, and is reckon'd the only *Tory* in *London*, who at all Elections votes for the true English Interest.

That

That he did not believe the *Plot*, till he saw the *Proclamation*, and understood that *Lee* the *Dyer* came in for a *Witness*; *That his Brother had* 500 l. *of the* King; *and brought it to a Coffee-House.*

That he the said *John Keeling was subpenaed to be a Witness against the* Lord Russell, *and was sworn to give Evidence to the* Grand-Jury; but was not examined.

Mr *Nathaniel Wade* deposed, that *Josia Keeling accused him of being in the* Rye-Plot; tho' he had never been above twice in his company: That, at the *Salutation Tavern* in *Lumbard-street*, he heard *Keeling* * *speak very extravagantly, and say he would do some brisk thing*; and that thereupon *Mr Neltherpe* said, *I prethee be not mad*: And that presently after Mr *Wade* heard his own Name in a *Proclamation.*

* He was ordered by *Jenkins* to draw Men in, and that he might accomplish it. They gave him Licence to talk Treason.

Mr *John Tisard* deposed, that at my *Lord Russell's Tryal*, four *Gentlemen* told him, that *Keeling (who was to have been the first Evidence against his Lordship)* had con-

confeſſed that he was to meet ſome *Gentlemen* at a *Tavern*, *who were to give him Inſtructions what to ſwear*; but he ſaid, when he had received the Inſtructions, he would make a diſcovery.

That however, *Keeling* was not produced againſt my Lord, and he believes the reaſon was, *becauſe ſome were appriſed of the defence, which his* Lordſhip *would have made againſt his evidence.*

Mr *Nathaniel Gael* depoſed, that by the perſwaſion, of *Keeling's Mother*, he procured 100 *l.* to be lent to him, by Mr *Wolfe* a *Merchant*, to ſupply his neceſſities, *which* Keeling *repaid three Months after, which was after he was an Evidence.*

Joſia Keeling being examined, declared, That *he remembers not* that he was in an Agony or trouble at the *Fleece-Tavern*, or that he told the Company there, he was to meet any Perſons concerning the diſcovery of a Plot, or that he was promiſed a Groat or Employment, or that he deſired them to bear Witneſs againſt him, if he pretended to ſay any thing of a Plot, or that he knew nothing.

That *he was ſubpenaed at the Lord* Ruſſell's

Ruſſell's, *and* Walcot's *Tryal*; and was there during the whole Tryal of the *Lord Ruſſell.*

That he applyed himſelf to the *Lord Privy Seal*, at his Houſe, to help him to his place in the *Victualling Office*; and he thinks he applied alſo to the *D. York*; That he after reminded the Lord *Halifax* going up into the Gallery at *Whitehall*; and after that, he heard he had his place, he thankt him that Evening, and *he continued in his place till within theſe ſix Weeks.*

That *he had Money* of the *King* as *Subſiſtance*; and alſo *received* 500 l. *of Mr* Duncumb *the Banker*; That the *King* told him he ſhould have 100 *l.* a Year, but he never had it.

Mr *Aaron Smyth* depoſed, That he was a *Priſoner* in the *Tower*, when *my Lord Ruſſell* and *Colonel Sidney* were tryed; *and was kept cloſe Priſoner above nineteen Weeks, at* 5 l. *a week charge, and two Warders watched him, or lay in the Room.*

That one of his *Warders* told him, that *Mr Ambroſe Philips* was come to ſpeak with him, and *had an Order from one of the Secretaries to come as often as he would,*

and

and bring whom he would along with him; but then he was alone; When *Mr Philips* came in, after ſome other diſcourſe, *he told him it was in his Power to make himſelf what he would*; for ſaid he, *you know this Rogue* Sidney *is a Traytor, and you may make your ſelf what you will*, if you will DISCOVER what you know of his deſigns againſt the Government.

That he replied, *he could not ſay any thing that could touch a Hair of* Colonel Sidney's *head*; and that then *Mr Philips* ſaid, *If he might adviſe the King, he would have all the damn'd* Whig *Rogues hanged*; and for your part, any Body knows you are Guilty.

Sr *Ambroſe Philips* being examined, confeſſed that *Aaron Smyth* had been his Client, and there was a Friendſhip between them, and he thought he might have prevailed with him to have declared what he knew, which *he thought would be a ſervice to the Publick*, and ſervice to himſelf.

That he cannot be poſitive, whether *Mr Roger North* gave him an Order to go to *Aaron Smyth*, or told him he ſhould find an Order with the *Lieutenant* of the *Tower*.

That

That he uſed to *Mr Smyth*, the Arguments a Friend might do; and *told him he came not to trapan him*; nor would he diſcover more of what he would tell him, but what he would give him leave; but *he found him very reſolute*; and ſo fairly took his leave, and never came near him more.

That he believes he might ſay to *Mr North*, that he had ſuch a power in *Mr Smyth*, to perſwade him to tell what he knew; *That no body beſides Mr North*, either perſwaded, or adviſed him to go to *Mr Smyth*.

Mr Roger North being examined ſaid, that he procured no Order for *Sr Ambroſe Philips* to go to *Aaron Symth*; nor doth he believe he ever had any converſation with him about that matter; and he is confident he never delivered him any Order for going to him; nor told him that he ſhould find any ſuch Order at the *Tower*; nor to the beſt of his remembrance, knew he of any ſuch Order; and that *Sr Ambroſe Philips miſ-remembers*, if he ſays he had any ſuch Order from him.

Sr John Moore being examined, ſaid,

That

That *'twas not he that rejected the Sheriffs, but the Court of Aldermen*; That *Mr Papillon* was set aside by the *Court*, because Sr *John* had drunk to *Sr Dudly North*.

That he doth *not believe or remember*, that he had any *Orders* from *Court* to drink to *Sr Dudly*; That *Secretary Jenkins* was often to visit him, but *never gave him any* * *Directions*.

* Perswasion would do, with an easie, willing Man.

That he believes Mr *Papillon* and Mr *Dubois* demanded the *Poll*, That he had no direction from *Whitehall* to reject the *Poll*, but the *Court of Aldermen did reject it*.

That *the Souldiers were sent to keep the Peace*; that *he remembers not*, that he, either the day before, or that morning of the *Poll*, made any *promise not to disturb the Poll*; nor doth he remember what time of the day he went to disturb the *Poll*; Many of the *Citizens* came to his House, and would have him to the *Hall*, telling him, *the Poll went on, tho' he adjourned it*; *which Adjournment, he saith, was by advice of the Court of* Aldermen.

Mr

Mr *Normansel* and Mr *Trotman* the *Secondaries*, deposed, that *Graham* and *Burton were the Prosecutors of my Lord Russell*; that *Sr Dudly North had the Books from them, and returned my Lord* Russell's Jury; that *Juries had* usually been returned by the *Secondaries, and taken out of two, three, or four Wards*; but *this Jury was taken out of about nineteen Wards*. That *Sr* Benjamine Thorowgood *returned the Jury upon Alderman Cornish*.

Mr *Trotman* added, that *Graham* and *Burton* were also the *Prosecutors* of *Alderman Cornish*.

Mr *Perry* (who had been *Clerk* to Mr *Trotman* nine Years) deposed, That he was not by, at the return of my *Lord Russell's Jury*; but he made a Copy of it, and *it was under Sr* Dudly North's *hand*.

That he was with *Mr Trotman* at *Sr Benjamine Thorowgood's* House, *who had the Books of both the Compters*, and he wrote the Names, as *Sr Benjamine* directed him.

That in common cases, the Pannels used to be returned out of two or three Wards.

Z Mr

The proper Officers, ſwear out of two or three, but the Common Serjeant ſwears out of *ſix*, & ſo *makes* ſome advance towards *Sr Dudley North*'s number.

Mr Criſp the *Common Serjeant* depoſed, that *he hath known Juries returned out of ſix Wards, and never out of fewer than four.*

That he was in Court at part of the *Lord Ruſſell*'s Tryal; That he remembers his *Lordſhip deſired he might be heard by Counſel*, and that they might have time to conſider of it; but the Court heard them immediately; [*The Gentleman paid too great a deference to the Court, to ſay they refuſed my* Lord Ruſſell *time, and therefore expreſſes it in the tender Words,* That the Court heard them immediately.]

Sr Dudly North being examined, ſaid, That he was a *Freeman of London*; *and the* Lord Mayor *drank to him as* Sheriff; and he took upon him the Office, and was 2000 *l.* out of Purſe, which he never had again directly or indirectly.

[*But he was well rewarded, by being firſt one of the Commiſſioners of the Cuſtoms, and then of the Treaſury; whereby he was ſufficiently reimburſed; and rewarded alſo, for the*

the good ſervice he did in his Sheriffalty.

Sr Dudly went on, ſaying, *That he impannelled the* Juries *for the Seſſions, when the* Lord Ruſſell *was tryed*; That *he returned the beſt* * *Jury he could*, without obſerving any Ward; and drew this out of ſeveral Wards, becauſe they might be the more ſubſtantial Men.

* It being Sr *Dudley's* own Jury, and they doing their buſineſs to content, he treated them at a Tavern, after the Verdict given, as appears by the Journal of the Houſe of Lords.

That, *to the beſt of his remembrance,* Sr Peter Rich *concurred in this Jury*; if he had oppoſed it, he ſhould not have done it.

That the *Juries* before, were returned by the *Secondaries*, but *this being a very* * *extraordinary buſineſs, he thought it requiſite to take care of it himſelf.*

* It was indeed a very extraordinary buſineſs, to murder as valuable a Noble Man, as ever drew Breath in *England.*

That he took no care of what opinion the Jury were of, but only that they were ſubſtantial Men. [*yet he cannot ſhew one Man called a* Whigg, *returned on the Jury.*]

That he had no order or directions from any Man * *alive, to take care of this buſineſs.*

* Note, his Brother the Lord Keeper was now dead, at the time of this Examination.

Sr *Peter Rich* declared, That he was never asked in his whole year to impannel a *Jury*; and that he never impanneled any, or ſigned any Pannel to his knowledge; and ſayes poſitively, that the Books were ſent to him by the *Secondaries*, and that he never ſaw the Pannel (of my Lord *Ruſſell's Jury*) till he heard it read in *Court*.

That the uſual practiſe of the return of Juryes, *in* London, *is by the* Secondaries.

Sr *Benjamin Thorowgood*, being examined, ſaid, that he was *Sheriff* at the time when Mr *Corniſh* ſuffered; That the two *Secondaries* brought him the Books. That *he knows not out of how many Wards the Jury was returned, but he thinks out of moſt of them, and he believes it to be the Cuſtom to return the* Jury *ſo.* [*But the Secondaries ſwear the contrary.*]

That

That he thought it a *piece of juſtice in him, to ſee the* Jury *fairely returned*; being the *Gentleman* to be tryed, had been one of his *Predeceſſors*.

That the *Jury* were of the *ſufficienteſt, ableſt and honeſteſt Men*, of the *City* of *London*; and he believes all the Men that ſerved of the *Jury*, were thoſe he returned.

This is *Sr Benjamine's* opinion that the ſubſtance as well as the honeſty of the City was got into Tory Hands (the Jury being all of that ſtamp) but to let their honeſty alone, the contrary is as evident, as to the ability of more than one of theſe *Jury-Men, as 'tis that Juryes* were wont to be taken out of moſt of the Wards.

Mr *Henry Corniſh*, being examined, depoſed, that his Father was kept cloſe from his Commitment to the day of his Tryal, and *Captain Richardſon* would admit none of his Friends to come to him.

That he went to *Normanſel* the *Secondary*, for a Copy of the Pannel, and either he or his Clerk told him, that *Burton* and *Graham* hadit; and when he came again in the Evening to them for it, *one of them told him, They had orders from above, not to let him have it.*

Sr James Forbes, depoſed, that the *Duke* of *Monmouth* deſired him to ſhew Mr *Hambden* a Paper *written with the King's own Hand*; which was, for the *Duke's* owning of the Evidence of *Romſey* and others.

That, he told the *Duke* that *that Paper* would make him infamous, *and would be a means of deſtroying many Men's Lives*; whereupon, the *Duke* ſent him with the Paper to the *Earl* of *Angleſey*; who, upon the reading of it, preſently wrote a a Paper of Reaſons againſt it.

That before Sr *James* went to the *Earl* of *A.* the *Duke* told him, if it were ſo as he had told him, *he would have the Paper again, tho' he dyed for it*; whereupon Sr *James* ask't him how he would get it. That the *Duke* ſaid the *King* would ſhew it him, and then he would tear it out of his Hand; and then further ſaid, the *Duke* of *York was his implacable Enemy.*

That, as ſoon as Mr *Hambden* had read the Paper, he ſaid, *he was a Dead Man*; and ask't leave of Sr *James* to ſhew it to his *Father*, which he conſented to.

That

That he returned to the *Duke*, and gave him the *Earl* of *Angleſey's Reaſons* againſt the Paper, together with his own thoughts of it; whereupon the *Duke* replyed, that *he ſaw they had a mind to ruine him; and he was only brought into* Court *to do a* Jobb; and that he would not Sleep before he had retrived the Paper.

That, the *Duke* told him how kindly the *King* had expreſſed himſelf to him; and Sr *James* deſired the *Duke* to ſave *Colonel Sidney*, if poſſible; but he feared he could not; but ſaid, *he had told the King, how good a Man the* Lord Ruſſell *was, and how unjuſtly he had been put to death.*

That, at the deſire of Mr *Hambden*, the *Duke* went to viſit him, before he had his Pardon: tho' he thought it to be very dangerous; and was with him two or three Hours in private, and Sr *James beliſves* it was about ſaving the *Colonel's Life.*

That, the *Duke's Servants* told Sr *James*, at the *Cock-Pit*, that they were ordered not to ſuffer any of his old *Friends*, or *Whiggs* (*and ſuch and ſuch in particular*) *to ſee, or pay a viſit to the* Duke.

That the *Duke* told St *James*, that the *Lord Hallifax perſwaded him to ſign the Paper*; but whether it were for his good or not he knew not.

That when Sr *James* told the *Duke* how it was reported in the Town, that he was come in to be a Witneſs, he anſwered, he never would.

That the next day after Sr *James* had given the *Duke* the *Earl of Angleſey's Reaſons*, and Mr *Hambden's and his own Opinion*: *Colonel Godfrey* came to him, and told him that the *Duke* had recovered the Paper, and got it into his own poſſeſſion; and Sr *James* went to tell Mr *Hambden*, Mr *Charlton*, *and Major Wildman of it*.

Colonel Godfrey, depoſed That the firſt night the *Duke of Monmouth* came to Court, he went to him with Sr *James Forbes*; and the *Duke told them how kind the King was to him*, in giving him his Pardon: and that he believed he owed a great deal of it, to the *Lord Hallifax*; and ſeveral times he heard him ſay, that the *Lord Hallifax* had been kind and ſervicable to him.

That the *Duke* ſaid, the *King* told him

him, that *he muſt ſubmit to be aſkt Queſtions in publick, concerning the Plot; and muſt ſubmit to him, and not contradict him.*

That within two or three dayes after the *Duke* ſurrendered himſelf he ſhewed him a Paper, which was, a *Declaration or ſeeming Confirmation of the Plot, with which the* Lord Ruſſell *and* Colonel Sidney *were charged*; and he thinkes the Paper was ſigned, with the *Dukes* name to it.

That the *Paper* which the *Duke* got from the *King* was not the ſame with the other: and he believes he did not ſee that Paper; That the *Duke* told him, after the Paper had been ſent to the *Council*, that he had ſigned ſuch a Paper; he underſtood in general from him, *that this Paper was a Confirmation of the Plot, the Lord* Ruſſell *and Colonel* Sidney *ſuffered upon.*

That he thinks the *Duke* told him, the *Lord Hallifax perſwaded him to ſign that Paper*; The *Reaſons* he uſed were, that *he might keep at Court, and be near the King or elſe he muſt go from thence.*

Anthony

Anthony Rowe Esq; deposed, That the *Duke* of *Monmouth* sent him to the *King*, with two or three *Letters*; whom he found very angry with him, for the Company he kept; and particularly *the Lord Howard, who, he said was so ill a Man, that he would not hang the worst dog he had, on his Evidence.*

Observe here what value that King put upon the Blood of *Lord Russell* and *Col. Sidney*, &c.

That he heard the *Duke* had a Paper given him from the *King* to consider of; he seemed unwilling to sign it, but at last consented, so he might not be askt to sign any other; He being in the Bed-Chamber, when the *King* told him he should not; whether he signed it or not, Mr *Row* knows not.

That this Paper was given to the King, and shewed to the *Council*, but they not likeing it, it was either Burnt or Torn, and another Paper drawn.

That about that time, some thing of this being put into the *Gazette*, Mr *Row* acquainted the *Duke* with it: Who was displeased at it; *and bid them tell every Body they met, that it was false.*

That

That *Mr Row* doing so in the *Coffee-house* that night, the *King*, was acquainted with it; and sent for him early the next morning, and chid him; and told him, he did the *Duke* more hurt than he was aware of, and commanded him to speak no more of it.

That the *Duke* told him *he was resolved not to sign the second Paper*; That one day afterwards, he, and *Godfrey* and *Barker*, were in the outward Room, and the *Lord Hallifax*, *was with the Duke and Dutchess in her Room*; and the *Duke* came out to them once or twice, and *at last said he had done it*; and that night he seemed angry with himself that he had signed the Paper, for that it might hurt others, and that if it had concerned none but himself he had not cared; but said, he would not rest till he had the Paper again, and the next morning he told him he had got it.

That the *Duke* told them, that the *King* had often press'd him to sign it, and told him he should never see his face more if he did not do it, but if he would he should ask him nothing, but he would grant it; But *when he did sign it, he*

he knows not, nor that there was any in the Room, but the *Dutchess* and the *Lord Hallifax*.

That the *Duke told him*, after he came out, *that the Lord Hallifax had over perswaded him, and made him do it*; and engaged to him, the *King* should never let the Paper be seen; *and said, this was the time to gain the King's favour*: It being long ago, Mr *Row* declared these things as he believes, and to the best of his Remembrance.

Mr *Robert Yard*, being examined, declared, that the *Advertisement* concerning the *Duke* of *M.* which was put into the *Gazete*, was what was handled in *Council*, the day after the Duke came in, It was the giving an Account of what passed betwixt the King and the Duke. That he had the Paper either from the *Lord Sunderland* or *Sr Leoline Jenkins*.

John Hambden Esq; declared himself thus; His Case is so twisted with those of the *Noble Persons*, whose *Murders* you enquire after, that he knows not how to speak of theirs, without relating his his own, and that he looks upon himself

almost as much murdered, as any of them, by reason of his Sufferings.

My Lord Russell and Col. *Sidney* were clap'd up in the *Tower*; after which he was sent for, and brought into the *Cabinet Council*, or *select number of Lords*; and askt, *whether he was of the Council of six*; so the *Lord Howard* was pleased to call it: He saw there, the *King*, *the Lord Keeper* North, *and Lord* Hallifax; there were some others present, whose faces he did not see; he does not remember a Clerk with them; *my Lord Keeper* asked some Questions, and so did the King; *He was pressed much to confess*; *he claimed the Liberty*, *as an* English-man, *not to accuse himself*; he was sent to the *Tower*, and made *close Prisoner*; he was kept in the strictest custody for twenty Weeks; when he had been there, after the *Lord R.* was executed, and a little before *Col. Sidney was executed*, he had an intimation by a private note, that there was an intention to try him; for a *Misdemeanour*, he was bailed out upon 30000 *l.*

After this, it happened, the *D. of M.* came in, and had a *Pardon*; but several coming to see him, he spoke some things

things freely, which did not pleaſe the *Court*; and *at the Old Dutcheſs of* Richmond's, *he ſpoke as if thoſe* Gentlemen *that were put to Death, dyed unjuſtly.*

Whereupon, after the King was told this, by a *Lady*; he *would have him confeſs his being concerned in the Plot*; and a *Paper* was drawn to that purpoſe, *which the King would have him ſign*, which he did.

A *Gentleman* (viz.) *Sr James Forbes*, came to him from the *Duke*, with the Copy of the *Paper* the Duke had ſigned, to own the *Plot*; as ſoon as he ſaw it, he ſaid it was a *Confeſſion* of the *Plot*, and according to the Law then in practiſe, it would hang him; becauſe a Paper had been given in evidence againſt *Col. Sidney*; upon which he was condemned; for if a Paper which was ſaid, and not proved to be writ by him, could ſupply the place of a ſecond Evidence; then a Paper which could be proved to be written and ſigned by the *D. of M.* might much more properly be made uſe of as his Evidence, to hang other People.

He ſaid, he was told by *Sr James Forbes*, that the D. *was in a manner forced to do it*; *and perſwaded and overborne in*

it, by the Lord H. when *Sr James Forbes* went back, the *D. was concerned to madneſs*; and ſaid, if he lived till next day, he would have the Paper again; and accordingly he went to the King, and told him he could not reſt till he had it; The *King* with great indignation threw him the Paper, and *bid him never ſee his face more*; and he believes he did not; and ſo the *Duke* went away; and *by that he eſcaped the Tryal then.*

He was told by *Mr Waller*, who is ſince dead, that the *Duke's owning the* Plot *to the King, was the cauſe of Colonel* Sidney's *death*; for the King ballanced before.

He was after this, brought to a *Tryal for Miſdemeanour*, and was *convicted* on the *Lord Howard's* evidence: He pleaded *Magna Charta*, that a *Salvo Contenemento*; but the *Court fined him* 40000 *l.* and to Impriſonment, till the Fine paid, and *ſecurity for the good Behaviour.*

The *King* made his choice of putting him in Priſon, and he was committed to the *Marſhal's Houſe* in the *King's Bench*, where he was ten Months.

He offered ſeveral ſumms of Money, and they anſwered, *they had rather have him*

him rot in Prison, than he should pay the Fine.

After this, they put him in the *Common Prison*, where he was kept ten or eleven Months, very close; then, they contrive a *Writ called a long Writ*, to reach his *Real and Personal Estate*, whilst he was thus a Prisoner.

After this, he heard a *new Witness appeared*, which was after the defeat of the *Duke* of *Monmouth*. He was sent *Close Prisoner* to the *Tower*, by the Lord *Sunderland's Warrant*; and put into such a Room, where he had no conveniency, and with two of the Rudest *Warders* in the *Tower*, to lie in the Room with him.

After seven or eight weeks, he was removed to *Newgate*, where he was kept close eleven weeks; his *Friends* offered Money for his Pardon to some in power; who were the Lord *Jefferyes* and Mr *Petre*; *the summ was* 6000 *l. and that was effectual*; It is not possible for a Man to suffer more than he did.

By the help of the Money, on condition he would plead Guilty to his Indictment, he was to come off.

His Friends advised him to it, because

it could hurt none; there being none living of those called the *Council of six*, but the *Lord Howard*.

Whereupon, pleading guilty, he was discharged; *paying* 3 *or* 400 *l. to* Burton *and* Graham *for the charge of his Pardon.*

As for the *Subject matter* of what he *confessed*,* no man will think he ought to be ashamed, that thinks my Lord *Russell* was Murdered; And he said, *this was the way that our* Ancestors *always took, when the* Soveraign Authority *came to so great a height*; *as* may be made out by many instances; he said, *Custom had made this the Law of* England; *and that all Civilized and well governed Nations about us, had used the same way.*

* The designing to rise in Arms to rescue the Laws and Liberties of his Country, when threatned with destruction.

Notwithstanding his *pleading Guilty*, he hath been very ready to secure the *Kingdom*; and *he was one of the two or three Men, that received Letters from* Holland *of this* Revolution; And, *he saith he thinks* King William's *coming into* England, *to be nothing else but the* Continuation *of the* Council of six; and if not, he desires to be better informed.

Being asked by the *Lord H.* how he came to ſend his *Wife* to the *Man, whom he thought was inſtrumental in obtaining the Paper, which he thought endangered his Life*; He anſwered, *did not he ſend his Wife to the* Lord Jefferies, Mr Petre *and others?* who ſhould he ſend to but to thoſe in power? and who could help him but thoſe in power?

He did not think that the Lord *H.* ſtruck directly at his Life, or that his *Lordſhip* had any perſonal Pique againſt him; *but againſt the Cauſe he was engaged in*; His *Wife* did go ſeveral times to the Lord *H.* and by her he believes he ſent him thanks; *He knows no ſolid effects of his kindneſs; if there were, he deſires the* Lord H. *to tell him in what*; He believes no part of the 6000 *l* was given to the Lord *H.*

He never heard any thing of the *D.* of *Monmouth*'s *Confeſſion* of the *Plot*, till after the Paper was ſigned by the *Duke*, and ſent to him; He has heard it, as common talk, that the *Duke* had confeſſed a *Plot*, and that Mr *Waller* told him ſo indefinitely; he could not tell whether he meant before the ſigning the Paper, or no; He ſaith what the *Duke* did at that time was all of a piece; whether

ſpeaking or writing; *he is ſure that it was with the utmoſt reluctancy, that the* Duke ſigned the Paper.

He remembers no more in the *Cabinet Council*, but the Lord *Radnor*, beſides thoſe he has already named; but believes there were three or four more.

He was bailed the 28*th* of *November*, 1683. and *Colonel Sidney* he thinks was Executed, the 5*th* of *December* following.

The *Duke* of *Monmouth appeared very firm to him, and engaged to do his utmoſt to ſave Colonel Sidney.*

He ſaith he came out of the Tower ſome days before *Colonel Sidney* was Executed; he had an intention to have viſited him, but his Friends thought it uſeleſs and dangerous to them; and that he might write any thing he had to ſay; Accordingly, he wrote to him, that he would come to him, if he deſired it, but *Col. Sidney* charged him not to come, but to write, if he thought any inconveniency would come of it; The Meſſenger which brought him the Meſſage before-mentioned, was Dr *Hall* now *Biſhop* of *Oxford*; who applyed to the *Dutcheſs* of *Portſmouth* for his Releaſe; but her anſwer to him, afterwards was,

That she had tryed, and could do nothing, for they would rather have him rot in Prison, than have the 40000 l.

Dame *Katharine Armstrong*, being examined, deposed, that *she demanded a Writ of Error of the Cursitor of* London, for Sr *Thomas Armstrong*, and told him she was ready to pay all due Fees; but he told her she must go to the *Attorney General*; and she demanded it publickly in Court of the *Lord Keeper North*; *but he said it was not in him to give, but the* King.

Mrs *Jane Mathews* being examined, said, that her *Father* was sent to Prison, and could have no Council admitted to him; nor any Friends speak with him; but in the presence of his *Keeper*; he had one Chain on him, and was kept close Prisoner; she saith, she questions not but to prove the Lord *Howard perjured*, for Sr *Thomas* could have proved by ten *Gentlemen*, and the Servants of the House, those base Reflections the Lord *Howard* made on him, to be falshoods.

She saith, *her Father* demanded his *Tryal*, and also *Counsel*, in the Court; but was denied both, the *Chief Justice Jeffries*

Jefferies telling him, *they had nothing but the Outlawry to go on. Withens, Holloway*, and *Walcot* were other three of the *Judges*; And she thinks, he was brought from aboard the *Yatch* by the Lord *Godolphin's* Warrant.

She saith, Mr *Richardson beat her Sister, while she was asking her Father Blessing.*

She saith, that her *Father* was at *Sparrow's* at Dinner, that day that the Lord *Howard* swore he was not; and she saith, that when her *Father* in Court said, *My Blood be upon you*; *The* Lord Chief Justice Jeffryes *said, let it, let it; I am Clamour proof.*

Mrs *Katherine Armstrong*, being examined saith, That Captain *Richardson* used her Father ill, and made him lie in a Chain on one Leg; and would not let her see him alone; and was rude to her, and *struck her in such manner, that she had so sore a Breast, that she could not put on Bodies in three quarters of a year:*

She saith, she went with her *Mother* to the *Cursitor* of *London*, to demand a *Writ of Error*, but he refused it.

She went also on the same Errand to the *Lord Keeper North*, *Mr Attorney*, and *the Lord Chief Justice*, but had none.

Mr *Richard Wynne* declared, That he was *Solicitor* to *Colonel Sidney*; That the *Colonel exceepted* againſt ſeveral of the *Jury*; *to ſome as not being Freeholders*, and others, as being in the *King's Service*, and receiving *Wages* from his *Majeſty*.

That preſently after the *Tryal*, the *Lord Chief Juſtice* ſent him *Priſoner* to the *King's Bench*, for ſaying the *Jury were a Loggerheaded Jury*, & that They had not Evidence ſufficient to find ſuch a *Verdict*; or found a *Verdict* contrary to Evidence.

Mr Wynne ſaid this, to *Angier* (the *Foreman of that murdering Jury*) and to *Gliſby* (*another of the three Carpenters which were upon that Jury*) and to another of their *Brethren* near the *King's Bench Court*; whereupon they went to lay hold upon *Mr Wynne*; at which inſtant *Mr Forth* (*the King's Joyner*) coming, interpoſed; upon which *Angier* ſaid, Mr *Forth* will you aſſiſt this Man? *he ſays Colonel* Sidney's *Jury was a Loggerheaded Jury*. To which *Mr Forth* anſwer'd; I have nothing to do with the *Jury*, but *Gliſby knows, that I know he is a Loggerhead*. Of this, They complained to *Jeffryes*, who committed *Mr Wynne* and *Mr Forth* to the *King's Bench*; It coſt *Mr Forth* about 50*l.* whereof *Burton* had 24 *l.* and he being a *Proteſtant Joyner*, he 'ſcap'd well out of their Hands, as times then went; eſpecially *with that Trade*.

Mr *Serjeant Rotherham*, being examined, declared, That *he was of Counſel for* Colonel

nel *Sidney*, and drew a *Plea* for him; which the *Colonel* deſired to have read, and threw it into the Court; It was to diſtinguiſh the *Treaſons*, laid in the *Indictment*, and quoted the three *Acts* of *Treaſon*: But the Court told him, if the Plea had any ſlip in it, he muſt have Judgment of Death, paſs on him immediately: After this he pleaded Not Guilty.

That *he demanded a Copy of the Indictment, as his due*; but the *Court* refuſed it him; That *Col. Sidney* told him, that they proved the Paper, they accuſed him of, to be his Hand-writing, by a *Banker*, who only had his hand upon a Bill. *Col. Sidney* quoted the *Lady Carr's Caſe* in the *King's Bench*, *Trinity Term*, 1669, *Anno* 21, *Car.* 2. wherein it was adjudged, *that in a Criminal Caſe, 'tis not ſufficient for a Witneſs to ſwear he believes it to be the hand, but that he ſaw the party write it*: The words in the Caſe are, *That it muſt be proved, that ſhe actually writ it, and not her hand*, ut credit.

[*Note, Colonel* Sidney *demanded the Copy of the Indictment, upon the Statute* 46 Edw. 3. *which allows it to all Men, in all Caſes.*]

That *Colonel Sidney* ask'd him, with the reſt of the *Council*, whether all the *Book* ſhould be read at his *Tryal*; The

Council said it ought; The Book was by way of Queſtions, and meerly *polemical diſcourſe of Government* in general; as far as *Serjeant Rotherham* could find, after reading in it ſeveral hours; He believes it conſiſted of ſeven or eight hundred Sheets.

Mr *Joſeph Ducas*, upon his Examination, informed the *Lords*, in ſubſtance as follows; That *Colonel Sidney* was taken up by a Meſſenger, before there could be any pretence of proof againſt him; for the *Lord Howard (the only Witneſs)* was not ſeized till fourteen dayes after.

That when *Sr Philip Floyd* ſeized and carried away *Colonel Sidney's* Papers, he promiſed him that the Trunk and Pillowbeere, in which they were ſealed up; ſhould not be opened, but in the *Colonel's* preſence; but that promiſe was not performed.

That they *ſeized* the *Colonel's Goods* and *Money* in the City and Country; *five or ſix Months before any Indictment was found againſt him.*

That the *Colonel* was brought to *Weſtminſter* the 7th of *November*; by an * *Habeas Corpus*

* A moſt clear demonſtration, that the Proſecutors of this great Man had good Intelligence with the Grand Jury, & Influence upon them.

pus, ſent the day before; to be arraigned upon an *Indictment*; tho' no *Indictment* was then found againſt him; and they kept him in a *Tavern* in the *Palace-yard*, an hour; till they had got the *Grand Jury* to find the *Indictment*.

That the *Colonel* being carried to the *Court* of *King's Bench*; and the *Indictment* read; he demanded a Copy thereof; but the *Court* refuſed it. That the *Colonel* offered a *Special Plea* engroſſed in Parchment, and deſired it might be read; but the *Chief Juſtice* ſaid, that if the *Attorney General* demurred, and the Plea were over-ruled; Judgment of Death ſhould paſs upon him; (and *Wythens* ſaid, if your Plea be over-ruled, your Life is gone) and ſo he was forced to Plead *Not Guilty*.

That he challenged ſeveral of the *Jury*, as being the *King's Servants*; and others, as not being *Freeholders*; but was over-ruled therein. Some *Gentlemen* and very worthy Perſons were, for Faſhion ſake, put into the *Pannel* and called; but did not appear [*and it may be reaſonably thought they were never ſummoned.*]

That *Colonel Sidney* was informed, that when

when the *Jury* was withdrawn, the *Chief Juſtice*, under pretence of going to drink a Glaſs of Sack; *went to the Jury, when they were conſulting about their Verdict.*

That when it was demanded of the *Colonel*, what he had to ſay, why Judgment ſhould not paſs; he urged ſeveral points of Law, but was over-ruled, in every thing.

To this effect, was the Information of Mr Ducas, *a very valuable* French Proteſtant Gentleman, *and* Colonel Sidney's *true Friend; To which I ſhall here ſubjoyn a few words, uttered by that great Man, at the time of his Condemnation*: I was brought to *Weſtminſter* the 7th of this *Month* by * *Habeas Corpus*, granted the day before to be arraigned; when yet no Bill was *exhibited* againſt me, and *my Proſecutors*

* This leads me to correct an Error committed in the firſt part of this Hiſtory, pag. 185. where I ſaid, as I then underſtood it, that *Colonel Sidney* brought the *Habeas Corpus*; but it appears, that it was brought at the inſtance of his Proſecutors; And upon this occaſion I ſhall confeſs another miſtake, & therein, all with which I have been charged in the firſt part) that I ſaid *Robert Maſters*, one of Sr *S. Barnardiſton's* Jury, was a principal Witneſs againſt *Colledge*; But I muſt *acknowledge*, that *Richard* was the Witneſs, & *Robert* the Jury man was his Brother, and only ſuck'd the ſame Milk with him.

ſecutors could not know it would be found, unleſs they had a Correſpondence with the Grand Jury; That the *Jury* was not ſummoned by the *Bailiff*, but agreed upon by the *Under-Sheriff*, and *Graham* and *Burton*.

Upon the Sentence he expreſſed himſelf, in that excellent manner, which the Reader may turn to, in the firſt part of the *Diſplay* of *Tyranny*; Page 200. Whereupon, the *Chief Juſtic*, (*foaming at the Mouth*) told him *he was mad*; To which *Colonel Sidney*, with great compoſure and gallantry of mind (ſtretching out his hand ſaid, My Lord *feel my Pulſe, and ſee if I am diſordered; I bleſs my* God, *I never was in better Temper, than I now am.*

Dr. Chamberlaine being examined, depoſed, That meeting the *Lord Hallifax* in the Gallery at *White-hall*; he asked his Lordſhip whether the *Alderman* were to blame that defended the *City Charter*, and he believes he did not blame them, but ſaid the *King muſt, or will have the Charter*; he rather thinks it was, muſt have it; he believes he might tell this to the *Duke* of *Monmouth*, my *Lord Ruſſell* and others.

That

That it was for Sr *John Laurence's* Take, he asked the *Lord Hallifax*; and to him, he gave advice to take care in what he did, he being one of the *Committee* to defend the *Charter*.

A *Memorial* of the Numbers of *Charters*, *Diſpenſations* and *Pardons*, paſſed, between *October* 1682, and the time of the late *King's Abdication*.

THe *Marqueſs of Hallifax* was Lord *Privy Seal* from *October* 1682. to *February* 1684. In which time 166 *Charters* were granted; whereof one paſſed immediatè.

No *Diſpenſations* paſſed in that time.

In that time 47. *Pardons*, with *Non-Obſtante's* and *Clauſes* with *Diſpenſations*, were granted, whereof three paſſed immediatè.

The *Earl of Clarendon* was *Lord Privy Seal* from *February*, 1684, to *December* 1685. in which time 94. *Charters* were granted; whereof 17 paſſed *immediate*.

No *Diſpenſations* paſſed in that time.

In that time 10 *Pardon*, with *Non-Obſtante's* and *Clauſes* with *Diſpenſations*, were

were granted, whereof two paſſed immediatè.

The *Lord Tiveot* and others, were *Commiſſioners* of the *Privy Seal*, from *December* 1685. to *March* 1686, 7. in which time, 26 *Charters* were granted; which paſſed in the uſual manner.

Diſpenſations with the *Penal Laws*, in that time were *Six*, whereof one was immediatè.

In that time 70. *Pardons*, with *Non-Obſtante's* were paſſed; whereof one of them immediatè.

The *Lord Arundel* of *Wardour* was *Lord Privy Seal*, from *March* 1686, 7. to 4 *Jacobi* 2. in which time, 56 *Charers* were granted, whereof 41. paſſed immediatè.

Diſpenſations in that time were 35. whereof 3 paſſed *immediate*.

In that time were 47 *Pardons* with *Non-Obſtante's paſſed*; whereof 25 paſſed *immediate*.

Theſe are the heads of the Earl of Stamford's Report, which being read in the Houſe of Lords, *the ſame, was by Order, ſent down to the* Houſe of Commons, *for their Information in theſe Affairs.*

Copies

Copies of ſome Papers mentioned in, or relating to the forgoing Informations.

Copy of the *Advertiſment* in the *Gazette*, Number 1880. *November* 26. 1685. relating to the *Duke* of *Monmouth*, mentioned in the *Examinations* of Mr *Row* and Mr *Yard*.

White-hall, November 25. His *Majeſty* having this afternoon called an *Extraordinary Council*, was pleaſed to acquaint them; that the *Duke* of *Monmouth* did the laſt night ſurrender himſelf to Mr *Secretary Jenkins*; having before writ a very ſubmiſſive *Letter* to his *Majeſty*; entirely reſigning himſelf to his *Majeſty's* diſpoſal; That his *Majeſty* & *his Royal Highneſs* went down to Mr *Secretary's* Office, where the *Duke* of *Monmouth* was, who ſhew'd himſelf very ſenſible of his crime in the late *Conſpiracy*; making a full Declaration of it; And that having ſhewed an extraordinary penitence, for the ſame, *and made a particular*

cular ſubmiſſion to his Royal Highneſs, for his misbehaviour towards him; His *Majeſty* and *his Royal Highneſs* received ſo much ſatisfaction, that *upon his Royal Highneſſe's deſire and entreaty*; His *Majeſty* was pleaſed to Pardon the ſaid *Duke*, and thereupon, did order Mr *Attorney General*, to ſtop further proceedings againſt him; *but ordered he ſhould proceed, notwithſtanding, againſt all the reſt of the* Conſpirators.

Copy of the *Paper*, mentioned in the preceding *Informations*, was wrote by *King Charles* the ſeconds's own hand; who impoſed upon the *Duke* of *Monmouth*, to tranſcribe and ſign it.

I have heard of ſome reports of me, as if I ſhould have leſſened the late *Plot*, and gone about to diſcredit the evidence given againſt thoſe, who have dyed by Juſtice; your *Majeſty and the Duke know*, how ingeniouſly I have owned the late *Conſpiracy*; and tho' I was not conſcious of any deſign againſt your *Majeſty's*

jeſtys Life, yet I lament the having had ſo great a ſhare in the other part of the ſaid *Conſpiracy*.

Sr, I have taken the Liberty to put this in writing, for my own vindication; and I beſeech you to look forward, and endeavour to forget the faults you have forgiven me; I will take care, never to commit any more againſt you; or come within the danger of being again miſled from my duty; but make it the buſineſs of my Life, to deſerve the Pardon, your *Majeſty* hath granted to, your dutiful,

Mounmouth.

Copy of a *Paper* delivered to the *Lord Keeper North*, the *Lord Chief Juſtice Jeffryes* and the *Attorney General*; by the *Lady Armſtrong*, on behalf of her *Husband*, Sr *Thomas Armſtrong*.

I am informed, that by the Common Law of *England*, any Man that was *outlawed*, in *Felony* or *Treaſon*, might bring

bring a *Writ of Error*, to reverſe the *Outlawry*; which was to be granted *ex debito Juſtitiæ*; tho' it may be, the ſueing forth ſuch a *Writ of Error* to the *King*, might be by way of *Petition*; As in a *Petition* or *Monſtrans de droit*, for Lands; And ſo it was reſolved, in *Ninian Melvin's Caſe*, *Co.* 4. *Juſt.* 215.

Next, by the *Common Law*, if any Man were in *England*, at the time of the Exigent awarded; and went out of the Realm after that, and before the *Outlawry* pronounced; he could never aſſign that for Error, that he was beyond Sea at the time of pronouncing the *Outlawry*; And the reaſon is, becauſe he was here, at the awarding of the *Exigent*, and might reaſonably have notice of it.

On the other ſide, if any Man were out of *England*, during the whole Proceſs, and pronuntiation of the *Outlawry*; it was never yet a doubt, but that was *Error*, and might be aſſigned for *Error*, either by the party, or by his *Heir*, at the *Common Law*; and ſo continues to this Day, and was not long ſince adjudged in *O. Kerney's* Caſe, the

Iriſh man, who came in two Years after the Outlawry.

But that Caſe differed greatly from this, *O. Kerney*, being a Friend of Holy Church

Then comes the *Statute* of 5. & 6. *Edw.* 6. *Cap.* 11. and enlarges the Law, for the benefit of the outlawed perſon; and *gives him liberty to aſſign for Error, that he was beyond Sea at the time of the Outlawry pronounced*; which he could not do, by the *Common Law*, if he went away after the *Exigent*: For if he went before the *Exigent*, that was *Error* by the *Common Law*, before the *Statute*; and ſo continues.

Then comes the *Proviſo*, and ſaith, *That he muſt come in, within a Year, and render himſelf, to be entituled to the benefit of that Act*; which was, to *aſſign* for *Error, that he was beyond Sea, at the time of the Outlawry ponounced*; So that upon this State of the Law, and my *Husbands* caſe; he being beyond Sea at the time of the *Proceſs*, and at the time of the *Outlawry* pronounced; It is conceived, he is well entitled to aſſign this for *Error* at the *Common Law*, without any aid of the *Statute*; tho' the *Proviſo* in that *Statute*, ſhould be ruled againſt him; which, with ſubmiſſion, it is the opinion of many learned Perſons in the Law, that he is within the intent and meaning of that *Proviſo*, for many Reaſons,

ſons, too long to trouble your *Lordſhip* with now; Therefore I do hope, that this Caſe of my *Husband's*, being the firſt Caſe, that ever any Man was executed upon an *Outlawry* (*that did not deſire it*) may have that weight with your *Lordſhip* which it deſerves; And do hope, that your *Lordſhip* will ſo adviſe the *King*, in matter of Law) *whoſe Counſel you are*) that my *Husband* may have a *Writ* of *Error* granted him, and *Counſel* aſſigned him, to argue theſe points; as by Law hath been allowed to *Criminals*, in *Capital Caſes*; with, whatever elſe ſhall appear upon the Record of Outlawry produced; which, as yet, my *Husband*, nor any for him ever ſaw.

Holloway, a little before, being in the ſame condition, refuſed a Tryal, and ſo was executed upon the Outlawry.

Colonel *Sidney*'s Plea drawn by Mr Serjeant *Rotherham.*

PRedict Algernon Sidney *dicit quod per Statut in Parliamento inchoat & tent apud Westm octavo die Maij Anno regni domini Regis nunc decimo tertio, & ibi continuat usq; tricesimum diem Julij tunc prox sequen & ab eodem tricesimo die Julij Adjornatum usq; vicesimum diem Novembris tunc prox sequen Intitulatum,* An Act for Safety and Preservation of his Majesty's Person and Government, against Treasonable and Seditious Practices and Attempts, *inter alia, Ordinat & inactitat fuit per Autoritatem Parliamenti predicti quod null. Persona sive Personæ virtute Actus predicti incurreret aliquas penalitates in Actu predicto mentionat Nisi Ipse vel Ipsi prosecut esset vel essent infra sex Menses prox offens commiss. & indictat esset superinde infra tres Menses post talem prosecutionem, aliquo in Statuto predict content in contrarium non obstante, Et predictus* Algernon *ulterius dicit quod ipse prosecut fuit & commissus Prisonæ Turris de* London *pro Offens. in Indictamento predict mentionat*

nat vicesimo sexto die Junij ultimo preterito & non ante & ibidem continuat Prisonar hucusq; Et quod ipse predict Algernon *non fuit indictat pro aliquo vel aliquibus Offens in Indictimento predict mentionat in fra tres Menses prox post prosecutionem predict. Et hoc predict* Algernon *parat est verificare unde petit judicium si ipse predict* Algernon *quoad aliquod Crimen sive Offens in Indictamento predict mentionat quod Crimen vel Offens non fuit Alta Proditio ante confectionem Statuti predict respondere debeat et quoad omnes Proditiones Crimina & Offens in Indictimento predict mentionata quæ non fuere vel fuit alta proditio ante confectionem Statuti predict idem* Algernon *dicit quòd per Statutum in Parliamento tento apud Westm in Com Middlesex in Festo sancti Hillarij Anno regni Domini Edwardi nuper Regis Angliæ tertij Anno regni sui vicesimo quinto editum intitulatum,* A Declaration; Which Offences shall be judged high Treason, *inter alia, inactatum fuit Autoritate ejusdem Parliamenti quod si ullus casus supposit esse Proditio qui non specificatur in eodem Statuto acciderit coram aliquibus Justitiarijs, Justitiarij moram facient Anglice* shall tarry *sine aliquo progressuad Judicium Anglice* going to Judg-

ment de predictâ proditioni nsqu; Causa monstretur & declaretur coram Rege & Parliamento suo, Quodq; per Statutum in Parliamento tent apud West in Com Midds. quinto die Octobris Anno regni Dominæ Mariæ nuper Reginæ Angl primo intitulatum, A Repeal of several Treasons Felonies and Premunires inactit fuit inter alia, Autoritate ejusdem Parliamenti quod abinde nullum factum vel Offens. existen per actum Parliamenti vel Statut fact Proditio per Verba Script Notationem Anglice Ciphering fact aut aliter quocunq; capt habit Census Anglice deemed vel adjudicat esse alia Proditio, nisi tantum tal. quæ declarantur & exprimuntur esse Proditio in vel per Actum Parliamenti vel Statut factum in Anno vicesimo quinto regni prenobilis Regis Edwardi tertij tangen vel concernen Proditiones vel Declarationes Proditionis & nul al. nec quod aliquæ pœne mortis penalitates vel forisfactur in aliquo modo sequuntur Anglice ensue vel sint alicui Peccatori Anglice Offender vel Peccatoribus Anglice Offenders pro facien vel committen aliquam Proditionem aliter quam tal. quæ in Statuto predicto facto in dicto Anno vicesimo quinto regni dicti Edwardi Regis ordinat &

& provis, aliquo Actu vel Actus Parliamenti Statut vel Statut ad aliquod empus antea habit vel fact post dictum vicesimum quintum Annum dicti nuper Regis Edwardi tertij; vel aliquam al Declarationem vel materiam in contrarium aliquo modo non obstante Et predictus Algernon dicit quod ipse non est culpabilis de aliqua vel aliquibus Proditione vel Proditionibus in Indictamento predicto mentionat quæ specificatur vel specificantur in Statuto ultimo mentionato modo & forma pront in Indictimento predicto mentionat Et de hoc ponit se super Patriam.

The Names of the *London* Grand-Jury returned, *July* 1683. When the Conspirators had decreed the Murdering my Lord *Russell*.

Richard Alie, Esq;
Peter Parvicini,
Benjamin Skutt,
Philip Harman,
Benjamin Thorowgood,
William Longmore,
John Price,
Francis Brerwood,
William Withers seni.
William Lovel,
John Debnam,
Percival Gilborne,
Henery Wood,
John Cooper,
Samuel Newton,
Henry Wagstaffe,
Thomas Blackmore,
Thomas Larner,
John Potts.

} Sworn.

Leonard Bates,
John Femill,
Barth. Ferryman,

Spencer Johnson, and
James Kelke.

The

The Pannel of Jurors pick'd for the Tryal of my *Lord Russell*, in *July* 1683.

Colman-Street-Ward.

Sir *James Ward*.
Sr *Tho. Davall*,
Arthur Baron,
Thomas Moffit,
John Martin,
Thomas Hadges,
Will. Fitzacherly, &
William Rouse,

Tower-Ward.

Peter Joye,
John Pelling,
Tho. Porey,
Will. Winberry,
Tho. Normansel,
Richard Reynell,
William Pellatt,
Jervas Seaton, &
Richard Burden.

Algate-Ward.

Jacob Lucy,

Peter Jones, and
William Crouch,

Billingsgate-Ward.

Henry Loades,
Hugh Strode,
Robert Mellish, and
Abraham Wright,

Broadstreet-Ward.

Peter Aylesworth,
William Danes,
John Steventon,
William Rutland,
William Fashions,
Thomas Shorte,
Samuel Skinner,
Theophilus Man,
George Baker,
Richard Kent Ar. &
Gerlington Chapman,

Dowgate

Dowgate-Ward.
Richard Hamond,
Fr. Chamberlain,
John Jenew, and
John Bridges.

Ward of *Bishops-gate* within.
John Busson.
Joel Andrews, and
Ralph Izard.

Bridge-Ward.
John Short senior.
Thomas Nicholls, &
Roger Mingay.

Candlewick-Ward.
George Toriano,
William Butler,
William Parker, and
James Pickering.

Limestreet-Ward.
John Hall,
Matthew Gibbon,
Thomas Angier,
Robert Masters,
Luke Pead,
Christopher Johnson,
Philip Perry,
Stephen Gittings, and
William Warren.

Walbrooke-Ward.
John Westbrooke,
John Tempest,
John West, and
Edward Le Neve.

Langborne-Ward.
William Gerrard,
Anthony Mingay.
Nathaniel Hornby,
Henry Collyer,
James Smith,
Thomas Lowfield,
Thomas Jenny, &
Samuel Hanckee,

Cripplegate-Ward.
Robert Aske,
Thomas Jeve.
Hugh Noden.
Robert Brough,
John Mallory,
Thomas Yate.
William Crispe,
John

John Walkly,
Thomas Oneby,

Ward of *Farringdon* within.
Francis Griffith,
Peter Pickering,
Edward Rigby,
Richard Hoare,
Thomas Barnes,
Henry Robins,
Henry Kempe,
John Owen,
William Simonds,
Thomas Grice,

Ward of Farringdon without.
Paul Weeks,
Roger Reeve,
Edw. Reddish,
Edw. Kempe,
Will. Brown,
Ambros. Istead,
Thomas Fowles,
Thomas Hamond,
Thomas Fitzer,
Thomas Dring,
Henry Baldwin,
Robert Fowles,
Thomas Rawlinson,
William Warne,
Valentine Castillion,
Jervas Wilcox,
James Smith,

Ward of *Aldersgate* within.
Peter Floyer.

Ward of *Aldersgate* without.
Robert Scott,
John Andrews,
Jeremiah Wright,
Jacob Sheldrake,

Cordwayner-Ward.
Thomas Coulson.

Unity-Ward.
George Peek.
John Hoyle,

Ward of Castlebaynard.
Sr *William Dodson,*
Sr *Edm. Wiseman,*
William

William Goslin, *Christopher Pitt*,
Nicholas Alexander, *Robert Beddingfield*
Nicholas Charleton, *Thomas Warren*,

By *Peter Rich* Esq; and Sr *Dudly North*, Knight, } Sheriffs.

The Names of the Grand-Jury at the Sessions the 14*th* of *October*, 1685. when the Conspirators had resolved to Murder *Alderman Cornish* and *Mrs Gaunt*.

Percival Gilborne, Bart. *Ferriman*,
Thomas Blackmore,
Thomas Simonds,
William Watton,
Thomas Barnesly,
John Greene,
Thomas Amy,
Joseph Baggs,
John Reynolds,
Robert Blackmore,
Joseph Caien,
W. Withers, Junior.
Thomas Deacon,
Richard Browne,
Thomas Mills,
John Bernard,
William Fownes,
John Luker.

The

The Pannel of *Furors* for the *Tryal* of *Alderman Cornish*, in *October* 1685. returned out of most of the Wards of the City, by the particular care of Sr *Benjamin Thorowgood*, in regard that Mr *Cornish* had been one of his Predecessors.

(See this page 289.)

Sir *William Russell*,
Sr *Mich. Hicks*,
Sr *John Mathews*,
Sr *William Dodson*,
Sr *Thomas Griffith*,
Sr *Edmun. Wiseman*,
Sr *John Clarke*,
Sr *Thomas Vernon*,
Sr *Edward Boveree*,
Richard Alie, Esq;
Ralph Box, Esq;
Thomas Hartopp Esq;
Thomas Fowle,
Arthur Baron,
Benjamin Skutt,
Thomas Rawlinson,
John Shorte, Senior,
Thomas Goddard,
William Gore,
John Kent,
Edward Griffith, *Esqs*
William Withers, Sen.
John Midgly,
John Carpenter,
Franc. Chamberlain,
Peter Joy,
Thomas Langham,
George Toriano,
Henry Loades,
Robert Bedingfeild,
Ambrose Istead,
William Butler,
Kenelm Smith,
Ralph Lee,
William Moyer,
Robert Scott,

William

William Warne,
Thomas Shorte,
Fermingham Chaplin,
John Jenew,
James Pickering,
James Smith,
Thomas Lofeild,
James Woods,
Tho. Pendleton,
Samuel Hinton,
Nicholas Smith,
James Smith,
Tho. Peircehouſe,
John Grice,
Thomas Oneby,
Richard Cotton,
Richard Hoare,
Roger Reeves,
William Crouch,
John Foſter,
Thomas Sergeant,
James Richardſon,
William Cloudſly,
Richard Holford,
Thomas Crane,
Lewis Wilſon,
Henry Wood,
William Tigh,
John Pelling,
Gervis Wilcox,
Jacob Sheldracke,
George Peck,
Francis Breerewood,
W. Longmore,
John Price,
William Fitzacherly,
William Faſhion,
Walter Acton,
Stephen Coleman,
Robert Clavel,
William Long,
John Wells,
Maurice Moſely,
John Pott,
Thomas Lardner,
James Kelke,
John Perrott,
Thomas Aſhby,
Samuel Skinner,
William Rouſe,
Noel Baſano,
Paul Sherman,
John Walkly and
William Humfreys.

The

The Pannel of Jurors *returned for the Tryal of the Honourable* Colonel Sidney.

Sr *Reignald Foſter* of Criplegate Bar.
Sr *John Muſters*, of Hornſey Knight.
Peregine Bertie, *Richard Morely*, } of St Martins in the Fields,
James Supple, of the ſame, Eſqrs;
John Angier, *Carpenter*;
Richard Fiſher,
John Kirke,
Chriſtopher Granger, } of *Weſtminſter*.
John Nicholl, of Finchley.
William Cleeve,
Richard White, } of Criplegate
Sr *Charles Gerard*, of Harrow on the Hill.
Sr *Richard Fiſher*, Sr *Robert Dacres*, } of Clerkenwell.
Sr *John Kirke*, of St Martins in the Fields
John Wells, of Marybone.
Samuel Linne, ſenior,
Michael Todd,
William Linne, } of Clerkenwell.
Laurence Wood, of Holborne, (*Taylor*)
John Powel, of the Strand.
Hugh Hamerſly, of the ſame.

John

John Cannon, of St Giles in the Fields.
Sr John Brattle, of Enfield (an Officer in the Mint)
Sr John Downton, of Isleworth,
Sr William Hill, of Tedington.
Ralph Hawtry, of Ristip, Esq;
Francis Knowles, of Covent-Garden, Esq;
Thomas Hinton, } of St Giles in the Fields.
John Merridel, }
John Bailey. }
Abel Andrews, } of Edmonton.
Reuben Bourne, }
Emery Arguise, of Westminster (Carpenter)
Richard Cooper, of St Martins in the Fields.
Thomas Row, of Horneley, Esq; (a Captaine in the Army)
John Bathurst of Edmonton, Esq;
Richard Pagitt, } of Westminster, Esq;
Nehemiah Arnold. }
William Freeman of Hatton-Garden Esq;
William Avery of Enfield.
Francis Stevens of Westminster Esq;
Thomas Phelps }
John Smalbone }
Tho. Whitfield } of St Martins in the fields.
John Haynes. }
Charles Monke. }
John Sharpe of Wapping (Lieutent Colonel)
Josia

Josia Clarke of Chiswick.
William Wayte of St Chements Danes (keeper of the Privy Garden.)
John Bignal Senior. }
George Glisby (Carpenter) } of St Martins in the Fields,
Nicholas Barter }
Tho. Roberts ——— }
John Hazard (Vintner.)
Jeremi. Playner, (Vintner) } of St Clements
William Reeves. } Danes.
William German }
Tho. Claxton of Harrow Esq.
Charles Pryor of Highgate.
Tho. Curtis of St Clements Danes.
——Bradshaw of the Strand Esq;
Tho. Kensey of St Giles's in the Fields Esq;
Richard Taylor of Chiswick Esq.
William Groves of St Clements Danes.
John Bert of the Savoy.
Samuel Lynne junior } of Holborne.
Richard Bromfield. }
Edward Hampsted. }
Benjamin Boltby. } of St Giles.
ChristopherChambers }
Arthur Blyth of Paddington.
John Leeson of the Strand.
Tho. Elton of Stepney.
Nicholas Grice of Hesson.
Simon Smith of Westminster Esq.
Bartholomew Parr of East Smithfield,

Francis Child of Acton Gentleman,
John Davis
John White (the King's Founder*)* } *of St Martins.*
Stephen Philips.——
Richard Foster of Westminster.
Tho. Graves,
John Singleton, } of the *Strand.*
Tho. Tatton Gentleman,
Robert Longland Gentleman,
James Blagrave Gentleman, } of *St Giles.*
William Abel.

To draw to (what I have impatiently desired) a conclusion; It is a sad Truth, that the *Conspirators* had long resolved *to go to hanging work*, & Sr *Roger L' Estrange* could more certainly predict the time, than *Mr Gadbury* could that of the *Birth* of his *Prince of Wales*; for at that very Juncture, when it was resolved, That Sr *Budley North* must be Sr *John Moores Sheriff*; *We had the direful* Consequences foretold in the *Observator*, of *May* 20. 1682, *Number* 140. in these words, *If it should please God to send us* SEASONABLE SHERIFFS, *and faire Play for our money, there are set a foot so many Titles in*

The same celebrated *Author*, told the World whom he esteemed his *Seasonable Sheriffs*; for

in competition for the Gallowes, *that it would be a hard matter to settle their* Claimes, *and say, who should go first.* And We know that the *Gentleman* was a Minister of State in that Reign: But to allow every thing its due weight, and to set the Tragedy of that dismal day In its proper Light; I shall here revive the Remembrance of the *dying Testimonys* of very serious Persons who then lost their Lives, for that *horrid Conspiracy* against the late *Kings Charles and James the Second*; which frighted the *Cheshire Grand Jury*, and with them, a great part of the *Kingdom*, *out of their Wits.*

in his *Observator* of *May* 17th 1684. he sayes; Prithee will thou set their *Cornish* and *Bethel* their *Pilkington* and *Shute*, against *Our North* and *Rich*; *Our Daniel* and *Dashwood*; and say which of these *Sheriffes* are the likelyer Men, to juggle *Protestants* out of their Lives. [*But the Poor* VVhigg *durst not for his Eares, at that day, answer this ensnareing Question; for if he had, and done it honestly, it might have cost him his Head.*]

'Tis well known, that the *VVitnesses* against them, *swore for their own Lives*, with halters about their Necks; and its as true, that most of the Witnesses had talk't at a mad rate, in the hearing of some of those whom they destroyed;

But see, what those *dying Protestants* in a most solemn manner declared, with their last Breath.

Mr *Colledge* took it upon his death, That he was never engaged in any manner of *Plot* or *Conspiracy* against the *King*, the *Laws* or the *Government*; or knew of any, *except that of the Papists*; That if it had been true, *that he was to have seized the* King; *he knew not of so much as one single Person, that was or would have stood by him, in that attempt.*

Captain *VValcot* denyed any design of *killing the* King, *or of engaging the* Guards, *whilst others killed him*; And said, that *the Witnesses invited him to Meetings*, where some things were discoursed of, *in order to the asserting our Liberties and Properties*; which we lookt upon to be violated and invaded:——That *They importuned and perpetually solicited him, and then deliver'd him up to be hang'd*—— That *They combined together to swear him out of his Life, to save their own*; and that they might do it effectually, *They contrived an Untruth.*——That he forgave them, *tho' guilty of his Blood*; But, withal, earnestly *begg'd, That they might be ob-*

observed, that Remarks might be set upon them, whether their end be peace: and he concluded (with what made *Sr Roger L'Estrange* a great deal of *Sport*, but yet *Heaven* has made it good) That *when* God HATH A WORK TO DO, HE WILL NOT WANT Instruments.

Mr *Holloway* declared, that *Mr West* proposed the *Assassination, but none seconded him.*——That he could not perceive that Mr *Ferguson* knew any thing of it; and *Holloway* said, *It was our design to shed no Blood*; He being interrogated, by *Mr Ferguson's* Friend *Mr Sheriff Daniel*, whether he knew *Ferguson*; He answer'd *that he did know him, but knew him to be against any design of killing the King.*

Sr *Tho. Armstrong*, at his death spoke thus; Mr *Attorney* said, *I was accused for being one of Those who were to kill the* King; *I take God to witness, I never had any such design*; nor ever had a thought to take away the *King's* Life; Neither ever had any man the impudence to propose so barbarous and base a thing to me.

Mr

Mr *Nelsthorp* at his death in 1685, ſaid, *I can with great comfort appeal to the great* God; *before whoſe Tribunal I am to appear; what I did was in the ſincerity of my Heart, thinking it my duty to hazard my Life, for the Preſervation of the* Proteſtant Religion, *and the* Engliſh Liberties; *which I thought invaded, and in great danger to be loſt*; As to the deſign of *Aſſaſſinating* or *Murdering* the late *King*, or his preſent *Majeſty*; it was a thing I always deteſted; and I never was in the leaſt concerned in it; Nor *did I believe there was ſuch a deſign*,——I dye in Charity with all the World; and can readily and heartily forgive my greateſt Enemies, and even thoſe that have been the Evidence againſt me.

Mr *Rouſe* declared, that he was told, that *They did not intend to ſpill one drop of Blood*; and affirmed that *Lee*, the *Witneſs* againſt him, did (by his Evidence) make him the *Author of the very words, that came out of his the ſaid* Lee's *own Mouth.*

Mr *Richard Rumbold* (who at his death, at *Edenburgh*, in 1685, was found to be a

a very brave Man, & moſt ſerious *Chriſtian*, and had been repreſented as *the main Promoter of the Murdering deſign*) with his laſt breath deſired all to believe his *dying Words*, and therewith affirmed; *that he never directly, or indirectly, intended ſuch a Villany as the death of* King Charles *the* ſecond, *and the* Duke *of* York; but declared, that *he abhorred the thoughts of ſo horrid an intention*: That he was ſure this *Truth*, would *at the great day*, be manifeſt to *all Men*; And he concluded, that *he dyed in the defence of the juſt Laws and Liberties of the Nation*; and ſaid, *that for that Cauſe, were every Hair of his Head and Beard a Life, he would joyfully ſacrifice them all*; and wiſht he had a *Limb* for every *Town* in *Chriſtendom.*

To conclude, theſe ſolemn, ſerious, dying *Declarations*, *Proteſtations* and *Appeals* to the *heart-ſearching God*; have always, out-weighed with me, the Evidence of thoſe two or three *Witneſſes*, who ſwore theſe Perſons out of their Lives, and by ſo doing ſaved their own. And I did and do moſt ſtedfaſtly believe, that the only *Plot* in that day, was the ſame, which the *Almighty* has at length

length owned, and moſt ſignally proſpered, in the hand of *our gracious Auguſt* and *Rightful Soveraign King William*; I mean, the reſcuing the *Proteſtant Religion* and the *Laws* and *Liberties* of *England*, from a moſt impetuous Torrent of *Popery* and *Tyranny*; wherewith they were very dangerouſly threatned. And methinks it ſhould even convert a *Tory* (unleſs his *Brains* were pick'd out of his *Skull*, by him who pick'd the *Guineas* out of his *Pocket*) when he caſts his Eye upon that appoſite & Emphatical Expreſſion in the *Obſervator*, *vol.2. Number* 125. **To deal freely with thee, TRIMMER, I have more Faith, in the Words of one dying Traytor, under the ſtroke of Juſtice, than of twenty Living.**

Errata's.

PAge 34. laſt Line read *Cloſet*. p 63 firſt line r *and he be found*. p 91 line 9 dele *that*. p 105 l 2. dele *us*. p 151 l 25 r *acquainted with*. p 203 l 5 for *with* r *which*. p 213 l 20 for *it is* r *its*. p 241 l 14 r *poſſeſſed*. p 247 l 22 r *always had*. p 252 l 25 r *every day from that* p 253 l 3 r *Sr Robert*. p 277 l 25 r *Gold-Finch*. p 288 l 9 r *were not ſent*.