

L. C. J. Who and where?

Mr. *Dangerfield*. In general, my Lord.

L. C. J. In general, where?

Mr. *Dangerfield*. By my Lady *Powis*, and the Lords in the *Tower*.

L. C. J. Were you by when the Lords in the *Tower* did agree to it?

Mr. *Dangerfield*. When my Lord *Petre* and my Lord *Arundel* did.

L. C. J. What did they agree to?

Mr. *Dangerfield*. My Lord, the Thing is this, after they received an Account from one Mr. *Paine*, I brought a Billet from that *Paine*; wherein was contained a Ground or Scheme of the Presbyterian-plot; so from thence it derived it's first Name, my Lord: So that when I came to discourse with the Lords in the *Tower* about it, they called it the Presbyterian-plot; and Mrs. *Cellier* and the Lady *Powis* said, This is a Notion that will do the Business, as it is most obnoxious, and as best to our Purpose.

Mr. *Just. Jones*. How far was my Lord *Castlemaine* concerned in this?

Mr. *Dangerfield*. I have not heard his Lordship speak of it under that Notion.

L. C. J. Pray let us hear what you can say against my Lord *Castlemaine*.

Mr. *Dangerfield*. Now, my Lord, some considerable Time after I had gotten *Lane* out of Prison, I was employed by several other Persons, his Lordship was one, and he sent me to his Lordship's Solicitor, that is now in Court. A pretty while after this, and the Letters and Lists of Names, containing Matter to the same Effect as I told you before, as those in *Mansel's* Chamber, and all tending to the Credit of the Sham-plot, or the Presbyterian-plot. Now, my Lord, a pretty while after this, in *August*, as near as I can remember; about the Middle of *August*, I went to wait upon his Lordship, the very next Day after I had been treated withal in the *Tower* to kill the King, whom God preserve, my Lord; and his Lordship had a Servant then in the Room, and he sent his Servant down Stairs, and looked upon me with a very austere Countenance: Said he, Why would you offer to refuse the Business for which you were taken out of Prison?

L. C. J. To you?

Mr. *Dangerfield*. To me, my Lord.

L. C. J. Who was by?

Mr. *Dangerfield*. No body but his Lordship and my self; for he sent his Servant out before: So he asked me, Why I would offer to refuse the Business I was taken out of Prison for? I asked his Lordship, What that was? Said he, Was not you at the *Tower* Yesterday? Yes, my Lord, I was. Would your Lordship have me kill the King, I suppose that's the Business? Yes, that is, said he. Upon which my Lord fell into such a Fury, that I was forced rudely to leave the Room, and went down Stairs. I think at the same Time his Lordship was writing the Compendium of the late Plot; for there I saw some Words in a Paragraph that lay upon the Table, which I afterwards saw in that Book. There was Ink set upon the Table, and open in his Lordship's Hand. And his Lordship did use in his Discourse to call his Majesty Tyrant.

L. C. J. Have you heard him? In what Company?

Mr. *Dangerfield*. In his familiar Discourse. As to ask when his Majesty will return from *Windsor*?

for? Says he, When the Tyrant pleases. And I remember I heard his Lordship mention the Word Tyrant to Mrs. *Cellier* at *Powis-house*.

Mr. *Att. Gen.* How came that Discourse about killing the King? What was the Occasion of that Discourse?

L. C. J. Had you refused it to my Lord?

Mr. *Dangerfield*. Yes, my Lord, I refused:

L. C. J. What did you say to him?

Mr. *Dangerfield*. I said any body but my King, my Lord.

L. C. J. He said, Why did you refuse to do that for which you were taken out of Prison? What is that, my Lord? Was not you at the *Tower* Yesterday? Why won't you do it? What is it, my Lord? Is it to kill the King? I suppose that it is, saith he, that your Lordship intends. Yes, says he, That is it, why won't you do it? That is what he says.

Mr. *Att. Gen.* That is the Evidence we give.

Mr. *Just. Jones*. You say he was very violent?

L. C. J. Was you ever in his Company afterwards?

Mr. *Dangerfield*. No, not after that, my Lord, that I know of.

L. C. J. What kind of Fury did he shew to you at that Time?

Mr. *Dangerfield*. My Lord, he was in a great Rage, as his Lordship is very choleric; he was bustling about, and I knew not what he intended to do, and I was unwilling to stand the Test of his Anger. His Lordship seemed by his Look to be meditating Revenge.

L. C. J. How?

Mr. *Dangerfield*. I say this, After his Lordship had sent his Servant out of the Room, said he, Why would you offer to refuse the Business for which you were taken out of Prison? Said he, Were not you at the *Tower* Yesterday? Said I, Yes, my Lord, I was. Would you have me kill the King? Is that the Business? Yes, that it is, said my Lord very angrily.

Pris. When did you go to the *Tower*? Was this the next Day after it?

Mr. *Dangerfield*. The next Day after it.

Pris. Mr. *Dangerfield*, Pray let me ask you one Question. Did not I threaten to kill you, or have some of my Servants kill you, if you came unto me again?

Mr. *Dangerfield*. One Time his Lordship saw me at my Lady *Powis's* House, and he shewed me a very particular Favour. I speak it in the Presence of Almighty God, nothing out of Revenge, nor for any Sort of Interest.

Pris. Was I never angry with you but at that Time?

Mr. *Dangerfield*. No, my Lord, I know not of any other Time that your Lordship was angry.

L. C. J. Now what say you, my Lord?

Pris. The first Thing I desire to do, is, Here are two Gentlemen give in Evidence against me, the one is Mr. *Oates*, and the other Mr. *Dangerfield*. Mr. *Oates* says, That he in *Spain* did see several Letters from me: That when he came over into *England*, he brought a Letter from *Spain* to me, that that Letter was given to the Provincial, and the Provincial (he supposes) gave it to me. Now, my Lord, I only desire this, that the first Thing that shall be done, is, that you will please to call Mr. *Parker*, who will shew you what a kind of Man Mr. *Oates* is. And I am glad, since you say that Mr. *Dangerfield* is a good Witness, that I can

can prove that every word he says is a Lie. And so begin with Mr. Oates.

Pris. I would offer you a Record, a Record of some particular Actions from *Hastings*.

L. C. J. Read the Record.

The Record read.

L. C. J. What Use can you make of this?

Pris. My Lord, the Case is only this, my Lord, I will tell you, here is Mr. Oates, this is only to shew what kind of Man this Mr. Oates is, Mr. Oates he comes and accuses a Man at *Hastings* for Buggery, there he is indicted and comes to his Trial, and then he is found innocent: Now, my Lord, I sent for this Mr. Parker, to tell your Lordship what kind of Man this Mr. Oates was, and for that Purpose shew the whole Proceeding.

L. C. J. My Lord, you shall have all the Justice in the World; but we must have right done to the King's Evidence. You have brought in a thing, whereby all you can make against Mr. Oates is this, that he was the Prosecutor of a Man for the Crime of Buggery, and is supposed to have taken his Oath there, and notwithstanding the Jury would not believe him, and found the Man Not Guilty.

Pris. My Lord, I come to shew you the Motives how the Jury came to clear him, that is, by proving this Man was in another Place at that time, and satisfied the Court and Jury, that he was from Eleven a-Clock or sooner, till Eight or Ten a-Clock with them in Company; where it was only the Malice that was between Oates and Parker; and several Witnesses that were in the Place where he said the Buggery was committed, said that he was not there; and the Witnesses positively said they were with him, and all looked upon Mr. Oates as a detestable Man, and sent him out of the Court.

L. C. J. Do you prove this by any but Parker?

Mr. Just. Raymond. This ought not to be admitted; for if it be, Mr. Oates stands here to answer all the Faults that ever he committed.

L. C. J. Here is the Case; Supposing it be true now, that Mr. Oates prosecuted a Man for Felony, and he gave Testimony, supposing it should be so, and yet the Jury acquitted him; what use can you make of it? You can make no Inference; it is a thing we must allow all the Juries in *England*: For there is Witness generally given on both Sides; and when there are for the Plaintiff, the Defendant's Evidence are all perjured; and when for the Defendant the Plaintiff's Evidence are perjured.

Pris. My Lord, this is the Inference. Thus much I make of it, that this Parker is innocent. Oates swears positively he did so, the other swears positively this Man was not there; to shew the Malice Oates had against him.

L. C. J. My Lord, you can go no further than you have gone. The Result of all is, that the Jury found him Not Guilty; for what Grounds no Man can come to say, but the Jurymen themselves. No Man can tell what prevailed with the Jury to find him Not Guilty, that is in their own Consciences, and these are Things that cannot be examined. His Jury, notwithstanding Mr. Oates was the only Prosecutor, they found him Not Guilty, and it amounts to nothing.

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Pris. My Lord, there is another thing: While this Man was in Prison, what does Oates do, but comes here to *London*, accuses the Father, who was a considerable Man in the Town, a Justice of the Peace, and Mayor the Year before; accuses him because he should not assist his Son; accuses him before the King of speaking scandalous Words; then he gets him by a Messenger brought up before the Council: The King was present at the Hearing, and there it was proved to the King, as the Order of Council shews, that he was an honest Man, and so the Council sent Oates away with the greatest Contempt, and freed the other Man.

L. C. J. Was this before the Plot was discovered?

Pris. Yes, my Lord, in pursuance of it.

L. C. J. You said it was that he should not help his Son, his Son was not free.

Pris. No, he was in Prison, my Lord.

Mr. Recorder. My Lord may think it hard if he hath not some competent Liberty; but he must keep to the Business. You say, that notwithstanding he hath the Opinion of the Court, that the Jury must take Notice; then the Jury must take Notice it signifies nothing.

Pris. Very well. Having told you this, I desire you would be pleased to take Notice, after Oates was thus forced to run away from *Hastings*, here it seems he was converted to be a Papist, by a Person whom Mr. Oates hath since converted to be a Protestant; and you shall see what an Account this Gentleman will give of him.

L. C. J. What is his Name?

Pris. Hutchinson.

L. C. J. What will you do against him?

Pris. Several things, my Lord.

L. C. J. You must not do it: If you are able to disprove Mr. Oates in any of these Particulars, you may do it. If you alledge Testimony against the particular Matter he hath sworn, you will do very well; but pray, my Lord, keep to that.

Pris. I will, my Lord; I will submit any thing to your Lordship's Commands; and therefore, my Lord, I will tell you for what Reason I sent for this Man, to tell you how Mr. Oates went to *Spain*, and how he lived in *Spain*.

L. C. J. If you can shew the Jury any Reason why they should not believe his Evidence, that will be very proper.

L. C. J. What is your Name?

Hutchinson. My Name is *Hutchinson*.

Pris. Mr. *Hutchinson*, pray say what you have to say, and not follow Mr. Oates's Method: I only ask you this Question, Sir, Whether you did convert this Man, that is, reconcile him to the Church of *Rome*?

Hutchinson. Yes, my Lord, that I did.

L. C. J. You ought not to ask him such Questions, you bring him in danger of his Life; you are not to ask him such Questions.

Mr. Recorder. Let us see the Statute-Book.

Cl. of Cr. It is High-Treason.

L. C. J. You thought this had been meritorious now, and it is High-Treason.

Mr. Recorder. This it is to abound in a Man's own Sense. We must beg your Lordship's Advice in this.

L. C. J. Are you a Protestant now?

Hutchinson. Yes, my Lord.

Pris. He was a Priest, and confesses his Error.

H

L. C. J. Did

L. C. J. Did you know Oates first in Spain?

Hutchinson. No, my Lord, I knew him first here; and we were in Company, and I told him he could not be a true Priest, since he was of the Church of *England*.

Mr. At. Gen. He offers such Things as are not Evidence.

L. C. J. Pray what do you know of his Employment in *Spain*?

Hutchinson. I received Letters from him when he was in *Spain*. He went over to study Philosophy and Divinity there, and I saw his Recommendations to the Rector of *Liege*.

L. C. J. Did you see him?

Hutchinson. Yes, my Lord, I did see him before he made this Disturbance.

L. C. J. What Disturbance? Do you know? What Discourse had you with him?

Hutchinson. I employed him in writing for me.

L. C. J. Writing what?

Hutchinson. In writing certain Things against the Corruption of the Church of *Rome*. He had 10 s. I gave him, and this was before the Discovery he made (as he pretends) of the Plot. And he told me he would suffer no more for Conscience sake: *It is an hard Thing*, said he, *Mr. Berry, for a Man to want Bread*; upon which I gave him 10 s.

L. C. J. He says, Having been formerly with Mr. Oates, he employed him to transcribe many Things for him; and Mr. Oates said to him, *He was resolved no more to suffer for Conscience sake. How, said he, not so? Oh but Mr. Berry, said he, it is a very sad Thing to want Bread*. And upon that, he says, he gave him 10 s. for his Pains in writing.

Hutchinson. And hereupon, my Lord, in *May* was Twelvemonth he sent for me, when I heard he had done some more Mischief; and I went to him, my Lord.

L. C. J. That was after the Discovery?

Hutchinson. Yes, my Lord, upon that he was very kind to me, and gave me 20 s. Said he, *Mr. Berry, you have been civil to me, and you shall never want any thing so long as I have it*. Said I, *Mr. Oates, are these Things true that you swear against the Jesuits?* Said he, *As I hope for Salvation they are*. And that was the truest word he spake these three Years. Then, said I, *Mr. Oates, answer me this only one Thing. There are an hundred and twenty Persons that saw you every Day, and dined and supped with you at St. Omers, and these you have recommended to me for virtuous People, and I know them to be so*. He said, *They are Outlaw'd Men*.

L. C. J. What did Mr. Oates say more?

Hutchinson. He was with me frequently, my Lord,

Mr. Recorder. He paid you your *Angel* well when he gave you 20 s.

Hutchinson. Mr. Oates, speak the Truth: There is a God in Heaven.

Dr. Oates. Shall I be allowed to satisfy the Court as to this Evidence? I will give the Court a very good Account.

L. C. J. The Substance is this; that you were poor. Is it true that he gave you 10 s.

Dr. Oates. My Lord, I believe I might not have much Money among them.

L. C. J. And you said, *You would suffer no more for Conscience Sake?*

Dr. Oates. That is not so, my Lord.

L. C. J. And, *That it is an hard Thing to want Bread?*

Dr. Oates. My Lord, I never wanted Bread.

Hutchinson. But you said so to me, Mr. Oates.

Mr. At. Gen. Hark, Mr. Hutchinson—

Dr. Oates. To shew the Invalidity of this Evidence, my Lord, the Bishop of *London* hath turned him out of his Living at *Barkin*.

L. C. J. What is that;

Dr. Oates. To shew that he is not fit to be trusted.

L. C. J. Why you have never a Living.

Dr. Oates. Yes I have, my Lord.

L. C. J. Where?

Dr. Oates. In *Kent*, my Lord.

L. C. J. How long have you had it?

Dr. Oates. I was restored to it last Summer.

Mr. Recorder. He says that he had Discourse with him concerning his Priesthood; whether Mr. Oates thought himself to be a good Priest; that is, as he was made by the Order of the Church of *England*?

Mr. At. Gen. He says, He converted Mr. Oates to be a Papiit.

Dr. Oates. And I have a Charge of High-Treason against that Man, for seducing me from my Religion, my Lord; I will swear he turned me to the Church of *Rome*, and I desire it may be Recorded.

Dr. D. I have one thing to tell your Lordship, the Man is mad, he is distracted.

L. C. J. This Doctor of Divinity is a very honest Man, he will tell you.

Dr. D. He was my Curate at *Barkin*, and my Lord of *London* having some Information against the manner of his Preaching, sent me word to *Rippon* he would provide me another Curate; on *Saturday* last, dining with him, my Lord told me he was distracted.

Mr. Recorder. His Behaviour is a very concurrent Testimony.

Mr. Just. Raymond. I appeal to my Lord, if I did not tell him, as he came into the Court, that he was a distracted Man.

L. C. J. Call another Witness.

Pris. Here's a Gentleman was his School-fellow at *Valladolid*. I ask you, Mr. Armstrong, Whether you knew any Thing of Mr. Oates there?

L. C. J. How long had he been there?

Armstrong. He was three Months there before me.

L. C. J. How long was he there in all?

Armstrong. A matter of a Month.

L. C. J. Was he not there four Months?

Armstrong. Yes, a matter of four Months in all.

L. C. J. He says, he had been there three Months before he came, and a Month after he came; and that then he was but a common Scholar.

Dr. Oates. My Lord, I will satisfy the Court when they question me.

L. C. J. In what would you satisfy us?

Dr. Oates. About being a Scholar. I was ready to commence when they came; but being they were Strangers in the Town, not being Town-Scholars, and not undertaking Philosophical Dictates, the Fathers did pray me to shew them the way to School; and I went with them two or three times.

L. C. J. Call another, my Lord.

Pris. Mr. Palmer and Mr. Doddington.

L. C. J. Did you know Mr. Oates at *St. Omers*?

Palmer. Yes, my Lord, and he was an ordinary Scholar there, and din'd and supp'd with us.

L. C. J. You

L. C. J. You said he din'd, at another Table.

Palmer. Yes, my Lord, he did dine at a Table by himself, but it was at the same time.

Dr. Oates. Had I Scholars Commons? Pray, my Lord, ask them that.

Palmer. He had the same Commons that we had; but they had a Respect for him as he was an ancients Man, and that was the Reason that he had more Freedom than the rest.

Pris. My Lord, he says he came from St. Omers at the Consult: Pray, Sir, who did you come along with? Did you come with *Hillsley*?

Dr. Oates. *Hillsley* came with me in the Pacquet-Boat.

Pris. Call Mr. *Hillsley* and *Osbourne*—My Lord, this Gentleman: I would bring nothing to offend your Lordship, or nothing that hath been old, if it had not some new Inference from it; therefore, my Lord, this is the Reason that I sent for Mr. *Hillsley*. Mr. *Hillsley*, did you come with Mr. Oates in *April* in the Pacquet-Boat?

Hillsley. No, my Lord.

Pris. You left him at St. Omers?

Hillsley. Yes, my Lord.

Pris. Now, my Lord, I have several Witnesses to prove this. And pray, Mr. *Osbourne*, tell my Lord what he said to you.

Osbourne. My Lord, about the latter end of *April* I heard Mr. *Hillsley* was in Town; I went to see him, and one time at a Coffee-house about the *Turnstile* we fell in Discourse.

L. C. J. My Lord, you say you have two Persons of Quality: I will tell you, my Lord, what you shall expect; I will not be for one, and not for t'other; but be equal as near as I can. If he comes only to testify what *Hillsley* told him, it signifies nothing.

Pris. I do depend upon *Hillsley*; but this is that *Hillsley* told him, that there was one Oates at St. Omers.

L. C. J. That is no Evidence, nor can Ladies of Quality prove by their own Experience what Mr. *Hillsley* affirms, that Oates came not over with him.

Pris. My Lord, they can tell; and one Lady; a Protestant, that talking with this Gentleman before the Plot—

L. C. J. This is only Discourse what another Man says; if Mr. Oates himself should have said so, then indeed it is proper: But to shew you this, it is impossible, supposing they speak truth; that is, if they do witness what they do not, that long before they heard of the Name of Oates, this Gentleman should tell them, one Oates was left at St. Omers; it signifies nothing.

Pris. Does not that confirm Mr. *Hillsley's* Testimony?

L. C. J. No, indeed.

Pris. I only refer this to you, my Lord; *Hillsley* says, in *April* he did leave Oates, and here are four or five Witnesses that *Hillsley* told them so.

Mr. Just. *Jones*. All that my Lord says, is this, that he did leave Mr. Oates at St. Omers. If it be objected, they are Catholics, as they call them; Says my Lord, *Hillsley* did tell this Story before there was any Plot. Why should he tell them so? It is not in favour of that Religion that he speaks; but the time of testifying such a thing, shews he speaks true. This is all.

Pris. This is the Inference; this is only to corroborate and shew you the Credit of his Testimony.

Mr. Just. *Raymond*. It may be a Mistake, tho' and it is of no more Force than what he says now.

Mr. At. Gen. They were all mistaken in that Matter.

Dr. Oates. My Lord, he did leave me at St. Omers, but I overtook him at *Calais*.

L. C. J. Will you swear it, Mr. Oates?

Dr. Oates. I say, upon my Oath I did it.

L. C. J. It were a great Matter if you had any body to prove, that this Gentleman came alone; but that is still but one Man's Testimony.

Pris. But here is Confirmation to his Evidence that he could not invent it.

Mr. At. Gen. You had it once, but the contrary was proved and believed, and so it may be again.

Pris. Call Mr. *Gregson* and Mr. *Rigby*. Mr. *Gregson*, were not you Landlord to Mr. Oates before the Plot was discovered? How long before the Plot did he lie at your House?

L. C. J. What time?

Gregson. A Week before *Easter*, 77.

Mr. Just. *Raymond*. When did he go away from you, Sir?

Gregson. The Sunday after *Easter-day*.

Mr. Just. *Raymond*. When did you see him again?

Gregson. He came to me about *All Saints*.

Mr. Just. *Raymond*. The same Year?

Gregson. Yes.

Dr. Oates. Who paid for my Quarters? Pray ask him that, my Lord.

Gregson. He paid for it himself.

Dr. Oates. Did not Mr. *Fenwick* pay for it?

Gregson. He did after you came from St. Omers.

Dr. Oates. My Lord, when I came last from St. Omers, I went directly to his House.

Pris. Was not he in a poor Condition?

Gregson. He was then indifferently poor.

Pris. My Lord, this is only to prove his Condition.

Dr. Oates. My Lord, I had only what the Jesuits allowed me.

L. C. J. You had nothing but what they allowed you?

Dr. Oates. Nothing else, my Lord.

Mr. Just. *Jones*. They allowed you a very scanty Living.

Pris. Call Mr. *Littcott*. Mr. *Littcott*, Do you know any thing about a Divorce?

L. C. J. What should he know?

Pris. Pray, my Lord, don't discourage me.

Mr. Just. *Raymond*. But you must not ask things that are not to the Purpose.

Littcott. My Lord, it was morally impossible there should be a Divorce.

L. C. J. Was there any Endeavour by my Lord concerning it?

Littcott. There was no such Design.

L. C. J. How was that? But pray mind, you will be morally not believed else: Do you know my Lord used any Endeavours, in order to obtain a Divorce?

Mr. *Recorder*. That is all that he says, *He never knew any thing*.

Pris. I only say this, my Lord, Mr. Oates comes here and says, that he heard me say, that I did spend a great deal of Money. Now if I satisfy the Court that I never spent a Farthing towards a Divorce—

L. C. J. If he had said, your Lordship laid out Sums of Money, then it had been an Answer to that, if you could prove you had not.

Pris. You know I stand here accused for a great Crime; pray give me leave.

Mr. Just. Raymond. If it were a matter of Moment we would.

Pris. Pray, my Lord, hear me: Here's a Man says, I spent a great deal of Money about a Divorce? I come to tell your Lordship, that this very Man, before your Lordships, and also before the King, and if your Lordships have forgot it, I will shew you Witnesses that he spake it before the King, and before the House of Commons, that I did actually sue out a Divorce: Now I will shew, my Lord, that I neither could, nor did go about it.

L. C. J. We are not to take Notice of that now. If he did say a false Thing before the House of Commons, we cannot take Notice of it now; for we cannot go to try whether he said so, and whether that be true or false.

Pris. I humbly beg, my Lord, if this Man that is upon his Oath hath sworn before the King that he did actually see the Divorce, and I prove that it was impossible that he should see the Divorce, because it was impossible to get a Divorce—

L. C. J. What then?

Mr. Just. Raymond. You must not be permitted to prove that, it is not pertinent to the Question.

Pris. My Lords, with humble Submission to you, he hath told me this before your Lordships, that I spent a great deal of Money about a Divorce.

L. C. J. My Lord, you will be satisfied, when we have acquainted you what the ordinary Proceedings of a Court of Justice are in Matters of this Nature; what is and what is not to be admitted. If you should come to prove Mr. Oates had falsely sworn a thing in another Court, and five or six Witnesses shall come and say it is not true; we are not to hearken to it: The Reason is this, first you must have him perjured, and we are not now to try, whether that Thing sworn in another Place be true or false: Because that is the way to accuse whom you please; and that may make a Man a Liar, that cannot imagine this will be put to him: And so no Man's Testimony that comes to be a Witness, shall leave himself safe. And this is another Case, If he swore in another Place what is contradictory to what he says now; then it is proper. If you could prove that he had sworn in another Place that he never saw you, it is very proper: But now to us he says, that he doth not remember whether ever he had seen a Divorce, or that you had sued out a Divorce. All that he remembers, is, that you said you had expended a great deal of Money about a Divorce, and this is all he testifies here.

Pris. My Lord, my Evidence against Mr. Oates is this, that he waves what he said before, when I came to ask him, and says, I don't remember. Now, my Lord, if he lies in one thing he may in another.

Mr. Just. Raymond. No Man can remember all the things that ever he did in his Life.

Pris. I have Witnesses to appeal to, to witness every thing; and I represent it here to you, that I would with all my heart have indicted him

of Perjury, but for Mr. Attorney General: For I employed two to attend the Clerk of the Peace for Copies of the Indictments against Mr. Langborn and Mr. Ireland; they did come to the Clerk of the Peace; saith the Clerk of the Peace, I can't do it without Mr. Attorney's Authority. My Lord, saith he, I would give them you with all my Heart, but I must have leave from the Table.

Mr. At. Gen. No, my Lord, I told you I would not give it you without you had an Order from the King, and the Council did not think fit to give it you.

Pris. I think this a little pertinent.

Mr. Just. Jones. How doth any thing that your Lordship excepts against in this Gentleman's Testimony contradict it self? All that you accuse him of is, that Mr. Oates had said he heard you say, you had spent a great deal of Money about a Divorce.

Pris. I only shew, if you are pleased to hear it, that he reported to the King that he actually saw the Divorce.

Mr. Just. Jones. That agrees well enough with what he says now.

Pris. He said so in your Lordship's Hearing.

L. C. J. I don't remember it, if I did I would speak of it; I don't remember it upon my word.

Mr. Just. Raymond. I protest I don't remember a word.

Mr. Just. Jones. In the Court, did he say it?

Mr. Just. Raymond. Here we have all three that were present, I protest I don't remember it; but as to the Business of the Divorce, I might look upon it as impertinent, and so possibly might not mind what he said.

Pris. I only offer this to you, and if your Lordships command me to desist, I will desist.

Dr. Oates. I desire my Evidence to prove that I was in Town.

Mr. Just. Raymond. Pray, Mr. Oates, you are an Evidence, you must be govern'd by Mr. Attorney.

L. C. J. It would be very fit, Mr. Attorney, to prove that Mr. Oates did come over with *Hillsley* in the Pacquet-Boat.

Mr. Just. Raymond. Mr. Oates, I remember very well, gave an Account of his coming over, said he, I did come over with such and such Persons, and among the rest was Mr. *Hillsley*. This is only to prove that he was at the Consult.

Mr. At. Gen. We can prove it.

Records produced against Mr. Dangerfield.

L. C. J. Here is, that he was burnt in the Hand, and Out-lawed for Felony, Pilloried for Cheating, twice Pilloried; and see whether he was Whipp'd or no.

Mr. Sol. Gen. I know nothing of the Pillory.

Mr. Just. Raymond. Here was a Record of being burnt in the Hand, and a Record for putting away false Guineas.

L. C. J. For that he was to stand in the Pillory.

Cl. of Cr. Here is one Record for another Shilling Gilt.

L. C. J. Was that in the Pillory too?

Mr. At. Gen. He was fined Fitty Pounds.

Cl. of Cr. Here are three in *Salisbury* for three several Guineas, and he was adjudged to the Pillory for them all.

Mr. At. Gen. It

Mr. *At. Gen.* It was all at one Affizes, my Lord.

L. C. J. My Brother try'd him.

Cl. of Cr. He was tried before Mr. Just. *Jones*, and to stand in the Pillory for all three.

L. C. J. What have you else to say?

Prif. Call Mrs. *Cellier* and Mr. *Dowdal*.

L. C. J. What is your Name, Sir?

Dowdal. My Name is *Bennet Dowdal*.

L. C. J. What have you to say to him, my Lord?

Prif. Mr. *Dowdal*, the Case is this, Mr. *Dangerfield* tells me I was angry with him at such a time for a Business at my House; Was I not angry with him at *Powis* House for going to the Lords in the *Tower*?

Mr. *At. Gen.* Then he did go about it?

Dowdal. Mrs. *Cellier* spake to me to speak to Mr. *Dangerfield* not to be troubled at your Anger.

Mr. Just. *Raymond.* When was this?

Dowdal. After the Jesuits died.

Prif. He proves this, That Mrs. *Cellier* spake to him to pacify Mr. *Dangerfield*, and *Dangerfield* did tell him I was angry with him for going in my Name to the Lords.

Mr. Just. *Raymond.* He says no such Thing, my Lord.

L. C. J. You must not ask him what Mrs. *Cellier* said.

Mrs. *Cellier.* This Day twelve-month he and I had been employ'd in writing Copies of some Letters, and I sent him to my Lord to know if he would go something towards the printing them, and he went from him to the Lords in the *Tower*. In an Hour and half after, my Lord came to me very angry: Mrs. *Cellier*, said he, I thought you would not forfeit your Discretion to send such a Rascal to me; if you send him to me again, I will bid my Servants kick him. And, said I to Mr. *Dangerfield*, you are not to note that; for he is a very good Man, and may be angry one time and pleased another; and I would have sent him another time, and said he, Pray, Madam, don't send me thither, I would rather go an hundred Miles of your Errand.

L. C. J. *Dangerfield*, that Discourse you had with my Lord, was it before the Jesuits dy'd or after?

Mr. *Dangerfield.* What Discourse?

L. C. J. When you discours'd about killing the King.

Mr. *Dangerfield.* No, my Lord, two Months after.

L. C. J. When was the time that these Words were spoken?

Mr. *Dangerfield.* When his Lordship was in that Passion.

L. C. J. When was that?

Mr. *Dangerfield.* My Lord, it was about the Middle of *August*.

L. C. J. Was you ever in his Company after?

Mr. *Dangerfield.* No, my Lord, I saw him once at *Powis* House.

L. C. J. Had he ever been angry before?

Mr. *Dangerfield.* No, not till this time, my Lord.

L. C. J. Here Mrs. *Cellier* witnesses, that this Day twelve-month, my Lord was extremely angry, insomuch, that when she would have had you go on an Errand, you would not.

Mr. *Dangerfield.* My Lord, that time I had been with my Lord *Castlemaine*, I went home to Mrs. *Cellier*'s House, which I did then call my

home, and said I, my Lord *Castlemaine* is most violently angry with me.

L. C. J. When was this?

Mr. *Dangerfield.* This was the latter End of *August*.

L. C. J. But she talks of this time twelve-month.

Mr. *Dangerfield.* It is no such thing, my Lord.

Mrs. *Cellier.* I said, pray carry this Letter to my Lord *Castlemaine*: Pray excuse me, said he, I had rather go an hundred Miles than go by his Door.

L. C. J. Whereas *Dangerfield* says, He had this Discourse in *August*, Mrs. *Cellier* says in *June* or *July*; this Day twelve-month particularly she gave him a Letter, and he said, Pray excuse me, I would go an hundred Miles for you; but I would not go into my Lord's Company again if I could help it.

Prif. My Lord, Mr. *Dowdal* can tell it.

L. C. J. Did he acknowledge to you my Lord's Anger in the beginning of *July*?

Dowdal. It was within a Week after the Jesuits died.

L. C. J. I don't know that.

Dowdal. It was about the twenty-first of *June*.

L. C. J. Here are two Witnessess, one says in *June* or the beginning of *July*; says Mrs. *Cellier*, this Day twelve-month he came and told me my Lord was extremely angry with him. And she would afterwards have had him carried a Letter: But he said, Pray excuse me, I would go an hundred Miles, but he would not go again to him if he could help it. And *Dowdal* says he told him about that time of my Lord's Anger with him.

Mr. *At. Gen.* Hold your Tongue, Mr. *Dangerfield*.

Mr. Just. *Raymond.* What Jesuits?

Dowdal. The five Jesuits.

Prif. If you please, my Lords, I would only tell you this. My Lords, you see that these two Witnessess testify that I was angry with Mr. *Dangerfield* in *June*; my Lords, I only say this to you, that when I was examin'd at the Council before the King of this Particular, my Lord Chancellor ask'd him the Particulars of it, and he did confess this thing which I now prove. Now, my Lords, I infer this, if I was so angry with him for offering to go to the *Tower*, when he went to the *Tower* in my Name——

L. C. J. That they have said, that you were very angry.

Dowdal. *Dangerfield* told me so, that he was angry about his going to the *Tower* in my Lord's Name unknown to him.

L. C. J. Here are two Witnessess to prove that my Lord was angry with him for going to the *Tower* in his Name; and they both testify he was extremely high, and refused to carry a Letter to my Lord; and yet he says in *August* following he had this Discourse.

Prif. I have now only one thing to say, what hath pass'd between Mr. *Oates* and Mr. *Dangerfield*.

L. C. J. Do it as near as you can.

Mr. *Sol. Gen.* We have some other Evidence to answer this.

Mr. *At. Gen.* If your Lordship please, we will call two or three Witnessess to prove the Point. First, to prove this last thing, that we have been in my Lord's Company later than my Lord speaks of.

L. C. J. He says *August*.

Mr. At. Gen. We will prove after that time, that is the time that pinches us.

Pris. My Lady *Powis* is in Court, will you hear her?

Lady Powis. My Lord I never did send a Letter by *Mr. Dangerfield* to any body in my life, nor I never read a Letter in *Mr. Dangerfield's* Presence, nor never had him so much in my Company to read a Letter or any Tittle to him.

L. C. J. I will tell you Gentlemen, what he says; *Mr. Dangerfield* swears he carried a Letter from my Lady *Powis* to my Lord *Castlemaine*, and there was an Answer brought back, and that that Answer of my Lord *Castlemaine's* was read before him, and (you will do well to call *Mrs. Cellier* in again) my Lady *Powis* doth deny that she ever sent a Letter by him to my Lord *Castlemaine*, or any body else, by him in her Life; or that she ever communicated any Letter to him: This is apt Evidence, this is the Truth of it; for it answers directly to what he says against my Lord *Castlemaine*

Sir Richard Barker.

L. C. J. What say you, *Sir Richard Barker*, can you give an Account of *Oates*? When was *Mr. Oates* in Town? What time that you know of?

Sir R. Barker. My Lord, I remember we were once upon this before your Lordship.

L. C. J. In 78?

Sir R. Barker. Yes, my Lord; the Evidence that I gave, my Lord, was only this, that my Servants told me that *Mr. Oates* had been at my House: It was before *Whitfontide* in *May 78*.

L. C. J. Did you see him then? When was it you saw him?

Sir R. Barker. My Lord, I saw him after.

L. C. J. How long after?

Sir R. Barker. My Lord, it was about the latter end of *June*.

L. C. J. He says to his own Knowledge he saw him in *June*.

Mr. At. Gen. But we have his Servants here too, *Philip Page*, and *Cecily Mwo*.

L. C. J. Do you hear, *Mrs. Cellier*, was there any Letter sent by my Lord *Castlemaine* to my Lady *Powis*, that was read before you and *Dangerfield*?

Mrs. Cellier. No, my Lord.

L. C. J. Here are two Witnesses, my Lady says there is no such Thing, and *Mrs. Cellier* says it.

Pris. There is another Thing, that is, The teaching the Scholars at *St. Omers*, that I taught the Scholars their Lessons.

—*Turner.*

Mr. Sol. Gen. Pray inform my Lord and the Jury, what time it was you saw *Mr. Dangerfield* at my Lord *Castlemaine's*.

L. C. J. What Month can you charge yourself to say you saw *Dangerfield* in my Lord *Castlemaine's* Company?

Turner. I can't say just the time.

L. C. J. Might it be *August*?

Turner. I can't well tell, I think it might be about *July*.

Mr. Just. Raymond. Why do you think so?

L. C. J. You are not asked to accuse your

self in any thing, but when you saw them together.

Turner. I was coming down Stairs, my Lord.

Mr. Just. Raymond. You don't tell when it was.

L. C. J. Tell us whether you can tell or no: If you are doubtful, say you are doubtful; but speak the Truth.

Turner. I can't be positive.

L. C. J. It might be in *June*, or *July*, or *August*; but you think *July*.

Turner. Yes, Sir.

Mr. Sol. Gen. The sooner it is after that, the Evidence is the better against it.

Mr. At. Gen. Madam I think your Ladyship says you never sent a Letter by *Dangerfield*.

Lady Powis. Yes, Sir.

Mr. At. Gen. Nor did you never receive any Notes from him?

Lady Powis. I have received some Notes from *Mrs. Cellier*, which were his Writing.

L. C. J. But did you ever receive a Letter from my Lord *Castlemaine*?

Lady Powis. Never, my Lord.

—*Woodman.*

Mr. Just. Raymond. What do you say, *Mr. Attorney*?

Mr. At. Gen. Hark you, *Woodman*, were you sent with any Letter?

Woodman. To whom?

Mr. At. Gen. To my Lord *Castlemaine*, or any body?

Woodman. I was sent with one Letter, it was *Mrs. Cellier's*, my Lord.

L. C. J. To whom?

Woodman. To my Lord *Castlemaine*; as I remember, my Lord, I took it from *Mrs. Cellier's* Daughter.

Mr. At. Gen. Did you ever receive any Money of my Lord *Castlemaine*?

Woodman. Yes, my Lord.

L. C. J. What was it? How much was it?

Woodman. About three Pounds, or thirty Shillings, I believe.

L. C. J. How do you believe it?

Woodman. To the best of my Thoughts it was.

Mr. At. Gen. Was it for *Dangerfield*?

Woodman. My Lord, I don't know that.

L. C. J. Have you any more?

Mr. Sol. Gen. My Lord, I have this to say to prove *Dr. Oates* was in *London* in *April 78*.

L. C. J. He doth not deny but he might be here too.

Pris. I don't dispute it, my Lord, I have only this one word more. It is not of Treason, but it is against my Reputation; because this Man, before your Lordship, I think, has accused me of it; and I think, my Lord, I shall give you very good Satisfaction: That is, that the Boys that came from *St. Omers* were not instructed and taught by me. Now if you please, my Lord, to give me leave to shew it, I have done. Look, my Lord, the thing that I can say, is this: *Mr. Littcott*.

Mr. Just. Raymond. You see he said it was morally impossible.

Pris. Pray, my Lords.

Mr. Just. Raymond. I will undertake you will say it is time lost.

L. C. J. I will stay some time to observe to the Jury what I have taken notice of with all my heart, but I should be gone.

Pris.

Pris. I have done, my Lord, I would not say any thing to disgust any body.

L. C. J. Gentlemen of the Jury, I will deliver my Observations in this Cause as I would in any Cause, to the best of my Understanding, and I will make those Observations that are as natural as I know how to do; and proper for you to take notice of. It is in vain to dispute what my Lord stands indicted of: It is for attempting to murder the King, and change our Government and our Religion. To prove this there have been two Witnesses only that are material, and that is Mr. Oates in the first place; and Mr. Oates his Evidence, the Sum of it is to be reduced——

L. C. J. Mr. Attorney, do you stand up to speak any thing?

Mr. At. Gen. If your Lordship pleases, we will sum up the Evidence for the King, not to offend your Lordship.

L. C. J. If you would be short, Mr. Attorney, we would not hinder you of any thing.

Mr. At. Gen. I will be very short.

If it please your Lordship, and you Gentlemen of the Jury, my Lord *Castlemaine* is here charged with High-Treason. The Proof that we have against him is by two Witnesses, that is, Dr. *Oates* and Mr. *Dangerfield*. Mr. *Oates* he doth swear this, namely, That after the Consult (for I will bring it in short) that after the Consult that was for killing the King and altering the Government, my Lord *Castlemaine* being acquainted with it at Mr. *Fenwick's* Chamber, did hope it good Success, and that he should come to be reveng'd. Mr. *Dangerfield* he hath prov'd, That being treated with to kill the King, and having refus'd to do it, my Lord *Castlemaine* was very angry with him for it, and said, *Why won't you do that for which you were taken out of Prison?* Here are two Witnesses express. What is said against Mr. *Oates* signifies nothing. As to Mr. *Dangerfield*, there are some Exceptions, which we must confess to be true; but he is a Witness, and my Lord, such Matters are to be expected to be proved by such Witnesses: For if a Man will discover Robberies, he must go to such Persons as do such Things; and if Treasons, it must be among them that have been employed in such Things. Tho' he were a dishonest Man before, yet he may be honest now: He was never guilty of any Treason but as he was employed among them. There are some Witnesses brought to encounter him, and one is my Lady *Powis*, who, as he says, sent him with a Letter to my Lord *Castlemaine*; but she says she did never send a Letter by him: And others say, he would never come at my Lord *Castlemaine* after he was angry, which was in *June*. Now for that, Gentlemen, you do hear *Turner* say, That in *July* or *August*, for he can't tell which, he thinks it might be *July*, he saw *Dangerfield* at my Lord *Castlemaine's*; so that That encounters that Evidence.

L. C. J. If Mr. Attorney had not interrupted me, I would not have left out any thing of this Nature, for I would be certainly careful where the King's Life lies at stake: I would be sure to preserve my Sovereign above all things; and therefore no Man ought to think that I should be partial in a Cause wherein our Religion, and the Life of the King and the Government is in Danger. But I must say on the other side, That there should be good competent Proofs of these Things against those accused, because their Lives and Fortunes,

and Honours, and all are at stake. And so, Gentlemen, we shall discharge our Consciences to the best of our Understandings, and deal uprightly on both hands.

For the Case it stands thus: It is truly observed by Mr. Attorney, That there are but two material Witnesses to the Charge of this Indictment, that is to say, Mr. *Oates* and Mr. *Dangerfield*. Mr. *Oates* his Testimony is in two Things, the one close, the other is more remote. That more remote is, That he had a Letter to send to my Lord *Castlemaine*, which he gave to the Provincial to send it, and as he says, he saw a Letter subscribed *Castlemaine*; and that afterwards by seeing him write a Supercription, he could recollect the Character so well, that he believed that to be his Hand which he saw in *Spain* among the Jesuits or the Fathers, as they call them there, to whom they communicated that Letter; wherein he mentioned the general Design, that is, the bringing in Popery, which is the bringing in the Catholick Religion, as they call it. That is more remote. He says, there were Letters pass'd between them, wherein my Lord approved of some Things, and disapproved of others, which related to the Design; by which, says Mr. *Oates*, we meant the whole Matter and Transaction of killing the King; and that doth appear by that Letter he saw of my Lord *Castlemaine's*, for that annexes to Design the advancing the Catholick Religion. The first time he saw him he did not know who he was; and there, at *Wild-house*, he says, That my Lord *Castlemaine* should drop out some Words which were suspicious, and one thing, as if he understood something of this Matter that they had in Agitation.

But more particularly he says, That when he came to *Fenwick's* Chamber, there was the great Matter. They talked before but of the Design in general, at *Wild-house*; but afterwards meeting in *Lincoln's-Inn-Fields*, where he was told who he was, they went to *Fenwick's* Chamber, where they fell a discoursing about several Things that related to the Concern, and at last they fell upon the Matter in hand, and said, they were glad to see the Fathers so unanimous in this Matter: I asked about what Matter? He said, the killing of the King and bringing in Popery; to which, he says, that my Lord should make answer, He wished them good Success in their Design, and that then he should be revenged. This is the Substance of what Mr. *Oates* says; against whose Testimony, I must tell you, there hath been but little. There is but little thrown upon Mr. *Oates* by way of Disgrace and Infamy; for that Verdict that the Jury found against his Evidence, it is not material, for then every Man must be accused when the Jury does not go according to the Testimony he gives. It is not to be denied, but there is something said against him in another Particular, and that is his coming over from *St. Omers*; where he says that Mr. *Hilsley* came over with him in the Pacquet-Boat, but Mr. *Hilsley* denies it; Mr. *Oates* would have salv'd it, by saying he left him at *St. Omers*. 'Tis true, says Mr. *Oates*; but I overtook him afterwards; but he says to the Point, that he came not with him. Now it is not to be denied on the other hand, but Mr. *Oates* might be here, and my Lord of *Castlemaine* seems to admit it, and it is probable enough Mr. *Oates* might be here. This is all I remember in reference to Mr. *Oates*. You must weigh well with your selves how probable

or not probable what he does swear is. But I must tell the Jury they are to weigh the Natures of People among themselves, as they carry Probability or not, or else the Confidence of a Swearer shall take away any Man's Life whatsoever. And to that Mr. *Oates* says first, I understand not how he should be so free, Mr. *Oates* being a Stranger to him, when he knew not my Lord, and doth not know, whether my Lord knew him or no. But he says, my Lord must needs see the Jesuits trusted him, and that might make him more confident: That afterwards going to *Fenwick's* House, he spoke broader in plain *English*. They were talking of a Design to kill the King and bring in the Catholick Religion; and Mr. *Oates* says, he wish'd them good Success in the Design, and that then he should be revenged. How far this Oath is to be taken or not, I must leave to your Consideration.

The next is Mr. *Dangerfield*; for nothing infamous is proved against Mr. *Oates*. *Dangerfield* is a Man of whom there is enough. You see what Crimes there are; for it is the Duty of every Judge; and I can't see how he can discharge his Conscience, and the Duty he owes to the Government, in respect of his Oath and Place, if he doth not make those just Observations to the Jury which are done in all Cases: That is to say, when Men have contracted great Crimes upon themselves, tho' by Law they may be Witnesses; yet it hath always been observed, and their Credit left to them to consider of. You see how many Crimes they have produced, a matter of six great enormous Crimes; and by them you will see how far you ought to consider his Testimony. Had Mr. *Dangerfield* been guilty only of being concerned in the Treason, and come in as a Witness, I should have thought him a very competent Witness, for that is Mr. *Oates's* Case; but they prove Crimes of another Sort and Nature, and whether the Man of a sudden be become a Saint, by being become a Witness, I leave that to you to consider, and how far you are satisfied in the main.

The next thing is the Opposition to his Testimony. He hath sworn that he carried a Letter from my Lady *Powis* to my Lord *Castlemaine*, and an Answer returned back from my Lord to her, and that my Lady *Powis* did read it in the Presence of Mrs. *Cellier* and him. Of this my Lady *Powis* hath been asked (it is true they are not upon their Oaths, but that is not their Fault, the Law will not allow it) and my Lady *Powis* hath affirmed to it, as much as lay upon her to do, that she never sent a Letter by Mr. *Dangerfield* to my Lord *Castlemaine*, nor any body else. And whereas he says Mrs. *Cellier* was present, she says she knows of no such Letter, nor was any read in her Company. And this is a contradicting his Evidence, supposing him to be a Man otherwise untouch'd. And whereas *Dangerfield* says, that in *August* he was with my Lord, and he said, How chance you would not do that thing for which you were brought out of Prison? *What? Would you have me kill the King? Yes,* saith he, *that is it.* And my Lord speaking very angrily and very roughly, made him think it time to withdraw out of his Company, and never come into his Company more; and that this was the time of his Anger, and no other time, my Lord rather complimenting him, as he would say, with friendly Salutations. But they produce Witnesses against this.

Says Mrs. *Cellier*; This Day Twelve-month; and says t'other, about a Week after the Jesuits were executed, which was about the beginning of *July*, saith she, I would have you carry a Letter to my Lord *Castlemaine*; saith he, I would not do that, I would go an hundred Miles upon another Errand, but I would not go to him. Another Witness says, my Lord was mighty angry with him, and told him the Cause, because he went in his Name to the Lords in the *Tower*. First, this contradicts what he said, as if there had been no Anger before. The next is, that it is very improbable that my Lord should be angry with him so much, that my Lord should be very angry with him for going in his Name to the *Tower*, and afterwards for his refusing to kill the King; when he said, *Why did you not do that you came out of Prison for? What, my Lord, to kill the King? Yes, that.* This is an Argument in Opposition to his Testimony.

The next is a Consideration for his Testimony. *Turners* says in answer to that, in *July* he takes it, but can't charge himself whether *June*, or *July*, or *August*, but he himself thinks *July*, that he saw him at the Lord *Castlemaine's* House. And the King's Council would gather from that, there could not be such an Unwillingness to go before that time, it being after the time they speak of that this Man saw him there. Whether or no it was in *June*, or *July*, or *August*, is something uncertain. So that I have repeated, as near as I can, all that is substantial on either Part; and I have, according to the best of my Understanding, dealt fairly on both Sides, and observed to you what hath been sworn against my Lord, and what hath been said in Contradiction to what they swear, and what appears upon Record, as to *Dangerfield*.

There is a great deal of Difference between Mr. *Oates's* Testimony and Mr. *Dangerfield's*; for you may believe one, when you may perchance not believe another. There are not those Things cast upon Mr. *Oates* that are upon Mr. *Dangerfield*. Now I must tell you, tho' they have produced two, if you believe but one, I think (if so be my Brethrens Opinions be otherwise, I would be very willingly contradicted in this Matter) if two Witnesses are produced, both speaking materially to the thing, the one is believed and the other not; Whether upon these two Witnesses the Jury can find a Person guilty, or no? I am of Opinion, is it but one Witness, if you don't believe one; and I am sure one is not sufficient to find one guilty: And therefore if so be you are of another Opinion, let us deal fairly and above-board, that it may appear we deal rightly between the King and his Subjects, and so preserve Men that are accused and not guilty.

Mr. Just. *Jones*. I think in the first place, my Lord hath very faithfully delivered the Evidence; and I do think it necessary, in a Case of Treason, that there must be two Witnesses believed by the Jury.

Mr. Just. *Raymond*. I never heard any Man question it. If the Law says there must be two Witnesses produced, it says they must be both believed.

L. C. J. Now you have our Sense of it.

[*The Jury went from the Bar, and returned.*]

Cl. of Cr. Are you all agreed of your Verdict?

Jury. Yes.

Cl. of Cr. Who shall speak for you ?

Jury. The Foreman.

Cl. of Cr. Roger Palmer, Esq; Earl of *Castlemaine* in the Kingdom of *Ireland*, Hold up thy Hand, look upon the Jury.

Cl. of Cr. Is Roger Palmer, Esq; Earl of *Castle-*

maine in the Kingdom of *Ireland*, Guilty of the High-Treason whereof he stands indicted, or not Guilty ?

Jury. Not Guilty.

Cl. of Cr. This is your Verdict, You say he is Not Guilty, so you say all ?

Jury. Yes.



XCVIII. *The Trial of HENRY CARR, at the Guild-hall of London, for a Libel, July 2. 1680, 32 Car. II.*

AN Information was filed in the *Crown-Office*, against *Henry Carr*, which sets forth, that a certain Plot of a traitorous Conspiracy was lately had within this Kingdom of *England*, amongst divers false Traitors of this Kingdom of *England*, to put to Death, and murder our Lord King *Charles II.* and the Government of this Kingdom of *England*, and the sincere Religion of God within this Kingdom of *England*, well and piously established, to destroy and subvert, and the *Romish* Religion, within this Kingdom of *England* to introduce ; and that also divers Traitors for High-Treason aforesaid, were lawfully convicted and attainted, and other Persons, for High-Treason, aforesaid, were by due Course of Law tried and acquitted. Nevertheless, one *Henry Carr*, of the Parish of *Sepulchres, London*, Gent. knowing well the Premises, but minding, and maliciously intending the Government of the Kingdom of *England*, and the Administration of Justice in the same Kingdom to scandalize, and to bring the same in Contempt :

The first Day of *August*, in the Thirty first Year of our now Lord the King, at the Parish of *Sepulchres, London*, a certain false, scandalous and malicious Book, Entituled, *The Weekly-Packet of Advice from Rome, or the History of Popery*; maliciously and unlawfully hath printed, and caused to be published: In which Book is contained among other Things, as followeth. There is lately found out by an experienc'd Physician, an incomparable Medicament, call'd *The Wonder-working Plaster*, truly Catholick in Operation, somewhat of kin to the *Jesuits Powder*, but more effectual. The Vertues of it are strange and various. It will make Justice Deaf as well as Blind, takes out Spots out of deepest Treasons, more cleverly than *Castle-Soap* does common Stains. It alters a Man's Constitution in two or three Days, more than the *Virtuosos* Transfusion of Blood in seven Years. Is a great *Alexiphernick*, and helps Poisons, and those that use them. It miraculously exalts and purifies the Eye-sight, and makes People behold nothing but Innocence in the blackest Malefactors. It is a mighty Cordial for a declining Cause, stifles a Plot as certainly as the Itch is destroyed by Butter and Brimstone. In a word, it makes Fools wise Men, and wise Men Fools, and both of them Knaves. The Colour of this precious Balm is bright and dazzling, and being apply'd privately to the Fist in decent Manner, and a competent Dose, infallibly performs all

the said Cures, and many others, not fit here to be mentioned.

To the great Contempt of our Lord the King, and his Laws, to the great Scandal of the Government of our now Lord the King, and the Laws of this Kingdom of *England*, and the Administration of Justice in the same Kingdom; to the evil Example of all others in such a Case offending, and against the Peace of our Lord the King, his Crown and Dignity.

To which Information appeared in the Court of *King's-Bench*, *Henry Carr*, by his Attorney, *Benedict Brown*, the eleventh of *February*, and having heard the Information aforesaid, said that he was not Guilty.

Issue being join'd, it was tried by Writ of *Nisi Prius*, at the *Guild-hall*, before the Lord Chief-Justice *Scroggs*, upon the Second of *July*, 1680, where a Jury was summon'd, whose Names are as followeth :

<i>Benjamin Thorogood.</i>		<i>Jeremiah Gregory,</i>
<i>Richard Blackbourn.</i>		<i>Nicholas Bondy.</i>
<i>Godfrey Richards.</i>		<i>George Day.</i>
<i>Leonard Bates.</i>		<i>Nicholas Darwes.</i>
<i>Philip Harman.</i>		<i>Richard Blaney.</i>
<i>Francis Brzerwood.</i>		<i>Henry Averie.</i>
<i>Thomas Kemble.</i>		<i>Joseph Hall.</i>
<i>William Longman.</i>		<i>William Bridges.</i>
<i>John Debman.</i>		<i>Thomas Lee.</i>
<i>Lewis Wilson.</i>		<i>Richard White.</i>
<i>Henry Lashoe.</i>		<i>Randal Dod.</i>
<i>Thomas Salter.</i>		<i>Richard Bowwater.</i>

Of all which only Four appear'd and were Sworn, *viz.*

<i>Nicholas Bondy.</i>		<i>Henry Averie.</i>
<i>Leonard Bates.</i>		<i>Randal Dod.</i>

Whereupon a *Tales* was prayed and granted, and then were sworn and added to the principal Pannel, according to the Form of the Statute.

<i>Nicholas Caplin.</i>		<i>James Wood.</i>
<i>Richard Cawtham.</i>		<i>Thomas Gilby.</i>
<i>Arthur Young.</i>		<i>John Odenfel.</i>
<i>William Yap.</i>		<i>Emanuel Conyers.</i>

After which the Court proceeded, and the Recorder began to open the Offence, as follows.

Sir George
Jefferies.

Mr. Recorder. This Person among others, intending to scandalize the Government, hath caused a Book to be published, which I have here in my Hand, called, *The Weekly Packet of Advice from Rome*; there are some Papers besides what are bound up together, that are continued on, which, my Lord, would not be amiss for us that are of the King's Council to take Notice of, not only for the Jury's Satisfaction, but likewise for the Satisfaction of this great Auditory, some whereof I know come to pick Advantage, and to know whether or no Rascals may have Liberty to print what they please. Now all the Judges of *England* having been met together, to know whether any Person whatsoever may expose to the publick Knowledge any manner of Intelligence, or any Matter whatsoever that concerns the Publick: They give it in as their Resolution, that no Person whatsoever could expose to the publick Knowledge any thing that concern'd the Affairs of the Publick, without Licence from the King, or from such Persons as he thought fit to entrust with that Affair. But such is the Age that we live in, that a Man that hath Wit enough to libel any Man in the Government, thinks he hath Licence enough to expose that Man to publick Knowledge also. And they do it under specious Pretences, because they think that any Man may be exposed to the publick Censure, that they can either call a Papist, or but popishly affected, and that Man is either the one or the other, that is not agreeable to every Rascally Humour that some People affect. I acknowledge, my Lord, that any Man that will in a legal manner endeavour to suppress Popery, ought to be encouraged in his Endeavour, to the utmost; but if in case any Man will be transported with Zeal, because he is of a Party, and under Pretence of endeavouring to suppress Popery, should support a Party, that Man ought to be detected. The Author of this Packet of *Advice from Rome*, or the Publisher of it, Mr. Carr, that is now the Defendant, he thinks he can scratch the Itch of the Age, and that he may libel any Man concern'd in the Government, if he can but call him a Papist or popishly affected; let a Man be never so honest, let a Man be never so much for the Support of that Religion that every honest Man ought to support, that is, the Protestant Religion, as it is establish'd by Law, without going to *Rome* or *Amsterdam* for Assistance. I will not mention the Persons that are concern'd in it, but I will apply my self wholly to this Matter, that it is the Opinion of all the Judges of *England*, that it is the Law of the Land, that no Person should offer to expose to publick Knowledge any Thing that concerns the Government without the King's immediate Licence. Now we are to try whether this Person exposed this Thing to publick Knowledge, and that is the Matter, Gentlemen, that you are to try. The other is the Business of the Court, we are to say whether, if we prove the Fact, this Man is guilty of Punishment, and no doubt the Justice of the Nation will punish him. But when I see so many swarm about me, I am willing to hear what Proof there is.

Sir Francis Winnington. I am of Council for the Defendant, I only offer it to your Lordship, that the Information may be proved.

L. C. J. Here are two Things we are to keep to, the Matter of Proof according to the Infor-

mation, and accordingly are we to proceed as in common Justice we find the Case to be. I must say that for the Prisoner, he has behav'd himself with as much Modesty as in Duty and Honesty he ought; but I find that Sir Francis Winnington puts you upon proving.

Sir Francis Winbins. My Lord, we will prove it.

L. C. J. Let them that are not of the Jury go forth, the Jury is no more to be corrupted than the Judge.

Sir Francis Winbins. We must be allowed the first Part, that there was a Plot.

L. C. J. The Jury may take that upon their Oaths, they know there was a Plot, the certainest of any Thing of Fact that ever came before me.

Mr. Stevens, Printer.

L. C. J. Did Mr. Carr own he writ this Pacquet, had you any from him?

Printer. I had several from him.

L. C. J. Of whom else had you any?

Mr. Recorder. Besides Carr?

L. C. J. You are upon your Oath; from whom ever had you any besides?

Printer. I do not remember that I had any from any body else.

L. C. J. You printed them, did you?

Printer. Yes, my Lord, I did.

L. C. J. And you know of none from any else, but by him or his Orders?

Printer. No, my Lord.

Sir Francis Winnington. Shew him the Paper. Can you swear upon your Oath, that Mr. Carr did send or deliver to you that very Paper?

Printer. I can't tell that any body else did send it.

L. C. J. We must do here, as we do in all Cases; He saith, I had divers of these Papers from him, I printed them, and I know of none that ever was but by him or his Order.

Sir Francis Winnington. He saith so, but, my Lord, the Information is to such a particular Book, Entituled, *A Pacquet of Advice from Rome*.

L. C. J. He says this in Answer to it, I can't charge my self with this Particular, to say positively I had it from him: But this I can say, we had several from him, and I know of none else, but all were by him or his Order.

Sir Francis Winnington. Will your Lordship give me Leave to ask him one Question; Can you swear that any that came from him contained the very Matter in that Book? Was it the Matter or Words?

Mr. Recorder. Do you believe it?

Sir Francis Winnington. Good Mr. Recorder let me alone. Can you say it is the very Matter contain'd in that Paper?

Printer. I can't say that.

L. C. J. It is not an easy Matter for a Man to remember the Matter of a Paper that is writ on all Sides. He swears that they had several; and that they had none, though he printed them, from any but him or his Order. This Question Sir Francis Winnington asks, Had you this particular Paper from him, he cannot swear it was the same he had from him; but he does swear all the Weekly Intelligences were from him or his Order; he does not swear for the Matter of this Book, which no Man will do:

But

But he does swear that these Papers were always by him or his Orders, and that several were received from him.

Mr. Williams. I ask you upon your Oath, he brought it to you in Writing, did he not?

Printer. They came in Writing.

Mr. Williams. Have you any of these Papers to shew?

Printer. We did not regard them when they were printed.

L. C. J. His Cause shall be try'd very justly, and very indifferently.

Mr. Williams. Had you ever a Paper from Carr's Land or no?

Printer. We had few from his own Hand.

Mr. Williams. Had you any?

Printer. I can't remember.

L. C. J. Had you any? You are upon your Oath.

Printer. My Lord, I can't remember.

L. C. J. Had you one, or two?

Printer. Indeed, my Lord, I can't remember, I can't say upon my Oath he ever brought one.

L. C. J. How then came you to say, you had several from him?

Printer. Ay, my Lord, from him, that is, by him, or his Order.

L. C. J. Are you sure it was by his Order?

Printer. I did conceive so, my Lord.

L. C. J. Had he any Money?

Printer. From me?

L. C. J. Had he any Money from any body for printing any of these Papers, as you can remember?

Printer. I do suppose so, I have heard he had.

L. C. J. Did you give him any?

Printer. No, my Lord, I was not concern'd. The Publisher, my Lord, was between him and me.

L. C. J. Who is that?

Printer. That is one Curtis.

L. C. J. Did Curtis pay him any Money?

Printer. I never saw him pay him any, my Lord.

L. C. J. Hath he owned at any time he had any Money?

Printer. My Lord, I never had any Occasion for that Question.

L. C. J. Have you talk'd with Carr?

Printer. Yes, my Lord.

L. C. J. Now I shall have you: For I do believe you are an honest Man. Did Carr ever own himself to you to be the Author of this Book, or any of these Papers?

Printer. My Lord, as I said in the other Case, so I say in this, I had no Occasion to dispute it, I took it for granted.

L. C. J. Have you ever heard him own it?

Printer. I have heard him deny it.

L. C. J. How did you come to take it for granted that he was the Author, when he did once deny, but never own'd it? Answer me that Question, and thou shalt be a brave Man.

Printer. My Lord, there was never Occasion for that Discourse.

L. C. J. Look you, Sir, you must answer me in a way agreeable to common Reason and Understanding. Why did you say just now you took it for granted that he was the Author, and yet you say he hath deny'd it, and never owned it? Why should you then believe he was the Author?

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Printer. I don't say, my Lord, he never own'd it.

L. C. J. What Tricks we have in this World?

Mr. Recorder. I would ask the Gentleman, I will not quarrel with him at all, if he thinks not in his own Conscience he has reason to quarrel with himself. Did he ever own it to you?

Printer. I don't remember he ever own'd it to me in so many Words.

L. C. J. Did he treat with you in these Circumstances as if he were the Author?

Printer. Yes, my Lord, I grant that.

Mr. Recorder. But do you swear it is so? We don't care for your granting: I ask you upon your Oath, did you ever discourse him as the Author of these Papers?

Printer. I supposed him to be the Author.

L. C. J. Did he deny it, or baulk when you discours'd him of this Matter?

Printer. My Lord, I must needs say as I said before, it was taken for granted.

Mr. Williams. You had it in Writing, Where are those Writings?

Printer. We seldom regard those Writings.

L. C. J. It is hard to find the Author, it is not hard to find the Printer: But one Author found is better than twenty Printers found.

Mr. Williams. My Lord, I will ask this Man a Question. Upon your Oath, Who brought you that Writing?

Printer. What Writing?

Mr. Williams. That by which it was Printed: Who brought you that Paper?

Printer. I don't remember particularly I had any of Mr. Carr himself.

Mr. Williams. Can you name the Person that brought this Paper, or any one Person that brought any one Paper?

Printer. There was a little Boy.

Mr. Williams. Whose Boy?

Printer. Mr. Carr's Boy.

Mr. Recorder. Now it is out.

Mr. Williams. Name the Boy.

Printer. I do not know his Name.

Mr. Williams. Can you name another; can you name any body else?

Printer. Truly, Sir, I don't remember any body else.

Mr. Williams. Now I will ask you one Thing: Had you any Directions for the Printing this Paper?

L. C. J. To what Purpose was this written Paper brought to you?

Printer. To be printed, my Lord.

Mr. Williams. Who gave Directions?

Printer. It was the Publisher that chiefly directed me.

Mr. Williams. Who was that?

Printer. I have named him.

Mr. Williams. Name him again.

Printer. Curtis?

Mr. Williams. Did Carr never direct you to print this Paper?

Printer. He did not deal immediately with me.

Mr. Recorder. When the little Boy came, who did you take him to come from? From Mr. Carr, or Mr. Curtis?

Printer. From Mr. Carr.

L. C. J. He says he was Carr's Boy, and that he came from him: This I speak to the Jury; and I promise you this, if my Life and Fortune

were at stake, I would be try'd by this Jury at the Bar, and would do in this, as in all Cases. Mr. Carr is looked upon as the Author of this Book; that it either came from him, or by his Order, his Boy (he can remember no body else) did bring it. This is now remaining only: Are you sure Mr. Carr sent him? Saith he, we talked with Mr. Carr several times.

Sir Fr. *Winnington*. Thus it is, my Lord, in the Information, *Maliciose & illicite imprimi causavit & publicavit*. Now I would only ask him a Question, my Lord, Whether or no did Mr. Carr own to you that he sent the Boy to have it printed?

Printer. No, Sir, I think not.

L. C. J. That is the same Question asked before. Did Mr. Carr ever own it as his or no? Upon your Oath, Did Carr own this Pacquet to be his, when you discoursed with him about it?

Printer. My Lord, I humbly crave your Leave to explain myself. I mean by the Discourse I had, common Conversation, as the drinking a Glass of Wine; but I know not that ever we discoursed upon this thing.

L. C. J. I mean so: When you talked about this Matter, Did you take it, by his Discourse, for granted, that he was the Man that published it?

Printer. I took it for granted, because I had it from him.

L. C. J. What say you to this? Have you blamed Carr for writing too sharply in this Book against the Government?

Printer. My Lord, I do confess I have.

L. C. J. What Answer hath he made, when you blamed him for writing too sharply, as you thought? Did he deny that he did it?

Printer. I don't remember that.

L. C. J. What sort of Answer did he make to excuse it? That he thought it not too sharp; or did he say, I care not.

Printer. My Lord, I can't particularly say what Answer he made.

L. C. J. When you blamed him, by the Oath you have taken, upon that Blame of yours, did he deny he wrote it?

Printer. No, my Lord, I do not remember he did.

Mr. *Williams*. Did Carr at any time deny he was the Author or Publisher of it?

Printer. He hath at some times.

Mr. *Williams*. What did he deny?

Printer. That he was the Author.

Mr. *Williams*. Of what Book?

Printer. Of the Pacquet.

L. C. J. Did he deny he was the Author of this particular Book for this Week, or deny it in general? Did he deny in general, that he was the Author of that Book that is called, *The Pacquet of Advice*?

Printer. I have heard him say sometimes that he was not the Author.

Recorder. And sometimes what?

Printer. I have heard him say some time or other that he was not the Author.

Mr. *Recorder*. And what else?

The Printer's Servant.

Mr. *Williams*. Are you acquainted with Carr?

Man. I never had any Converse with him.

Mr. *Williams*. Do you know any thing of the *Pacquet of Advice*?

Man. I know we have had Pacquets from him: I fetch'd some from him.

Mr. *Williams*. What, from his Hands?

Man. Yes.

Mr. *Williams*. What, from his own Hands?

Man. Yes, in Pieces, no whole Sheets.

Printer. This is my Servant, I am not always there.

Sir Fr. *Winnington*. My Lord, I would ask this Man a Question. This printed Paper that is put in the Information, Did he ever deliver that to you?

Man. I can't speak particularly to any one.

Mr. *Recorder*. But generally to all?

L. C. J. Have you done?

Mr. *Williams*. I ask you a Question?

L. C. J. If you could, Mr. *Williams*, shew me any Author besides Mr. Carr, I would say something.

Mr. *Williams*. Who brought you this Paper?

Man. Which Paper?

Mr. *Williams*. I don't speak of this Paper particularly. Did any bring any besides Carr?

Man. Yes, his Boy.

Mr. *Williams*. Did any body else bring any from any Place?

Man. No body else that I know of.

Mr. *Williams*. The Pacquet he brought you, had it been printed before? I ask you upon your Oath, was it printed before he brought it?

L. C. J. Did he bring Papers to print that were never printed?

Man. They were never printed, that I know of.

Mr. *Williams*. Did he bring any to print?

Man. I can't say he brought any.

Mr. *Williams*. Did Mr. Carr bring any?

Man. No, the Boy.

Mr. *Williams*. Who directed you to print them? Did Carr direct you?

Man. I can't tell, I am a Servant in the House.

L. C. J. I will assure you a *Non est Factum* can't pass at this rate.

Mr. *Just. Jones*. Who did you take to be the Man that sent you all the Pacquets?

Man. I very seldom took any, because I was not always in sight.

L. C. J. Who did you understand?

Man. I understood they came from Mr. Carr.

L. C. J. Have you any more? Read the Words in the Information.

Clerk, *Friday the 1st of August 1679*. There is lately found out by an experienced Physician, an incomparable Medicament, called, *The Wonder-working Plaster*; truly *Catholick in Operation*; somewhat of kin to the *Ysaits Powder*, but more effectual. The Virtues of it are strange and various. It makes Justice deaf, as well as blind, and takes out Spots of the deepest Treason more cleverly than *Castle-Soap* does common Stains. It alters a Man's Constitution in two or three Days, more than the *Virtues's Transfusion of Blood* in seven Years. 'Tis a great *Alexipharmick*, and helps Poisons, and those that use them. It miraculously exalts and purifies the *Eye-sight*, and makes People behold nothing but Innocency in the blackest Malefactors. 'Tis a mighty *Cordial* for a declining Cause; it stifles a *Plot* as certainly as the *Itch* is destroyed by *Butter and Brimstone*. In a word, it makes *Fools wise Men*, and *wise Men Fools*, and both of them *Knaves*. The Colour of this *precious Balm* is bright and dazzling, and being applied privately

privately to the Fift, in decent Manner, and a competent Dose, infallibly performs all the said Cures, and many others, not fit here to be mentioned. *Probatum est.*

Sir *Fr. Winnington.* May it please your Lordship, and you Gentlemen of the Jury, I am Council in this Cause for the Defendant: And the Question is, Whether or no we must take the Information as it lies? And truly, for the first Part of it, whether there was a Plot or no, I do not intend to make Exceptions; for I believe there was one, and do intend to take it as in the Information. Gentlemen, we are to proceed now to this other Question; which is, my Lord, Whether or no this Defendant, that is, Carr, did *falsly and maliciously*, and with *Design to scandalize the Government*, cause to be printed and published this false Libel that is in the Information. Now truly, my Lord, we that are for the Defendant, say we are not guilty. My Lord, we very well know how penal a Thing it is for a Man to be the Author of a Libel that relates to the Scandal of the Government. And, my Lord, whether this Defendant be guilty of this, or no, we must submit that to your Lordship's and the Jury's Consideration. They have produced two Witnesses, that is to say, the Printer and his Man. Now, my Lord, there hath been going out for some Time, *A Weekly Pacquet of Advice from Rome*; and I did ask the Witnesses (for the Information points at one Paragraph, and puts the Paragraph *in hec verba*) I did ask him whether or no he did send, or whether the Matter that he sent is that contained in this Information. That he could not swear: But must be left in point of Evidence, it being, we allow, a very penal Matter. The second Witness, and the first Witness likewise say, there was a Boy; but whether that Boy came by his Master's Direction, he does not know. I asked him if ever his Master sent the Boy; he does not know, he says, that he sent him. But the last Witness says, divers were had from the Hands of Carr; but whether it was the Thing that is now complained of, there is the Question, and that is in the Dark: For, by your Lordship's Leave, I do not understand that ever this Man was complained of to any publick Magistrate for writing this Book; for it was thought he was a *Satyrift* against *Poperie*, and thought to be very well liked on till this Fault was found with it; and it may be very justly; whether or no we be guilty of this, is uncertain: For we know, in the Age we live in, there are too many Shams put upon Men; and who knows but that the Papists, that might have an Ill-will to this Mr. Carr, that hath been no Friend to them, might shuffle in this Paragraph, by that Means to have Justice come upon him. I would not contrive against common Evidence, where a Man is guilty to the Publick; but we know there are Abundance of Artifices in this Age to abuse Men. For this Purpose I hope your Lordship and the Jury will expect that you should have positive Evidence against him. Now granting your Lordship should have conjectural Evidence that he did cause it to be printed and published, that this Man did write it, is, I say, very uncertain, for there is no positive Evidence. What a Man may have in his private Thoughts of it, is not enough: But, whether *secundum allegata & probata*, it shall be alledged and proved, that this Man was the Author of it. Now, my Lord, I say, I must submit it to your Lordship, I say, that as to the

causing it to be printed, or the causing it to be published, or that this individual Paragraph was writ by him in order to it's being printed or published, my Lord, I say, there is but remote and conjectural Evidence, and an angry *Papist* might contrive this Way to have an innocent *Protestant* found guilty.

People. Hem—

L. C. J. You see what a Case we are in, Gentlemen; you see what a Sort of People we are got among. Go on Sir *Francis*.

Sir *Fr. Winnington.* With your Lordship's leave I have one Thing to put to your Lordship. The Information says, *falsely, illicite & maliciose*. I know there are some Things that do imply Malice in themselves. Truly, my Lord, I am upon a tender Point, and know not how to express myself. I say, supposing it should fall out that this Man writ this Book, and he might have some little Extravagancies in his Head in writing; whether this Man did it maliciously to scandalize the Government, as the Information says, is a Question. Truly, my Lord, there is many an indiscreet Act a Man may be guilty of, that cannot be called a malicious Act; and that is the second Thing. There must be Evidence that this Man did it maliciously, or that he did it with a Design to scandalize the Government. If you be of Opinion that it is otherwise, that is in your Lordship's Breast; we are of the Negative, and we say we can't prove a Negative. But if you find him innocent, I suppose there will be no Cause to complain of him afterwards, for he had no Malice in his Heart.

Mr. *Williams.* My Lord, it can never be supposed that a good Man, and a good Subject, should do an ill Action. If he be a very good Subject, if he be upon a Square in every Respect, a Person that loves his King, and loves the Government in Church and in State; if he be such a Person, he cannot be thought guilty. My Lord, we will prove him to be such a Man, and I hope the Gentlemen will believe us.

Call Mr. Sutton, Mr. Ayliffe, and Mr. Ambler.

Mr. *Williams.* Mr. Sutton, Do you know Mr. Carr?

Mr. Sutton. I know him very well.

Mr. *Williams.* How long since have you known him?

Mr. Sutton. Two or three Years.

Mr. *Williams.* Does he go to Church or Meetings?

Mr. Sutton. He hath been with me at Church often.

Mr. *Recorder.* Does he receive the Sacrament according to the Manner of the Church of England?

Mr. Sutton. I was never with him at the Sacrament.

Mr. *Williams.* Is he one of them you call Dissenters?

L. C. J. Did he ever discourse with you concerning this Book?

Mr. Sutton. My Lord, I have often spoken to him.

L. C. J. Has he disowned he was the Author?

Mr. Sutton. He has sometimes.

L. C. J. How do you believe it was upon that Discourse?

Mr. Sutton.

Mr. *Sutton*. I do not think he is able to write such a *Book*.

L. C. J. That is not the Question, answer me what I ask.

Mr. *Sutton*. It did seem something like his *writing* methought.

L. C. J. Did it seem by his Answer to your Discourse with him?

Mr. *Recorder*. Pray tell us, Did you look upon him to be the Author?

L. C. J. By the Discourse you had with him, How did it appear upon that Discourse? Pray tell us plainly and clearly, how you do think, by the Discourse you had with him concerning this Pamphlet, whether he was the Author or no?

Mr. *Sutton*. My Lord, about a Year, or a Year and an half since, I did ask him whether this *Book* were licensed? He told me it was licensed by Mr. *L'Esrange*; but he did not tell me he was the Author.

L. C. J. How did it seem by his Discourse?

Mr. *Sutton*. I did apprehend he might write it.

Sir *Fr. Winnington*. My Lord, but the Question is, whether he wrote this *Paragraph*.

Mr. *Ambler*.

Mr. *Williams*. Mr. *Ambler*, pray do you acquaint my Lord, do you know Mr. *Carr*?

Mr. *Ambler*. Yes, Sir.

L. C. J. How long have you known him?

Mr. *Ambler*. Three Years.

Sir *Fr. Winnington*. Of what Conversation is he, and how affected to the Government?

Mr. *Ambler*. He went to Church with me.

Sir *Fr. Winnington*. Do you look upon him as a Man well affected to the Government? Do you think he would maliciously write any Thing to scandalize the Government?

Mr. *Just. Jones*. How do we know how Mr. *Ambler* understands the Government?

Mr. *Recorder*. Mr. *Ambler*, Had you any Discourse with him about the *Pacquet of Advice*?

Mr. *Ambler*. Never in my Life.

Mr. *Recorder*. Did you ever hear of the *Book*?

Mr. *Ambler*. Yes, Sir.

Mr. *Recorder*. Upon your Oath, Did you look upon him to be the Author?

Mr. *Ambler*. The common Report was, that Mr. *Carr* was.

Mr. *Ayliffe*.

Mr. *Williams*. Mr. *Ayliffe*, Do you know Mr. *Carr*?

Mr. *Ayliffe*. Yes, Sir.

Mr. *Williams*. Is he a conformable Man to the Government in *Church* and *State*? Does he go to hear *Common-Prayer*?

Mr. *Ayliffe*. I have seen him at Church, and at Divine Service.

Mr. *Recorder*. Did he behave himself reverently there?

Mr. *Ayliffe*. Yes, Sir.

L. C. J. Do you think he writ this?

Mr. *Ayliffe*. My Lord, I never asked him.

Sir *Fr. Winnington*. My Lord, it seems he was accounted the *Author of the Books*; but whether of this particular one in the Information, we conceive not proved.

Mr. *Recorder*. If we should not do right, we disclaim that Service we owe to the Crown, and that Respect we owe to the Government as honest

Men and as true *Protestants*, and as much against *Papists* as any Man whatsoever. I shall endeavour to give the World Satisfaction that this Man is guilty of this Offence. My Lord, for any Man to come and pretend that we must prove that a Man is malicious; or because that a Man writes against the *Papists*, he must never therefore be convicted of Malice, surely is a strange Argument. And I wonder to hear any Man that pretends to Reason, Men of Sense, and Conscience, and Understanding, so out of their common Sense and Understanding, as to make that go as an Argument. Gentlemen, the Things themselves bespeak their Malice. For so we in our common Discourse, when we bring our common Actions (of which you have heard a Number) if in Case any Man call a Man *Thief*, we say he does falsely, and maliciously, and scandalously call a Man *Thief*: If we prove he called him *Thief*, the very Thing does intimate he does it falsely, scandalously, and maliciously; therefore the Thing itself is a sufficient Indication of the *Malice* and *Depravity* of it. There's no Man but may know in plain *English* what's the Meaning of these Words; it is as plain as can be in the World: We must debauch our Understandings, and be as great *Doltbeads* as they would make all Men that will not be of their Party, if we don't plainly see into the Meaning of these Words, that *Justice is to be bribed with Money*. In the next Place, Gentlemen, we do not come and say, that the *Information* lies against these very particular Words; that is a Mistake of the *Information*. But the *Information* is, That he did cause to be printed and published a *Book*, in which among others, there were such Words as these; though if they had been the very Words themselves, the very Words have been proved. Now, *There is no better Proof under the Heavens, than the Proof we have offered*. The Printer himself, he comes here and says, That *Carr* did acknowledge himself the Author, and he did generally publish the *Book*; I appeal if you do not believe it. This they would now come and excuse; for they are glad to make a Rascal of any of their Party, if they can but save a Man that is guilty. But Things come out with much Difficulty and much Straitness; and I must say, if ever any Thing were an Instance of *Popery*, then that Man is one of the Jesuited't Fellows that ever was; for he does *cant so like them*, that a Man can't tell how to govern himself. Who was it that should write these Things? Truly, he had discoursed with him about the Matter. Who sent the Boy? Do you know? Truly I can't tell: And wonderful great *Snuffing* and *Canting* before he comes to the Business. Besides, what can there be more plain than the *Proof-pieces* before the publishing? T'other Man says, that he was the Man that fetched Pieces from *Carr's* own Hand, and that he always looked upon it that all did come from *Carr*.

Now every Man that knows any Thing of Printing, knows this, that after it hath first taken the Press, it is always carried back again to the Author, to see whether it be done according to his Mind; and after that it comes to the publick View. And that this Man, *Carr* is the Author, Mr. *Sutton* and the rest of his Witnesses, if they speak according to Conscience, they themselves looked upon this very Man to be the Author. Their own Witnesses looked upon it so. It was not only the private Opinion of these Men, but the general Report of all. So that,

my Lord, had it not been necessary to the Support of the Government, I should have scarce troubled my self to give your Lordship and the Jury this Trouble. But I must say, and I do believe, that there is no Man whatsoever, that stands to have Vices of this Nature convicted and punished, but desires the Protestant Religion may be supported to the utmost, and that Popery may be suppressed. But I say, whoever it is, that after this Evidence, who is bound by his Oath to go according to Evidence, shall acquit this Man, he must be a Man of a humming Conscience indeed.

Sir Fr. *Withins*. I shall hint one Thing to your Lordship in this Case: That it is an unlikely Thing that a Papist should set out this Pacquet at this Time. For then, my Lord, how came it to pass that Mr. *Carr* had none come out that Week; for his is a *Weekly Intelligence*. If Mr. *Carr*'s had come out, and this likewise, there had been some Pretence for this: But since there came out but one, that the Papists set out this is unlikely. They have not pretended to bring in any body else as the Author; but their own Witnesses say, and they themselves say, he was looked upon as the Author. Those Things that are done against the Government, are never done in the Face of the Government.

L. C. J. Really, Gentlemen, I thought not that this had been a Cause of that Moment that now I find it. For their very Disturbance hath altered it from Mr. *Carr*'s, to a publick Concern. The Noise which they make, this Way that these People use, that with their Shouts and Noise attend the Cause, hath quite spoiled it: As in the Case of *Harris*. But those People that did then attend him, leave following him in a Goal for five hundred Pounds, which may be five Shillings a piece had discharged him of, if they had been as free of their Purfes as they are of their Noises and Acclamations: So that in Truth they are only violent against the Government whilst they can make Shouts and Noises, but if it comes once to deliver a Man from a penal Sum, they will let him rot in Goal. For so *Harris* sent to me, that his Party had all forsaken him, and no Man would give him any Thing. And this is for those *Hummers*, those brave Fellows that seem to espouse a Cause, and yet leave their Party in Distress: But let them go away with this, that they prove themselves hereby Enemies to the Government, and false to that Interest and Men that they seem to espouse; that come only here to affront a Court of Justice with their Shouts and Noises, and will not relieve their Party: For this is the Complaint of *Harris*, and the Disparagement of all Men that come to espouse it. This Cause, the Truth on't is, I did not look upon to be of this Nature and Moment, when it was opened. For though there are in this very Paper upon which the Information is grounded, Words malicious and reflective enough; yet they were not so apparently appropriated, that a Man might observe an extraordinary Design in them. This I thought; but really the Case is altered even by those Men. For, I'll tell you, *Harris* is poor, and his keeping in Prison is principally occasioned from the Manner of the Reception of his Punishment, which he calls his Pardon. And therefore these Fellows, these *Hummers*, let them all know, whenever they come to espouse a Cause of publick Concern against the Government, they spoil it; and when they are taken, then they ruin one another. And this is like to be so, for none

will help them with a Groat. And this is the Misfortune of that unfortunate Man *Harris*, that he hath no Place of Mercy left him from the King, because he was attended with such a Rabble as these People are, that have made a Noise here, and yet will give him no Help nor Assistance when he wants it: And let them know, it hath turned this Man's Cause into a publick Cause, because here are People that do espouse it, and the Government is hereby concerned much more than by any one Action that this *Carr* could have done. I have said so much more of this, that I might shew you to what a sad Case this is brought from what at first it was. For if it had passed without such a Noise, as you see how they express themselves, I should not have thought much Matter in it; and though you had convicted him, I should have thought a better Sentence might have served the Turn: But they have undone *Carr* if you find him guilty; and so it's like to prove, whenever there is popular Attendance upon publick Causes that concern the Government.

The present Case it stands thus: Mr. *Carr*, here is an Information brought against him for publishing a printed Pamphlet called, *The Pacquet of Advice from Rome*, and in it there are recited some Particulars, which were observed to you before, which was not well done; but yet not so insolently done as some perhaps do conceit. The Question is, Whether he was the Author or Publisher of this: You hear he is thought the Author, but say his Council, it is not plain; and that is true. But it seems by their own Witnesses, to any Man's Understanding, that they looked upon him as the Author. But then, is he the Author and Publisher of this particular Book? I had rather Mr. *Carr*, with all his Faults about him, and his *Hummers*, should go away with Applause, and have him found not guilty, than do him wrong in one Circumstance; for I come to try Causes according to the Truth of Fact; I come not to plead on one Side nor another; not to condemn Men that are innocent, nor to acquit them if they be guilty. Now it remains for you to consider what Proofs you have, as to this particular Book against which the Information lies; and that's the Printer himself, who is one of the best Sorts of Evidence that can be had: For you very well know that Evidences of Fact are to be expected according to the Nature of the Thing. That is, Forgery is not to be proved so plainly, as to expect Witnesses as you do at the sealing of a Bond; for Men do not call Witnesses when they forge a Thing. Therefore in Things of that Nature we are fain to retreat to such probable and conjectural Evidence as the Matter will bear. I believe some of you have been of Juries at the *Old-Bailey*, and that even for Mens Lives, you have very often not a direct Proof of the Fact, of the Act, or of the actual killing; but yet you have such Evidence by Presumption, as seems reasonable to Conscience. If there be a known Case in Mens Lives, certainly that should govern in Offences, and especially when Offences are of a Nature that reflect upon the Government. As for those Words, *illicite, malicieuse, unlawful*; for that I must recite what Mr. *Recorder* told you of at first, what all the Judges of *England* have declared under their Hands. The Words I remember are these: When by the King's Command we were to give in our Opinion what was to be done in Point of the Regulation of the Press; we did all subscribe, that

to print or publish any News-Books or Pamphlets of News whatsoever, is illegal; that it is a manifest Intent to the Breach of the Peace, and they may be proceeded against by Law for an illegal Thing. Suppose now that this Thing is not scandalous, what then? If there had been no Reflection in this Book at all, yet it is *illicite*, and the Author ought to be convicted for it. And that is for a publick Notice to all People, and especially Printers and Booksellers, that they ought to print no Book or Pamphlet of News whatsoever, without Authority. So as he is to be convicted for it as a Thing *illicite* done, not having Authority. And I will assure you, if you find any of those Papers, I shall be more merciful in the Consideration of their Punishment, if it be inoffensive. But if so be they will undertake to print News foolishly, they ought to be punished, and shall be punished if they do it without Authority, though there is nothing reflecting on the Government as an unlawful Thing. The Reason is plain: So fond are Men in these Days, that when they will deny their Children a Penny for Bread, they will lay it out for a Pamphlet. And it did so swarm, and the Temptations were so great, that no Man could keep two Pence in his Pocket because of the News. But still they never repented of laying out their Money, till they found there was nothing against the Government. This is not worth a Farthing, there is nothing of Treason in it, we will not give a Farthing for it. Therefore this Book, if it be made by him to be published, it is unlawful, whether it be malicious or not. Now for the Matter, the Subject Matter. What, doth *Carr* think he hath too much Wit to fool us that are to try the Malice? It was sillily writ, if he did not believe we understood it, and that were very intolerable in us; I hope I speak plain: That is, the Sort of Books that he writ; it must be with an Intent People should know what Reflections he made; and shall all Mankind know, and shall they that try the Cause not know it? If you find him guilty, and say what he is guilty of, we will judge whether the Thing imports Malice or no. Sir *Francis Winington* hath told you there are some Things that do necessarily imply Malice in them. If this Thing doth not imply it, then the Judges will go according to Sentence; if it doth, so that it concerns not you one Farthing, whether malicious or not malicious, that's plain. Now, there remains only one Thing, that is, whether or no he was the Publisher of this Book? For that we have this Evidence. The Printer tells you he was the Person that they looked upon to be the Author of this Book, that he sent this Book to be printed by his Boy. The Printer saith that he often discoursed with him, and he took it for granted. His Boy brought it. To what Purpose? To be print-

ed. The Printer's Servant says, they looked upon him as the Author, and I have fetched Sheet by Sheet, several Sheets from his own Hand. I will do Right in the Case, be it what it will, let him escape or not. Say his Council, Had you this particular Paper from him? I urge this as clearly, as their own Council have objected. For that you must consider, whether he is the Author of the Book. You must take Evidence in this Case, as you do all the Year long; that is, in other Cases, where you know there is an absolute Certainty that the Thing is so: For human Frailty must be allowed; that is, you may be mistaken. For you do not swear, nor are you bound to swear here that he was the Publisher of this Book; but if you find him guilty, you only swear you believe it so. God help Juries, if so be in Matter of Fact they should promise otherwise. They can't swear it. Now the Question is, Whether you have Evidence enough here to swear he was the Publisher: For this is the main Thing, to prove that he is so. Now the Printer tells you that he knew the Man, that he had frequent Converse with him about it, and that he took it for granted. Now consider, when a Man talks at this rate, he does not say he was, but that he took it for granted; he does not as much as say he is. They will own he writ several Sheets of this Book; then, why not all this Book? Now we come to the more principal Matter of Fact, according to Reason and the probable Evidence of Things. That this Person is taken to be the Author, and that it was his Boy that brought these Papers to be printed. If you can't say he sent him, you can give no Verdict while you live, if you expect that. The Printer says, he had been often discoursing with him, that his Boy brought them, and that he knew no other Person in the World that had any Pretensions to be the Author, and if he were the Author, no doubt but he is the Publisher. Whether or no any body else had an Hand in this, we don't know. If you are satisfied in your Consciences that you believe he is not the Author, you must acquit him. If you are satisfied it is not he, you must find him not guilty. So that as you are honest Men and wise, as I believe you are; if you believe he was not the Publisher of this Pamphlet, that he did not send his Boy to have it printed, but that he came of his own Head, you must find him not guilty.

The Jury went from the Bar, and nigh an Hour after returned, and brought him in guilty.

L. C. J. You have done like honest Men.

Mr. Recorder. They have done like honest Men.



XCIX. *The Trial of JOHN GILES at the Old-Baily, for assaulting and attempting to murder John Arnold Esq; July 14 1680. 32 Car. II.*

THE Sessions began on *Wednesday* the seventh Day of *July* 1680. The ninth Day Mr. *John Giles* was brought to the Bar to be tried; and there pretended that he had Witnesses at *Monmouth*, who could testify very material Things for him, and therefore pray'd the Court to put off his Trial until the next Sessions. Then the Court asked him his Witnesses Names, and what they could say? Which he then declared to the Court. Upon which Mr. *Arnold* being present, and Prosecutor (*Tam pro Domino Rege, quam pro seipso*) the Court asked his Consent, and what he could say why the Trial should not be put off; that so all the World might hereafter say, That Mr. *Giles* had all the Favour that he could reasonably desire, and what the Court could in Justice shew him, and that no manner of Excuse might be left him.

After which Mr. *Arnold*, in a very pertinent Speech, declared part of the Fact, and also of the Proceedings before his Wounding, as it had occurred between him and Mr. *Herbert*; and of his favourable and just Proceedings against Mr. *Herbert*, and also against *John Giles*, after the Fact was committed; and declared that *Giles* had sufficient Notice of his Trial; but notwithstanding he did submit himself to the Judgment of the Court.

Thereupon the Court advised a Minute or two's Space; it was ordered, That the Court should be adjourned until the *Wednesday* following; by which time Mr. *Giles* might send to *Monmouth*, and have what Witnesses brought up he could get.

And the Day appointed being come, and the Court being sat, Proclamation was made according to Custom. Then the following Jury were called and sworn, *viz.*

<p><i>Christopher Plucknet,</i> <i>William Dodd,</i> <i>Anthony Nurse,</i> <i>John Burton,</i> <i>Nathan Goodwin,</i> <i>George Wood,</i></p>	}	Jur'	<p><i>James Partridge,</i> <i>Lawrence Wood,</i> <i>John Bradshaw,</i> <i>William Withers,</i> <i>Edward Proby,</i> <i>Rich. Broomfield.</i></p>
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Who, according to the Form of Law, were charged to enquire, Whether the Prisoner were guilty of the following Indictment upon which he had been arraigned, and had pleaded not guilty?

Cl. of Cr. The Jurors of our Lord the King, upon their Oaths, do present, That *John Giles* late of the Parish of *St. Dunstan in the West*, in the County of *Middlesex*, Gentleman, not having God before his Eyes, but being moved and seduced by the Instigation of the Devil, contriving and maliciously, by a most wicked Conspiracy, with di-

vers other Malefactors to the Jurors unknown, forethought and had, intending one *John Arnold* Esq; a faithful Subject to the King, and one of the Justices of the Peace for the County of *Monmouth*, inhumanly to maim, wound, kill and murder, the fifteenth of *April*, in the thirty-second Year of the Reign of our Sovereign Lord *Charles* the Second, by the Grace of God, King of *England, Scotland, France, and Ireland*, Defender of the Faith, &c. with the said Malefactors unknown, at the Parish of *St. Dunstan in the West* afore said, in the County of *Middlesex* afore said, in and upon him the said *John Arnold*, then and there being in the Peace of God and the King, unlawfully, voluntarily, and of his Malice forethought, with Force and Arms, that is to say, with Swords, Staves, and Knives, of Design, and by lying in wait, did make an Assault; and him the said *John Arnold*, did then and there beat, wound, maim, and evilly intreat, and the Throat and Face of him the said *John Arnold*, did grievously cut with a certain Knife; also divers almost mortal Wounds then and there to the said *John Arnold*, that is to say one Wound of the Depth of seven Inches in his Body, between his Belly and his Left Pap, two Wounds upon his Breast, and two Wounds in his Left Arm, with certain Swords, did then and there give and impose, so that it was despaired of the said *John Arnold's* Life, and other Enormities then and there unto him did bring, to the great Danger of the said *John Arnold*, and against the Peace of our said Lord the King, his Crown and Dignity.

Mr. *Gibbs*. Gentlemen, this is an Indictment against *John Giles*, the Prisoner at the Bar, for assaulting and intending to dispatch and murder *John Arnold*, one of his Majesty's Justices of the Peace, on the 15th Day of *April*. This *John Giles* and several others, did intend to kill Mr. *Arnold*, and set upon him in *Jackanapes-Lane*, threw him down, and endeavoured to thrust their Swords into him, but finding no Penetration there, they kneeled upon him, and with a Knife endeavoured to cut his Throat, and in one Place made a very large Gash, and cut his Face; he endeavouring to keep them from his Throat, they gave him a Wound in his Side seven Inches deep, between his Belly and Left Pap. They gave him several other Wounds. To this he has pleaded Not Guilty.

Mr. *Holt*. May it please your Lordship, and you Gentlemen of the Jury, I am Council for the King, and the Indictment hath represented to you the most horrid, vile, and barbarous Assault that has been almost ever committed, and that any Man has heard of; and which I think scarce any thing in History can parallel. It was, Gentlemen, in its Nature most cruel, by the giving

ing him so many Wounds as are set forth in the Indictment; having first way-laid and surprized him near a Place, and at such a Time, as was convenient for the Execution of their wicked Design. This Mr. *Arnold* having Occasion to go through *Bell-Yard* between the Hours of ten and eleven of the Clock at Night, at the End of *Jack-anapes-Lane*, he was suddenly seized by two Men, and by them halled into the Lane, where they gave him several Wounds, and used him in a most barbarous Manner. And this did not arise from any private Difference or Animosity, that they could conceive against Mr. *Arnold*; but from a Cause more general, that is, the Prosecution of the horrid Popish Plot; against which Mr. *Arnold*, as became him, and according to the Duty of his Office, he being a Justice of the Peace, was a very zealous Person. Gentlemen, in the first place we will call Mr. *Arnold*, who shall plainly prove that this Prisoner at the Bar was one of the three Assassines; and he proves it by a miraculous Providence: For just before they seized upon him a Woman in *Bell-Yard* held out a Candle, which gave Mr. *Arnold*, an Opportunity to see the Prisoner at the Bar, and did perfectly discern him. Gentlemen, though this is enough, considering the Integrity and Reputation of the Person; yet we shall fortify his Evidence by strong and undeniable Circumstances, Circumstances that do particularly relate to this Matter. In the first Place, Gentlemen, the very Day that this Fact was done, this Person, though he had a good Sword by his Side, yet he did enquire where he might buy a more convenient Sword, and did desire to know where he might have a Rapier, which was thought more convenient for this Design; and the very next Day after this Fact, though Mr. *Arnold's* having Armour on was a Secret which no Persons but Mr. *Walcup* a Justice of the Peace, and Mr. *Arnold* himself knew; yet this same *Giles* could say, *Arnold* had Armour on; and if *Arnold* had not had Armour on, his Business had been done. And after this Fact was committed, this *Giles* goes into *Gloucestershire*, and being pursued by a guilty Conscience, he durst not stay there, for he was afraid, as he said himself, of being apprehended for assassinating Mr. *Arnold*. After this, Gentlemen, he came to one *Darcy* a Cutler in *Monmouthshire*, with his Sword which was broken, and desired him to mend his Sword. *How now, says he, how came this Sword to be broken? Have you been fighting with the Devil? No, says he, I have been fighting with damn'd Arnold.* And at the very same time when these Villains thought they had effected their bloody Purpose, and gave Mr. *Arnold* his Dispatch, one of them said to him, *Now, Villain, if thou hast any Life in thee, pray for the Soul of Captain Evans*; which *Evans* was a Priest executed in *Wales* upon Mr. *Arnold's* Prosecution, at whose Execution this *Giles* was present, and dipp'd his Handkerchief in his Blood. Now, Gentlemen, considering all this, which we will make plain to you by Mr. *Arnold*, and all these Circumstances; I suppose you will have sufficient Evidence to find him guilty.

Mr. *Thompson*. My Lord, and you Gentlemen of the Jury, the Indictment has been opened, and the Matter of it, that base Attempt made upon Mr. *Arnold*, that was a Justice of the Peace in *Monmouthshire*, that is shewed in the Indictment. But I must crave your Lordship's Leave, that I

may more particularly open this Case. This is a Case, Gentlemen, of very great Consequence, and though it more immediately concerns Mr. *Arnold*, yet it highly concerns every Man present; you of the Jury, and I; nay, every other Freeman of *England*, which ought to be protected by the Laws, must needs be concerned at so great a Violation of them, and cannot but set our Faces against such villainous and barbarous Attempts as these, wherein there did not want the Good-will of the Actors to make it a most barbarous and bloody Murder. In the Course of our Evidence, and the Method we will take to proceed in, it will be necessary to do these three Things. First of all, we shall acquaint you with that which we apprehend to be the Reason and Occasion of this horrid Fact. Next we shall tell you what that Fact was. And in the last place, enquire how far this Defendant is guilty thereof.

For the First; give me leave to acquaint you with what we apprehend to be the true Reason of this Assassination. 'Tis notorious to most Men, but especially to the County of *Monmouth*, where Mr. *Arnold* was a Justice of Peace, how active and diligent, how faithful and vigorous a Man he has been in the Discharge of his Duty to his King and Country, in putting the Laws in Execution against the Papists, and endeavouring to suppress Popery: This was the Ground of their Malice, as you will find by the Evidence, and by the several Threats that he had before this Act was done. But more particularly there was this Occasion; there was one whom they call'd Captain *Evans*, but indeed was Father *Evans* a Popish Priest; this Man in *Monmouth* was taken by Mr. *Arnold*, and was prosecuted according to Law and convicted. I mention this Circumstance, because our Evidence will refer to it, and that you will see out of the Actors own Mouths, if we may believe the Actors in this bloody Tragedy when they did the Fact: This Prosecution of Father, Captain *Evans*, was no small Occasion of their Villainy which they acted upon Mr. *Arnold*. These were the Grounds of their Malice, Gentlemen, and what happened to Mr. *Arnold* was the Effect. And I do the rather mention this Particular, that you may know what Sort of People these were that practised this Villainy upon Mr. *Arnold*; for it will be a necessary Circumstance in our Proof against this Prisoner at the Bar, to shew that he is one of that bloody Tribe.

Gentlemen, the next Thing is to shew what this Fact was, and how it happened. Mr. *Arnold* had a Controversy with one Mr. *Herbert*, another Justice of the Peace in *Monmouthshire*; that Cause between them was to be heard before the King and Council the next Day after this Fact was committed: I mention Mr. *Herbert*, but I hope he is more a Gentleman than to be concerned in such a Villainy. We will not at this time give any Evidence that relates to him: For truly I believe this could only be the Contrivance of a Jesuit, and the Practice of a bigotted Papist. But thus it happen'd: Mr. *Arnold* going to attend his Council upon this Occasion, to prepare himself for this Hearing that was to be before the King and Council; in *Bell-Yard* there he is set upon, there he is wounded, there he is murder'd, as these Assassines thought. And this Mr. *Arnold* will prove to you when he comes to give his Evidence. This to the Fact.

Gentlemen,

Gentlemen, the next is now to consider how far this Man at the Bar is guilty of it; and for that, Gentlemen, we will give you Evidence of several Sorts:

1. The positive Proof of Mr. *Arnold* himself, who, as Mr. *Holt* has observ'd before, almost by a Miracle, discover'd the Defendant's Face; for a Light accidentally coming out of one of the neighbouring Houses, and the Defendant looking at Mr. *Arnold* to see whether he was the Man they wanted, immediately upon that he was assaulted and carried into *Jackanapes-Lane*, and was wounded in several Places. This, Gentlemen, is plain, and will be positively prov'd; and then when this Man was taken upon Suspicion, and was carried before a Justice of Peace, and Mr. *Arnold* was sent for, though Mr. *Arnold* had no private Intimation, no kind of Knowledge beforehand of *Giles's* being taken; and there were several Men stood beside this Man, yet though he had never seen him before, but at the time when the Fact was done, Mr. *Arnold* immediately charged him with the Fact, and as soon as he heard him speak he knew his Voice. This was so plain upon *Giles*, that he had not the Power, though he might have had the Confidence, at that time to deny it: But instead of a Denial said, The Matter could but amount to an Assault and Battery. In the next Place we have Evidence from the Defendant's own Mouth, which in a Case of this Nature ought to weigh as much as can be, and I think is as much as the Nature of the thing is capable of. This Man the very next Day after Mr. *Arnold* had been thus assaulted, discoursing with one *Philips* by Name, and relating the Business which happened to Mr. *Arnold*, and before he could know he had Armour on, as we will prove from the Circumstance of the Time (what does *Giles* say?) Says he, *Damn him, rot him, Mr. Arnold, said he, had Armour on.* And this, Gentlemen, could not be known by him at that time, if he had not been a Party in this base Attempt. And there is a Circumstance that goes yet beyond this, which I would have you observe, that when Mr. *Arnold* was assassinated, when they made their Attempt, in the very Act were these Words used, *Damn him, rot him, he has Armour on.* These very Words were spoken then, and upon that they fell to cut his Throat. We have this Circumstance more; he had broken his Sword, and went to a Cutler, one *Darcy* by Name; this Man was a Papist, and says he, *Where hast thou been Giles, fighting with the Devil? No, it was with damn'd Arnold.* This we will prove to you: These are Evidences that are positive.

Some other Witnesses we have, that will be very material to prove to you what sort of Man the Defendant is: That he has declared there is no Plot; that those that believe it are Rogues; and if ever any of the Lords in the *Tower* should suffer, this Nation should feel a bloodier War than ever it had done; by which you may see his bloody Nature. Gentlemen, besides this we shall prove (according to their Custom of Shamming) that he has from time to time pretended as if Mr. *Arnold* had done this Business himself, or some of his Friends, to revive the Plot. A very fine Contrivance indeed! for a Person to stab himself, and cut his own Throat, to revive the Plot. These Things we will make out clearly to you: And I must tell you it is a notorious

Crime, such a Fact as has no Precedent: There's no Remembrance in History, that I know of, of such barbarous Attempts, except in the Case of Sir *Edmundbury Godfrey*, who was most barbarously murdered by this sort of Men. And this Case, Gentlemen, differs from that only in this, that there they accomplish'd their Villainy upon him: But the Providence of God saved Mr. *Arnold's* Life, and I hope to as good Purpose: For as Providence ordered that to confirm the Truth of the Popish Plot; so this Assassination of Mr. *Arnold* must convince all Mankind (not concern'd in the Plot it self) that this damn'd Popish Plot still continues, and that 'tis high time for all honest Men, as much as in them lies, to endeavour to suppress it. You, Gentlemen, will do your Duty in finding this Man guilty (if the Evidence we give satisfies your Consciences that he is so, else God forbid) and then I doubt not but the Court will do their Duty, in putting such an exemplary Punishment upon this Villain, that may deter the like barbarous and bloody Attempts for the future.

Mr. Arnold sworn.

Mr. Thompson. Pray, Mr. *Arnold*, give an Account of this Business.

Mr. Arnold. My Lord, I was ordered by the King and Council to attend upon them the next Day after this Villainy befel me. I was upon the 15th Day of *April* in my Chamber in the Afternoon, and my Lord *Chandos*, and several other Persons, came to my Chamber, and one *Evans*, one of the Messengers belonging to the Council, came to give me Notice that my Hearing (which I was inform'd was to be at Four in the Afternoon) was ordered to be at Ten in the Morning, which was the Reason I sent my Servants out to give Notice of this Alteration to my Witnesses and Council. And though I had resolv'd not to stir out that Night, I went out with the Company to the *Devil-Tavern*, where we were, and staid till about Ten, or past; and just as we were breaking up, I recollected that I had some Business with Mr. *Philips*, who is a Counsellor at Law, and lives near the End of *Bell-Yard*. I desired the Company to stay, and I would come to them in a Moment. I went to the Room where several Servants were, and called to some of them to go with me; For several of my Friends and Neighbours being in Town, I very often took their Servants with me, when mine were busy or out of the way. As I went cross *Fleet-street*, I did see two Men in Campaign-Cloaks follow me, and I thought them to be Servants belonging to some of my Company, who had followed me on my calling; and as I came into *Bell-Yard*, one of them went faster than I went, and got before me, and turned and looked earnestly in my Face, and I went by him, when a Woman standing in a Door about the middle of *Bell-Yard* with a Candle in her Hand, I looked in his Face, and that Person was the Prisoner at the Bar; and when his Companion or Companions came up to him, I heard them laugh aloud; I took no Notice, but went on, and went as far as to that House.

* *Sir George Jeffries.* Mr. *Recorder* *. You knew him before, Mr. *Arnold*?

Mr. Arnold. I did not know him so well before as to know his Face. At the Kennel at the End

of *Jackanapes-Lane*, I looking down to find the Kennel, a Cloak was thrown over my Head, then I found very rough Hands upon my Shoulders, and they ran me into *Jackanapes-Lane*, just cross the Lane against the opposite Wall, and they run my Head so hard I think they broke it; I drew my Sword before, but before I could use it I was struck, and immediately upon that one of them struck me; then I apprehended what it was, but could not turn to make any Defence. I received a second Blow and fell, and the first thing I was sensible of was a very sharp quick Thrust in my Side, and the Point at that Thrust ran into my Belly; then I recovering began to make what Defence I could. With a broad Sword I was run through my Arm, and with a small Weapon I was run through in another Place of my Arm. I had several other Wounds; one of them set his Foot hard upon my Breast, and kept me down, and he was, as I conceive, run into the Leg by one of his Companions; for I heard him say, *Damme, thou hast spoiled my Leg*. They laughed all the while, and were exceeding merry. I had then on a Pair of Bodice of Whalebone, notwithstanding which I had four or five Wounds in my Body through them, for they were not Proof, but they imagin'd they were, finding their Swords double sometimes, and then said one of them, *Damme, he has Armour on, cut his Throat*. Immediately one kneeled down, and gave me several Cuts in the lower Part of the Face, and I did what I could to defend my self, but they have given me some indelible Marks, Characters that will never be obliterated while I live, and I am afraid I shall never be my self again, by Reason of the Bruises in my Head and Breast. By a Candle in a Window, I conceive in Sir *Thomas Baldwin's* House, and some Women in his Yard, gave them the first Disturbance, and a Boy coming by with a Link the same time, I both saw the Face of the Prisoner at the Bar again, and remember'd I saw him in the Lane just before. They then pulled the Cloak from off me, and I seeing the Light, and being eased of the Weight, I strained all my Strength and cried out, and then some Company came in, who are here to prove it; but seeing me all Blood and Dirt, they stood gazing on me a time, but at last took me up and carried me into the *Sugar-Loaf*, and from thence I was carried to my Lodging, where all the Company I left came to me, and a Surgeon was sent for, who is also here to prove his Knowledge of the Condition he found me in. And when they went away, they did not steal away as other Malefactors used to do, but clapt their Swords close to their Bodies, and went away laughing aloud; but as they were going, one of them said these Words, *Now you Dog pray for, or pray again for the Soul of Captain Evans*. Captain *Evans* was a Jesuit, and was executed at *Cardiffe* for being a Priest; and I have been informed by several Persons of good Quality, that when the Under-Sheriff came to give him Notice that he had a Warrant for his speedy Execution, the said *Evans* being in a Game at Tennis, said, *God damme, I will play out my Set first*.

Mr. Recorder. Mr. *Arnold*, I would know one thing: Will you undertake to swear positively that this Person was one of the Persons who slept before you? Will you take it upon your

Oath, That that Person, the Prisoner at the Bar, went before you?

Mr. *Arnold*. I will take it upon my Oath, as far as a Man can do, for one Man, 'tis possible, may be like another both by his Voice and his Face; I can swear I believe he is the Man.

Mr. *Thompson*. You are satisfied upon the first sight that you had of him in the Country, that he was the Man.

Mr. *Arnold*. Yes, Sir; and he can tell you that by a very good Token, for I had like to have run him thro'.

Mr. Recorder. We must not expect that there can be exact and positive Proof; for Men that commit Offences of this impudent Nature, don't usually call Witnesses to be present to see them done; therefore we would come as near as we can to Circumstances, whereby a Fact of such a Nature is to be proved. Mr. *Arnold*, do you believe that the Prisoner at the Bar was one of the Persons that went before you in *Bell-Yard*?

Mr. *Arnold*. Upon my Conscience I do believe he was the Man.

Mr. Recorder. What o'Clock was it?

Mr. *Arnold*. About eleven o'Clock, or between ten and eleven.

Mr. Recorder. When the Link came there, was there three? And do you believe by the Light you had by the Link, that that was one of the Persons that were there?

Mr. *Arnold*. I saw his Face and Habit, and believe he was.

Mr. Recorder. What Habit had he on?

Mr. *Arnold*. He had a grey Cloak, a Campaign Cloak, and a Coat, I think lin'd with Red. It is impossible to give an Account of every Particular under those Circumstances I was in.

Mr. Recorder. It is not to be expected that a Man under your Circumstances should be extraordinary precise in Circumstances; therefore it is I asked you, that according to the best of your Apprehension, you might acquaint the Court with those Circumstances that may be remembered by the Jury, that they may see there be no Injury done to the Prisoner at the Bar, but that Right be done on both Sides, and that in every Circumstance.

Mr. *Holt*. Now, Sir, we will call Mr. *Philips*, with whom he had this Discourse the next Day.

Mr. Recorder. Will the Prisoner ask him any Questions?

Prisoner. Truly Mr. *Arnold* knew me in *Monmouthshire*, and knew me as well as any Man in the City.

Mr. Recorder. Did you not very well know him?

Mr. *Arnold*. It is very possible I might see him, and often at Assizes and Sessions, but not to know him; nor did ever know whether his Name were *Giles*, or what it was. Your Lordship sees many Persons here, and often, and it's possible do not know them; he lives I think a dozen Miles from me.

Pris. That's a Wonder; if it please you, Sir, my Wife is a near Relation to you, both by Father and Mother, and I have spoken with you in your Chamber.

Mr. *Arnold*. 'Tis possible she may, but I do not know it.

Stephen Philips.

Mr. Holt. Pray, Mr. Philips, give an Account of what Discourse you had with Giles the Day after the Business was done.

Mr. Philips. We went to the Tavern, and drank two or three Bottles of Wine, and we had some Discourse concerning Mr. Arnold; it was about Eight or Nine a Clock in the Evening the next Day, some Discourse happened concerning his miserable Condition, and how he was hurt, and of that Nature.

Mr. Recorder. How many was there in Company?

Mr. Philips. One or two more.

Mr. Recorder. What House?

Mr. Philips. At the Crown Tavern in Newstreet in Covent-Garden; and among the rest, Mr. Giles was talking of it, and said he, *God damn him, God rot him, he had Armour on*; the Word was, *God damn him, or, God rot him, he had Armour on, they say*.

Mr. Holt. What time of Night was that?

Mr. Philips. As near as I can remember, it was about eight or nine the next Day in the Evening.

Mr. Thompson. The very Words that Mr. Arnold swears when they went to cut his Throat.

Pris. My Lord, if you please, there was Mr. Philips and another; and I spake nothing but what I heard as News, that they had killed him if he had not had Armour on.

Mr. Recorder. For that Matter, Mr. Giles, you shall have your Time, and you may call up other Witnesses, but the Gentleman positively swears you said these Words; and if so, I'll assure you it does not look as if you were a-kin to him, or your Wife either.

Walter Watkins.

Mr. Holt. Mr. Watkins, What did you hear that Giles should say in Gloucestershire about this Business?

Mr. Thompson. What said he about this Business of Mr. Arnold?

Mr. Watkins. My Lord, all I can say is this: I being at the stating some Accounts between Mr. John Giles and Mr. Richmond, I asked Mr. Giles for some Horsehair to make a Fishing-line: Mr. Giles replied, *That he had left very good Hair for me at a Farrier's in Gloucester; for he and Mr. Herbert Jones made such Haste through the Town of Gloucester, that they did not call for the Horsehair*. I asked Mr. Giles what was the occasion of his Haste? Said he, *For fear we should be stopp'd in our Journey, as suspected to be concerned in Mr. Arnold's Business*.

Mr. Recorder. What time was that?

Mr. Watkins. About the 5th of May.

George Richmond.

Mr. Holt. Mr. Richmond, what can you say concerning this Thing?

Mr. Richmond. I desired Mr. Giles to meet me, that we might even our Accounts; and upon the 5th of May last he met me, and I desired Mr. Watkins to be present as a Witness.

Mr. Recorder. Where was it?

Mr. Richmond. At Ufke. And as we were making up the Account, said Mr. Watkins to Mr.

Giles, *Where is the Horsehair you promised me to make Fishing-lines?* Giles replied, *He left very good Horsehair at a Farrier's in Gloucester*: And he asked him, *Why he left it?* He said, *He made Haste for fear of being taken and stopp'd for Mr. Arnold's Business*. I cannot say whether he called him Esq; Arnold, or Mr. Arno'd, or what; he seldom used to give him so good Words.

Walter Powel.

Mr. Holt. What do you know concerning Giles his being at the Cutler's?

Mr. Powel. If it please you, Sir, I was at the Cutler's.

Mr. Recorder. Name the Time when, and the Place where.

Powel. The 5th of May, at a Place called Ufke in Monmouthshire, Mr. Giles and I we came there; and Mr. Giles asked Peter Darcy, Whether he would mend him that Sword or no? But Mr. Darcy had some Business that he could not get Time to mend it that Morning, but would do it in the Afternoon. Says Darcy, *Where have you been, you have been hot at it? What have you been fighting with the Devil?* No, said he, *with damn'd Arnold*.

Mr. Recorder. What did you say when the Cutler asked him, Whether he had been fighting with the Devil? And he said again, No, not with the Devil, but with damn'd Arnold.

Powel. Peter Darcy said he must not speak such Words; and Giles's Wife pluck'd him by the Coat, and bid him hold his Tongue.

Mr. Darnal. Who was by?

Powel. There was one Peter Darcy.

Mr. Darnal. Was one John Jones there?

Powel. I think there was another indeed by, the Apprentice.

Mr. Recorder. There was the Apprentice, but he does not know his Name, and Darcy, and Giles and his Wife.

William Richmond.

Mr. Holt. What did you hear Giles say about the Rapier?

W. Richmond. He asked me in the Afternoon before Mr. Arnold was hurt, where he might buy a very good Rapier? I told him I could not tell: He then had a good Back-Sword in the House.

Mr. Gibbs. Tell the Court what Acquaintance Giles had with Father Lewis the Jesuit, since executed.

W. Richmond. My Lord, he told me he would go to the Executioner, and persuade him not to execute Mr. Lewis, but I had the Executioner lock'd up, and I would not suffer him; but I did see him very active at the Execution, dipping Cloths in Lewis's Blood.

Mr. Thompson. What do you say as to his coming to his Lodging?

W. Richmond. We went to several Places that Day, and at eight or nine, or between eight and nine, we came to the King's-Arms in St. Martins-Lane, and I left him at the Kitchen Fire, and went up into the Chamber, and drank a considerable Quantity of Drink; and as near as I can guess, it was between twelve and one o' Clock before he came to his Bed; for after I was going to Bed, about one of the Clock I heard John Giles come up the Stairs, and bid me good Night; he called

called at my Door just as I was pulling off my Breeches to go into Bed.

Mr. Recorder. What time was this?

W. Richmond. As near as I can guess it was between twelve and one, or very near one.

Mr. Recorder. At what House was it?

W. Richmond. The *King's-Arms* in *St. Martins-Lane*.

Mr. Recorder. What did you say when the Maid was making the Bed?

W. Richmond. I asked her who it was for? And she said, for a Man that was not willing to lie with any body.

Mr. Recorder. What time did you come to the House?

W. Richmond. About Nine.

Mr. Recorder. Did you stay in that House till that Time?

W. Richmond. I lay in the House, Sir.

Mr. Recorder. You were not out of the House the while?

W. Richmond. No, Sir, I was not out of it.

Mr. Recorder. And you are sure that you did not see him again till he came to your Door going to Bed?

W. Richmond. Yes, Sir.

Mr. Recorder. What Time was that?

W. Richmond. Nigh one.

Mr. Thompson. You see the Contradiction between this, and what this Fellow says upon his Examination; where he says he was a-bed at nine o' Clock.

Mr. Recorder. Where did you go at that time?

W. Richmond. We went to *Long-Lane*, to one *Philpot's*, and she told us her Husband was gone to Exercise at the next Church; I do not know the Church's Name, and there we went and looked upon the Soldiers, but did not see him; we came back to his House again, and the Gentlewoman gave us a Tankard of Beer or Ale. And after that we went back, and we had a mind to make Sport with a Country-Fellow we had with us, and went into *Whetstone's-Park*, from thence we went to the *Helmet* in *Drury-Lane*.

Mr. Recorder. You went to *Whetstone's-Park*, and what did you spend there?

W. Richmond. Six-pence, and he paid it.

Mr. Recorder. Whither did you go from thence?

W. Richmond. Into *Drury-Lane*.

Mr. Recorder. How long did you stay in *Drury-Lane*?

W. Richmond. It was not long, Sir, about an Hour.

Mr. Recorder. Where after that?

W. Richmond. From thence to the *Peacock*, and staid till eight or nine.

Mr. Recorder. Who did you meet withal between your going from the *Helmet* in *Drury-Lane* to the *Peacock*?

W. Richmond. We met with one *Powel*, and another, and one *Elizabeth Edwards*.

Mr. Recorder. What did you drink there?

W. Richmond. We did drink both Ale and Brandy.

Mr. Recorder. Well said: How long did you stay there?

W. Richmond. We staid there a pretty while, an Hour or more, or two Hours.

Mr. Recorder. What time of Night was it that you went from thence?

W. Richmond. About eight or nine.

Mr. Recorder. And then you went to your Lodgings?

W. Richmond. Yes.

Mr. Recorder. Did you drink at the *King's-Arms*?

W. Richmond. No, we drank not all together.

Mr. Recorder. And there you staid till twelve or one o' Clock?

W. Richmond. Yes.

Mr. Recorder. But can you remember, as near as you can guess, what time was it you saw this Maid making of the Bed?

W. Richmond. I cannot say positively, but I judge it was about twelve o' Clock.

Mr. Thompson. As to that Circumstance of his coming home at twelve at Night, desire Mr. *Arnold* to give an Account of his Examination, what time of Night he came to his Lodging.

Mr. Holt. Do you believe that is *John Giles's* Hand?

Mr. Recorder. That is a Copy.

Mr. Recorder. He did confess before a Justice of the Peace, that he was at his Lodging at ten o' Clock: This I heard him say, and I believe he won't deny it; and I heard him own this Examination, my Man will prove it.

Giles. Deny it? Yes I will deny it, there was no such word said: I did say, Mr. *Arnold*, I went to Bed then.

Mr. At. Gen. The Jury must take Notice of this; that upon his Examination he says, he came home by nine; which is before the Thing was done: But by Proof he did not come in till Twelve, which was after the Thing was done.

Mr. Holt. We will give you now, Gentlemen, an Account of this Man's Principles.

Mr. Recorder. This is the Business: *Richmond* says, they came together to their Lodging before Night, but he left him at the Kitchen-Fire, and went into another Room to drink with some Company; and this Mr. *Richmond* says, his Bed was not made till twelve o' Clock, and that he himself went to Bed about one of the Clock, and that he heard the Prisoner at the Bar, while he was pulling off his Breeches, call to him, and therefore he took Notice of that as a Circumstance, that he does particularly remember he did not go to Bed till that Time; and he says he did not stir from that Place after nine o' Clock.

Mr. Thompson. There is a Contradiction in that.

Mr. Recorder. There is no Contradiction: The other Witness says, that he came along with him at Nine o' Clock.

Mr. Thompson. I will tell you where this is a Contradiction.

Mr. At. Gen. He says he came to the House at nine o' Clock, but he came not to Bed till after one.

Mr. Recorder. The Evidence does not go so far: *Richmond* says they came to the *King's-Arms*, and left him in the Kitchen at nine o' Clock, and he went into his Chamber and staid up till one, and all that time he did not come to Bed.

Mr. Thompson. So far it lies upon him to give an Account where he was between nine and twelve.

Bridges.

Mr. Holt. Hark you, Sir, have you had any Discourse with *Giles* concerning the Plot, and concerning the Lords in the *Tower*? And what did he say to you?

Mr. Bridges. I had some Discourse with him concerning the Papists, he said that it was the best Religion, and that those that were not of that Religion should be damn'd: I alledg'd against him, and told him the contrary: I thought not. Can it be such a Religion, said I, that will act such Things against the King and the Government? Says he, If any says there is such a Plot against the King or the Government, he is a Rogue and a Thief.

Mr. Holt. What did he say of the Lords in the Tower?

Bridges. Nothing more.

Giles. How long ago was this?

Mr. Recorder. When was this?

Bridges. This was, my Lord, about a Twelve-month ago.

Mr. Thompson. Did he speak any thing to you further concerning the Plot?

Bridges. Not further.

Giles. My Lord, I beseech you I may speak to this Man. Do you hear, Sir, Were not these the Words that I said when you charged me to be a Papist, that I knew of no Popish Plot, and they that said I was a Papist, or knew any thing of the Plot, were Rogues or Whores, or worse.

Bridges. You said thus, that the Papists were the best Religion, and that those that were not of that Religion were damn'd.

Giles. Have not you been a Papist, Sir?

Bridges. I am not now.

Giles. Will you say that I am a Papist?

Bridges. I say you defended it so much I thought you were. Said I, I wonder, it being such a good Religion, that they would offer to act such a thing against the King and Government. Said he, He that says this Plot is acted by the Papists, is a Rogue and a Thief.

Giles. How long ago is this?

Bridges. A Twelve-month ago; you remember it well enough; you remember when you sent for me to the George.

Walter Moor.

Mr. Holt. What Discourse have you had with him concerning the Plot?

Mr. Thompson. What has he said about it?

Moor. He said, if the Lords in the Tower were executed, there would be a greater War than ever was in England, and swore that if these Lords were put to Death, it would cost more Blood than ever was spilt. And I asked him again; Why they should not be put to Death, if they should deserve it? For if a poor Man had done such a Fault, he would be hanged out of the way presently. He said again, they did not deserve it, for there was no Plot at all.

Giles. Pray, Sir, Who was with you when you say I said these Words?

Moor. I was at George Taylor's House.

Giles. Did not you say that George Taylor discoursed this with you?

Mr. Thompson. Is this the Man that spake it, upon your Oath?

Moor. Yes, this was the Man.

Giles. What did Taylor say to you? Do you think, my Lord, I would say such a thing to such a Man as this is?

Mr. Recorder. Do you hear, Mr. Giles, for that Matter is not the Question, the Man has sworn it, except the Jury know of their own Know-

ledge that the Man is perjured, he is not so as to me.

Moor. It is the first time that I ever took an Oath.

Mr. Reynold.

Mr. Holt. Mr. Reynold, What have you heard Giles say concerning Mr. Arnold?

Reynold. Sir, I was in Company with John Giles and another, and we had Discourse concerning one Arnold, and John Giles said——

Mr. Recorder. What was that?

Reynold. I being in Company with him, we fell in Discourse about Justice Arnold, how he was wounded.

Mr. Recorder. Where was it?

Reynold. In Monmouthshire, at Langoone, the second Day of May: John Giles answered us, that he could not see but he wounded himself.

Mr. Recorder. What Day did you say?

Reynold. The second Day of May.

Mr. Recorder. He did discourse the 5th Day of May at Uske, I would fain know when he came through Gloucester.

Mr. Thompson. What did he say about Mr. Arnold?

Reynold. He thought that he wounded himself. Says his Wife, How could he wound himself in his Arms? Said he, It was himself or some of his Friends.

Mr. Recorder. Or some of his Relations.

Reynold. Some of his Friends.

Mr. Hobbs.

Mr. Thompson. Mr. Hobbs, Pray tell how you found Mr. Arnold when he was wounded.

Mr. Hobbs. I found Mr. Arnold bleeding.

Mr. Thompson. Tell what Wounds there were.

Mr. Hobbs. Two in his Arm, two others upon the Face, another upon the Throat, which bled very much; another two upon the Breast, and one in the Belly.

Mr. Thompson. What Depth might that be?

Mr. Hobbs. Two Inches and an half long.

Mr. Thompson. Where else?

Mr. Hobbs. There was another upon his Breast.

Mr. Thompson. What Depth?

Mr. Hobbs. They were not very deep, but there was one upon the Belly six Inches and an half; there were two through his Arm, and a Wound and several Bruises in his Head.

Mr. Thompson. This is likely to be a fine Contrivance, that he should do it himself, as likely as that Sir Edmundbury Godfrey put his own Sword through his Body after his Neck was broke. A great Shout given.

Lord Mayor. Do you believe a Man could wound himself so?

Mr. Hobbs. No, Sir.

Mr. Recorder. I believe a Man could do it, but I believe a Man would not do it himself.

Fifteen or Sixteen Witnesses more for the King, that were attending in the Court were not examin'd, the Court being in some haste, and the King's Council not pressing to have them examin'd, there being so full Evidence: Nor was there one word replied to the Prisoner's Witnesses, they being all either frivolous or contradictory.

Mr. Darnal. May it please your Lordship, and you Gentlemen of the Jury, I am of Council for Giles,

Giles, the Prisoner at the Bar, and I must needs say there has been a strong Evidence given against him, and if I were sure he was concern'd in this barbarous Attempt upon *Mr. Arnold*, I would not open my Mouth in this Cause: But if my Brief be true, I make no question but to satisfy your Lordship and the Jury, nay and *Mr. Arnold* himself, that he had no hand in this bloody Action.

And first, my Lord, in Answer to the Evidence that hath been given, there have been sworn among others, *Mr. Richmond*, *Mr. Philips*, and one *Powel*. First, as to *Philips's* Evidence, or what pass'd in Discourse at the *Crown Tavern* in *Covent-Garden*; we have a Witness here who was present at the same Time, that will give you an Account of the whole Discourse, and that there were no such Words said by *Giles* in relation to *Mr. Arnold*, as damn him, he had Armour on; and as to the Evidence given by *Watkins*, of what pass'd at *Uske*, about *Mr. Herbert Jones's* and the Prisoner's making such Speed through *Gloucester*, we have Witnesses here, my Lord, that will satisfy your Lordship and the Jury, that when they came to *Gloucester*, though it was at the time of the General Quarter Sessions, yet they staid there four or five Hours, at a Publick-House, without the least Sign of their Apprehension of any Pursuit; which shews the Improbability of any such Discourse at *Uske*: And my Lord, as to the Evidence of *Powel* of what was said in *Darcy's* the Cutler's Shop at *Uske*; we have, my Lord, a Witness here that was present at that time, who will give your Lordship and the Jury an Account, that the Words said then by the Prisoner, did much differ from what *Mr. Powel* swears; besides the Improbability that any Man should be so weak to publish himself guilty of such a Crime as this in this manner; after his Majesty's Proclamation out, with the Promise of so great a Reward to any Man that would make a Discovery of this horrid Action: So far, my Lord, we shall answer the Evidence that hath been given; but to satisfy your Lordship and the Jury, that it was impossible the Prisoner at the Bar could be concern'd in this foul Action, we shall prove to your Lordship, that upon the 15th of *April*, upon the Evening of which Day this bloody Attempt was made upon *Mr. Arnold*, the Prisoner at the Bar came first to Town; and we shall prove that he came to Town but at one a Clock that Day. We shall prove further, if my Brief be true, by five or six substantial Witnesses, against whom there can be no Exception, how and where he employ'd himself all that Day, from the Minute that he came to Town: And that when he return'd to his Inn, about nine a Clock at Night, the Maid of the Inn lock'd his Chamber-Door after he was a-bed, and kept the Key of the Chamber all Night. And, my Lord, if all this be clearly prov'd, I make no doubt but your Lordship and the Jury, and all Persons here, will be satisfied that the Prisoner at the Bar is not guilty of this Indictment. My Lord we will first begin with *Mr. Philpot*.

Mr. Philpot.

Mr. Darnal. *Mr. Philpot*, Pray do you acquaint my Lord, and the Jury, what Discourse pass'd between you and *Giles* at the *Crown Tavern* in *Covent-Garden*.

Mr. Philpot. We drank one Bottle of Claret, *Mr. Philips* came in when the Bottle was almost

ended. But by and by some Friends came in, and they asked him what News, Sir? Said he, I hear of no News but a cruel Assassination upon *Mr. Arnold*, but for my part I am sorry for it: But, said he, if any Thing should be upon *Mr. Arnold*, it is a very strange Thing.

Mr. Darnal. Were you there all the time, Sir?

Mr. Philpot. Yes, Sir, all the time.

Mr. Darnal. And you heard no other Discourse?

Mr. Philpot. No, he did not say damn him, nor sink him, for I hate such Company.

Mr. Holt. *Mr. John Philpot*, Where do you live?

Mr. Philpot. In *Long-lane*.

Mr. Holt. What Sign do you live at?

Mr. Philpot. At the *Crown*.

Mr. Holt. What Trade are you;

Mr. Philpot. A Salesman.

Mr. Darnal. Now we will go on to the Discourse at *Uske*, about their passing with such speed through *Gloucester*.

Mr. Recorder. *Mr. Darnal*, they do not pretend you were in great Fear, but they say you said so. It is not the Question, Whether you did stay long at *Gloucester*, or no? But the Question is, Whether you told this Man so? Because the Man asked you, Why you would leave the Hair at the Farrier's, in order to a Fishing-line? Truly I was in great Haste, for fear I should be taken up about the Business of *Mr. Arnold*.

Mr. Darnal. It is very true, and therefore we bring this Evidence to shew the Improbability that we should say any such Thing, when it was false, and especially when it was to accuse ourselves of a Crime.

Herbert Jones Mayor of Monmouth.

Mr. Darnal. *Mr. Jones*, Pray give an Account to the Jury of your passing through *Gloucester*, and how long you staid there.

Mr. Jones. My Lord, I came with the Prisoner.

Mr. Recorder. What Day did you come through *Gloucester*?

Mr. Jones. I cannot positively tell you the Day: We went out of Town upon *Friday* we came to *Gloucester* either *Wednesday* or *Friday*, and there we went to the *Old Bear* in *Gloucester*, and there staid an Hour before we went to Dinner; it was a publick time, the Quarterly Sessions, and several People came to us to hear the News; we told them, and were as sorry for it as any Persons could be, and did confess it a very ill Thing. We went from the *Old Bear* after we had dined to the *New Bear*, and drank several Pints of Cyder. I believe, by the Oath I have taken, we were several Hours in the Town.

Mr. Milbourn. Do you know *Mr. Arnold* is acquainted with *Mr. Giles*?

Mr. Jones. I do believe *Mr. Arnold* has great reason to be acquainted with *Giles*.

Mr. Thompson. Yes now he has.

Mr. Milbourn. Was he chief Constable?

Mr. Jones. Yes, he was; and certainly *Mr. Arnold* in Reason would take Notice of the chief Constable.

Mr. Milbourn. *Mr. Herbert Jones*, I am informed that you know this Gentleman goes to Church and receives the Sacrament. Give an Account what Religion he is of.

Mr. Jones.

Mr. Jones. Always a Protestant; I saw him at Church within this half Year.

Giles. I can shew a Certificate of my going to Church since I came to Town.

Mr. Recorder. There are many People that can go to Church to serve their Turn.

Giles. And, my Lord, I have taken the Oaths of Allegiance and Supremacy.

Mr. Thompson. An excellent Protestant to discourse so of the Plot, I must needs say that.

John Jones the Cutler's Apprentice.

Mr. Recorder. How old are you?

Jones. Between fifteen and sixteen.

Mr. Recorder. Hark you, do you know the Danger of forswearing yourself?

Jones. Yes, Sir.

Mr. Recorder. What is it?

Jones. I am in Danger of everlasting Fire.

Mr. Recorder. Very well.

Mr. Darnal. My Lord, this is the Apprentice to the Cutler, in whose Shop Powel says we had such Discourse: Jones, pray tell my Lord and the Jury, Whether you were by when one Walter Powel came into your Master's Shop, when he and Giles were talking about Giles's Sword?

Jones. Sir, John Giles came in the Morning and brought a Sword, my Master was not within; and he told me, Give this Sword to your Master to be mended; so I took the Sword and laid it up till my Master came in: When he came in, I told my Master of it; and when he came again, this Walter Powel was in the Shop: Said Giles to my Master, Did you mend my Sword? Says he: Says my Master, Mr. Giles, How came your Sword broke? Have you been fighting with the Devil? No, says he, for he never met with Arnold.

People. His'm, his.

Mr. Recorder. It does not become the Decency and Gravity of a Court of Justice, to be humming and hissing when Facts are trying of this great Concernment.

Mr. Milburn. It was the common Discourse there that Mr. Arnold had been assaulted.

Mr. Recorder. You have been in a great Combat; have you been fighting with the Devil? What did he say to that?

Jones. He never met with Arnold; my Master asked him, Mr. Giles, Have you been in some Battle or other? Have you been fighting with the Devil? No, Sir, for I never met with Arnold.

Mr. Recorder. You did not hear his Wife bid him hold his Tongue?

Jones. No, Sir.

Mr. Thompson. Did he tell you how he did break his Sword?

Jones. No, Sir.

Giles. My Lord, here is Mr. Philpot can tell, that I was sitting down in a Chair, and broke off a Piece of the Guard.

Mr. Thompson. You will do well to prove it, Sir.

Mr. Milburn. Was there any Discourse in the Country about Mr. Arnold?

Mr. Recorder. Did they not talk any Thing about killing the Devil?

Jones. No, Sir.

Mr. Darnal. If your Lordship pleases, we will call Witnesses to give an Account when we came to Town, and where we were all that Day; and we will call the Maid that locked the Chamber-

Door after we were in Bed, on the same Night when this Fact was committed.

John Howel.

Mr. Darnal. John Howel, Pray tell my Lord and the Jury when Giles came to Town?

Howel. If it please you, my Lord, I came to Town, and John Giles together.

Mr. Recorder. What time of Day was it?

Howel. It was twelve o'Clock.

Mr. Recorder. Who is thy Master?

Howel. William Richmond.

Mr. Darnal. What time of Night was it, Friend, when you heard him call to your Master, and bid him good-night.

Howel. About eleven or twelve o'Clock.

Mr. Milburn. You say about nine you were at your Lodging with him? Did your Party company with him?

Howel. Yes, Sir, we did.

Mr. Thompson. Where did you go at that Time?

Howel. We went into the Chamber, and drank two Pints of Brandy.

Mr. Thompson. What time of Night was that?

Mr. Recorder. After two Pints of Brandy, I wonder how he can remember any thing.

Ann Baron.

Mr. Milburn. Tell what time of the Night Giles came in; where you were in his Company; what time of Night it was?

Mr. Recorder. Speak as loud as thou would'st do if thou wer't at Home: When was this?

Ann. The Thursday after Easter.

Mr. Recorder. The Thursday in Easter-Week, or the Thursday in the next Week?

Ann. The Thursday in Easter-Week; we were never out of Company; when he came home to his Lodging I believe it was near ten o'Clock.

Mr. Recorder. Where was your Lodging, at the King's-Arms?

Ann. At the King's-Arms.

Mr. Recorder. Good Woman, Did you go with him to Whetstone's-Park?

Ann. No, not I.

Mr. Recorder. Were you with him at the Artillery-Ground?

Ann. No, not I.

Mr. Recorder. Were you with him in Drury-Lane?

Ann. No, not I.

Mr. Recorder. He did not go out of your Company at all?

Ann. Yes, about ten o'Clock.

Mr. Recorder. Woman, you must be mistaken; he came to Town at twelve or one, and might be in thy Company: But it is plain he went to a Brokers in Long-lane, and so to the Artillery-Ground at Cripplegate, for I guess it might be so; then they went to Whetstone's-Park, and spent Sixpence, and after that they went into Drury-Lane.

Pris. My Lord, she don't say she was with us all the while; but we came to an House where she was, and several other People our Neighbours.

Mr. Recorder. She says you did go out some time: Now see whether I mistake you.

Ann. Yes, you do mistake me.

Mr. Recorder. He went out, did he?

Ann. Yes, he went out after he came into the

City, he and some others, and then they came back to me again in two or three Hours.

Mr. Recorder. Then you were two or three Hours at Dinner. Now I ask you, after they came back, was you with him all the while?

Ann. Yes, that I was.

Mr. Recorder. Where was it?

Ann. At the *Peacock*.

Mr. Recorder. That is the Place in *Drury-Lane*.

Ann. No, indeed, it is in *Covent-Garden*.

Mr. Darnal. When did he go to bed; do you know that upon your Oath?

Ann. We were in the Inn between nine and ten o'Clock, nearer ten than nine, and I saw him sitting taking a Pipe of Tobacco.

Mr. Darnal. What time was that?

Ann. A little after Ten, I believe.

Mr. Thompson. He sat there till he was called away to do his Business.

Elizabeth Crook.

Mr. Darnal. *Elizabeth Crook*, Pray do you tell my Lord and the Jury about what time *Giles* went to Bed?

Crook. Indeed, Sir, he went to Bed between Ten and Eleven.

Mr. Darnal. How long was it that he came to his Lodging before that? Can you say how long he was in the House before he went to Bed?

Crook. I asked him if I should take away his Candle; he said he would put his Candle out, but I might lock him in and take the Key, but I did not do it.

Mr. Thompson. Did he go to Bed as soon as he came in?

Crook. No, I think he did not.

Mr. Recorder. You made the Bed, did not you?

Crook. I did.

Mr. Recorder. Upon your Oath, what Time of Night was it?

Crook. I think it was nearer Eleven than Ten.

Mr. Recorder. Did you make the Bed after he went into it? What Time did you make the Bed, upon your Oath?

Crook. I made the Bed about Ten o'Clock.

Mr. Recorder. I ask you, Do you remember *Richmond* came in to you, and asked you any Thing about making the Bed? Do you remember he was in the Chamber?

Crook. In whose Chamber?

Mr. Recorder. Did *Richmond* come in when you were making the Bed?

Crook. He was not there as I knew of.

Richmond. Was not I in the Chamber when you made the Bed?

Crook. No, I don't remember you.

Richmond. My Lord, when this Maid went to make the Bed, I went into the Room after her, and had some Discourse with her, we leaned together upon the Window, and I told her I was in love with her; I told her, if she liked of it, I would marry her the next Morning; I did it to make merry, for indeed I am a married Man.

Mr. Recorder. What Time of Night was it?

Richmond. About Twelve o'Clock.

Mr. Recorder. If you forget your other Sweethearts, can you remember this? Do you remember now he was there?

Crook. I remember he was there.

Pris. Mr. *Arnold*, pray do not laugh at my Witnesses, and make May-games at them, it is not the Part of a Gentleman.

Richmond. And she told me that he would lie by himself, though the House was very full.

Mr. Recorder. Do you remember any such Discourse?

Crook. I do remember that Mr. *Richmond* did come in.

King's Council. What Time of Night was it that he was making Love to you?

Crook. I think about Ten o'Clock.

King's Council. Time passed merrily away with you then.

Richmond. It was Twelve o'Clock.

Crook. Why do you say so? Our House was all quiet presently after Eleven.

Richmond. Why will you say so? Were not we singing and roaring together?

Mr. Recorder. Come, don't be angry, you were not angry when you were making Love together?

Richmond. I am not angry indeed, Sir.

Edward James.

Mr. *Milburn*. Tell my Lord what Time of Night *Giles* came into his Lodging, and where it was?

James. It was in *Easter-Week* he came in, and so were drinking at the *King's-Arms* in *St. Martin's-Lane*, and from Dinner, and from Nine o'Clock.

Mr. Recorder. How! You did not dine there, you dined at the *Peacock*.

James. Yes, we dined there, but from Nine o'Clock we were there till Twelve.

Mr. Recorder. How do you know?

James. I was there with him.

Mr. Recorder. After Twelve o'Clock you say you left him.

James. Yes.

Mr. Recorder. Where did you leave him?

James. In the Kitchen.

Mr. Recorder. Are you sure?

James. Yes, my Lord, I am sure of it.

Mr. Recorder. I ask you because I have an unhappy Memory: You are sure it was Twelve o'Clock when you saw him in the Kitchen, and here is a Maid saw him go to Bed at Eleven.

Mr. Recorder. Have you any more? You know the Matter that was the Occasion of the Dispute t'other Day: I would not by any Means, that in a Cause of this publick Concern, there should be any Pretence for any to say they were surprized; therefore call as many Witnesses as you please.

Robin Gibbon.

Mr. *Milburn*. What can you say when Mr. *Giles* came into his Lodging?

Gibbon. It was about Ten o'Clock. I gave his Horse about half a Peck of Oats.

Mr. *Milburn*. Where?

Gibbon. At the *King's-Arms* in *St. Martin's-Lane*.

Mr. *Milburn*. Do you know how long he staid before he went to Bed.

Gibbon. No, Sir, I cannot tell.

Mr. *Thompson*. He speaks honestly, this Man.

Mr. Recorder. Have you any more?

Giles. There is another, a Translator, my Council knows his Name.

John Chadwick.

Mr. Recorder. What is your Name, Sir?

Chadwick.

Chadwick. John Chadwick.

Mr. Recorder. Go on.

Chadwick. I say this John Giles was at my House between eight and nine o'Clock.

Mr. Recorder. Where is your House?

Chadwick. My House is—

Mr. Recorder. Can you say any more to it?

Mr. Chadwick. No.

Elizabeth Crook.

Mr. Recorder. What have you to say?

Crook. Sir; I went with Mr. Giles Home, and it was between nine and ten o'Clock, and I saw him in his Lodging, and I saw him in the Morning.

Mr. Recorder. Are you sure he went to Bed when you made it?

Crook. It was between ten and eleven o'Clock.

Mr. Thompson. You see how they contradict one another.

Mr. Recorder. Is your Name James?

James. Yes, Sir.

Mr. Recorder. You say you are certain you left him in the Kitchen at twelve?

James. Yes, Sir.

Mr. Recorder. But here is one that says he went to Bed by eleven.

James. O Lord, no Sir.

Mr. Holt. These are your own Witnesses, Mr. Giles.

Mr. Thompson. You see how they contradict one another.

Peter Powel.

Powel. My Lord, I met some of my Countrymen about an Hour before Night.

Mr. Thompson. What Day?

Powel. About Thursday, Sir.

Mr. Thompson. What Week was it in?

Powel. I believe in Easter Week, and I heard them say that Mr. Arnold was come to Town, and Mr. Herbert and he was to have an Hearing the next Day.

Mr. Recorder. How long was you in his Company?

Powel. I had been in my Friend's Company about an Hour before he came, and we staid till near nine or thereabouts, and then we parted, and I never saw him afterwards till last Monday was seven-night.

Roger How.

Mr. Recorder. What say you?

How. Mr. Giles was in my Company, and staid till about nine o'Clock, or thereabouts, and then we went away, and I saw him no more for that Night.

Mr. Recorder. Have you any more?

Giles. No.

Then Sir George Jeffries the Recorder, gave Directions to the Jury to this Effect.

Gentlemen of the Jury, the Evidence has been very long, and I know you have taken particular Care to write down and take Notice of all the Circumstances that have been offered to you in this Case: According to the best of my Memory, I shall refresh yours with such of them as I apprehend to be most material in this Cause; and if any Thing happen to be omitted, others will supply it.

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In the first Place I am to take Notice, and I think I am bound to do it in Discharge of my own Conscience, and of my Duty to the Court, that certainly if the Prisoner at the Bar be guilty of the Offence of which he now stands indicted, the Punishment that we can inflict upon him, cannot be proportionable to the Offence: For the Offence is too great for any Punishment that the Law can inflict, for Men are not presumed to be guilty of such Actions as this; and therefore the Law has not proportioned Punishments to them, because it presumes no Man to be guilty of so base and barbarous an Action as this; and because it never could be presumed that any Man would be guilty of such Offences, therefore the Law has not provided Punishments proportionable to them. But this is not your Question, the Question before you is, Whether this Man be guilty or not guilty? That there was a Popish Plot, no Man sure doubts at this Time of Day. Certainly there can be none here under so strange an Infatuation, as in the least to doubt but that there was a Plot, especially when so many Persons upon full and clear Evidence and Trials, have been convicted as Instruments in that bloody Tragedy. But you are not to make Use of these Things by Way of Evidence against the Prisoner at the Bar: But only in the general to premise some Things by Way of Introduction to their particular Evidence; and I must plainly tell you (for it is fit it should be mentioned) that if any Villainy can come near that horrid Murder of Sir *Edmundbury Godfrey*, this does; and I am sorry with all my Heart, that within the Government of the City of *London*, or so near it, there should be such a barbarous Attempt as this made and concealed so long. It would not be strange to hear of such Villainies committed in other Popish Countries: But for the Honour and Credit to that Religion which I hope we shall maintain with our Lives, that is, the Protestant Religion, I say in a Protestant Country, where the Protestant Religion is professed, I never heard of such a barbarous Act committed before this one; because our Principles of our Religion will not allow us to commit such Villainies by any Dispensation whatsoever. Justice and Truth, and Righteousness, are the Things that our Religion teaches us. God Almighty, and our blessed Saviour Jesus Christ, by whom alone all Mankind must be saved, have commanded the contrary.

Their Religion may dispense with such villainous Actions; but this I can say in Vindication of ours, ours cannot do it; nay, it would be no Religion if it could.

In the next Place, Gentlemen, all Circumstances of Time and Place, of Men and Things, should be taken Notice of; for dark Cases must be made appear by Circumstances: For as I hinted before, no body calls Witnesses when they do such Facts and Works of Darkness, the Works of the Devil, that is the Father of all such Works. I do not mean the Devil, Mr. *Arnold*, but I mean they are the Works of the Devil: *Beelzebub* himself, the Prince of Devils, can be only an Instrument and an Agent in Affairs of this Nature.

Another Thing that is fit to be taken Notice of by you, is this, that by Way of Circumstance, whatever has been said one Way or another, relating to the Plot, relating to the Business of Sir *Edmundbury Godfrey*, is not to be taken Notice of

as Evidence against the Prisoner. You shall have a faithful Account of what has been said by every Witness, both for and against him; for Right is to be done. Our Law comes even to a Proverb, *We must give the Devil his Due*; we must give every body Right. You know that this Business was deferred, that the Prisoner at the Bar might be left without all Manner of Excuse; for if innocent, all Mankind would be glad to have him cleared; if guilty, every honest Man would have him convicted. Now this being premised, the Evidences against the Prisoner are several, and I will, as far as I can, give you an Account of them. And

First of all, It is not doubted but Mr. *Arnold* has behaved himself like an honest Man, and as every honest Man ought to do for the Interest of his Religion; for there is no Man can do too much, if he does it legally, for the Preservation of his Religion; of that Religion which he is bound to rely upon for the Salvation of his immortal Soul. Now, says Mr. *Arnold*, in the first Place he gives an honest Account of his being one Night, one *Thursday* Night in *Easter* Week, at the *Devil-Tavern*, about nine or ten o'Clock, with some Friends, and he went out between ten and eleven o'Clock, and his own Servant not being there, he did intend to call some other Servants by; but as it happened, he went away without them, and he perceived two Men in Campaign-Cloaks follow him into *Bell-Yard*. He does take it upon his Oath, that about the Middle of the Lane, there happened to be a Candle coming out, and one of these two, that he did so observe to dog him, having a Campaign-Cloak upon him, and likewise a Coat lined with red, he did observe came before him; and he doth take it upon his Oath, that he does believe the Prisoner at the Bar to be that very Man that so came before him; he does say that he had a perfect Sight of him, and he does say, that the Reason why he should believe him to be the Man, is, that he does remember his Face, and knew his Voice. He tells you likewise that there were Persons cast a Cloak over his Head, ran him into *Jackanapes-Lane*, fell upon him, bruised his Head, and wounded him in several Places; particularly he mentions that there was at the same Time, said by one of them, *Pray for the Soul of Captain Evans*; and at the same Time, which is a wonderful Circumstance, *Damn the Dog, he has got Armour on, cut his Throat*. He says that one Man held him up by the Chin, having several Passes made at him, and he says he had something or other to preserve him; but notwithstanding that, he was run into the Side; there were three Men, he does tell you, and that one overtook him in *Bell-Yard*, and he continues to swear it was the Prisoner at the Bar, according to the best of his Understanding and Conscience; he says it was he, and he discovered him by the Sight of a Candle. Besides this, which is a material Circumstance, some other Persons being brought to Mr. *Arnold* about it, Mr. *Arnold* did not tax them, but did positively tax that Person to be one of the Persons. But he tells you he suffered by Passion, as I cannot blame any Man for being in a Passion at such a Time. But his Witnesses determine the Thing, that that is the Man, and he did positively say it, his Memory being better settled than he could at first pretend to; but however, he gives that for another Evidence, that he was not deceived in the Person. This is the Substance, as I remember, I would not do any Injury

to the Prisoner, by repeating any Thing that has not been said; nor would I do any Injury to the Evidence for the King, in omitting any Thing that occurs to me. The next is one *Philips*, and he tells you that the next Day, being *Friday*, about six or seven o'Clock at Night, he happened to be in Company with him at an House in *Covent-Garden*, and having some Discourse concerning *Arnold*, and concerning that bloody, base, and foul Attempt that was made upon him, and was so far from having the Bowels of an *Englishman*, or any Thing of Christianity in him, that he does say he broke out into this extravagant Expression, *Damn him, rot him, he had Armour on: Damn him, rot him, he had Armour on*: I speak it twice over, because Mr. *Arnold* tells you that the Persons during the Fact was committing, said, *Damn me, cut his Throat, he has Armour on*. The next Person comes and tells you, at a certain Place in *Monmouthshire*, upon the 5th of *May* following, that he went with one of the *Richmonds* to this *Giles*, and had some Discourse: Says he, *How chance you have not been as good as your Word, about providing me Horse-hair to make Fishing-Lines, and you promised to leave it at the Farrier's in Gloucester*? How chance it was not so? He immediately adds, *We were in such extraordinary Haste, because we thought we were pursued about the Business of Arnold*. And that he gives as the Reason why he did not stay at *Gloucester*. If in Case it had not been so, why should he come and tell him he could not stay about the Business of the Hair, because he was like to be pursued about the Business of *Arnold*? The next Thing, Gentlemen, is concerning one *Powel*; *Powel*, he tells you, that he being at one *Darcy's* House, a Roman Catholic, that is a Sword-Cutler that lives, I think, likewise at *Uske*: And it seems the Prisoner at the Bar came to him to have his Sword mended. By the Way I should have told you that the Prisoner at the Bar, before the Fact was done, did enquire at a Place where he might have a good Rapier: That was before the Fact was done, The Witness spake of it last, which was the Occasion that I did not give it you in order. He asked where he might have a good Rapier?

But now to come to *Darcy*: *Darcy* having been very familiar with him, enquir'd, Wherefore, having had his Sword so lately, he should have it to mend already? *Have you*, said he, *been fighting with the Devil*? Immediately upon that he swears the Prisoner returned, *No, but with damned Arnold*. And upon that his Wife plucked him by the Coat, and bid him hold his Tongue. I think that is the Substance of what he swears. He says there were by at that Time the Prisoner at the Bar, the Apprentice to this *Darcy*, and a Woman that is the Prisoner's Wife.

William Richmond he comes and gives you a further Account, that he being in his Company; he tells you, they went to some Place in the City to enquire after their Friends, and afterwards went to the *Artillery* to see the Exercise, then to *Long-Lane*, from thence to *Whetstone's-Park*, and afterwards to *Drury-Lane*; and that about nine o'Clock at Night they came to their Inn, and he left *Giles* taking a Pipe of Tobacco in the Kitchen, and went up into his Chamber with some other People, drinking and making merry; and he does positively say, that between eleven and twelve o'Clock at Night, he saw the Servant Maid come up into the Room, and did see she was making

the Bed; that he seem'd to be a little surprized that any body should make a Bed at that time of Night, which occasioned him to go in to her, and ask her the Question. The Answer that he had was very material, that she said, *There is a Gentleman below that I must make this Bed for, he does not desire to have any body lie with him.* That was the Answer the Maid gave. There was, he says, some little Talk of Love between him and the Maid, and that he positively says was near upon twelve a-Clock. He says that after this, he went into his own Chamber, and continued in his own Chamber till nigh One, and about One, being pulling off his Breeches, the Prisoner at the Bar came and knocked at his Chamber-door, and spake to him, and that was near One a-clock at Night. But it is plain, during that Time, the Prisoner was not in his Chamber, if you believe him; nor indeed is there any Account given of the Prisoner from Nine a-Clock till near One, till he knocked at his Door, as he was pulling off his Breeches and going to Bed. As to the Answers that are given by the Witnesses of the other Side, I shall give you them when I descend to give the Testimonies of the other Side.

To give you yet this further Testimony, say they, We do not only give you this Testimony that he is guilty of this Fact, but we do give you an Account of him, that he is very likely to do such a Thing; for he is an ill Man in himself. As on the other Side, no Man can give a better Testimony to himself in Matters that are dark and obscure, than the Testimony of his Conversation, that he is upright in his Conversation, and therefore cannot be thought guilty of so base an Action: So they think they give a good Evidence against him, and that he is an ill Man in himself; and therefore because he is an ill Man, he may be guilty of such a Thing. And to prove that, they call up these Witnesses.

First of all, one *Bridges* comes and gives you an Account, that discoursing with him concerning the Papists, he damn'd the Plot, and said that all were Rascals that were not Papists; and if in case that the Lords that were in the *Tower* should happen to suffer, it would be a bloody Day, and it would make bloodier Work in *England* than ever was known: Which shews he is a bloody ill Man. The Prisoner ask'd him, If he were not a Papist? It's likely he was a Papist before, or he would not have trusted him so. And this is one Circumstance to prove that he is an ill Man, that he hath given out such and such Expressions.

There is another, one *Reynolds*, who comes and gives you an Account of his having some Discourse with him afterwards about this Business of Mr. *Arnold*, that the Prisoner talked slightly of it, and said that he might do it himself.

This, Gentlemen, I take in general to be the Substance of what has been offer'd for the King. If there be any thing else that does not occur to my Memory, if it doth to yours, you will do well to consider of it.

Say the Council for the Defendant, and that every Man of the Long Robe ought to say, that if the Person, which is the Prisoner at the Bar, were guilty of such a barbarous thing as this, no Man would offer to open his Mouth. And therefore they offer Evidence for their Client as they

are instructed to offer to you, and you are to try whether their Client be guilty.

Say they, You first call one *Philips* to give an Account; and as to what *Philips* says about the Business in *Covent-Garden*, about *Damn him, and rot him*, they bring one that was there all the Time, and says he, *I was by all the Time, and I heard no such Words.* So far was he from making any particular Reflections upon Mr. *Arnold*, that he cried it was a very horrible, a very barbarous Thing. Nay, says he, to give Credit to this Testimony of his, I never use to keep company with them that use such Words, as *Damn him, and rot him*, as he says.

The next Witness is Mr. *Herbert Jones*, he comes and tells you, I went with him from *London*, I went with him to *Gloucester*, I staid at an Inn call'd the *Old-Bear*, and staid and dined with him there. I went after that to the *New-Bear*, we went thither and drank Cyder together; and this was very publick: For several Persons that liv'd in the Town, came to us and enquired after the Business of *Arnold*; and if in case we had been under any such Jealousy as that was, we would not have staid so long, as, says he, we did. Say they on the other side, we do not say that you did not stay in *Gloucester*; but, say they, by way of Objection against the Prisoner at the Bar, we say that you yourself, on the fifth of *May*, said, in answer to the Person that came to ask you, Why you had not brought the Hair, that he might go a Fishing? You said, we durst not stay for fear of Pursuit upon the Account of Mr. *Arnold*. This you yourself said, and by saying so, you have contracted that Guilt in point of Circumstance, which is objected by us against you. This is the Answer given to that that Mr. *Jones* says.

The next Person that comes to give you an Account, is one *John Jones*, who is the Apprentice: Says he, you bring a Witness against me that I said such a thing at *Uske*, at *Darcy's* the Sword-Cutler's, and you say the Apprentice was by: And he gives you this Evidence: Says he, I was by at such a Time as the Man speaks of, and being by at that Time, I do very well remember, that there was a Discourse concerning some great Conflict that Mr. *Giles* had been in, and that *Giles's* Wife was by, and so was the other Person that gave the Evidence, that such a Discourse there was of fighting with the Devil; but now he inverts the Saying of the t'other Man, and says that he should say, *He never met with Arnold the Devil.* The one answers, when the thing was asked him, Whether he had been fighting with the Devil? *No, not with the Devil, but with Arnold*; the other swears, *He did not meet with the Devil Arnold.* He tells you likewise, his Wife did not pull him by the Clothes, and bid him hold his Tongue.

The next Witness is *Powel*; and he gives you an Account that he came with him to Town: He gives you an Account how he staid with him, and came along with him till Nine a-Clock at Night; for he does not pretend to give you an Account after Nine.

Then comes *Crook*: And *Crook*, that is the Maid Servant, she says, I cannot positively tell you when he came in, but will positively say, that I made his Bed about ten, and before eleven I asked him about his Candle; he bid me lock the Door,

Door, and he would put out the Candle himself, and she went away and left the Candle. And that is very material; for the Time this Fact was committed was between ten and eleven; this is what the Maid says: Now there is this Answer to what she swears. She first of all forgot that ever *Richmond*, that speaks concerning the Breeches and other Circumstances, that ever he was there at all; but you hear he has refreshed her Memory with a Love Story, that he was in the Room, and she does agree in these very Circumstances he speaks of; so that that gives Credit to the Testimony of *Richmond*, and puts a Disparagement upon her Testimony, since she could be so exceeding forgetful, as not to remember such a Circumstance.

The next is an old Woman: And she swears point blank she was with him most part of the Day; and that she was with him at Dinner, and was with him till Nine of the Clock at Night, and then went to Bed. And though she seemed to differ and blunder in some part of her Testimony, because she knew nothing of his going into *Long-Lane*, and other Places; however she gives an Account about the time of Nine a-Clock, that she left him in the Kitchen, and then she went to bed.

The next Witness is *James*: And *James* doth positively swear, that he was drinking with him in the Kitchen till past Twelve a-Clock at Night; but that cannot be true, if the Wench that made the Bed swear true; for she swears she made the Bed before Ten, and he went to Bed before Eleven; so that he could not be a Bed before eleven, if he swears true; and he could not be in the Kitchen at twelve a-Clock, if she swears true.

Gentlemen, *Richmond's* Man he gives you no further an Account than what runs square to his Master's Testimony; that he left him at nine a-Clock at Night, and he heard him call at his Master's Chamber about Twelve, and so they punctually agree. But he gives no manner of Account where he was between Nine and Twelve, between which Hours this Fact was done.

Next, Gentlemen, there have been some more Witnesses called for the Prisoner at the Bar, who gave you an Account where he was before such time as he came to his Lodging. Now it is not denied on either Side, but that he might be till within Night at that House they speak of; but the Account that is desired to be given of this Matter, is to know where he was between nine a-Clock and twelve, when this Fact was committed.

These, Gentlemen, according as it occurs to me, are the substantial parts of Evidence, both on the one side and the other. The Matter therefore resolves itself within this narrow Compass; If upon what you have heard from *Mr. Arnold*, attended with the rest of the Circumstances that you have heard sworn by the Witnesses, you do believe the Prisoner at the Bar is guilty; for he might be at his Lodging at nine a-Clock, and he might be at his Lodging at Twelve or One, and yet he might do this Fact: For it is certain it was not a sudden Matter, for it was a thing done preparedly; and therefore you must not expect that Men that are guilty of such barbarous Designs as this, will lay their Designs open. To be sure, whoever it was did this Fact upon *Mr. Arnold*, they would do it so as to make themselves appear as innocent as could be. It is not a matter to be relied on, that because this Man was innocent in *St. Martin's-Lane*, therefore he did not do this Thing in *Bell-Yard*.

There is another Circumstance against the Prisoner at the Bar; that he should imagine, notwithstanding all this, that *Mr. Arnold* had wounded himself: But when he found that that was not very probable, that a Man could wound himself so, by reason of several Places that he received his Wounds in; he would have it, that though he did not do it himself, yet some of his Friends might. Indeed if he be guilty, some of his Relations might do it, but certainly he was no Friend that did it. It is against Nature for any Man to believe that any Person should put himself to so much Trouble; if he had a Mind to dispatch himself, he might have done it with much more ease, and not have put himself to that trouble; for Men, when they have a mind to do the Business, they do not use to take such a deal of Pains to stab themselves here and there.

Thus, Gentlemen, the Evidence being very long, and the Circumstances very many, Things may occur to you, that do not at present to me. Yet I must tell you again, in a matter of publick Example, the Proof ought to be very great, to convict a Man of such an Offence; but you must not expect it should be so clear, as in a matter of Right between Man and Man, and of Things that are done in the Face of the Sun. It was done in the Dark: The Devil that set 'em a-work, does fill them with Cunning enough to keep this Attempt as concealed as may be: And therefore Circumstances of this Nature must be wonderfully considered; an Account of which *Mr. Arnold* himself gives you, and he does believe in his Conscience the Prisoner at the Bar to be the Man.

The Jury withdrew, and having debated together about half an Hour, returned, and brought the Prisoner in Guilty. Which done, the Court adjourned till the Saturday following, the 17th of July: At which time the Court being sat, John Giles was brought to the Bar; to whom the Right Worshipful Sir George Jefferies delivered himself to this Effect.

Mr. Recorder. You the Prisoner at the Bar, you have been indicted for a very vile Offence; an Offence in its Nature that deserves a greater Punishment than the Law can inflict upon any such Offences. There is a Jury has convicted you of this Crime, against whom, had you had any Objection, you might have made your Challenge. And now you stand convicted here, it is only the Duty of the Court to pronounce that Judgment against you, which they think may be reasonable to inflict upon such an Offender. For I must needs say, it was one of the basest and most barbarous Actions that Mankind could possibly be guilty of: An Action of so much Filth and Baseness, that the Law could not foresee any Man could be guilty of, and therefore hath not made Provision for a Punishment proportionable to it. But inasmuch as we understand by *Mr. Arnold* you have a Charge of Children, therefore the Court takes some Consideration: Not that they think to extend any Mercy to you for your own Sake, but a Regard they think they are bound to have for those that have not offended. But we ought to have a care to let the World know, we do not intend only a Punishment to the Offender, but by that to terrify all other People from being guilty of such extraordinary Villanies. And be-
cause

cause they will have Regard to your Posterity, therefore they do not think fit to put so great a Fine upon you as this Fact does deserve. But on the other Side, they have thought fit you should be made an Example of, and that you should suffer as great a Corporal Punishment as the Law will allow. And therefore in the Name of the Court I do pronounce this to be your Sentence :

That you be put in the Pillory towards Lincoln's-Inn-Fields, as near the Place where this barbarous Fact was committed as may be: And there you are to stand from the Hour of twelve till one, one Day, at Noon-day. And on another Day, from the Hour of twelve till one, over against Gray's-Inn in Holbourn. And another Day, between the same Hours, just by the May-Pole in the Strand. These three several Days you are to stand in the Pillory, and to have a Paper put upon your Hat, whereby it shall be signified, the Offence of which you stand convicted. And next, to deter all others from committing the like, the Court does think fit likewise to award, That you should pay to the King the Sum of five hundred Pounds; and that you be committed in Execution, till such Time as you pay that Money. And because it is both to be a Punishment to you, and a Terror to all other such Villains, you are to find Sureties for your good Behaviour during Life.

Sentence being pronounced, and the Prisoner removed from the Bar, *Richard Cavenaugh* was brought to the Bar, and prayed to be discharged: But was by *Mr. Arnold* charged with threatening one *Philip Staneright*, one of the King's Witnesses: For which Reason, and for that also a new Evidence was come in against the said *Cavenaugh*, with some farther Charge relating to *Mr. Arnold's* Business, the Court thought fit, for want of Bail, to continue him a Prisoner.

Then *Mr. Herbert* appeared, and prayed to be discharged from his Recognizance to appear at the *Old-Bailey*: But being accused by a Woman for calling her Whore, Jade, and very ill Names, and holding up his Staff at her, and threatening to beat her for being a Witness against his Friend

Giles; as also for taking away her Horse as she was going to the Mill; and the Reason was, because she was to be a Witness in *London* against *Giles*. But she being a married Woman, and none appearing that would be bound to prosecute him for it, he was not bound over to answer it, till another Complaint came in against him, which was immediately made by *Mr. Ballard*, and another Gentleman; who charged *Mr. Herbert*, that in *Whitson* Week last, upon a Discourse for chusing Knights of the Shire for *Monmouth*, and the saying of one in the Company, that it was thought *Mr. Arnold* would stand for it; *Mr. Herbert*, should make Answer, I will circumcise the other Side of his Cheek first; or, he must have the other Side of his Cheek circumcised first. Upon which the Court ordered he should not be discharged, but remain bound upon the former Recognizance to appear there next Sessions. And the Recorder gave him several sharp Reprehensions for his malicious and unmanly Words and Proceedings. This being the second of the King's Witnesses, and a Woman that he had barbarously treated; still passionately giving the Reason, that they were Witnesses against his Friend *John Giles*, as it was proved on Oath before the Court by several Witnesses.

Then *Sir Thomas Allen* acquainted the Court, that a Gentleman had informed him the Day before, that *Mr. Herbert* told him, that *Mr. Arnold* wounded himself and cut his own Throat; which the Court looked upon as an high Effect of a malicious Ingratitude; *Mr. Arnold* having besought his Majesty, when *Mr. Herbert* was in *Newgate* to have his Release. *Mr. Arnold* replied, that *Mr. Herbert* had been more ungrateful to his Majesty, who had graciously pardoned him greater Offences, and lately; for he had spoken worse of his Majesty's Person and Government, than he had done of him, as it had been proved before his Majesty, and of which he believed his Majesty was well satisfied. The Court told *Mr. Herbert* he was a Shame to all *Englishmen*; and bound him by Recognizance to appear and answer this Offence at the *King's-Bench* Bar the first Day of the next Term.



C. The Trial of THOMAS THWING and MARY PRESSICKS, at York Assizes for High-Treason, July 24. 1680, 32 Car. II.

Cl. of Assiz. **T**homas Thwing, late of *Heworth*, in the County of *York*, Clerk, and *Mary Pressicks*, Wife of *Thomas Pressicks*, late of the Parish of *Barwick* in *Elmet*, Gent. stand indicted; for that they, as false Traitors against the most illustrious, and most excellent Prince, King *Charles* the Second, that now is, their Natural Lord; God before their Eyes not having, nor their due Allegiance weighing, but by the Instigation of the Devil being seduced and moved, the cordial Love, and true and natural

Obedience, which true and faithful Subjects of our said Sovereign Lord the King towards his said Majesty ought to bear, altogether withdrawing, and imagining, and with all their Strengths intending the Peace and common Tranquillity of his Kingdom of *England* to disturb, and his said Majesty that now is, to Death and final Destruction to bring and put, and the true Worship of God in this Kingdom of *England* established and used, to alter to the Superstition of the Church of *Rome*, and War against his said Majesty in
this

this Kingdom of *England* to move and raise, and the Government of this Kingdom of *England* to subvert, the 30th Day of *May*, in the 31st Year of his Majesty's Reign that now is, at the Parish of *Barwick* in *Elmet*, aforesaid, in the County aforesaid, with divers other false Traitors to the Jurors unknown, did traiterously compass, imagine and intend, and every of them did compass, imagine and intend the Death and final Destruction of his said Majesty, and the ancient Government of this Realm of *England* to change, alter, and utterly subvert, and his said Majesty of the Crown and Rule of this Kingdom to depose and wholly to deprive, and the true Protestant Religion to extirpate: And to effect and accomplish their said wicked Treasons, and traiterous Imaginations and Purposes aforesaid, the said *Thomas Thwing* and *Mary Pressicks*, and other false Traitors, to the Jurors unknown, the said 30th Day of *May*, in the 31st Year aforesaid, with Force and Arms at the Parish of *Barwick* in *Elmet* aforesaid, advisedly, devilishly, maliciously and traiterously did assemble and gather themselves together, and then and there did devilishly, advisedly, maliciously, subtilly, and traiterously consult and agree, and every of them did then and there traiterously consult and agree to bring to Death and final Destruction our said Sovereign Lord the King, and to depose and deprive him of his Crown and Rule aforesaid, and the Religion of the Church of *Rome* into this Kingdom to introduce and establish: And the sooner to fulfill and effect the said wicked Treasons, and traiterous Imaginations and Purposes aforesaid, the said *Thomas Thwing* and *Mary Pressicks*, and other false Traitors to the Jurors unknown, did then and there pay and expend, and every of them did then and there pay and expend divers Sums of Money of divers other Traitors to the Jurors unknown, to carry on the Treasons aforesaid; and then and there the said *Thomas Thwing* and *Mary Pressicks* did subscribe, and either of them did subscribe a certain Note in writing for the Payment of divers Sums of Money for making a Contribution for compleating their traiterous Purposes aforesaid, against the Duty of their Allegiance, and against the King's Peace his Crown and Dignity, and also against the Statute in that Case made and provided.

To this Indictment having pleaded Not Guilty, and put themselves upon their Country for Trial,

Upon the 29th of July Sir Thomas Daniel, High Sheriff of the County, having returned many Gentlemen for Jurors; the Trial proceeded thus: After the Jury called, *Thomas Thwing* and *Mary Pressicks* being brought to the Bar.

Cl. of Assize. *Thomas Thwing*, hold up thy Hand. *Mary Pressicks*, hold up thy Hand.
[Which being done.]

Cl. of Assize. This understand ye, that these Gentlemen that are now to be sworn, are returned by the Sheriff of this County, to pass between our Sovereign Lord the King and you for your Lives: Therefore if you will challenge any of them, you are to challenge them as they come to be sworn, and before they be sworn.

Cl. of Assize. Sir David Fowles, Bart.
Thwing. I challenge him.

And so as they were called challenged these twenty five Gentlemen following, viz.

<i>John Eestest</i> , Esq;	}	<i>Hught Savil</i> , Gent.
<i>William Bethel</i> , Esq;		<i>Nivian Collins</i> , Gent.
<i>Townes Drifeild</i> , Esq;		<i>Thomas Green</i> , Gent.
<i>Will. Oshaldstun</i> , Esq;		<i>Nathaniel Elliotson</i> , Gent.
<i>Morm. Trueman</i> , Gent.		<i>Nathan. Harrison</i> , Gent.
<i>Robert Bill</i> , Gent.		<i>John Tomlinson</i> , Gent.
<i>Thomas Blotcher</i> , Gent.		<i>Thomas Riccaby</i> , Gent.
<i>Thomas Wood</i> , Gent.		<i>John Ullithorne</i> , Gent.
<i>Thomas Fairfisle</i> , Gent.		<i>Thomas Hincks</i> , Gent.
<i>Roger Fretwel</i> , Gent.		<i>William Meffin</i> , Gent.
<i>Simon Warrenar</i> , Gent.		<i>George Ellis</i> , Gent.
<i>Edward Carvil</i> , Gent.		<i>Thomas Whaley</i> , Gent.
<i>John Coates</i> , Gent.		

In the calling of the Jury, after several Challenges made, and some of the Jury sworn, *Thwing* spoke thus:

Thwing. My Lord, I shall willingly stand to the other Jury.

Mr. Just. Dolben. What Jury.

Thwing. My Lady *Tempest's* Jury.

Mr. Just. Dolben. Oh, your Servant; you either are very foolish, or take me to be so.

The Jury being sworn.

Cl. of Assize. Cryer count these.

<i>Sir George Cook</i> , Bar.	}	Jun.	<i>Hen. Pinckney</i> , Gent.
<i>Thomas Worlesley</i> , Esq;			<i>Job. Blectstun</i> , Gent.
<i>William Caley</i> , Esq;			<i>Will. Hardecstil</i> , Gent.
<i>Roger Lee</i> , Gent.			<i>Nicholas Stone</i> , Gent.
<i>John Dixon</i> , Gent.			<i>Geo. Westorley</i> , Gent.
<i>George Wray</i> , Gent.			<i>Charles Tucker</i> , Gent.

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

Cl. of Assize. *Thomas Thwing*, hold up thy Hand, [which he did.] *Mary Pressicks*, hold up thy Hand, [which she did.] Gentlemen, you of the Jury that are sworn, look upon the Prisoners and hearke to their Charge: You shall understand that they stand indicted by the Names of *Thomas Thwing*, &c. and *Mary Pressicks*, &c. Prout in the Indictment. Upon this Indictment they have been arraigned, and thereunto pleaded Not Guilty; and for their Trial have put themselves upon the Country, which Country you are, &c.

Then Proclamation was made for Evidence, and the Indictment being opened, and the Treasons therein aggravated by the King's Council; Mr. Baron Atkyns came into the Court to assist in the Trial.

The Witnesses were called; Robert Bolron was first sworn.

Bolron. My Lord, in the Year 1674, I came to live with Sir *Thomas Gascoigne*, and was Steward of his Coal-pits; and in 1675 I turned Papist; and about January, 1676, Mr. *Thwing*, Father *Rushton*, and several others came to my House at *Shippon*, and did there examine me how I stood affected to the Roman Catholick Religion, and whether I was resolved to venture my Life and Estate in it, if there were any Occasion; to which I agreed, and was resolved to obey my Ghostly Father in all Things.

Mr. Just.

Mr. Justice Dolben taking Notice of a Gentleman near the Prisoners, demanded, What is that Gentleman? We are all beset; he was one of the Jury Yesterday. He being removed, Bolron proceeded.

Bolron. Father *Rushton* my Confessor gave me the Oath of Secrecy; and in the Year 1677, Sir *Thomas Gascoigne*, Sir *Miles Stapleton*, Mr. *Thwing* the Prisoner, and several other Persons, met at *Barmbow-Hall*, Sir *Thomas Gascoigne's* House; and there they agreed, That in hopes the Plot of killing the King would take Effect, they would erect a Nunnery at *Dolebank*; but the real Intention was to have it at *Heworth*, within a Mile of *York*, after the King was killed; and to avoid Suspicion, my Lady *Tempest* told them she would let them have *Broughton* for the present.

It was there agreed, that the King should be killed: * And Mr. *Thwing* said, that if they missed this Opportunity, they should never have the like again, and the effecting of it would be very beneficial to the Church of *Rome*.

Mr. Bar. Atkyns. Repeat it in the same Words:

Bolron. He said, if we miss this Opportunity of killing the King, we shall never have the like again; and Mr. *Thwing* was to be the Confessor of the Nunnery for the present.

Mr. Bar. Atkyns. Where were these Words spoken?

Mr. Bolron. In the old Dining-Room.

Mr. Just. Dolben. Who were present?

Mr. Bolron. Sir *Miles Stapleton*, Sir *Thomas Gascoigne*, my Lady *Tempest*, Mr. *Thwing*, Mr. *Rushton*, and some others.

Mr. Just. Dolben. Was it agreed that the King should be killed?

Mr. Bolron. It was, my Lord.

Mr. Bar. Atkyns. Consider seriously, you speak in the Presence of God, and of a great Assembly; and that a Person's Life is at Stake: Tell it again, what were the Words?

Mr. Bolron. It was agreed that the King should be killed, and that it was for the good of the Catholick Religion; and I paid 10*l.* to Mr. *Rushton* in Mr. *Thwing's* Presence, towards killing the King, and saw a List in Mr. *Rushton's* and Mr. *Thwing's* Hands, of the Names of several that engaged for promoting the *Roman Catholick* Religion; which was to be by killing the King.

Mr. Bar. Atkyns. Was it a List of those that were to kill the King?

Mr. Bolron. The List I saw was of Money raised to kill the King.

Mr. Bar. Atkyns. What was the Title of that List?

Mr. Bolron. A List of the Names of the Actors and Contributors, engaged in the Design of promoting the *Roman Catholick* Religion, and also of establishing a Nunnery; which was raising Money for the killing of the King. And besides the 10*l.* I paid towards it, I paid 5*l.* to have my Soul prayed for. *Thwing* told me afterwards at my House, that in *Yorkshire*, *Lancashire*, and *Derbyshire*, 30,000*l.* was raised for the killing of the King; and that the List was sent beyond Sea.

Mr. Just. Dolben. What can you say against the Woman?

Mr. Bolron. Mrs. *Preflicks* told me, That in 1678, presently after the Plot was discovered, she being in *London*, did hear a Woman cry after her, *Stop the Papist, stop the Plotter*; but she got away, and afterwards durst not appear publickly in *London*. I had Discourse with her at my House about the Plot; and she told me, that Father *Harcourt* was her Confessor, and first engaged her in it; and that *Pickering* told her, that he was to have killed the King, and she said she was sorry he did not do it; and that *Oates* and *Bedloe* were two Rogues, and the Plot had not been discovered but for them, who were the Cause of so much Mischief. And she further told me, that the Gun wherewith he was to have killed the King, was found with *Pickering*, and she did believe that was the Cause of his losing his Life: And she said, The King was an Ass and not fit to govern; that what Money the Parliament gave him he spent upon Whores and Concubines.

Mr. Just. Dolben. Well, is this all you have against her?

Mr. Bolron. Yes, my Lord.

Mr. Just. Dolben. He hath done; you may cross examine him if you will.

Thwing. Who was at your House when I was there?

Mr. Bolron. Father *Rushton*.

Thwing. How often was I there?

Mr. Bolron. Several Times, I know not how often.

Thwing. When was it you accused me first of the Plot?

Mr. Bolron. When I went to the Council I accused him.

Thwing. He did not accuse me of the Plot in several Months.

Sir Tho. Stringer. Come, Mr. *Mowbray*, tell your Knowledge.

Mr. Mowbray was sworn.

Mr. Mowbray. My Lord, what I have to say is only against Mr. *Thwing*. At an Assembly of divers Priests at *Barmbow-Hall*, amongst the rest, there were Father *Rushton* and Mr. *Thwing*; and there they determined to kill the King.

Mr. Bar. Atkyns. When was this?

Mr. Mowbray. This was near *Michaelmas* 1676, and they declared it was not only lawful, but meritorious to do it: They also declared, That *London* and *York* were to be fired; and that Force was to be made use of against the King, and all other Hereticks that should oppose the Advancement of their Religion: And Mr. *Thwing* and *Rushton* declared, the King was an Heretick, and excommunicated by the Pope, and hadn't kept his Promise with the Jesuits to bring in their Religion, and therefore deserved to be killed, and it was not only lawful but meritorious so to do.

Mr. Belwood, of Council for the King. Was there not a List?

Mr. Mowbray. Yes, a List of those engaged in the Design of killing the King, and of promoting the Catholick Religion: And it was declared the King should be killed, because he hadn't kept his Promise made to the Jesuits when he was beyond Sea.

Mr. Just. Dolben. Did the Prisoner declare it.

* Note, That upon Sir *Thomas Gascoigne's* Trial it appeared in his Almanack, that he had made this Memorial there with his own Hand (viz.) The 15th of Apr. 1676, Memorand. acquaint Mr. *T. Thwing* with the whole Design.

Mr. *Mowbray*. Mr. *Thwing* declared it, and *Rushton* and he managed it.

Thwing. Who was there?

Mr. *Mowbray*. It was at Father *Rushton's* Chamber that I saw you, and there was another *Thwing* there, and also *Addison* a Priest.

Thwing. I went once or twice a Year to Sir *Thomas Gascoigne's*, and thought it my Duty to wait on him; and that I might without Offence do it, he being my Uncle.

Mr. *Just. Dolben*. No, the Offence is Plotting.

Sir *Thomas Stringer*. Mr. *Thwing*, do you know *Rushton*?

Thwing. Yes; but I had no great Acquaintance with him.

Sir *Tho. Stringer*. Mr. *Mowbray*, how came you to be intrusted in so great a Business?

Mr. *Mowbray*. I assisted Father *Rushton* at the Altar at *Mals*; and so came into great Favour with him, and was permitted to be in his Chamber when the Priests were in private with him.

Sir *Tho. Stringer*. Mr. *Mowbray*, did you take an Oath of Secrecy?

Mr. *Mowbray*. Yes, I took it from Father *Rushton*.

Thwing. How long since did you change your Religion?

Mr. *Mowbray*. Presently after the Plot broke out.

Thwing. Who were you examined before first of all?

Mr. *Mowbray*. Before Mr. *Lowther*, and Mr. *Tindal*.

Mr. *Just. Dolben*. Did you at the first accuse him?

Mr. *Mowbray*. I only charged Sir *Thomas Gascoigne*, Esq; *Gascoigne*, my Lady *Tempest*, Sir *Miles Stapleton*, and Father *Rushton* in my first; and in my second Deposition I accused Mr. *Thwing*, and that was before Justice *Warcup*.

Mr. *Bar. Atkyns*. Did *Thwing* abscond at the first?

Mr. *Mowbray*. He was apprehended at the same Time Sir *Thomas Gascoigne* was apprehended, and at his House.

Mr. *Just. Dolben*. Well, what say you to *Mary Prefficks*?

Mr. *Mowbray*. My Lord, I have nothing to say against her.

Mr. *Just. Dolben*. Mr. *Thwing*, you have heard the Evidence, what do you say for yourself?

Thwing. I shall produce Witnesses I was never with him at *Barmbow*: First, I shall shew he never mentioned me when he first mentioned the Plot; and he never said any Thing against me, when he accused Sir *Thomas Gascoigne* before Mr. *Lowther* and Mr. *Tindal*.

But Mr. *Bonithen*, of Counsel for the King, offering other Witnesses for the King against Mrs. *Prefficks*, they were called, viz. Mrs. *Bolron sen.* Mrs. *Bolron jun.* and John *Hutchinson*.

Mrs. *Bolron sen.* sworn.

Mr. *Just. Dolben*. What do you know of *Prefficks*, the Prisoner at the Bar?

Mrs. *Bolron sen.* My Lord, she said she knew of the Plot, and that *Pickering* was to have killed the King.

Mr. *Bonithen*. Do you mean shoot the King?

Mrs. *Bolron sen.* Yes, I do.

Mr. *Just. Dolben*. Where did she tell you this?

Mrs. *Bolron sen.* At *Shippon*, my Lord.

Mr. *Just. Dolben*. At his House? [*pointing to Mr. Bolron.*]

Mrs. *Bolron sen.* Yes, and she said that she was very sorry that *Pickering* did not do it, and that he had done it if it had not been for *Oates* and *Bedloe*.

Mr. *Just. Dolben*. Was this the very same Time that Mr. *Bolron* speaks of?

Mrs. *Bolron sen.* Yes, my Lord; and she said, There would never be Quiet in *England* until the *Roman Catholics* had got the upper Hand, and there was not a Protestant left in *England*: And she said, The King spent his Money amongst his Concubines, and his other Women, so that he was not worthy to be King, and she hoped an Army of Catholics would be raised to set up Popery.

Mr. *Just. Dolben*. That is indeed the Principle of the Papists, and according to it; within forty Years past they murdered 200000 innocent Protestants in *Ireland*. Did she say it often?

Mrs. *Bolron sen.* Yes, several Times, more than once or twice.

Mrs. *Bolron jun.* was then sworn and examined.

Mrs. *Bolron jun.* I heard her say, There was a Conspiracy carrying on about altering the Government, and establishing the *Roman Catholic* Religion.

Mr. *Just. Dolben*. Where heard you this?

Mrs. *Bolron jun.* In my Husband's House.

Mr. *Bar. Atkyns*. And what were her Hopes in the Conspiracy?

Mrs. *Bolron jun.* My Lord, I cannot tell.

Mrs. *Prefficks*. I ask Mr. *Bolron* when we had this Discourse?

Mr. *Bolron*. At several Times; about *Candlemas* 1678, and at *Easter* and *Whitfontide*, and several Times after the Plot was discovered, we discoursed it several Times at the Porch at my House.

Mr. *Just. Dolben*. Who was present?

Mr. *Bolron*. My Grandmother.

Mr. *Just. Dolben*. Where was it, old Woman, that you heard these Words?

Mrs. *Bolron sen.* At *Shippon*, in the Hall-porch, my Lord.

Mrs. *Prefficks*. Had we any Discourse about Sir *Thomas*?

Mrs. *Bolron sen.* None.

John *Hutchinson* was then sworn.

Mr. *Just. Dolben*. Do you know any Thing concerning Mrs. *Prefficks*?

Hutchinson. May it please you, my Lord, I came to Mr. *Bolron's* House, and Mrs. *Prefficks* asked me what News in our Country, and what became of the Papists? I told her some had given Bond; and some were gone to Prison: Then she said, We shall never be at Peace until we're all of the *Roman Catholic* Religion; for the King is an Heretick, and spends more Money upon his Whores than upon his Queen, and we shall never be at Quiet until the Duke of *York* is King.

Mr. *Just. Dolben*. What say you to this? You have seen him?

Mrs. *Prefficks*. I never saw him but twice there.

Mr. Just. *Dolben*. Where was she when she said this?

Hutchinson. She first talked with me in the Kitchen, and at the Hall door, as she was just going into the Parlour? she told me, That we should never be at quiet until the Duke of York was made King.

Mr. Just. *Dolben*. Mr. *Bolron*, when came she to your House?

Mr. *Bolron*. She came to our House about *Christmas*, and staid about six Months there.

Mr. Just. *Dolben*. Six Months in your House! Then you are well enough acquainted with her.

Mr. *Bolron*. Yes, my Lord.

Mr. Just. *Dolben*. Did you charge Mr. *Thwing* before the Justice?

Mr. *Bolron*. My Lord, I gave Justice *Tindal* only a short Note, that Sir *Tho. Gascoigne* promised me 1000*l.* to kill the King: But what I had to say against *Thwing*, I gave to the King and Council.

Thwing. My Lord, this is Malice to Sir *Tho. Gascoigne's* Family, to which I am related, it is out of Revenge.

Mr. Just. *Dolben*. It was a Family-Quarrel then?

Thwing. Yes, my Lord, this I can prove by several Witnessess.

Mr. Just. *Dolben*. Call your Witnessess then.

Thwing. *Nathaniel Wilson*.

Mr. Just. *Dolben*. Mr. *Babington*, why don't you appear, we know well enough that you are Solicitor in the Cause; call your Witnessess.

Then Nathaniel Wilson was examined.

Mr. Just. *Dolben*. Come, what is it you have to say?

Wilson. I went to *Bolron* to look on a Cow that he had gifted for his Cousin *Bargues*, and desired to have the Cow away, but he would not let me have her without paying for her Gift; so I tender'd him his Money, and we went to talk in the House, and *Bolron* sent for a Groat's-worth of Ale, and asked me if I could tell any thing of Father *Rushton*, and I told him I could not; and he bid me keep his Secrets, and he would give me more than I could addle (*that is*, earn) in seven Years: And he said, unless he could shed the Blood of some of them, he should get nothing.

Mr. Just. *Dolben*. When was this?

Wilson. This was about next *Michaelmas* a twelve-month.

Mr. Just. *Dolben*. This is quite other than you told yesterday.

[*Wilson was a Witness the Day before for the Lady Tempest.*]

Wilson. I had not Time.

Thwing. I desire to know, Whether *Bolron* named me to Mr. *Lowther* as a Plotter?

Then Mr. Lowther was called.

Mr. *Lowther*. I do not remember that Mr. *Bolron* named Mr. *Thwing* to me when he was before me.

Mr. Just. *Dolben*. When did he come to make the Discovery to you? Give an Account of it.

Mr. *Lowther*. I think it was the 24th or 25th of *June* 1679, that he came to me; and he told

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me he had some Secrets to impart to me: And he began to tell me a Story of the Jesuits and Priests, what they design'd against the Government, because the King did not keep his Word with them when he was beyond Sea: And then I called for my Man and a Bible to take his Examination, and said, Pray Friend be very careful what you do, for here your own Concern is at stake, as well as the Lives and Fortunes of the Gentlemen you speak against; and upon that he began to be very fearful and timorous, and looked pale: Whereupon I asked him, What that Fear was for? It is, said he, because I have concealed it so long; and if that were upon you, it may be you would be as fearful as I am. Then I was going to take his Information, and he said, I have done it before to Mr. *Tindal*. Why came you to me then, said I; He said, Mr. *Tindal* desired it: Well, said I, Mr. *Tindal* and I are to meet to-morrow, and we will do it jointly.

Mr. Just. *Dolben*. Did he say he told you all he knew?

Mr. *Lowther*. He did not name *Thwing*, but said he would recollect more, and would go to *London* and give it in to the King and Council: And then I said, Why may not we take it here as well as trouble them at *London*?

Mr. Just. *Dolben*. It may be he thought it better to do it there.

Mrs. *Preflicks*. He did not accuse me before Mr. *Lowther*.

Mr. *Bolron*. Yes, my Lord, I did, and had a Warrant to take her.

Mr. *Lowther*. She was taken the same Day Sir *Tho. Gascoigne* was taken.

Mr. Just. *Dolben*. We will be just between you.

Then the Prisoners called Obadiah Moor.

Mr. Just. *Dolben*. Come, tell your Knowledge in this Business.

Moor. I say, that Mr. *Bolron* said, That Sir *Tho. Gascoigne* was not concerned in the Plot, nor none of his Family; and that he believed there was no Plot.

Mr. Just. *Dolben*. When was this?

Moor. This was about *Candlemas* was twelve-months.

Mr. Just. *Dolben*. He was then a Papist: But did he not tell you otherwise afterwards?

Moor. In *August* after he told me he had but equivocated with me in what he said before, and that there was a real Plot; and if he had sworn a thousand Lies, he could have been forgiven them.

Then Stephen Thompson was called and examined.

Thompson. Mr. *Bolron* was Servant to Sir *Tho. Gascoigne*, and being in his Debt Sir *Thomas* did arrest him, and he agreed with Sir *Thomas* to give him 60*l.* and got me to be bound with him: And when the Plot came out, I thought *Bolron* being his Servant, might know whether Sir *Thomas* had any hand in it; and if so, that we were in no danger of being sued; and I enquired of *Bolron*, and he said, Sir *Thomas was as sinless of it as the Child that was unborn*: And on *Holy Thursday* I went to him, and got him out on the backside to Sir *Thomas's*, and all along he told me, if he sued him he would do him a greater Mischief: And I pleaded earnestly with Sir *Thomas* not to sue the Bond,

and he said he would have his Money, but would stay a Fortnight, and I prevailed with him to give three Weeks time, that *Bolron* might go to sell his House at *Newcastle*, and in that Time he went to *London* and accused him of Treason: And as to Mrs. *Pressicks*, I ask'd his Grandmother what she could say against her, and she said, Alas, alas, I can say nothing to it, but *Bolron* said she must say so and so.

Mr. Just. *Dolben*. What mean you, Friend, by so and so?

Thompson. It was about Sir *Edmundbury Godfrey*, and that the King was an Whoremaster, and such Things.

Then *Zachary Thorpe* was called and examined,

Thorpe. I met with Mr. *Bolron* in *Long-Acre* before the last Assizes, and asked him concerning Sir *Tho. Gascoigne* my Countryman, and he said he was cleared, but God damn the Jury they were Rogues. Then he asked me if I had read *Harris's* Intelligence of that Day, and I told him yes; and he then asked me if I had seen his Wife's Name in it? He then told me, that he was going down to the Assizes at *York* against my Lady *Tempest*, and said, God damn me I will ruin 'em, if one thing will not do it, another shall.

Mr. Just. *Dolben*. What are you? God damn me comes very nimbly out of your Mouth.

Thorpe. I live at the *White-Hart* in *Charterhouse-Lane*, with the Gentleman of the House; I married his Daughter.

Mr. Just. *Dolben*. And draw Pots of Ale, that's your Trade: How comes *Bolron* to talk thus to you, is he so mad a Fellow to talk thus to every one, this is not likely that he should thus accuse himself to you: Your Father-in-law is a poor Ale-housekeeper?

Mr. Bar. *Atkyns*. Are not you a Papist?

Thorpe. No, my Lord, a Protestant of the Church of *England*.

Mr. Just. *Dolben*. Have you never been in *Newgate*? Your Lane is full of such People, and your House suspected.

Thorpe. No, my Lord.

Mr. Just. *Dolben*. Come; have you done?

Thorpe. *Bolron* came to my Lodgings at the *Plough* on *Holbourn-Hill* before the last Assizes, and told me, if I would swear that *Peter Shipton* knew no harm by *Bolron*, he would do any thing for me.

Mr. Just. *Dolben*. This is a Fable, for *Bolron* bound *Shipton* over at the Sessions before the last Assizes.

Bolron. Yes, my Lord, it was for scandalous Words against his Majesty.

Thorpe. He asked me what *Shipton* was, I answered, he is an honest Man for ought that I know: I have taken his own Bond, said *Bolron*, but I will have him from Court to Court, I will teach him to meddle with me.

Mr. Just. *Dolben*. How came he to speak to thee?

Thorpe. I know not why, but it was his Discourse to me.

Mr. Bar. *Atkyns*. What Acquaintance was there between you?

Thorpe. I have seen him several times in *Yorkshire*.

Mr. Just. *Dolben*. You live in *Charterhouse-Lane*, How came you together in *Long-Acre*?

Thorpe. I met him accidentally in the Street.

Mr. Just. *Dolben*. It is a wonderful thing, that he should meet one in the Street with whom he had very small Acquaintance, and discover such things to him, as he did to you.

Then *William Hardwick* was examined.

Hardwick. I was to carry Mrs. *Pressicks* before Justice *Lowther*, and *Bolron's* Wife said she was sorry for it, for she believed her to be an honest Woman, and had been a good Neighbour amongst them.

Mr. Bar. *Atkyns*. Who was sorry?

Hardwick. Mrs. *Bolron*.

Mr. Bar. *Atkyns*. What did *Bolron* himself say?

Hardwick. He said nothing to me; he was in another Room with his Grandmother.

Mr. Justice *Dolben* taking Notice of *Thwing's* speaking to Mr. *Hobart*, demanded what he said.

Hobart. My Lord, he ask'd me, whether *Bolron* did not say that Sir *Tho. Gascoigne* offer'd him 1000 *l.* I only say that he swore at Sir *Thomas Gascoigne's* Trial.

Mr. Just. *Dolben*. How doth it appear what he swore there?

Bolron. I acquainted Mr. *Lowther* and Mr. *Tindal* with it.

Mary Walker was called.

Mr. Just. *Dolben*. *Mary Walker*, what do you say?

Mary Walker. *Robert Bolron* came after Mr. *Thwing* was taken Prisoner, to my Mistress's.

Mr. Just. *Dolben*. Who is your Mistress?

Mary Walker. Mrs. *Lassell*; and he ask'd me if I knew Mr. *Thwing* to be a Priest, and I told him, No, my Lord; he told me that if I would swear that he was a Priest, he would give me 10 *l.* for he would be reveng'd of him for Sir *Thomas Gascoigne's* Cause; for he was near of kin to him, and he proffer'd me 10 *l.* again.

Bolron. Where were you, you were not here yesterday?

Mary Walker. I was in the Court yesterday.

Mr. Just. *Dolben*. Where spoke he this?

Mary Walker. At Mrs. *Lassell's*.

Sir *Tho. Stringer*. My Lord, he was then searching for Priests at that House, and it is improbable that he should endeavour at that Time to suborn *Thwing's* Sister's Servant.

Mr. Bar. *Atkyns*. Is Mrs. *Lassell* of kin to Mr. *Thwing*?

Walker. Yes, my Lord.

Mr. Just. *Dolben*. Who can believe he would come to *Thwing's* Sister's House; to suborn her Servant to be a Witness against Mr. *Thwing*?

Walker. Yes, my Lord, I have Witness of it, both a Man and a Woman.

Mr. Just. *Dolben*. Where are they?

Walker. In Town.

Mr. Just. *Dolben*. That makes it more improbable that he would offer you 10 *l.* in the Presence of two Witnesses to swear that Mr. *Thwing* was a Priest.

Sir *Tho. Stringer*. Let us ask her a Question; Whether are you a Papist or no?

Walker. Yes, I am a Catholick.

Sir *Tho.*

Sir Thomas Stringer. Since it must be probable, that he would ask you such a Thing, and knew you to be a Papist; Is *Thwing* a Priest or no?

Walker. No marry is he not.

Sir Thomas Stringer. Have you not heard him say Mass?

Walker. No, if I were to die.

Mr. Just. Dolben. Indeed you are an excellent Witness.

Mr. Legget, one of the King's Messengers, produced as a Witness by the Prisoners, was next examined.

Mr. Legget. In August last, Mr. Bolron told me he would call his Grandmother in and examine her before me, and he then asked her, if she did not say, that she knew such and such Things? and she said she could not tell, but if she did, 'twas true.

Mr. Bar. Atkyns. What was it he asked her?

Legget. About *Harcourt*, and I know not what; I took little Notice of it, it seemed to be a Thing so idle, that I went away: And meeting me afterwards, said, You thought my Grandmother knew nothing, but at the Bar; when Sir Thomas Gascoigne was tried, they said they never heard one swear a Thing more plainly!

Mr. Just. Dolben. Legget, did not you desire Money Yesterday of the Clerk of the Assizes as a Witness for the King?

Legget. Yes, my Lord.

Mr. Just. Dolben. Did you so? You are a fine Fellow.

Then one William Bacchus was examined.

Bacchus. All that I can say, is, that I served a Warrant upon Mrs. Bolron to go before Esq; Lowther, and Bolron's Wife and Grandmother said, they could say nothing against Sir Thomas Gascoigne, nor any of the Family.

Mr. Just. Dolben. Well; they say nothing against them now, but what did she say against Mrs. Preficks?

Bacchus. She said that Mary Preficks should say that the King was an Whoremaster, and maintained his Whores better than he did the Queen.

Cuthbert Hamsworth was then called.

Hamsworth being produced as a Witness for Sir Thomas Gascoigne, owned that he had been a Papist.

Hamsworth. My Lord, Robert Bolron did swear Revenge against my Lady Tempest, for prosecuting a Suit against him.

Mr. Just. Dolben. What is that to the Matter in Hand: Do you know that he swore Revenge against *Thwing* and *Prefficks*?

Hamsworth. No, my Lord.

Mr. Bar. Atkyns (to the Prisoners.) What have you more to say?

Thwing. My Lord, he saith, I was at *Barnbow-Hall*, 1677, I have Witnesses to prove otherwise.

Mr. Bar. Atkyns. Call them then.

George Twisley, Groom to Sir Thomas Gascoigne.

Twisley. Mr. *Thwing* was never at our House above a Night or two in the Year.

Mr. Just. Dolben. Whose House is yours?

Twisley. Sir Thomas Gascoigne's.

Mr. Just. Dolben. He was there but a Night or two at a Time.

Twisley. No, and please your Lordship.

Mr. Just. Dolben. But was he there in 1677?

Twisley. About a Year or two since, I saw him there.

Mr. Just. Dolben. But how often in a twelve Month's Time?

Twisley. Not above once or twice.

Mr. Bar. Atkyns. Did you never go out of your Master's House in 1677?

Twisley. I have, my Lord, but I was there both Night and Morning.

Mr. Bar. Atkyns. How do you know but he might be there in the Time that you were not there?

Bolron. And please your Lordship, this Man was but the Groom.

Twisley. I was the Groom, my Lord, and took the Horses.

Mr. Just. Dolben. But were you never absent?

Twisley. No, my Lord, and he wasn't there above once or twice in the Year.

Thwing. Ask him what Company was then there?

Twisley. No Company at all, my Lord, when he was there.

Mr. Just. Dolben. Was not he there about Easter?

Twisley. No, not that I know of.

Mr. Just. Dolben. What Time of the Year was he there?

Twisley. About Michaelmas, not Easter.

Mr. Bar. Atkyns. How came you to take such particular Notice at what Time Men come, did you take an Account of all the Gentlemen that came to Sir Thomas's House, how often there, and when they came?

Twisley. There were none that stayed any Time when they came thither.

Mr. Bar. Atkyns. What Time of the Year was he there?

Twisley. It was a Month before Michaelmas.

Mr. Just. Dolben. You bring Witnesses to stretch Things even to Impossibilities.

Bolron. He was drunk, my Lord, at Leeds the same Night the Consult was.

Sir Thomas Stringer. Will you speak Truth before Almighty God?

Twisley. Yes.

Sir Thomas Stringer. Pray then are you a Papist?

Twisley. No.

Sir Thomas Stringer. Were you never a Papist?

Twisley. Yes.

Sir Thomas Stringer. Have you heard Mass at Sir Thomas Gascoigne's when you were a Papist?

Twisley. No.

Sir Thomas Stringer. That's very strange that you lived there and never heard Mass, and yet were a Papist.

Twisley. Yes, I heard Mass in his House, but not by this Man.

Sir Thomas Stringer. How long have you been turned Protestant?

Twisley. About two Years.

Thwing. Thomas Areton, did you ever see me at *Barnbow Hall*?

Areton. I have nothing for nor against him, I never saw him before in my Life.

Thwing.

Thwing. Mr. *Mowbray* hath declared he never knew any Thing of the Plot.

Mr. Just. *Dolben.* To whom did he declare it?

Thwing. There is Witness of it, my Lord.

Mr. Just. *Dolben.* Call them.

Thwing. He accused not me of the Plot.

Mr. Just. *Dolben.* He was no Protestant then.

Thwing. I never knew any Thing of the Plot till I came from *London*.

Mr. Just. *Dolben.* Well, if you have any more Witnesses, call them.

Thwing. Mr. *Cooper*.

Joseph Cooper. I have nothing to say in this Business about this Gentleman, it is concerning Sir *Thomas Gascoigne*.

Thwing. Yes, he declared before these Witnesses he knew nothing of the Plot.

Cooper. We were coming from *Atherton Fair*, and my Father began to discourse with Mr. *Mowbray*, and asked him if he knew any Thing of the Plot that Sir *Thomas* was called to *London* for, he said, he knew nothing of the Plot, and he thought Sir *Thomas* was guilty of no such Thing, for if he had, he should have known it as soon as *Bolron*, and he was a Rogue and a Knave for saying any such Thing.

Mr. Just. *Dolben.* When was this?

Cooper. It was about this Time twelve Month.

Mr. Just. *Dolben.* Were you upon the Road then?

Cooper. Yes.

Sir *Thomas Stringer.* Had *Mowbray* then made any Discovery of the Plot?

Cooper. Yes, that was the Reason we asked him about it.

Mr. Just. *Dolben.* Yesterday (upon Lady *Tempest's* Trial) you said, that *Mowbray* had not then made any Discovery.

Cooper. Yes, my Lord, I mean *Bolron*.

Mr. Just. *Dolben.* Really methinks you that are Priests should be more dextrous, my Lady *Tempest* managed her Business much better, and had her Witnesses in more Readiness.

Thwing. My Lord, I call upon the Witnesses, and they will not come in, I cannot help it.

Edward Cooper, Senior, was then called.

Edward Cooper. I know nothing; I met Mr. *Mowbray* coming from *Atherton Fair*, and he said he thought Sir *Thomas* was not guilty of the Plot.

Thwing. Mr. *Mowbray* declared for eight or ten Months together in 77 he knew nothing of the Plot; call Mr. *Hobart*.

Hobart. I know nothing of it.

Thwing. I am innocent, I know nothing as I hope for Salvation.

Then *Isabel Heyward*, a Girl that lived with *Bolron* as a Servant was called.

Isabel Heyward. My Master and Mistress fell out about going to *London*, and she said, she would not go, and he said he would make her go; and she said, if he did she would swear that what he had sworn against Mrs. *Preflicks* was out of Malice.

Alice Dawson was next examined.

Alice Dawson. The Day after *New Year's Day* was twelve Month, Mrs. *Bolron* said she was sorry

for nothing, but that her Husband had meddled with Mrs. *Preflicks*.

Then Mrs. *Preflicks* called for John *Pepper*.

Mr. Just. *Dolben.* What do you say to him, Mistress?

Preflicks. I ask about my going to *Parlington* at *Whitsonide*.

Mr. Just. *Dolben.* No, it was at *Candlemas*, and they said it was cold Weather to sit in the Hall-Porch.

Preflicks. It was also said at *Whitsonide*.

John Pepper. About *Whitson Monday* (my Lord) I went to *Barnlow*, and met there with Mr. *Preflicks*, and Mrs. *Preflicks*; and he desired me to tarry and carry his Wife to Mrs. *Harrison's* at *Parlington*, and she and I went down to *Sbippon*, and carried her from *Bolron's* on *Whitson-Monday* and staid till *Thursday*.

Mr. Just. *Dolben.* And what is all this to the Purpose, she was however, as it was sworn against her, at *Sbippon* at *Whitsonide*.

Pepper. This is all I can say, my Lord.

Zachary Thorpe was again called by *Thwing*.

Thorpe. *Bolron* said he was going to swear against my Lady *Tempest*, and if one Thing would not do another should, and would have had me to give Evidence against *Sbippon*.

Mrs. *Baynes* (Mother to Mr. *Bolron*) called.

Mr. Bar. *Atkins.* What do you say, Mrs. *Baynes*?

Mrs. *Baynes.* Indeed, my Lord, I know nothing of this, I know not *Thorpe*, *Sbippon* I know, and he told me that if he had not fallen into my Lord of *Shrewsbury's* Service, he and *Thorpe* would have turned Highwaymen.

Mr. *Babbington* called by *Preflicks*.

Mr. Just. *Dolben.* Can you say any Thing for Mrs. *Preflicks*?

Babbington. I can say nothing, but what I said Yesterday concerning Sir *Thomas Gascoigne*.

Mr. Just. *Dolben.* Can you say any Thing for *Preflicks*?

Babbington. No, my Lord, I can say nothing for Mrs. *Preflicks*; yes, thus much I must say, that when I came to have the Writings sealed by *Bolron*, his Wife refused to seal them without delivering up of the Bonds. I told her, it would be an additional Security to Sir *Thomas Gascoigne*; he said he did believe, that Mr. *Preflicks* and his Wife were his Enemies, and that they did instigate Sir *Thomas* to sue him.

Mr. Just. *Dolben* (to *Thwing*.) Come, what have you more to say?

Thwing. I have no Witnesses to call, but I hope it will be considered what kind of Witnesses these are, what Lives they have led, they bring me in amongst the rest, we are all of a Family; I hope, my Lord, you will consider that those ill Men that will, may take away an honest Man's Life unjustly.

Mr. Just. *Dolben.* I hear no body speak against their Lives, and this I must tell you, till Men be convicted of some Crime that may disable them, you cannot take away their Testimony.

Thwing:

Thwing: My Lord, Witnesses should be Men of Credit and Reputation.

Mr. Just. *Dolben*. The Jury is to consider of that.

Look you, Gentlemen, these two Prisoners stand indicted of High-Treason, and it is for conspiring the Death of the King, and other heinous Crimes; as designing the subverting the Government, and bringing in the Popish Religion.

Now the Witnesses that have been produc'd against Mr. *Thwing*, are *Bolron* and *Mowbray*; and against *Preflicks*, Mr. *Bolron*, Mrs. *Bolron sen. and jun.* and one *Hutchinson*, and the Evidence against *Thwing* is one Thing, and against the Woman quite another; there is no Evidence against her but what they heard her say others were to do, there is no Evidence of any Action of hers, or that she was present at any Consultation, nor acting any thing there, but that she said so and so. Now Mr. *Bolron* and his Grandmother do both say that she said *Pickering* was to have killed the King, and that she was sorry that he did not do it. That the Gun with which he should have done it was found, and she was afraid that was the Cause of his Death; and they all say she said, that it would be never well with *England*, till the Catholics had got the upper Hand, and the Duke of *York* were King. Now I must tell you, that my Opinion is, that a bare saying of this doth not amount to High-Treason, unless you do believe from these words, that she knew otherwise than by Hearsay, that *Pickering* was to have killed the King, and that she was privy and consenting to the Design of killing the King, then she is guilty of Treason, but if she only knew it by Hearsay, the bare Knowledge and concealing of it will make her guilty of Misprision of Treason; but knowing of it barely by Report doth not make her guilty of High-Treason. My Brother will tell you his Opinion herein. Now for Mr. *Thwing*, the Evidence against him is very home, for they both swear against him, one to one Meeting, and the other to another, that he was present at their Consultation to kill the King, subvert the Government, and to bring in the Popish Religion; that he did agree at the meeting to the killing of the King, they do both swear, and this they say was at Sir *Thomas Gascoigne's*, and that at the several Meetings there was a List produced, but *Bolron* saith, that the List when he was present was a List of those that were engaged towards the carrying on of the Nunnery; that which the other speaks of, was a List of those that were engaged about the killing the King, about the whole Design which was to be effected by killing the King, this he swears, that *Thwing* did produce this List; and *Mowbray* saith, that three or four Priests were present at that Time, and that *Thwing* said the King was an Heretick, and excommunicated by the Pope, and that it was not only lawful but meritorious to kill him. So that admitting this Evidence be true, it is a full Evidence of High-Treason against him; here is an imagining the Death of the King, and here is an Overt-Act, here is a setting Hands to it; so that if this be true, *Thwing* is guilty of High-Treason. Now against this they have produced many Witnesses, and none of them doth go about to prove this impossible, but only improbable; but one that is a Groom of Sir *Thomas Gascoigne's*, who saith, he was but once or twice that Year there, and not at *Easter*, but about *Michaelmas*: Is that

enough to answer the Testimony of these two Men, Gentlemen? For a Groom to take upon him to say two Years after, who was at his Master's House, and how often, and what Time of the Year, is to me a very strange Thing; unless it were one that never used to come there: But this Man, he saith, did use to come there, but that I must leave to you. The rest of the Witnesses were the same that were examined yesterday. First, they insist concerning Mr. *Lowther*, they say, that when Mr. *Bolron* first went to Mr. *Lowther*, he said nothing of Mr. *Thwing*, but it appears, he said then, that afterwards he might remember more; then the Man was under a great Consternation, and told him, the great and dangerous Consequences of having so long concealed it, was the occasion of that Disorder upon him, but he said, he should remember more afterwards, and so he did: The rest of the Witnesses do all go to this Purpose, that either *Bolron* or *Mowbray* should tell them at one Time or other, they did know nothing of the Plot, nor against Sir *Thomas Gascoigne*; and some of them say, that it is out of Malice to Sir *Thomas's* Family; for so *Thwing* would have it, he being his Nephew, that the Malice should reach to Mr. *Thwing*, that they would have it; and something to the same Purpose they do offer against Mr. *Mowbray*. Now here is one *Walker*, that swears, that *Bolron* asked her if she knew *Thwing* to be a Priest, and offered her 10 *l.* to swear him a Priest; she is a Servant of one Mrs. *Lassell*, Mr. *Thwing's* Sister, he came to Mrs. *Lassell's* to search for Priests; it is something strange, that he should offer to persuade her to swear against *Thwing*, who was Servant to his own Sister, and at the Time when he came to search for Priests; the Truth of it is, the thing doth depend purely upon the Credit of Witnesses. The King's Witnesses are upon their Oaths; but, on the other Hand, the others are not on their Oaths; but Credit is to be given to what they say, if you consider their Evidence, and do find a Clearness in their Testimony, which you must weigh, for certainly he that solemnly, in the Presence of God, will say a false Thing, will also dare to swear it; how far their Principles will carry them I know not, I can see nothing but *Bolron* and *Mowbray* are good Witnesses; I do not see but what they say is coherent, and that they speak the Truth; and if you believe what they say to be true, then *Thwing* is guilty of High-Treason: But if you do not believe what they say is true, but out of Malice, you must acquit him. They do object the other Juries did not believe *Bolron* and *Mowbray*; the Case with the Prisoners at the Bar is not the same with theirs; but you are to give your Verdict according to the Evidence that you have heard, and according to your Consciences.

Mr. Bar. *Atkyns*. Gentlemen of the Jury, I shall be very short. The Crimes that are laid in this Indictment, and charged upon these Persons, are, the designing to take away the King's Life, subverting the Government, and introducing Popery; you observe the Nature of the Evidence which hath been given against the Prisoners. And first, I shall speak but one word concerning *Mary Preflicks*: I do fully agree with what my Brother hath said; you do take Notice, that the Evidence that hath been given against her, hath been what came out of her own Mouth; the Witnesses are Mr. *Bolron* and his Grandmother, and likewise

one *Hutchinson*: Mr. *Bolton* saith she did tell him, that *Harcourt* was her Confessor, and that he had engaged her in the Plot; she likewise told him, that *Pickering* was to kill the King, that the Gun was found with him, and was the Cause of his Death; this is some Evidence of High-Treason, I must leave it to you of what Weight it is, and how far by this you will conclude her privy to the Plot; it is true, were she an Actor in it, it is plain she is guilty of High-Treason. As to what *Hutchinson* said that she told him, we should never be at Peace till we were all of the *Roman Catholick* Religion, and the Duke of *York* was made King, that will not amount to High-Treason: This I take to be the Sum of the Evidence against her. Then as to Mr. *Thwing*, there are two Witnesses that have sworn against him, that is, Mr. *Bolton* and Mr. *Mowbray*: *Bolton* tells you, that in 1677, there came to him several Priests, to his House at *Skipton*; and amongst the rest *Thwing* the Prisoner, who asked him, how he stood affected to the *Roman Catholick* Religion? And he then express'd his Zeal for it, and they thought him a Person fit to impart their Secrets to: Then he saith, that in 1677, there was a Meeting at *Barmbow-Hall*, which is Sir *Thomas Gascoigne's* House, and at that Meeting there were Sir *Thomas Gascoigne*, Esq; *Gascoigne*, Sir *Miles Stapleton*, and amongst the rest this Prisoner *Thwing*; and that there was a Consult held at that Time, and Design of killing the King; and that this Person did agree to it, and declared, that if they should miss that Opportunity, they should never have such another; and that it was for the good of the *Roman Catholick* Religion. The next was *Mowbray*; and he saith to the same Effect: That in 1676, *Thwing* and others declared they did design to kill the King, for he was an Heretick, and excommunicated, and had not kept his Word with the Jesuits, and therefore they thought it not only lawful, but a meritorious Act: And this is what both *Bolton* and *Mowbray* do testify, this they swear positively against the Prisoner; if you believe what they have sworn to be true, I must declare that it will amount to High-Treason. You are likewise to consider the Evidence he hath produced for himself: The Law, 'tis true, does not allow us to give them an Oath, yet if they be Persons of Credit and Honesty, it is Evidence which you are to consider of. The Prisoner hath call'd several Witnesses: The first was *Nat. Wilson*; I shall not repeat what he saith, being of no Import. *Thwing* saith, Mr. *Bolton* was before Mr. *Lowther* and Mr. *Tindal*, two Justices of Peace, who did take his Oath; and then he said he did not accuse him of the Plot at that Time, and by that would infer, that he would have said what he had against him, as well then as now, if he had any thing whereof to accuse him: But *Bolton* answers, he did declare to these two Gentlemen, he was not able at that time to recollect his whole Knowledge, but gave it in afterwards to the King and Council. The next are *Moor* and *Thorpe*: The Effect of their Evidence is to strike at the Reputation of *Bolton*, that it was an Act of Malice and Revenge: For they say, that *Bolton* told them, that Sir *Thomas* was innocent, and knew nothing of the Plot. *Thorpe* saith, he met with *Bolton* in *Long-Acre*, and that he told him, that though Sir *Thomas* were quitted he would ruin some of them. I say, these Things, if true, are some Evidence of a malicious Prosecu-

tion: But it seems something improbable, that *Bolton* should so openly make a Discovery of himself, when it appears he was not greatly acquainted with them, especially with *Thorpe*. There are several other Witnesses that speak much to the same Purpose. Gentlemen, in Matters of Fact, which depend upon the Testimony of Witnesses, the Credit of the Witnesses is greatly to be considered; if you believe what *Bolton* and *Mowbray* have both positively sworn, the Treason is plain; you must take all the Parts of your Evidence together, you must weigh all the Circumstances, you must, as I said before, consider the Credit of the Witnesses of the one Side and of the other, and by these Steps you will be the better guided in the giving of your Verdict. I must leave it to you, and I pray God direct you therein.

The Jury having withdrawn, after some Consultation together, brought in their Verdict, that Thomas Thwing was Guilty, and Mary Preshicks Not Guilty.

August the 2d, 1680, Thomas Thwing being brought to the Bar, the Clerk spoke thus:

Clerk. *Thomas Thwing*, hold up thy Hand: Thou hast been indicted, that thou as a false Traitor didst conspire the Death of the King, &c. and thereof hast been found guilty: What canst thou say wherefore Judgment of Death should not be pronounced against thee?

Thwing. My Lord, as I am now upon my Life, I know nothing of these Things, in the least, that these Men have sworn against me: And on the other Side, I say, that before Sir *Thomas Gascoigne* had his Trial, these Men said nothing against me, so I hope your Lordship will take it into Consideration.

Mr. Just. *Dolben*. For your Innocency, the Gentlemen of the Jury are Judges of that, and they have found you guilty, so that it is not in my Power either to acquit or condemn you; I am only to pass Sentence according to that Conviction. If you have any thing to say wherefore Judgment should not be pronounced, I am ready to hear you.

Thwing. All that I can say, is to declare my Innocency, and that these Men are of no Credit and Reputation. It is very hard I only should be guilty, and none of the rest, who were arraigned for the same Crimes.

Mr. Just. *Dolben*. No, it is not impossible; it is possible you may be guilty, and the rest innocent.

Thwing. For my part, I told your Lordship that I was but once or twice in a Year at Sir *Thomas Gascoigne's*, being my Uncle, and I do protest I know nothing of the Consult these Men do charge me with.

Mr. Just. *Dolben*. You say one Thing, they swear another, and for ought I know they are honest Men; they are lawful Men, and not convicted in the main; for I do believe there were many great and dangerous Consults held at Sir *Thomas Gascoigne's* by several Persons, and that there have been many horrid and treasonable Things acted there. You have been indicted for High-Treason, the highest Treason that ever any Subject was guilty of, for attempting to kill the King, for resolving so to do upon deliberate Advice and Consultation; and this for no other End

on Purpose, but that you might have your Religion set up, for that was your Design, to change this Religion here, and to settle Popery in England; and the better to bring that to pass, you thought to take away the King's Life, knowing you could not otherwise accomplish it. You are, I am satisfied, a Priest of the Romish Church; therefore all that I can say to you in reference to your future State you will not value, for you account me an Heretick as you do the King, and I am content to be so esteemed in so good Company, therefore I shall wave it. As you are a Gentleman I will give some Respect to you, and will not pass Sentence on you among the rest of the Prisoners that are found Guilty of Felony and Murder, but will do it by your self.

The Law doth command the Court, and the Court doth award, *That you be carried from hence to the Place from whence you came, that is, the Prison, and from thence you are to be drawn to the Place of Execution: you are there to be hanged by the Neck, you are to be cut down be-*

fore you are dead, and your Entrails are to be taken out of your Body, and thrown into the Fire before your Face, and your Head is to be parted from your Body, and your Body separated in four Quarters, and your Head and your Quarters are to be disposed according to the King's Pleasure. And the Lord have Mercy on your Soul.

Thwing. *Innocens ego sum.*

A Reprieve being obtained for him, he remained Condemned in the Castle of York till the 23d of October, when, according to the Sentence, he was drawn, hanged and quartered at York, having first protested his Innocence of all that was sworn against him, but gloried that he was a Priest, and had performed the priestly Function about fifteen Years; and desiring all true Catholics, if any such were there, to pray for him; and begging God to bless and preserve the King, his Queen, the Duke of York, and all other good Christians, he yielded himself to the Executioner.*



CI. The Trial of ELIZABETH CELLIER at the Old-Baily, for writing and publishing a Libel, Sept. 1680. 32 Car. II.

Cl. of Cr. **M**RS. Cellier, look to your Challenges; for the Jury that is to be sworn is to pass upon you.

Cellier. Am I for my Life?

Cl. of Cr. No, but look to your Challenges.

Lord Mayor. But if you Challenge, you must give a Reason for it, Mrs. Cellier.

Cl. of Cr. Swear John Ainger.
[Which was done.]

Cl. of Cr. Swear Richard Boys.

Cellier. I Challenge him.

Lord Mayor. Mrs. Cellier, you must shew a Cause for your Challenge.

Cellier. I did not know that, my Lord.

Mr. Bar. Weston. You can Challenge none in this Case without a Cause.

Cellier. My Lord, I did not know that: Then I agree he shall be sworn.

[Which was done.]

Then the rest of the Jury, without any more Challenges, were sworn; and they were all as follows:

John Ainger,	} Jur'	Richard Liveing,
Richard Boys,		John Coggs,
John Stephens,		Henry Hodgden,
Thomas Phelps,		John Barnard,
Gilbert Urwin,		Edward Low,
Edward Allanson,		James Southern.

Then Proclamation was made in common Form for Information; and the Clerk charged the Jury thus:

Cl. of Cr. You Gentlemen that are sworn, Elizabeth Cellier stands indicted by the Name of Eli-

zabeth Cellier, Wife of Peter Cellier, of the Parish of St. Clement-Danes, in the County of Middlesex, Gent. For that she being of the Popish Religion, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, falsely and maliciously endeavouring and intending our Sovereign Lord King Charles the Second that now is, and the Government of this Kingdom of England, as also the true Protestant Religion, within this Kingdom of England by Law established, to bring to Hatred and Contempt; and also to bring Scandal and Infamy upon divers Persons produced as Witnesses, that gave Evidence on the Part and Behalf of our Sovereign Lord the King, against her the said Elizabeth Cellier, and other Persons indicted of High-Treason the first of September, in the Thirty Second Year of our Sovereign Lord King Charles the Second that now is, at the Parish of St. Clement-Danes, in the County of Middlesex aforesaid, falsely, maliciously and seditiously did write and publish, and did cause to be writ, imprinted and published a scandalous Libel, entituled, *Malice Defeated: Or, a brief Relation of the Accusation and Deliverance of Elizabeth Cellier: Wherein her Proceedings, both before and during her Confinement, are particularly related, and the Mystery of the Meal-Tub fully discovered: Together with an Abstract of her Arraignment and Trial; Written by her self for the Satisfaction of all Lovers of undisguised Truth.* In which said Libel are contained these false, feigned, scandalous Words and Figures following, to wit: 'I hope it will not seem strange to any honest and loyal Person of what Way or Religion soever; that I being born and bred up under Protestant Parents, should

N

' now

* See State Trials, Vol. 8. p. 443.

' now openly profess my self of another Church
 ' (meaning the Church of *Rome*;) for my Educa-
 ' tion being in those Times, when my own Pa-
 ' rents and Relations, for their constant and faith-
 ' ful Affection to the King and Royal Family, were
 ' persecuted, the King himself murdered, the Bi-
 ' shops and Church destroyed, the whole loyal
 ' Party, merely for being so, oppressed and ruin-
 ' ed; and all, as was pretended by the Authors of
 ' these Villainies, for their being Papists and Ido-
 ' laters, the constant Character given by them to
 ' the King and his Friends to make them odious,
 ' they assuming to themselves only the Name of
 ' Protestants, making that the glorious Title by
 ' which they pretended Right to all Things: These
 ' sorts of proceeding, as I grew in Understanding,
 ' produced in me more and more Horror of the
 ' Party that committed them, and put me on en-
 ' quiry into that Religion to which they pretended
 ' the greatest Antipathy; wherein, I thank God,
 ' my innate Loyalty not only confirmed, but en-
 ' couraged me. And let Calumny say what it will,
 ' I never heard from any Papists, as they call them,
 ' Priest, nor Layman, but that they and I, and
 ' all true Catholicks owe our Lives to the Defence
 ' of our lawful King, which our present Sovereign
 ' *Charles II.* is; whom God long and happily pre-
 ' serve so. These sorts of Doctrines agreeing to
 ' my publick Morals, and no way, as ever I was
 ' taught, contradicting my private ones, commend-
 ' ing at the same time to me Charity and Devoti-
 ' on; I without any Scruple have hitherto followed,
 ' glorying to my self to be in Communion with
 ' those who were the humble Instruments of his
 ' Majesty's happy Preservation from the fatal Bat-
 ' tle at *Worcester*; and who, though poor, no
 ' Temptation could invite to betray him to those
 ' who by a pretended Protestant Principle, sought
 ' his innocent Blood. These Truths, I hope, may
 ' satisfy an indifferent Person in my first Change;
 ' nor can they wonder at my Continuance therein,
 ' that notwithstanding the horrid Crimes of Trea-
 ' son and Murder laid to the Charge of some Per-
 ' sons, considerable for their Quality and Fortunes
 ' in that Party: For, when I reflected who were
 ' the Witnesses, and what unlikely Things they
 ' deposed, and observed that many of the chiefest
 ' Sticklers for the Plot, were those, or the Sons
 ' of those, that acted the principal Parts in the
 ' last Tragedy, which History told me too had
 ' the Prologue of a pretended Popish Plot; I say,
 ' these Things made me doubtful of the whole;
 ' and the more I searched for Truth, the more I
 ' doubted that the old Enemies of the Crown
 ' were again at work for it's Destruction. I being
 ' fully confirmed in this, thought it my Duty
 ' through all sorts of Hazards, to relieve the poor
 ' imprisoned Catholicks, who in great Numbers
 ' were lock'd up in Goals, starving for want of
 ' Bread: And this I did some Months before I
 ' ever saw the Countess of *Powis*, or any of those
 ' honourable Persons that were accused, or re-
 ' ceiving of one penny of their Money directly
 ' or indirectly, till about the latter end of *Janu-*
 ' *ary* (78.) And in another Part of the said Li-
 ' bel are contained these false, feigned and scanda-
 ' lous Words and Figures following; to wit,
 ' About this time I went daily to the Prisons to
 ' perform those Offices of Charity I was obliged
 ' to; and on *Thursday, January* the 9th (78.) I
 ' dined in *Newgate* in the Room call'd the *Castle*,
 ' on the Master's Side Debtors, and about four

' in the Afternoon I came down into the *Lodge*
 ' with Five Women, of which three were Pro-
 ' testants, and we all heard terrible Groans and
 ' Squeaks, which came out of the Dungeon call'd
 ' the *Condemn'd Hole*. I ask'd *Harris* the Turn-
 ' key what doleful Cry it was; he said it was a
 ' Woman in Labour. I bid him put us into the
 ' Room to her, and we would help her. But he
 ' drove us away very rudely, both out of the
 ' Lodge and from the Door. We went behind
 ' the Gate and there listned, and soon found that
 ' it was the Voice of a strong Man in Torture,
 ' and heard as we thought between his Groans
 ' the winding up of some Engine. These Cries
 ' stopp'd the Passengers under the Gate, and we
 ' six went to the Turner's Shop without the Gate,
 ' and stood there amazed with the Horror and
 ' Dread of what we heard; when one of the Of-
 ' ficers of the Prison came out in great Haste,
 ' seeming to run from the Noise. One of us
 ' catch'd hold of him, saying, Oh! What are
 ' they doing in the Prison? *Officer*. I dare not tell
 ' you, *Mistress*. 'Tis a Man upon the Rack:
 ' I'll lay my Life on't. *Officer*. It is something
 ' like it. *Cellier*. Who is it, *Prance*? *Officer*. Pray,
 ' Madam, do not ask me, for I dare not tell you.
 ' But it is that I am not able to hear any longer.
 ' Pray let me go. With that he ran away to-
 ' wards *Holbourn* as fast as he could. We heard
 ' these Groans perfectly to the end of the *Old-*
 ' *Baily*. They continued till near seven of the
 ' Clock, and then a Person in the Habit of a
 ' Minister, of middle Stature, Grey-hair'd, ac-
 ' companied with two other Men, went into the
 ' Lodge. The Prisoners were lock'd up, and the
 ' outward Door of the Lodge also, at which I
 ' set a Person to stand, and observe what she
 ' could, and a Prisoner loaded with Irons was
 ' brought into the Lodge, and examined a long
 ' time. And the Prisoners, that came down as
 ' low as they could, heard the Person examined,
 ' with great Vehemency say often, I know no-
 ' thing of it, I am innocent, he forced me to
 ' bely my self. What would you have me say?
 ' Will you murder me because I will not bely
 ' my self and others? Several other such like
 ' Expressions they heard spoken as by one in
 ' great Agony. About four of the Clock next
 ' Morning, the Prisoners that lay in a Place a-
 ' bove the Hole heard the same Cry again two
 ' Hours, and on *Saturday* Morning again; and
 ' about eight o' Clock that Morning a Person I
 ' employ'd to spy out the Truth of that Affair,
 ' did see the Turnkeys carrying a Bed into the
 ' Hole. She asked [who it was for; they told
 ' her it was for *Prance* who was gone mad, and
 ' had tore his Bed in Pieces. That Night the
 ' Examiners came again, and after an Hour's
 ' Conference *Prance* was led away to the *Presb-*
 ' *Yard*. This, and many Things of the like Na-
 ' ture, made me very inquisitive to know what
 ' pass'd in the Prison. Soon after this *Francis*
 ' *Corral* a Coachman, that had been put into
 ' *Newgate* upon Suspicion of carrying away Sir
 ' *Edmundbury Godfrey's* Body, and lay there thir-
 ' teen Weeks and three Days in great Misery,
 ' got out. I went to see him, and found him a
 ' sad Spectacle, having the Flesh worn away,
 ' and great Holes in both his Legs by the Weight
 ' of his Irons, and having been chained so long
 ' double, that he could not stand upright; he
 ' told me much of his hard and cruel Usage, as
 ' that

that he had been squeez'd and hasped into a thing like a Trough, in a Dungeon under Ground; which put him to inexpressible Torment, insomuch that he swooned, and that a Person in the Habit of a Minister stood by all the while. That a Duke beat him, pull'd him by the Hair, and set his drawn Sword to his Breast three times, and swore he would run him through; and another great Lord laid down a heap of Gold, and told him it was Five hundred Pounds, and that he should have it all, and be taken into the aforesaid Duke's House, if he would confess what they would have him; and one F. a Vintner, that lives at the Sign of the Half-Moon in Ch.-st- by whose Contrivance he was accused, took him aside, and bid him name some Person, and say, they employed him to take up the dead Body in Somerset-Yard, and gave him Money for so doing; that if he would do this, both F. and he should have Money enough. He also told me, that he was kept from Thursday till Sunday without Victuals or Drink, having his Hands every Night chain'd behind him, and being all this time lock'd to a Staple which was driven into the Floor, with a Chain not above a Yard long: That in this great Extremity he was forced to drink his own Water; and that the Jailor beat his Wife because she brought Victuals, and prayed that he might have it, and threw Milk on the Ground, and bid her be gone, and not look at him.' And in another Part of the said Libel is contained (amongst other Things) these false, feigned, and scandalous Words and Figures following, to wit, My Arraignment (which in Confidence of my own Innocency, I continually press'd for) not but that I knew the Danger, as to this Life, of encountering the Devil in the worst of his Instruments, which are Perjurors encouraged to that Degree as that profligate Wretch' (meaning *Thomas Dangerfield* produced as a Witness against her for High-Treason) 'was, and hath been since his being expos'd to the World in his true Colour, both at mine and another's Trial.' And in another part of the said Libel are contained these false, feigned and scandalous Words and Figures following. Nor have I since received any thing towards my Losses, or the least Civility from any of them, whilst *Dangerfield* (meaning the said *Thomas Dangerfield*) when made a Prisoner for apparent recorded Rogueries, was visited by, and from Persons of considerable Quality, with great Sums of Gold and Silver, to encourage him in the new Villainies he had undertaken, not against me alone, but Persons in whose Safety, all good Men, as well Protestants, as others in the three Kingdoms, are concerned.' And in another part of the said Libel called, 'A Postscript to the impartial Readers,' are contained these false, feigned, and scandalous Words following, to wit, 'And whensoever his Majesty pleases to make it as safe and honourable, as it is apparent it hath been gainful, and meritorious to do the contrary; there will not want Witnesses to testify the Truth of more than I have written, and Persons that are above being made the Hangman's Hounds for weekly Pensions, or any other Considerations whatsoever;' to the evil and dangerous Example of all others in the like Case offending, and against the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment she hath been Ar-

raigned, and thereunto hath pleaded, Not Guilty, and for her Trial hath put her self upon the Country, which Country you are; so your Issue is to try whether she be guilty of this Offence, in Manner and Form wherein she stands Indicted, or Not Guilty. If you find her Guilty, you are to say so; and if you find her Not Guilty, you are to say so, and no more, and hear your Evidence.

Then Robert Dormer Esq; of Lincoln's-Inn, opened the Indictment thus.

Mr. *Dormer*. May it please your Lordship, and you Gentlemen of the Jury. *Elizabeth Cellier*, the Gentlewoman at the Bar, the Wife of *Peter Cellier* of the Parish of *St. Clement-Danes* in the County of *Middlesex* Gentleman, stands indicted of being the Author and Publisher of a Libel, entituled, *Malice defeated, or a brief Relation of the Accusation and Deliverance of Elizabeth Cellier*. You have heard the Indictment read, wherein some Clauses of this Libel are recited in the Words they were written, and in Mrs. *Cellier's* own Words, and in other Words, I will not undertake to repeat them to you.

Gentlemen, this is a Libel so complicated and general, that within this Book are contained as many Libels of several Natures, and against different Persons and Orders of Men, as there are Paragraphs; his Majesty, the Protestant Religion, our Laws, Government, Magistrates, Counsellors of State, Courts of Judicature, the King's Evidence, and the publick Justice of this Kingdom are all aspersed and defamed, by the Virulency and Malice of this Woman's Pen.

She hath charged upon the Principles of our Religion, the Murder of his late Majesty, and the greatest Impieties that ever were committed.

She accuseth all that have done their Duties, or been active in the Discovery of the present Popish Plot, to be Enemies of the Crown, and to be acting over again the Tragedy of our late Civil War.

She chargeth our Laws with Cruelties, as inhuman as they are false, in permitting Prisoners to starve under their Confinement, in admitting of Racks and Tortures to be used, and that for the worst Purposes, thereby to extort Perjuries and false Evidences against the Innocent; to which she would make Persons of the best Quality of our Nobility, Magistracy, and Clergy, Privies and Parties.

She libels the King's Evidences under the Characters of the Devil's Instruments, and the Hangman's Hounds; and defames his Majesty's Government, in saying, it is not safe to speak Truth, but meritorious and gainful to do the contrary.

She will appear to you to be so criminal, that nothing can aggravate her Offences, unless the Impudence of the Delinquent, who hath set her Name to almost every Page of this scandalous Libel; and since the Indictment hath been depending, owned, published, and put a Value on her self for being the Author of so excellent a Book.

To the Indictment she hath pleaded Not Guilty; if the King's Evidence prove the Charge, you are to find her Guilty.

Mr. *Bar. Weston*. Gentlemen, the Charge is but this: First, She is charged with the setting forth this Book; in the next Place, there are several Clauses in that Book which she is particularly charged with. Now that which the Evidence

will prove, must be, first, that the Book was owned by her, and published by her; and then, that these Particulars charged in the Indictment were in the Book; and then you will receive the Directions of the Court, of what Nature the Proofs are. Go on to the Evidence, that is your Work, fall to your Proof.

Mr. *Dormer*. My Lord, we will call our Witnesses. *William Downing, John Penny, and Robert Stevens.* [*Who appeared and were Sworn.*]

Mr. *Dormer*. *Will. Downing*, Do you tell my Lord and the Jury what you know of the Printing of this Libel (*show him the Libel*) and who brought the Sheets to the Press.

Mr. *Downing*. My Lord, about the 22d or 23d of *August*—

Mr. Bar. *Weston*. Begin with *Penny* first. Pray what say you to that Book?

Mr. *Penny*. My Lord, I was bid to buy a Book of that Gentlewoman, and I did so. I asked for her by her Name.

Mr. Bar. *Weston*. By what Name?

Mr. *Penny*. Mrs. *Cellier*.

Mr. Bar. *Weston*. Is that the Gentlewoman?

Mr. *Penny*. Yes, that is the Gentlewoman. And she came out to me, and asked what my Errand was? I told her it was to have a Book: That you may have, said she, if you please. Madam, said I, What is the Price? Two Shillings, said she. Cannot I have them cheaper, said I? No, said she, I sell them to Shopkeepers for 18 Shillings a Dozen, and I must not sell them under here. With that she fetched me a Book, and I gave her two Shillings, and when she had done, she gave me another little Paper.

Mr. Bar. *Weston*. That is not in Issue, nor your Question now. Did you ask her for the Book she published and set out?

Mr. *Penny*. Yes; and she did acknowledge that was her Book.

Mr. Bar. *Weston*. What! She did own the Book she sold to you to be hers?

Mr. *Penny*. This is the Book I have in my Hand, and I marked every Sheet of it; and she told me there was another little Sheet to be added to it; and if any Gentleman pleased to send it into the Country, that might be put up in a Letter to send by the Post.

Cellier. May I ask him a Question?

Mr. Bar. *Weston*. Tell me your Question, and I'll ask it.

Cellier. I desire to know if I said any more, than you may have a Book, or there is a Book. And who asked for a Book?

Mr. Bar. *Weston*. Did she say any more than you may have a Book, or this is the Book that I have published?

Mr. *Penny*. When I got the Book and paid for it, I turned about again and asked her if it was her own? She told me it was; and more than that, if occasion were she could have put more in it.

Mr. Bar. *Weston*. Why, Mrs. *Cellier*, you did not deny this Book yesterday; for you may remember when you did say you wanted your Witnesses, and if you could but have time to bring them, you would prove the Truth of it: We told you you had nothing to prove on this Issue of Not Guilty, but that somebody else did publish the Book, and you did not. You owned you writ it your self every Word with your own Hand.

Cellier. My Lord, if I was a foolish vain Woman, and did seem to speak some vain Words about

my self which I did not understand the Consequence of, I hope a word vainly spoke by me shall not be brought against me to convict me of a Crime.

Mr. Bar. *Weston*. Mrs. *Cellier*, you do not seem so negligent about your self, that we may not believe what you say of your self.

Cellier. But vain foolish Words spoke in that Nature, I hope shall be no Evidence against me.

Mr. Bar. *Weston*. But however it is proved against you.

Cellier. Did I say I writ it?

Mr. *Penny*. You told me that was your Book.

Cellier. I told you? Pray, my Lord, put one Question to him upon the Oath he hath taken: Did I say any more, than it was mine and I sold it; not that I writ it, or was the Author of it?

Mr. Bar. *Weston*. Mrs. *Cellier*, this is a Book that is intitled with your Name, and sold by your self. Now in any one's Judgment, this is both an owning of the Book, and publishing of the Book. When you sold it, you gave it out as your Book, and it hath in the Title Page your Name as the Author of it.

Cellier. My Lord, if I could have produced my Witnesses, I could have made my Defence; they have been at several Places for them, they have been all about Town, and several ways, at Sir *Joseph Sheldon's*, and a great many other Places, and can find none of them.

Mr. Bar. *Weston*. To what Purpose should your Witnesses come?

Cellier. I should with them have made my Defence.

Mr. Bar. *Weston*. If you would have said to us yesterday, that you had Witnesses to prove that any one else writ the Book, we would have put off the Trial. But you said you writ it every word of it your self, and so owned the Issue: But now you pretend you want Witnesses; to what Purpose would you have them come?

Cellier. 'Tis not the Honour of the Bench, my Lord, to give Evidence; and I hope you won't take that Advantage of my vain Words.

Mr. Bar. *Weston*. 'Tis the Honour of the Bench to repeat what you say: When you ask Time to put off your Trial, and the Court gives you Direction to what Purpose Witnesses may be used, and you renounce that and take the Fact upon your self.

Cellier. But I hope that is no Evidence.

Mr. Bar. *Weston*. It was spoke openly in the Court, every body heard it.

Cellier. I am surprized and have no Witnesses.

Mr. Bar. *Weston*. 'Tis easy to pretend that you want Witnesses; but to what Purpose would you have them?

Cellier. My Lord, I hope you will please to remember he swears, I only said it was mine, not that I was the Author.

Sir *Creswel Levicz.* Mr. *At Gen.* If you sold it, that is a publishing in Law, and is within the Indictment.

Cellier. But he did not say I writ it.

Mr. Bar. *Weston*. Pray, Mrs. *Cellier*, don't trust your self upon that: For he said, after he had it, he asked you, Is this your Book? You said, Yes, it is my Book, and if I had been aware, I could have put a great deal more in it than I have done.

Cellier. But I did not say I writ it.

Mr. *Penny*. You said, if it were to be writ again, you could put more in it.

Cellier. I said it was my Book, and so it was, because it was in my Possession; but not that I writ it. This is my Fan, but it does not follow that I made it.

Mr. Bar. Weston. But the Question was concerning the Author of the Book.

Cellier. He did ask me no such Question. Did you ask me if I was the Author?

Mr. Penny. No, I did not.

Mr. Bar. Weston. But what did you ask her?

Mr. Penny. I asked her, Whether it were her Book.

Mr. Bar. Weston. And did she own it?

Mr. Penny. Yes, she did.

Cellier. So it was mine in possession.

Mr. Bar. Weston. Did you mean by your Question, Whether that Book was her's in Property, or she were the Author and Publisher of it?

Mr. Penny. I would know whether it was her's or no.

Mr. Bar. Weston. But what was your Intention in asking? Was it whether she, or any other Person made it?

Mr. Penny. I don't know who made it, she told me it was her's.

Mr. Bar. Weston. But what was your Meaning in it?

Mr. Penny. My Intention was, for fear she should have given me some other Book, to know whether it was writ by her or no.

Cellier. My Lord, I am not to be judged by his meaning; but by his Question and my Answer.

Mr. At. Gen. Did she tell you she sold more of them?

Mr. Penny. I turned about when I had the Book, and said I, can I have, if Occasion be, any more? She said she had but four or five hundred left, and in a few Days she should have more.

Mr. At. Gen. You told us, she told you what she sold them for by the Dozen.

Mr. Penny. Yes, eighteen Shillings the Dozen to the Shopkeepers.

Mr. Bar. Weston. Then set up *Downing.*

[Which was done.]

Pray look upon that Book and the Title of it.

[Which he did.]

Have you examined that Book?

Mr. Downing. Sir, I printed part of it.

Mr. Bar. Weston. But have you examined that very Pamphlet?

Mr. Downing. Yes, I know it very well.

Mr. Bar. Weston. Did you print part of it?

Mr. Downing. Yes, I did.

Mr. Bar. Weston. Who brought it to you to be printed?

Mr. Downing. Mrs. *Cellier.*

Mr. Bar. Weston. She her self?

Mr. Downing. My Lord, about the 22d of *August*, a Messenger came to me from Mrs. *Cellier*, to tell me she had something to be printed; and she sent for me to her House, and I went to her House in *Arundel-Buildings*. She told me she had a Book to print, and it was her own Case. I told her I was a Stranger to her Concerns; if there was nothing in it that was offensive, I would print it. She told me there was nothing but the Truth, and I might safely do it. She said she had been publickly and wrongfully abused, and was resolved to publish her Case, and would make the World sensible of the Wrong she had sustained. I was apt, upon the Plausibleness of her Dis-

course to believe her; and so I agreed with her to have ten Shillings a Ream for printing, and I was to print four Ream of every Sheet. And having printed half the Book, the Messenger found it a printing at my House; and having thus found out the Press, he carried it before the Secretary Sir *Leoline Jenkins*, who granted a Warrant to bring us both before him; and having taken our Examinations, we were bound to appear before the Privy Council as soon as Notice should be given us of it: And being discharged by the Council, we were bound to appear the first Day of next Term in the *King's-Bench*: Since which Time she hath printed t'other half of her Book at some other Place. And whereas she promised to indemnify me from all Trouble and Charge, when I came to pay the Clerk of the Council his Fees, she refused to pay them for me, and told me I had betray'd her; and so notwithstanding her Promise I was obliged to pay the Fees my self at the Council.

Mr. Dormer. Pray, Sir, who was it corrected the Sheets?

Mr. Downing. Sir, they were brought to her.

Mr. Dormer. Did she read them and correct them?

Mr. Downing. Yes, she looked over them.

Mr. Bar. Weston. Pray tell me how far it was you printed of the Book?

Mr. Downing. It was to *Folio 22.*

Mr. Bar. Weston. All the Clauses in the Indictment are contained in those Pages.

Mr. Clare. All but the last in the Postscript.

Mr. Bar. Weston. Have you read it over since?

Mr. Downing. So far, my Lord, I did print.

Mr. Bar. Weston. You take it upon your Oath, That to the 22d *Folio* of that Book that was given in Evidence, was printed by you by her Direction.

Mr. Downing. Yes, I do.

Mr. Bar. Weston. Then set up *Stevens.*

[Which was done.]

Mr. Stevens. May it please your Lordship, I saw this Book a Printing at *Mr. Downing's*, and reading some Passages in it, I asked him. *Mr. Downing*, do you know what you do? He said, it is a Truth: Then I asked him who he did it for; he said he did it for Mrs. *Cellier*. I bid him have a Care that he did no more than what he could justify: He desired me that I would not hurt him, and I was loth to do a poor Man wrong, but away I went to the Secretary; but I asked him before, what was become of the Sheets, he said he carried them to Mrs. *Cellier*; said I, did she bring you the Copy? Said he, she sent it sometimes by one Messenger, sometimes by another, for she sent several: And when I came to her, she did tell me it was her Book, and that she kept a Man to write it, and she dictated it to another that sat by her; and she often owned it was her Book, and she the Author of it.

Cellier. I never said so in my Life.

Mr. Stevens. Mrs. *Cellier*, by the same Token, when you sent for Bail you had occasion to write a Note, and I saw you write it, and said, I now find 'tis none of your Hand-writing, by the Difference between the Note and the Copy: Said she, I know that well enough, but I keep a Man in the House to write it, and I dictated to him, and he wrote. And I have seen there one *Grange* and one *Sing*; but *Grange* hath come to me several times about her's and other Business, and she did

did tell me, she did dictate the Book to that Man, and paid him for writing it. Says she, I am up very early every Morning, and preparing and dictating Things for the Press. She hath put out two Sheets since, and this Day at one o'clock she hath invited the *Mercuries* and the *Hawkers* to come and receive a New Pamphlet.

Mr. Bar. *Weston*. Do you know her Hand-writing?

Mr. *Stevens*. I have not that Note by me.

Mr. Bar. *Weston*. Did you see the Copy?

Mr. *Stevens*. Some part of it I did see.

Mr. Bar. *Weston*. Was any part of it her Hand-writing?

Mr. *Stevens*. No, I believe it was none of her Hand.

Mr. Bar. *Weston*. Was it several Hands?

Mr. *Stevens*. I saw but one part of the Copy, and that was all of one Hand, but not her's, I believe. She said, she kept a Man to write it, and she had several other Things to write to be printed.

Mr. Bar. *Weston*. Did she ever before affirm her self to be the Author of the Book?

Mr. *Stevens*. She did (if it please you) before the Secretary, and before the Council; and said she would answer it. And I have seen her likewise sell several of them several Days.

Mr. *Dormer*. Did she deliver any of these Books that you know of?

Mr. *Stevens*. I have seen her deliver them out several times before me my self, she can't deny it.

Mr. Bar. *Weston*. Compare the Book with the Indictment.

Mr. *Dormer*. Swear Mr. *Fowler*.

[Which was done.]

Mr. Bar. *Weston*. What is that *Fowler*?

Mr. *Dormer*. Shew him the Book if you please.

[Which was done.]

Did you buy any of those Books of Mrs. *Cellier*?

Mr. *Fowler*. I bought two of them. I went to her House, and told her I had a Letter from a Friend out of *Oxfordshire*, that desired me to buy two of her Books.

Mr. *Dormer*. Is that the same in your Hand.

Mr. *Fowler*. 'Tis the same as I believe. Some Friends came to my House, and told me they had seen me notoriously in Print; so I came to her, and told her I had a Letter out of *Oxfordshire* for a Book or two of her's. Sir, says she, I'll fetch you one presently; she comes again with them. Madam, says I, I believe you have forgotten me.

Cellier. I know you not, I never saw you in my Life before.

Mr. *Fowler*. No, I believe not; but yet you could put me in your Book.

Mr. Bar. *Weston*. Why, What is your Name?

Mr. *Fowler*. My Name is *Fowler*.

Mr. Bar. *Weston*. Where do you live?

Mr. *Fowler*. At the *Half-Moon* Tavern in *Cheapside*, when I am at Home.

Cellier. Your Name is not in the Book.

Mr. *Clare*. There is one *F.* that keeps the *Half-Moon* Tavern in *Cheapside*.

Mr. Bar. *Weston*. You swear you had two Books of her?

Mr. *Fowler*. Yes. Madam, says I, I see you are full of Business, so I paid her Four Shillings for them, and away I came.

Mr. *Dormer*. Then you had no Discourse with her farther who was the Author, had you?

Mr. *Fowler*. No, not a Syllable farther. I had

only occasion to get a Couple of Books; for some Persons of Quality had been at my House, and told me my Name was in it, and were pleased to joke with me about it, as particularly Mr. *Henry Killigrew* came one Day to my House, and called me into the Room, says he, you are notoriously in Print, and known to be Company for a great Duke, and great Lords; you shall drink a Glass of Wine now with me, and so tell me the Story; and thereupon I went to her House to buy a couple of Books.

Mr. *At. Gen.* You are the Man meant by the (*F.*)

Mr. *Fowler*. I keep the *Half-Moon* in *Cheapside*.

Mr. *At. Gen.* There is something supposed in this Book to be done by you at your going to a Man in Prison, is that true?

Mr. *Fowler*. That I suppose is cleared by an Oath from *Corral* the Coachman; but withal, I gave my Oath for it before my Lord-Mayor my self.

Mr. *At. Gen.* Pray, for the Satisfaction of People, tell us what you know of the Matter.

Mr. *Fowler*. The Substance of my Oath before my Lord-Mayor was this: That I never was with any great People, as they tax me, in my Life, with any great Duke or Lord: That I never did see any of the Things that they say there, that the Duke should draw his Sword, and a Lord proffer 500 *l.* or I wisper to the Coachman, That he should Name some great Persons, and then he and I should have Money enough.

Mr. Bar. *Weston*. But I come nearer to you with a Question, Mr. *Fowler*.

Mr. *Fowler*. Yes, my Lord, if you please.

Mr. Bar. *Weston*. Was one *Corral* a Coachman apprehended for carrying away the dead Body of Sir *Edmundbury Godfrey*, at your Motion and Accusation?

Mr. *Fowler*. As to that, I will tell you the occasion of all our Discourse, if it may not be too tedious. Upon the Death of Sir *Edmundbury Godfrey*, a Coachman was one Day called to carry some Gentlemen that were in my House; but they staying a little longer than ordinary, he went away, and, as they say, dropp'd them; thereupon another Coachman was called, which was this *Corral* mentioned in this Libel, and he went up to the Gentlemen into the Room, and they, to engage him to stay, secured his Whip; he comes down and begs a Pipe of *Tobacco* of my Wife in the Bar: Ay, said she, thou lookest like a good honest Fellow, and I believe thou hast no hand in the Plot, (a casual Word that was passant at that time) whereupon he begins to tell her, it was very well for him, for he had escaped that Danger: Four of them meeting him against St. *Clement's* Church-Wall, and swearing damn them he should stand, and do as they would have him; and he saw four, and he saw Sir *Edmundbury Godfrey's* Body in a Sedan, and he sham'd upon them that he could not carry him, for that the Axletree of his Coach was broke. I was in a Room by the Bar, and I overheard the Fellow talk after this rate, I came out, and asked him, said I, are you sure of this? Then he tells me the same Story over again; wherefore I began to ask him, if he were Master for himself, or drove for another; the Fellow being sensible he had been too lavish in his Discourse, pretends to light his Pipe in haste, and to run out to see whether the Seats of his Coach were not stol'n out, and I took

a Candle with me, and went after him to take the Number of his Coach: By that time I got to the Door, he was driving away, tho' he had left his Whip with the Gentlemen as Security for his stay. I came in, set down the Number of his Coach in my Book, and drew up the Substance of their Discourse that happen'd between my Wife and him; and I was saying to my Wife I had a mind to stop this Fellow at the Gate, but it rained, and so I did not, only kept the Number of his Coach. The next Day Captain *Richardson* and the *Secondary* of the *Compter*, were drinking a Glass of Wine at my House, where I told them the Story, and they blamed me that I had not stopped him. Whereupon Captain *Richardson* took the Number of his Coach, and the next Day sent his Janizaries abroad, and secured him, and kept him in Custody for two or three Days.

Mr. Bar. *Weston*. When was this?

Mr. *Fowler*. Two or three Days after the Murder was publickly known of: I think it was *Tuesday* Night that this Fellow told me the Story, to the best of my Remembrance; and the next Day I told the Captain and the *Secondary*.

Mr. Bar. *Weston*. Was that the next *Tuesday* after the Murder, or the *Tuesday* seven-night?

Mr. *Fowler*. It was the *Tuesday* seven-night after. They blamed me very much that I did not stop the Fellow: I told them how the thing was, and the Captain sent his People abroad, and took the Coachman up by what Marks I gave of him. The next Day I was ordered to wait upon the Lords at *Wallingford-House*, where was the Duke of *Buckingham*, my Lord *Shaftesbury*, the Marquis of *Winchester*, two other Lords, and Major *Wildman* the Secretary; where they examined me upon this thing, and what I have declared to your Lordships, I declared then. And they brought the Fellow in face to face; and there he does confess the whole Matter, and made a great Whining and Clutter, that *John* such a one, a Coachman, and *Mrs.* such an one, a Strongwater Woman; told him this, and that, and t'other. The Lords sent for two of the Persons he named, and both of them being brought before them, the Lords were very well satisfied, in that one of them keeps a Victualling-House, and they were both of good Reputation, they were satisfied it was only a Sham, and that he only named them as the first Persons that came into his Mind. Getting nothing out of him, my Lord Duke of *Buckingham* told him, Sirrah, if you will confess, there shall be nothing of what the King hath promised but it shall be made good to you, you shall be sure of it, and you shall be protected. My Lord *Shaftesbury* told him the same; but withal, if he would not confess, and tell him who set him on Work, then nothing should be severe enough for him; or Words to that effect.

Mr. Bar. *Weston*. Upon this Accusation was he sent to Prison?

Mr. *Fowler*. He was re-ordered to Prison, and there continued several Months.

Mr. Bar. *Weston*. Where? To what Prison?

Mr. *Fowler*. To *Newgate*.

Mr. Bar. *Weston*. Were you ever in *Newgate*, and saw him?

Mr. *Fowler*. Never, not I.

Mr. Bar. *Weston*. Did you never see him but at this Chamber with the Lords, and at your own Tavern?

Mr. *Fowler*. Never.

Mr. Bar. *Weston*. And you never were in *Newgate* in your Life with him?

Mr. *Fowler*. No, not I.

Mr. Bar. *Weston*. Were you ever in *Newgate* with him with my Lord Duke of *Buckingham*, or my Lord *Shaftesbury*, or any other Lord?

Mr. *Fowler*. No.

Mr. Bar. *Weston*. Or any other Duke whatsoever?

Mr. *Fowler*. No.

Mr. Bar. *Weston*. Or any Lord or Nobleman whatsoever?

Mr. *Fowler*. No, except four Years ago with my Lord *Petre*.

Mr. Bar. *Weston*. There is no Danger of him. But as to this Affair, Were you ever with any?

Mr. *Fowler*. No.

Mr. Bar. *Weston*. Did you see any Sword drawn, or Money offered?

Mr. *Fowler*. There was never any Sword drawn, nor Money offered.

Mr. *At. Gen.* Did you ever see 500 *l.* laid down upon a Table?

Mr. *Fowler*. There was never any Sword drawn nor Money laid down.

Mr. Bar. *Weston*. He answers that very fully; for he says he was never in *Newgate* with any Nobleman, but once with my Lord *Petre* four Years ago; and if he was with any Nobleman, he is accused to be there in the Presence of a Duke, and another great Earl; and that the Duke drew his Sword, and the other Nobleman laid down a great deal of Gold, which he said did amount to 500 *l.* and told him it should be his, and that if he would accuse some other Persons, they would maintain him; and then he did draw the Fellow aside and tell him, Can't you Name somebody? Then you and I may have Money enough. This is the Accusation of the Book: But now 'tis denied that ever he was in *Newgate* with any such Persons, which is consequently a Denial of the whole charge.

Cellier. I did not write that this was true, but I writ that the Fellow told me so.

Mr. Bar. *Weston*. We will see that in the Book in the First Place. We have examined this thing by the by, and tho' 'tis a little out of the way, yet it may be satisfactory: Read the Book.

Cl. of Cr. Malice defeated, &c.

Mr. Bar. *Weston*. Compare it with the Record, for she shall have a fair Trial by the Grace of God.

Then the several Clauses recited in the Indictment, were read over again by the Clerk out of the Book, and compared by the Judge with the Record.

Mr. Bar. *Weston*. These are the Clauses in the Book that are proved exactly upon you. Now I must tell you, because this Book doth cast a very great Infamy upon our Religion, and on the whole Government, it ought to be taken Notice of: For in the first Place, to contrive to get a Man into Prison, and by Tortures to compel him even to commit Perjury: Then to hale another Man to Prison, and have him thus barbarously used, as to have Nobles to come to him, one with a Sword drawn, another with Money in his Hand laying it down as a Temptation, and to force him to discover what he was not willing to confess; and then to lay Accusation upon the King that he makes it a thing of Safety to be the Hangman's

man's Hounds, and to be Accusers for Pensions, and shall aver, that when it is as free for her to speak Truth, as it is meritorious for them to do otherwise, she will discover such and such Things, is a Slander that ought to receive a publick Rebuke: And to satisfy the World of the Untruth of it, I would have you prove, if *Prance* be here and the Coachman, what Usage they received, to avert that publick Calumny that is cast upon the Nation. For let *Mrs. Cellier* know, she hath insinuated, as tho' the Murder of the late King was a sufficient Ground to pervert her from Protestantism, which avowed such Practices: When all the World knows, that at that time there were Protestants that were far better Subjects, and more loyal, than ever any Papist was in the World, and as great Sufferers for their Opposition to that dreadful Villainy, nay far more than the Papists can boast of for their Loyalty; whereas 'tis known there were Villains under-hand all the while, and those that did encourage all that Roguery, and set that Faction on foot which brought Things to that ill Period they came to. Therefore you have set a fair Outside upon a damnable Lie. And that the arrantest rebellious Rogues that ever lived under Heaven, are great Saints in comparison of Protestants, no honest Man will believe.

Cellier. I say, they called themselves Protestants. I know the Protestants were great Sufferers for the King, and I my self felt it; our Family, which were Protestants, were several times stript and plundered for their Loyalty. I grant all this.

Mr. Bar. Weston. Do you? Then you are an impudent lying Woman; or you had a villainous lying Priest that instructed you to begin your Book with such a base Insinuation against the best of Religions. But I have no more to say to that, for that is such a visible notorious Falsity to the Knowledge of all *Englishmen*, and People of Understanding, that it needs no greater Conviction than the particular Knowledge of those Men that lived in that time. Therefore for that Lie, let it go upon the publick Infamy that attends on your Party, who are notorious Liars, and among whom Falshood does so much abound.

Call Corral and Prance.

Mr. At. Gen. We will give that Satisfaction to the People: But the Jury are to know, that it does not at all concern the Matter in Issue: For when all that can be said by them is declared, I must say in point of Law, the publishing of a Libel, tho' it be true, yet is a Crime, and deserves Punishment.

Mr. Bar. Weston. I told you so. But, *Mr. Attorney*, we are to set a Fine; and to instruct us for the setting of the Fine, it will be a Satisfaction to the Court to disprove the Things she alleges, if you have the Witnesses ready; but if you are not ready with your Proof, let it alone.

Mr. At. Gen. They are ordered to be here. I only speak that by the way. Swear *Mr. Prance*.

[Which was done.]

Mr. Bar. Weston. *Mr. Prance*, Pray, were you tortured in Prison?

Mr. Prance. No, I never saw any such thing there in my Life.

Mr. Bar. Weston. How were you used?

Mr. Prance. Very well, I had every thing that

was fitting, *Captain Richardson* did take great care of me.

Mr. Bar. Weston. The truth is, the very Book itself implies a Contradiction. It says, there was one tortured in the Prison, and the Roarings that they heard, were like the Roarings of a strong Man in Torture: And yet, presently after it says, that the Prisoner comes up in Irons and is examined. Now could any one having been so lately on the Rack, be able to walk and come to be examined? Any Man that knows what the Nature of a Rack is, knows also, that one that has been tortured there, would not be able to heave the Irons upon his Legs, nor be able to stir or walk; But that is a Thing not used amongst us, it was some impudent lying Priest that durst venture to broach such a Calumny.

Cellier. I don't say it was, but it was reported.

Mr. Prance. *Dr. Lloyd* was with me many times for half an Hour together, and if any such thing had been, he would have seen it.

Then Francis Corral was called, but he did not appear.

Capt. Richardson. *Corral*, they have got away; for I had him last Night, and he was ordered to be here to Day, but here is his Wife.

[Who was sworn.]

Mr. Bar. Weston. Good Woman, were you ever with your Husband in Prison?

Mrs. Corral. I was not suffered to come near him when he was of the Master's-side.

Mr. Bar. Weston. But when he was out of Prison, How did he tell you he was used? Did he tell you he was compelled to drink his own Piss?

Mrs. Corral. Sunday Morning it was before I saw him; nay, I did not see him then, but I was called to bring him Victuals, or he would have been starved; nay, they say he would be dead before I brought him. So I carried him Bread and Things, and I did not see him then till almost a Fortnight after; and when I saw him he had great Fetters on, and I was amazed at them. They put in some Charcoal there to warm him, it being very cold; and, said I, Lord, what have you done, you have murdered somebody sure? But they said, they put on those Things to keep his Legs warm.

Cellier. Were you ever beaten at any time for bringing your Husband Victuals?

Mrs. Corral. No, indeed, I was never beaten, but they would not suffer me to see him on the Master's-side.

Lord-Mayor. Her Husband hath deny'd all upon Oath before me.

Mr. Bar. Weston. Was he ever hurt with Screws, or any such Thing?

Cellier. Had he not Holes in his Legs?

Mrs. Corral. Yes, he had a great many; I did see Holes in his Legs.

Mr. Bar. Weston. Did you?

Mrs. Corral. I did see one, and I can bring them that brought Salve to heal it.

Captain Richardson. There is never an Iron in the House that I keep, that weighs twelve Pound.

Mr. Bar. Weston. They say you have Irons called Sheers, that weigh forty Pound.

Captain Richardson. If there be one, I'll be hang'd for it, before I go hence.

Cellier.

Cellier. I hope I shall be allow'd to make my Defence, and call my Witnesses.

Mr. Bar. Weston. Yes, to be sure.

Cellier. Did not you hear your Husband tell me how heavily he was fettered and used? That he was chained to the Floor with a Chain not above a Yard long? and was forced to drink his own Water?

Mrs. Corral. Madam, he is not sensible many Times what he does say.

Cellier. But did not you hear him tell me so?

Mrs. Corral. I can't remember.

Cellier. Did not you tell me, that Captain *Richardson* drove you away, and would not let you give Victuals to your Husband?

Mr. Bar. Weston. All this is but over and above, for the great Matter that sticks upon your Part is, the Death of Sir *Edmundbury Godfrey*, and you are pinch'd there with *Prance's* Evidence, and so you would make the World believe that he was tortur'd into his Confession, and was mad when he did it, that you may the better turn it off from your own Party, on somebody else, on whom I don't know.

Cellier. Pray, my Lord, hear me one Word; As to your saying, I do it to defend a Party, I profess I stand singly and alone; I have been so barbarously used by those you call that Party, that the Protestants have been abundantly more kind to me than they. And I would not tell the least Lye to do them any good Turn.

Mr. Bar. Weston. Then you are an happy Woman indeed, that are belov'd by both Parties, you have not been serviceable alike to both I am sure, but that is no great Matter; if so be the Protestants were so kind, you have requited them ill by such a base Libel.

Cellier. I say nothing against them.

Mr. Bar. Weston. Can you say any Thing that you did not make this Pamphlet?

Cellier. My Lord, I ben't bound to accuse myself, I desire it may be prov'd.

Mr. Bar. Weston. I think it is fully prov'd.

Cellier. I cannot say any thing without my Witnesses, I desire I may call them.

Mr. Bar. Weston. Call whom you will.

Cellier. I desire *George Grange* may be call'd.

[Who was sworn.]

Mr. Bar. Weston. What can you say for Mrs. *Cellier*? Tell me what Questions you will ask him.

Cellier. I desire to know whether I did not send him to find Witnesses? Who he went for? What Answers they return'd? And where they be?

Mr. Bar. Weston. Well, what Witnesses were you sent to look for?

Grange. I went to look for one Mrs. *Sheldon*, that lives in Sir *Joseph Sheldon's* House, and they told me she was in *Effex*. I went to the Coach to send for her.

Mr. Bar. Weston. Why *Scoggin* looked for his Knife on the House-top.

Mr. Stevens. This Man did see her sell these Books.

Mr. Bar. Weston. Who did you look for besides?

Grange. One Mr. *Curtis*. And his Wife said, She had not seen him since yesterday Morning.

Mr. Bar. Weston. What were they to prove?

Grange. Truly, my Lord, I don't know.

Mr. Dormer. By the Oath you have taken, Do

you know she hath sold any of these Books?

Grange. Yes, I do know that she hath sold some of them.

Lord-Mayor. There your own Witness, Mrs. *Cellier*, proves it against you.

Mr. Bar. Weston. Who would you have else?

Cellier. I desire that *Mary Smith* may be called (which was done, but she appeared not then.) I desire *John Clarke* may be sent for from the Goal.

Captain Richardson. He is in Execution.

Mr. Bar. Weston. For what?

Captain Richardson. For Debt.

Mr. Bar. Weston. 'Tis not out of the Rules of the Prison, you may bring him hither, and 'tis no Escape.

Captain Richardson. If your Lordship orders it so, I will bring him.

Lord Mayor. She should have brought an *Habeas Corpus*, if she would have had him.

Mr. Att. Gen. He must bring him through some Part, I suppose, that is not within the Rules, and then it will be an Escape.

Cellier. I pray an *Habeas Corpus* to fetch him.

Mr. Bar. Weston. You might have had one before.

Cellier. This is all because I had no Time to prepare for my Defence.

Mr. Bar. Weston. You might have moved the Court for it; they granted you a Copy of your Indictment.

Cellier. I had it not till Nine o'Clock to Day, and my Council could not inspect it, nor speak a Word with me about it.

Lord Mayor. At what Time shall we have done, if we dally after this Rate?

Mr. Bar. Weston. Have you any blank *Habeas Corpus*?

Cl. of Peace. It could not be seal'd, and besides, they should fetch it out of the *Crown-Office*.

Cellier. I desire to have him come, in order to the Defence of something in my Book.

Mr. Bar. Weston. What would he prove?

Cellier. That I have not belied the Government.

Mr. Bar. Weston. In what?

Cellier. That he was sheer'd with long Sheers, and unreasonable Irons.

Mr. Collins. You cannot do yourself greater Wrong than by such Talk as this.

Lord Mayor. You are not indicted for your whole Book, but for some part of it.

Cryer. Here is Mrs. *Smith* now. [Who was sworn.]

Cellier. What have you heard *Corral* the Coachman say, about his Usage in Prison?

Mr. Dormer. I think that Question is not to be admitted.

Mr. Bar. Weston. What is it you would have her asked?

Cellier. What she heard the Coachman say, for I only say he told me so.

Mr. Dormer. I am in your Lordship's Judgment, I think it is not Evidence.

Mr. Att. Gen. She keeps the Coachman away, and now will tell you what he said.

Mr. Bar. Weston. That is no Evidence, for the Coachman might have been here, if you had not sent him away.

Cellier. Let his Wife speak that, because she can testify I did not send him away.