

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

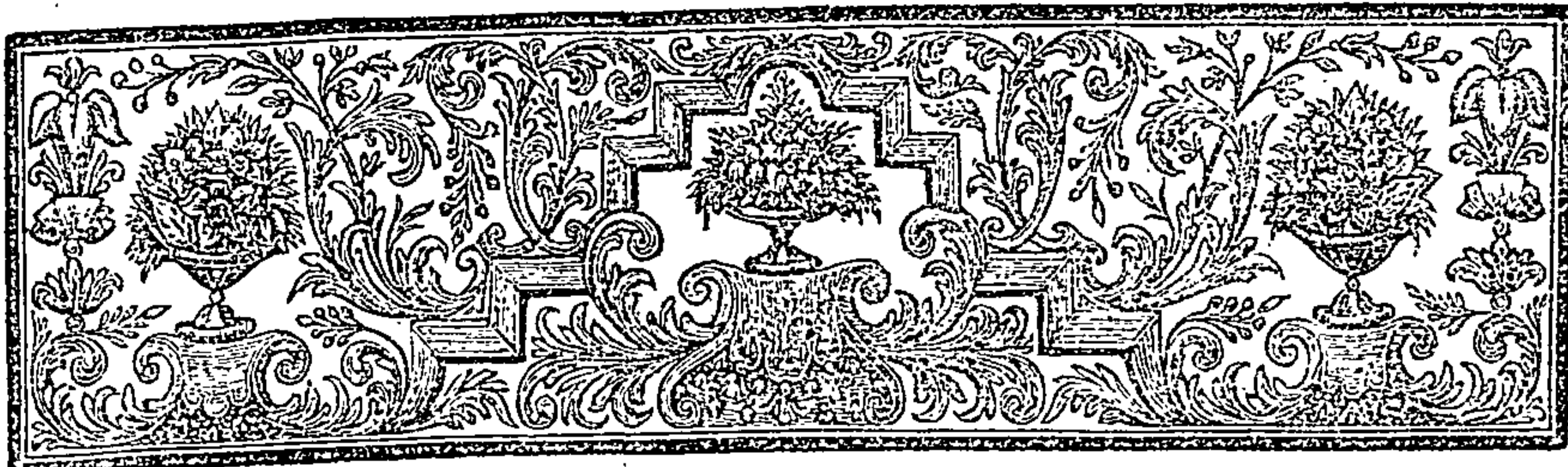
The FOURTH VOLUME.

With two Alphabetical Tables to the Whole.

The THIRD EDITION, with ADDITIONS.

LONDON:

Printed in the Year M.DCC.XLII.



The several TRIALS, &c. contained in the fourth Volume.

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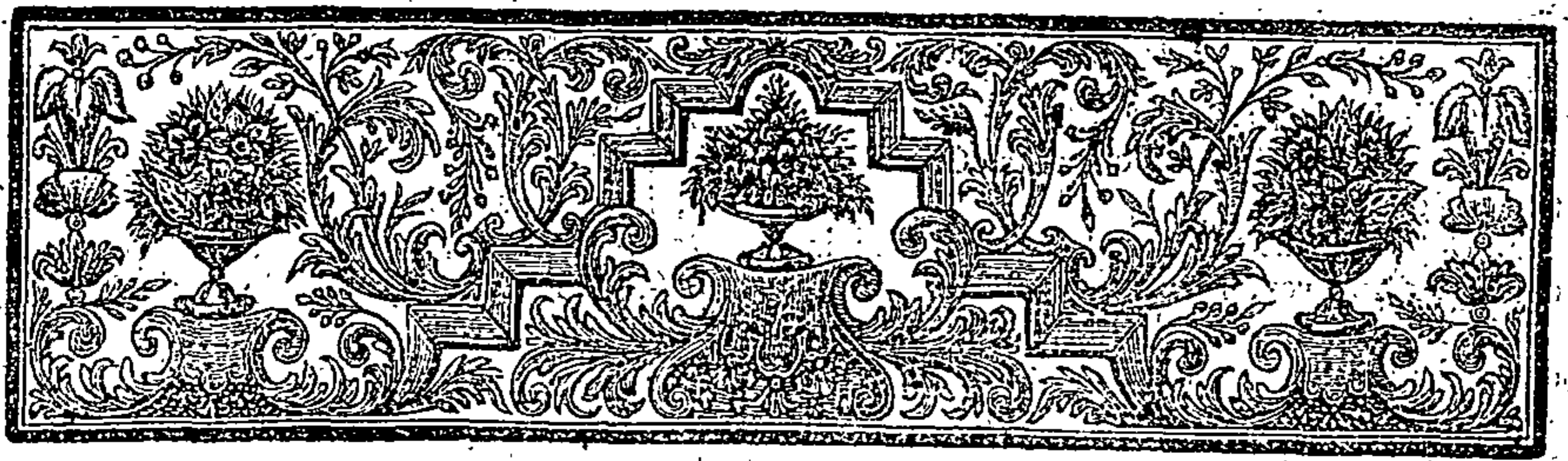
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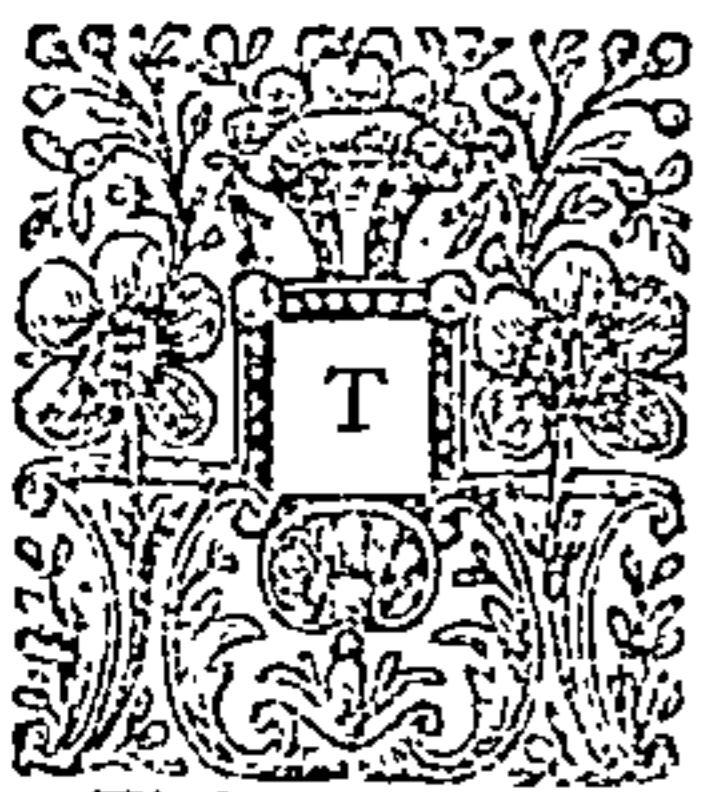




A COMPLETE
COLLECTION
OF
TRIALS, &c.

CXXXIV.

*The Trial of TITUS OATES D. D. * at the King's-Bench, for Perjury, May 8. 1685. Paschæ I Jac. II.*



HIS Day being appointed for the Trial of one of the Causes between our Sovereign Lord the King, and *Titus Oates* for Perjury; the same began between eight and nine in the Morning, and proceeded in the manner following.

First, Proclamation was made for Silence, then the Defendant was called, who appeared in Person, being brought up by Rule from the *King's-Bench* Prison, where he was in custody, and was advised to look to his Challenge to the Jury that were impanel'd to try the Cause.

Oates. My Lord, I am to manage my own Defence, and have a great many Papers and things which I have brought in order to it; I pray I may have some Conveniency for the managing my own Trial.

L. C. J. Ay, ay, let him sit down there within the Bar, and let him have Conveniency for his Papers.

Sir George Jeffries.

Clerk of Cr. Cryer, swear *Sir William Dodson*.

Oates. My Lord, I except against *Sir William Dodson*.

Sir Robert Sawyer.

Mr. At. Gen. What is the Cause of Exception, *Mr. Oates*?

L. C. J. Why do you challenge him?

Oates. My Lord, I humbly conceive in these Cases of Criminal Matters, the Defendant has liberty of excepting against any of the Jurors, without shewing Cause, provided there be a full Jury besides.

L. C. J. No, no, that is not so, you are mistaken in that, *Mr. Oates*.

Oates, My Lord, I am advised so, I do not understand the Law myself.

L. C. J. But we will tell you then, it cannot be allow'd; if *Mr. Attorney* will consent to wave him, well and good.

Mr. At. Gen. No, my Lord, I know no reason for it, I cannot consent to any such thing.

L. C. J. Then, if you will not have him sworn, you must shew your Cause presently.

Oates. My Lord, I cannot assign any Cause.

L. C. J. Then he must be sworn.

Cl. of Cr. Swear him.

Cryer. *Sir William Dodson* take the Book: You shall well and truly try this Issue between our Sovereign Lord the King, and *Titus Oates*, and a true Verdict give according to the Evidence; so help you God.

Cl. of Cr. Swear *Sir Edmund Wiseman*.

Richard Aley Esq;
Benjamin Scutt.

Oates. My Lord, I challenge him.

[Which was done.

[Who was sworn.

* *Burn. Hist. of his own Times, Vol. I. p. 637.*

L. C. J. For what Cause?

Oates. My Lord, he was one of the Grand Jury that found the Bill.

L. C. J. Was he so? that is an Exception indeed; what say you, *Mr. Attorney*?

Mr. At. Gen. My Lord, I believe he was upon one of the Indictments, but I think it was not this.

L. C. J. But if he were in either of them, he cannot be so impartial.

Mr. At. Gen. My Lord, we will not stand upon it, we'll wave him.

Cl. of Cr. Thomas Fowlis.

Oates. Pray let me see that Gentleman. [*Who was shown to him.*]

Are you not a Goldsmith in *Fleetstreet*, between the two Temples?

Fowlis. Yes, I am.

Oates. Very well, Sir, I do not except against you, only I desir'd to know whether it were you or not.

Cl. of Cr. Swear him. [*Which was done.*]

<i>Thomas Blackmore,</i>	} Sworn.
<i>Peter Pickering,</i>	
<i>Robert Beddingfield,</i>	
<i>Thomas Rawlinson,</i>	
<i>Roger Reeves,</i>	

Edward Kempe, Sworn.

Oates. My Lord, I challenge him.

L. C. J. You speak too late, he is sworn already.

Oates. My Lord, they are so quick, I could not speak, but he was one of the Grand Jury too.

L. C. J. We cannot help it now.

Mr. At. Gen. I did not know that he was so; but to shew that we mean nothing but fair, we are content to wave him.

L. C. J. You do very well, *Mr. Attorney General*; let him be withdrawn.

Cl. of Cr. *Mr. Kempe*, you may take your ease; swear *Ambrose Isted.* [*Which was done.*]

<i>Henry Collier,</i>	} Sworn,
<i>Richard Howard,</i>	

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

Cryer. One, &c. *Sir William Dodson.*

Cl. of Cr. *Richard Howard.*

Cryer. Twelve good Men and true, hearken to the Record, and stand together, and hear the Evidence.

The Names of the Twelve sworn, were these.

<i>Sir William Dodson,</i>	} Jur.	<i>Robert Beddingfield,</i>
<i>Sir Edmund Wiseman,</i>		<i>Thomas Rawlinson,</i>
<i>Richard Aley,</i>		<i>Roger Reeves,</i>
<i>Thomas Fowlis,</i>		<i>Ambrose Isted,</i>
<i>Thomas Blackmore,</i>		<i>Henry Collier, and</i>
<i>Peter Pickering,</i>		<i>Richard Howard.</i>

Oates. Before the Counsel opens the Cause, I desire to move one thing to your Lordship.

L. C. J. What is it you would have?

Oates. My Lord, I have three Witnesses that are very material ones to my Defence, who are now Prisoners in the *King's-Bench*, for whom I moved yesterday, that I might have a Rule of Court to bring them up to-day, but it was objected; that they were in Execution, and so not to be brought; I humbly move your Lordship now, that I may have a *Habeas Corpus* for them, to bring them immediately hither.

L. C. J. We cannot do it.

Oates. Pray, good my Lord, they are very material Witnesses for me, and I moved yesterday for them.

L. C. J. You did so, but we told your Counsel then, and so we tell you now, we cannot do it by Law, it will be an Escape.

Oates. My Lord, I shall want their Testimony.

L. C. J. Truly we cannot help it, the Law will not allow it, and you must be satisfied.

Cl. of Cr. Gentlemen, you that are sworn of this Jury, hearken to the Record: By virtue of an Inquisition taken at *Justice-Hall* in the *Old-Bailey*, in the Parish of *St. Sepulchre*, in the Ward of *Faringdon* without, *London*, upon *Wednesday* the 10th of *December*, in the 36th of the Reign of our late Sovereign Lord *Charles II.* by the Grace of God, of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. before *Sir James Smith*, Knight, Mayor of the City of *London*; *Sir George Jefferies* Knight and Baronet; Lord Chief Justice of this Honourable Court; *Sir Thomas Jones* Knight, Lord Chief Justice of the Court of Common Pleas; *William Montague*, Lord Chief Baron of the Exchequer; *Sir James Edwards* Knight; *Sir John Moore* Knight, Aldermen of the said City; *Sir Thomas Jenner* Knight, one of his Majesty's Serjeants at Law, and Recorder of the same City, and others, their Companions, Justices of Oyer and Terminer, by the Oaths of twelve Jurors, honest and lawful Men of the City of *London* aforesaid, who then and there being sworn and charged to enquire for our said Lord the King, and the Body of the City aforesaid, upon their Oaths present, That at the Session of our Sovereign Lord the King, holden for the County of *Middlesex*, at *Hicks's-Hall*, in *St. John's-street*, in the County aforesaid, on *Monday*, to wit, 16 *December*, in the Year of the Reign of our late Sovereign Lord *Charles II.*, of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. the thirtieth, before *Sir Reginald Foster*, Baronet; *Sir Philip Matthews*, Baronet; *Sir William Bowls* Kt. *Sir Charles Pitfield*, Knight; *Thomas Robinson*, *Humphrey Wyrley*, *Thomas Harriot*, and *William Hempson*, Esquires, Justices of our said Sovereign Lord the King, to enquire by the Oath of Honest and Lawful Men of the County of *Middlesex* aforesaid, and by other ways, manners, means, by which they might better know, as well within Liberties as without, by whom the Truth of the Matter may be better known and enquired, of whatsoever Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeitings, Clippings, Washings and false Makings of the Money of this Kingdom of *England*, and of other Kingdoms and Dominions whatsoever; and of whatsoever Murders, Felonies, Manslaughters, Killings, Burglaries, and other Articles and Offences in the Letters-Patents of our said Sovereign Lord the King, to them, or any four or more of them therefore directed, specified; as also the Accessaries of the same within the County aforesaid, as well within Liberties as without, by whomsoever, howsoever had, made, done or committed; and the said Treasons, and other the Premises, to hear and determine, according to the Law and Custom of this Kingdom of *England*, being assigned by the Oath of *Ralph Wain*, *John Vaughan*, *Richard Foster*, *Thomas Paget*, *Robert Newington*, *Henry Tompkins*, *Robert Hays*, *John Greenwood*, *Peter Stimpson*, *Josias Crossly*, *Richard Richman*, *Augustine Bear*, *John King*, *Nathaniel Brett*, *Francis Eisber*, and *Samuel Lynn*; Honest and Lawful Men of the County aforesaid, sworn, and charged to enquire for our said Sovereign Lord the King, and the Body of the County aforesaid, upon their Oaths: It was presented, That *Thomas White*, otherwise

wife *Whitebread*, late of the Parish of *St Giles* in the Fields, in the County of *Middlesex*, Clerk; *William Ireland*, late of the Parish aforesaid, in the County aforesaid, Clerk; *John Fenwick*, late of the Parish aforesaid, in the County aforesaid, Clerk; *Thomas Pickering*, of the Parish aforesaid, in the County aforesaid, Clerk; *John Grove*, of the Parish aforesaid, in the County aforesaid, Gent. as false Traitors against the most Illustrious, Serene, and most Excellent Prince, our said late Sovereign Lord *Charles II.* by the Grace of God, of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. their Supreme and Natural Lord, not having the Fear of God in their Hearts, nor weighing the Duty of their Allegiance, but being moved and seduced by the Instigation of the Devil: The Cordial Love, and True and Natural Obedience, which faithful Subjects of our said Sovereign Lord the King towards him, should, and of right ought to bear, utterly withdrawing, and contriving, and with all their Might intending the Peace and Tranquillity of this Kingdom of *England* to disturb, and the true Worship of God within this Kingdom of *England* used, and by Law establish'd, to subvert; and Rebellion within this Kingdom of *England* to move, stir up, and procure, and the Cordial Love, and true and due Obedience, which faithful Subjects of our said Lord the King, towards him, the said Sovereign Lord the King, should, and of right ought to bear, utterly to withdraw, put out, and extinguish; and our said Sovereign Lord the King, to Death and final Destruction to bring and put, the four and twentieth Day of *April*, in the Year of the Reign of our late Sovereign Lord *Charles II.* by the Grace of God, of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. the thirtieth, at the Parish of *St Giles* in the Fields, in the County aforesaid, falsely, maliciously, subtilely, advisedly, and traitorously did purpose, compass, imagine, and intend, Sedition and Rebellion within this Kingdom of *England* to move, stir up and procure; and a miserable Slaughter among the Subjects of our said Lord the King to procure and cause; and our said late Lord the King, from the Regal State, Title, Power and Government of his Kingdom of *England*, utterly to deprive, depose, cast down, and disinherit; and him our said late Sovereign Lord the King to Death, and final Destruction to bring and put, and the Government of the said Kingdom, and the sincere Religion of God, rightly by the Laws of the said Kingdom established, at their Will and Pleasure to change and alter, and the State of this whole Kingdom of *England*, throughout all its Parts well instituted and ordained, wholly to subvert and destroy, and War against our said late Sovereign Lord the King, within this Kingdom of *England* to levy: And those their most wicked Treasons, and traitorous Imaginations and Purposes aforesaid to fulfil and perfect, they the aforesaid *Thomas White* alias *Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove*, with other false Traitors to the Jurors not known, the said four and twentieth Day of *April*, in the Year of the Reign of our said late Sovereign Lord the King, the thirtieth, with Force and Arms, &c. at the Parish of *St. Giles* in the Fields, in the County of *Middlesex* aforesaid, falsely, maliciously, subtilely, advisedly, devilishly, and traitorously did assemble themselves, unite and meet together, and then and there falsely, maliciously, subtilely, advisedly, devilishly, and traitorously,

did consult and agree our said late Sovereign Lord the King to Death, and final Destruction to bring and put, and the Religion within this Kingdom of *England*, rightly, and by the Laws of the same Kingdom establish'd, to the Superstition of the *Romish* Church, to change and alter; and the sooner to fulfil and perfect their said most wicked Treasons, and traitorous Imaginations and Purposes, they, the said *Thomas White* alias *Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove*, and other false Traitors of our said late Sovereign Lord the King, to the Jurors unknown, afterwards, to wit, the same 24th Day of *April*, in the said 30th Year of our said late Sovereign Lord the King, at the aforesaid Parish of *St. Giles* in the Fields, in the County aforesaid, falsely, subtilely, advisedly, devilishly, and traitorously among themselves, did conclude and agree, that they the aforesaid *Thomas Pickering, John Grove*, him the said late Sovereign Lord the King should kill and murder: And that they the said *Thomas White* alias *Whitebread, William Ireland, John Fenwick*, and other false Traitors to the Jurors unknown, a certain Number of Masses between them, then and there agreed for the Health of the Soul of him the said *Thomas Pickering*, therefore should say, celebrate and perform, and therefore should pay unto the said *John Grove* a certain Sum of Money, between them then and there agreed. And the Jurors aforesaid, upon their Oath aforesaid, did further present, that the said *Thomas Pickering* and *John Grove*, upon the Agreement aforesaid, then and there falsely, subtilely, advisedly, maliciously, devilishly and traitorously did take upon them, and did promise to the said *Thomas White* alias *Whitebread, William Ireland, John Fenwick*, and other false Traitors of our late said Sovereign Lord the King, to the Jurors aforesaid unknown, then and there, falsely, subtilely, advisedly, maliciously, devilishly, and traitorously, did promise that they the said *Thomas Pickering* and *John Grove* would kill and murder our said late Sovereign Lord the King; and they, the said *Thomas White* alias *Whitebread, William Ireland, John Fenwick, Thomas Pickering, John Grove*, and other false Traitors of our said late Sovereign Lord the King, afterwards, to wit, the said four and twentieth Day of *April*, in the thirtieth Year aforesaid, at the aforesaid Parish of *St. Giles* in the Fields, in the County of *Middlesex* aforesaid, subtilely, advisedly, maliciously, devilishly, and traitorously, did severally every one of them give their Faith each to the other, and upon the Sacrament then and there traitorously did swear and promise, to conceal, and not to divulge their said most wicked Treasons and traitorous Compassings, Consultations, and Purposes so between them had, him, our said late Sovereign Lord the King, traitorously to kill and murder, and the *Romish* Religion in this Kingdom of *England* to be used, to introduce, and the true Reformed Religion in this Kingdom of *England* rightly, and by the Laws of the same Kingdom established, to alter and change; and that the aforesaid *Thomas Pickering* and *John Grove*, in Execution of their traitorous Agreement aforesaid, afterwards, to wit, the same four and twentieth Day of *April*, in the thirtieth Year aforesaid, and divers other Days and Times after, at the aforesaid Parish of *St. Giles* in the Fields, in the County aforesaid, Muskets, Pistols, Swords, Daggers, and other offensive and cruel Weapons, him, our said late Sovereign Lord the King, to kill and murder,

murder, falsely, subtilly, advisedly, maliciously, and traitorously did prepare, and obtain for themselves, and them had and kept; and that they the aforesaid *Thomas Pickering* and *John Grove* afterwards, to wit, the said four and twentieth Day of *April*, in the thirtieth Year aforesaid, and divers Days and Times afterwards, with Force and Arms, &c. at the Parish aforesaid, in the County aforesaid, and in other Places within the County of *Middlesex* aforesaid, falsely, subtilly, advisedly, maliciously, devilishly, and traitorously did lie in wait, and endeavour our said late Sovereign Lord the King to murder, and that the said *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, and other false Traitors to the Jurors unknown, afterwards, to wit, the same four and twentieth Day of *April*, in the thirtieth Year aforesaid, at the Parish aforesaid, in the County of *Middlesex* aforesaid, falsely, subtilly, advisedly, maliciously, devilishly and traitorously did prepare, persuade, excite, abet, comfort and counsel four other Persons, Men to the Jurors unknown, and Subjects of our said late Sovereign Lord the King, him our said late Sovereign Lord the King traitorously to kill and murder, against the Duty of their Allegiance, against the Peace of our said late Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statute in that Case made and provided; and thereupon it was so far proceeded, that afterwards, to wit, at the Court of Goal-Delivery of our Sovereign Lord the King, of *Newgate*, at Justice-Hall in the *Old-Bailey*, in the Suburbs of the City of *London*, in the Parish of *St. Sepulchre*, in the Ward of *Faringdon* without, *London* aforesaid, the seventeenth Day of *December*, in the thirtieth Year aforesaid, before the Justices of our said Lord the King, then and there being present, held by Adjournment for the County of *Middlesex* aforesaid, before whom the Indictment aforesaid was then depending, came the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove* under the Custody of *Sir Richard How*, Knt. *Sir John Chapman*, Knt. Sheriffs of the County of *Middlesex* aforesaid, into whose Custody, for the Cause aforesaid before that were committed, being there brought to the Bar in their proper Persons, and immediately being severally spoken unto concerning the Premises above charged upon them, how they would acquit themselves thereof; the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove* did say that they were not thereof guilty, and for the same, for good and bad, they severally put themselves upon the Country, and by a certain Jury of the Country on that behalf, in due manner impanel'd, sworn and charged, then and there, in the same Court before the Justices of Goal-delivery aforesaid were tryed, and that upon that Trial between our said late Sovereign Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, at *London* aforesaid, to wit, at Justice-Hall in the *Old-Bailey* aforesaid, in the Parish and Ward aforesaid, the Defendant *Titus Oates*, by the Name of *Titus Oates*, late of the Parish of *St. Sepulchre* aforesaid, in the Ward aforesaid, Clerk, was a Witness produced on the behalf of our late Sovereign Lord the King upon the Trial aforesaid, and before the aforesaid Justices of Goal-Delivery in the Court aforesaid, then and there held, upon the Holy Evangelists of God, to speak and testify the Truth, the whole Truth, and nothing but the Truth of, and in the Premises between our said late Sovereign Lord the King, and

the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, put in Issue, was duely sworn; and that he, the aforesaid *Titus Oates*, then and there, in the Court of Goal-delivery aforesaid, upon his Oath aforesaid, upon the Indictment aforesaid, at the Parish and Ward aforesaid, by his own proper Act and Consent, of his most wicked Mind, falsely, voluntarily, and corruptly did say, depose, swear, and to the Jurors of the Jury aforesaid, then and there sworn, and impanel'd to try the Issue aforesaid, between our said late Sovereign Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, did give in Evidence, that there was a traitorous Consult of Jesuits that were assembled at a certain Tavern, called the *White Horse* Tavern in the *Strand*, (in the *White Horse* Tavern in the *Strand*, in the County of *Middlesex* aforesaid, meaning) upon the four and twentieth Day of *April*, in the Year of our Lord 1678. At which Consult, *Whitebread*, *Fenwick*, *Ireland*, (the aforesaid *Thomas White* alias *Whitebread*, *John Fenwick*, and *William Ireland*, meaning) and he the said *Titus Oates*, were present; and that the Jesuits aforesaid did separate themselves into several lesser Companies, and that the Jesuits aforesaid came to a Resolution to murder the said our late Lord the King, and that he the said *Titus Oates*, did carry the Resolution aforesaid from Chamber to Chamber, and did see that Resolution signed by them (the aforesaid Jesuits meaning): whereas in truth and in deed, the aforesaid *Titus Oates* was not present at any Consult of the Jesuits at the *White Horse* Tavern aforesaid in the *Strand*, in the County of *Middlesex* aforesaid, upon the 24th of *April*, in the Year of our Lord 1678, nor did carry any Resolution to murder our said late Lord the King, from Chamber to Chamber by any Persons to be signed. And so he, the aforesaid *Titus Oates*, on the 17th Day of *December*, in the thirtieth Year aforesaid, at the Justice-Hall aforesaid, in the Court aforesaid, upon the Trial aforesaid, upon the Indictment aforesaid, between our said late Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, so as aforesaid had, by his own proper Act and Consent, and of his most wicked Mind, falsely, voluntarily, and corruptly in Manner and Form aforesaid, did commit voluntary and corrupt Perjury, to the great Displeasure of Almighty God, in manifest Contempt of the Laws of this Kingdom of *England*, to the evil and pernicious Example of all others in like case offending, and against the Peace of our said late Sovereign Lord the King, his Crown and Dignity. Upon this Indictment he has been arraign'd, and thereunto hath pleaded Not Guilty, and for his Trial hath put himself upon the Country, and his Majesty's Attorney-General likewise; which Country you are; your Charge is to enquire, whether the Defendant be guilty of this Perjury and Offence whereof he is now indicted, or whether not guilty: If you find him guilty, you are to say so; if you find him not guilty, you are to say so, and no more, and hear your Evidence. Cryer, make Proclamation.

Oates. Hold, Sir, I beg one Favour of your Lordship, to give me leave to have that part of the Record, wherein I am said to have sworn such and such things, read distinctly in *Latin*.

L. C. J. Let it be read in *Latin*.

Cl. of Cr. *Juravit & jur' jurat' prædicit' ad tunc & ibidem jurat' & impanelat' ad triend' exitum prædicit' inter diē D'num nostrum Regem & præfat' Will'm Ireland, Thomam Pickering, & Johannem Grove*

in Evidentiis dedit, quod fuit proditoria Consultatio, Anglice, Consult' Jesuit' qui Assemblat' fuer' apud quandam Tabernam vocal' the White Horse Tavern in le Strand, (Le White Horse Tavern in le Strand in Com' Mid' prædiēt' innuendo) super vicessimum quartum diem April' Ann. Dom. millesimo sexcentesimo, septuagesimo octavo, ad quam quidem Consultationem, Whitebread, Fenwick, Ireland, (prædiēt' Thomam White aliās Whitebread, Johannem Fenwick, & Will'm Ireland innuendo) & præfat' Titus Oates fuer' præsent' & quod Jesuitæ prædiēt' sese separaver' in separales minores Couventus quodque Jesuitæ prædiēt' venerunt ad Resolutionem ad murdranā' dictum D'num Regem, & quod ipse idem Titus Oates portavit Resolutionem prædiēt' à Camerā ad Cameram, & videbat Resolutionem illam signat' per ipsos (præfat' Jesuitas innuendo). That is the Perjury that you are said to have sworn.

Oates. Pray go on, Sir, *Ubi revera*—

Cl. of Cr. *Ubi revera & in prædiēt'* Titus Oates non præsens fuit ad aliquam Consultationem Jesuit' apud le White Horse Tavern prædiēt' in le Strand, in Com' Mid' prædiēt' super vicessimum quartum diem Aprilis Anno Domini millesimo sexcentesimo septuagesimo octavo, nec portavit aliquam Resolutionem ad diēt' D'num Regem murdranā' à Camerā ad Cameram per aliquas Personas signand'.

Mr. Just. *Witibus*. Now, you have read it, go on, Sir, to make your Proclamation.

Cl. of Cr. Cryer, make an O-yes.

Cryer. O-yes! If any one can inform our Sovereign Lord the King, the King's Serjeant, the King's Attorney-General, or this Inquest now taken, concerning the Perjury and Offence, whereof the Defendant *Titus Oates* stands indicted; let them come forth, and they shall be heard, for now he stands upon his Discharge.

Mr. Phipps. May it please your Lordship, and you Gentlemen of the Jury—

Oates. My Lord, I desire your Lordship and the Court would be of Counsel for me in one thing, which I take to be a Fault and Error in my Indictment.

L. C. J. Look you, Mr. Oates, whatever you have to say of that nature, you must not speak to it now, you will have your time as to that hereafter, in case you be convicted.

Oates. My Lord, I have but one small Exception to open to you.

L. C. J. We are now upon the Fact only.

Oates. My Lord, I beg you would give me leave only to tell you of a Mistake in the Indictment, which I hope, when I have opened, will satisfy your Lordship, that it ought not to be put upon me or the Court to try this Cause; or to be sure, if there should be a Conviction, I hope I may move an Arrest of the Judgment.

L. C. J. So I tell you you may, but not now.

Oates. Good my Lord, hear me but a few Words; the Indictment charges me to have given such and such Evidence, that there was such a Consult of the Jesuits at the *White Horse Tavern* in the *Strand*, the 24th of *April* 1673. That the Jesuits did afterwards divide themselves into several lesser Companies, that they came there to a Resolution to murder the late King, and that I swore that I carried that Resolution from Chamber to Chamber, and saw the Resolution signed by them, so the Word is, *Signat'*; now the Perjury assigned is, that I was not present at that Consult, nor did carry the Resolution from Chamber to Chamber to be signed, and there the Word is *Signand'*; now I conceive if *Signat'* be the

Word, that is used in setting forth the Oath that I made, the Assignment of the Perjury ought to follow that Form, and the Word there ought to be *Signat'* too; being *Signand'*, I take that to be an Error.

L. C. J. Look, that is not proper at this time, as I told you at first; but withal I do not think there is any great Matter in what you say.

Mr. At. Gen. Either I do not understand Mr. Oates what he means by the Objection, or he will find himself much mistaken in it.

L. C. J. Well, well, we have nothing to do with that now; go on with the Cause.

Mr. Phipps. May it please your Lordship, and you Gentlemen of the Jury, this is an Indictment against *Titus Oates* for Perjury, which Indictment sets forth, that *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, the 16th of *December*, in the thirtieth Year of the late King, at the *Old-Bailey*, were indicted of High-Treason for conspiring the Death of the King, and that *Ireland*, *Pickering*, and *Grove*, were tryed the 17th of *December* in that Year, and upon that Indictment *Titus Oates* was produced as a Witness on the behalf of the King against the said *Ireland*, *Pickering*, and *Grove*, being sworn to give Evidence to the Jury that were impannelled and sworn to try that Cause; he did swear and give in Evidence that there was a treasonable Consult of the Jesuits at the *White Horse Tavern* in the *Strand*, (meaning the *White Horse Tavern* in the *Strand*, in the County of *Middlesex*) the 24th of *April* 1678, at which consult, *Whitebread*, *Fenwick*, and *Ireland*, and the said *Titus Oates* were present, and that they separated themselves into several lesser Clubs, and came to a Resolution to murder the King, and that he, the said *Titus Oates*, carried the said Resolution from Chamber to Chamber, to be signed by them, meaning the Jesuits; whereas in truth and in fact, he, the said *Titus Oates*, was not present at any such Consult, the four and twentieth of *April* 1678, nor carried any such Resolution from Chamber to Chamber to be signed; and he, the said *Titus Oates*, the 17th Day of *December*, in the thirtieth Year aforesaid, at the *Old-Bailey* aforesaid, upon the Trial aforesaid, on the Indictment aforesaid, between the King, and the said *Ireland*, *Pickering*, and *Grove*, so as aforesaid had, by his own proper Act and Consent of his most wicked Mind, falsely, voluntarily and corruptly in manner and form aforesaid, did commit wilful and corrupt Perjury; and this is laid to be to the Dishonour of God, in Contempt of the Law, to the evil Example of others in the like case offending against the King's Peace, Crown and Dignity. To this he has pleaded Not Guilty, and that is the Issue that you are to try; if we prove him Guilty, we question not but you will find him so.

Mr. At. Gen. May it please your Lordship, and you Gentlemen that are sworn, I am of Counsel in this Cause for the King, and our Case stands thus: The Defendant stands indicted for corrupt and wilful Perjury, for what he swore at the Trial of *Ireland*, and that which he swore was this, in order to convict the Prisoners then at the Bar of the High-Treason they were accused of: *Oates* did swear, that upon the 24th of *April*, 1678, there was a Consult of Jesuits held at the *White Horse Tavern* in the *Strand*, where *Ireland* and several other Jesuits were present, and their Business was to consult how they might murder and destroy the King, and subvert

subvert the Government, and there they came to a Resolution that *Pickering* and *Grove* should kill the King; and he was present at the Debate, and he carried the Resolution from Chamber to Chamber, where they had separated themselves in lesser Numbers, and there he saw the Resolution signed: and this is the Matter that he swore, upon which this Indictment is founded. And, Gentlemen, we do charge that this was a false Oath, and in a Point expressly to the Matter then in Controversy before that Court, for we shall prove he was beyond Sea at that time, and on that day; and in order to his Conviction we shall make out by clear Evidence to you as full and plain as ever was given, that from *Christmas* before, which was in *December* 1677, till *Midsummer* after, which was the latter end of *June* 1678, *Oates*, that swears this Consult in *April*, was at *St. Omers*, and in all that time was not absent from the College there above 24 Hours, and that but once only, which was in *January* when he played Truant, and went to *Watton*, which is about two Miles from *St. Omers*, but otherwise he was all along in the College. And, my Lord, that we may give such a satisfactory Evidence as may make it undeniably plain to the Jury, I desire your Lordship, and you Gentlemen of the Jury, would please to observe some particular Periods of Time, that I shall open for the better clearing our Evidence methodically; and the first Period of Time is from *Mr. Hillsley's* leaving *St. Omers*; now he left *St. Omers* the 14th of *April* Old Stile, which is the 24th of *April* New Stile, and then when he came away, he left *Oates* there at *St. Omers*. *Mr. Hillsley* when he came into *England*, in *Kent* in his Journey to *London*, meets one *Mr. Burnaby*; this was I say in *Mr. Hillsley's* Return into *England* from *St. Omers*, which he left ten Days before the time assigned by *Oates* for this Consult, at the *White Horse* Tavern in the *Strand*. And the next Period is, *Mr. Burnaby* was going to *St. Omers*, and there he arrives in Time the 21st of *April* Old Stile, and there he finds *Mr. Oates*, who swore he was then in *London*: and by the Evidence you will hear that *Mr. Oates*, according to his usual Custom, and according to that Virtue he is endowed with, very boldly insinuates himself into this Gentleman's Company, as he uses to do with all new Corners; and you will hear from *Mr. Burnaby* himself, and many others, that from the time of his coming to *St. Omers*, which was the 21st of *April*, he convers'd with *Mr. Oates* several Days, every Day till after the 24th of *April* Old Stile at *St. Omers*. Then, my Lord, another Period of Time that I would desire you to observe, is, from *Mr. Pool's* coming from *St. Omers*, which was in Time the 25th of *April* Old Stile, the very Day after the Day that this Consult was sworn to be on; and when he came from *St. Omers*, you will hear from many Witnesses that he left *Oates* there, and there he stay'd. For, my Lord, we shall, besides these particular times of these Gentlemens coming over who left him there, prove the very Day when he left *St. Omers*, and that was the end of *Midsummer-day* following, which was the 23d of *June*; then was the time when *Oates* first came from *St. Omers* to *England*, and we shall prove he took his leave of them then. My Lord, we have many other Circumstances that will unanswerably strengthen this Evidence, and shew that our Witnesses testify nothing but the Truth; one particularly is this: This Gentleman being a Novice of the House, was Reader in the *Sodality*, as they call it, we shall

prove that; for every *Sunday* and *Holiday* throughout all *April* and *May*, he did officiate in that place, and did read to the Society according as the Custom there is; and we shall prove another particular thing, that upon this 24th of *April* he was in the College, by a particular Circumstance, and that by several Witnesses: so that, Gentlemen, not to detain you with any long Opening of the Matter, if we prove this that I have opened, as we shall with a Cloud of Witnesses, it will make an end of the Question. We shall first call our Witnesses to prove that he swore at that Trial, that such a Consult was, and he was at it, and then if we prove that he was at another Place beyond the Sea, at such Distance that it is impossible for him to be here; I do not doubt but the Court and the Jury will conclude, he hath willfully and corruptly forswore himself; the sad Effects of which we are all Witnesses of; it was to take away the Lives of his Fellow-Subjects wrongfully; and it will appear to the World, he has been one of the greatest Impostors that ever did appear upon the Stage, either in this Kingdom, or in any other Nation.

Mr. Sol. Gen. We will now go on with our Evidence, and prove all the Parts of the Indictment, and first produce the Record of the Trial of *Ireland*, and then by Witnesses, *viva voce*, that were present at that Trial, we shall prove what he swore, and then prove that Oath of his to be false. Swear *Mr. Swift*. [Which was done.]
Where is the Record of *Ireland's* Trial?

Mr. Swift. Here it is, my Lord.

Mr. Recorder. Is that a true Copy, Sir?

Mr. Swift. Yes, I examin'd this from the Record, it is a true Copy.

L. C. J. Read it.

Mr. At. Gen. If *Dr. Oates* does desire the whole may be read, let it be so; otherwise a Word of it may serve, it being only an Inducement.

Oates. Yes, I desire it may be all read.

L. C. J. It must be read, if he will have it.

Mr. Sol. Gen. Well, I submit it, I did only offer it to save the time of the Court.

Oates. I would save the time of the Court too all that I can; but I think it may be material for me to have the whole read.

L. C. J. In God's Name let it be read, we will not hinder you in any thing that may be for your Defence.

Cl. of Cr. Memorandum quod—

Mr. At. Gen. Now this long Record in *Latin* is read, I would fain know whether it be to any great purpose, but only to spend Time?

L. C. J. Nay, I think it has not been very edifying to a great many; do you think, *Mr. Oates*, that the Jury, who are Judges of this Fact, do understand it?

Oates. I cannot tell, may be they may, my Lord.

Mr. Just. Withins. Do you understand it yourself, *Mr. Oates*?

Oates. That's not any Question here; but to oblige the Court and the Jury, I desire it may be read in *English* too.

L. C. J. No, the Court understands it well enough, and they can tell the Jury what it is; it is only the Copy of a Record, to prove that *Ireland* was tried for High-Treason at the *Old-Bailey*, the 17th of *December* 1678.

Mr. Sol. Gen. Now, my Lord, we will call our Witnesses, to swear what *Oates* did at that Trial swear: Pray swear *Mr. Foster*. [Which was done.]

Mr.

Mr. *At. Gen.* Pray, Mr. *Foster*, will you acquaint the Court and the Jury, whether Dr. *Oates* was produced as a Witness at *Ireland's* Trial, and what he did there depose about a Consult in *April 78*.

Mr. *Foster*. My Lord, I was so unhappy as to be one of that Jury, by whom Mr. *Ireland*, Mr. *Pickering*, and Mr. *Grove* were try'd.

Jury-men. My Lord, we desire that Mr. *Foster* would lift up his Voice, for we cannot hear him.

Mr. *Foster*. Truly, My Lord, I have been very sick of late, and am not now very well, and therefore cannot speak louder than I do,

L. C. J. Go nearer the Jury, and speak as loud as you can.

Mr. *Foster*. My Lord, I say, I did see Mr. *Oates* produced as an Evidence at the Sessions in the *Old-Bailey*, where I was so unhappy as to be a Jury-man, when Mr. *Pickering*, Mr. *Ireland*, Mr. *Grove*, and Mr. *Whitebread* were try'd.

Mr. *At. Gen.* When was that?

Mr. *Foster*. It was in *December 78*.

Mr. *At. Gen.* And what did *Oates* then swear?

Mr. *Foster*. I did see Mr. *Oates* sworn as an Evidence there, in behalf of the King, against the Prisoners; and he did then swear, that there was a Meeting of several Jesuits at the *White-horse* Tavern in the *Strand*, upon the 24th of *April 78*, and that Mr. *Whitebread*, Mr. *Ireland*, and Mr. *Fenwick* were present at the Meeting, and there they did consult the Death of the King, and the altering of the Religion; and some went away, and others came: at last they reduced themselves into several smaller Companies or Clubs, and they came to a Resolution, that *Pickering* and *Grove* should go on to assassinate the King, for which the one was to have 1500 Pound, and the other 30,000 Masses, and that this Resolution was drawn up by one *Mico* (if I am not mistaken in his Name) I have it in my Notes I then took of the Evidence; and he swore further, that he himself went with this Resolution to several of their Chambers; he went to *Whitebread's* Chamber, and saw *Whitebread* sign it; he went to *Fenwick's* Chamber, and saw *Fenwick* sign it; and went to *Ireland's* Chamber, and saw *Ireland* sign it; and this was upon the 24th of *April 78*. My Lord, I am positive in this, for I had the good-hap to take the Notes at the Trial for my own help, being a Jury-man, and I never look'd upon those Notes afterwards, till the printed Trial came out, and then I compared my Notes with the Print, and found them to agree, and I have kept them ever since by me, and this is all under my own Hand as I have testified.

Oates. My Lord, may I ask this Gentleman a Question?

L. C. J. Ay, if the King's Counsel have done with him.

Mr. *At. Gen.* Yes, my Lord, we have done with him.

Mr. *Foster*. Pray, my Lord, give me leave to sit down, for I am not able to stand.

Oates. My Lord, I desire you to ask that Gentleman, whether in the Oath that I took, I call'd it a Consult, or I call'd it a Traitorous Consult.

Mr. *Foster*. Truly I think you call'd it both, if I am not mistaken; but if your Lordship please, I will look upon my Notes.

L. C. J. You may look upon your Notes to refresh your Memory, if you will.

Mr. *Just. Withins*. Truly I think if it were a Consult to murder the King, it must be a traitorous one without doubt.

Oates. Sir, that is not to the purpose, my Question is, what I swore it was.

L. C. J. He tells you, he believes you did swear both ways.

Mr. *Foster*. At that Consult he said such a Resolution was taken, and I think he called it a Traitorous Consult.

Oates. If you please, I'll tell your Lordship the Reason, why I asked that Question.

L. C. J. No, you may save yourself the trouble of that, you best know the reason of your own Questions; he has given you a satisfactory Answer.

Oates. Then if your Lordship please, ask him this Question, Whether I swore that all these three Jesuits were present at one time, or how many of them?

L. C. J. You hear the Question, what say you to it?

Mr. *Foster*. Sir, you swore that *Ireland*, *Fenwick*, and *Whitebread* were at that Consult, but whether they were all three of them there at one time, I cannot tell, or which of them were together; but this you did swear, that they were there, and came to such a Resolution, and you carried it to all their Chambers, and did see them sign it.

Mr. *Just. Withins*. He gives you a plain Account, of what you did swear, I think, Mr. *Oates*.

Oates. Very well, my Lord, I would ask him a third Question, if you please.

L. C. J. Ay, in God's Name ask him as many Questions as you will.

Oates. Whether did I swear that it was resolved to kill the King at the *White-Horse* Tavern, or whether that Resolution was made after they separated themselves into lesser Clubs?

L. C. J. Mr. *Foster*, this is his Question, Whether you did apprehend by what he swore, that he affirmed, the Resolution to kill the King was made at the *White-Horse* Tavern, or afterwards when they were divided?

Mr. *Foster*. They came to a Resolution, you said, at the *White-Horse* Tavern, and the Resolution was there drawn up by one *Mico*, I think; and it was carried by you, for every one to sign it from Chamber to Chamber; for I remember you were asked the Question, whether you saw them sign it, and you answered that you did carry it, and saw them sign it.

Mr. *Just. Withins*. He speaks very plain, Mr. *Oates*.

L. C. J. He answers your Question very fully.

Oates. Ay, my Lord, so he does, I am glad of it?

L. C. J. Have you any more Questions to ask him?

Oates. I would ask him another Question; whether I did swear, that I did carry this Resolution from Chamber to Chamber to be signed, or that I carried it from Chamber to Chamber, and saw them sign it.

Mr. *Foster*. You did swear that you carried the Resolution from Chamber to Chamber, and saw them sign it.

Oates. But did you remember it so particularly, as to say, which you swore, whether I did carry it to be signed, or carried it, and saw them sign it?

Mr. *Foster*. You said, you carried it to be signed, and you saw it signed.

L. C. J. He tells you for Satisfaction in that Point, that he does remember you did swear it both ways.

Oates. He does say so indeed; but whether it was so or no, is a doubt.

L. C. J. That will be a Question by and by, it may be; if he be in the wrong, I suppose you can rectify him.

Oates. We are now, my Lord, upon my Oath, and therefore it concerns me to enquire whether I swore as is laid in the Indictment.

L. C. J. You say right, it does so.

Oates. And I the rather ask these Questions, my Lord, because it is six Years ago since that Trial.

L. C. J. I hope you have not forgot what you swore, have you?

Oates. My Lord, I think it is fair for me to ask the Witnesses what they remember after so long a time.

L. C. J. 'Tis very fair, no body says any thing to the contrary.

Oates. Then, my Lord, I hope I may ask this Gentleman how he comes to remember all this after so long a time?

L. C. J. He has told you already, but tell it him again, Mr. *Foster*.

Mr. Foster. Truly it is so long ago, that had I not taken all these Notes at the Trial, I had not been able to have given so good an Account.

L. C. J. 'Tis a very good reason.

Oates. 'Tis so, my Lord, I have subpoena'd others of the Jury, and they will, I suppose, give you as good an Account.

L. C. J. Have you done with him then?

Oates. I have one Question more to ask Mr. *Foster*, and that is, whether I swore they met all in one Room, at the *White-Horse* Tavern, or in more than one?

Mr. Foster. You swore they were in several Rooms.

Oates. Then I would ask him this Question, my Lord, whether he were then satisfied that *Ireland* was guilty of the High-Treason he was then indicted of?

L. C. J. The meaning of the Question is, I suppose, whether you did believe Mr. *Oates* at that time.

Mr. Foster. Yes, my Lord, I had no reason to the contrary.

L. C. J. But I would ask you a Question then, Mr. *Foster*. Do you believe him now? Do you think, Mr. *Oates*, he would have found him guilty, if he had not believed the Evidence against him?

Oates. We know how Juries have gone a-late.

L. C. J. Ay, very strangely indeed, Mr. *Oates*, and I hope so as we shall never see them go a-gain.

Mr. Foster. My Lord, I have lived so long in the City of *London* without any Blemish, that I hope it will not be thought I would give corruptly a Verdict against my Conscience.

Oates. My Lord, I speak of later Times than *Ireland's* Trial.

L. C. J. He is an honest Man, I know him.

Oates. Good my Lord, be pleased to hear me.

L. C. J. Nay, you shall hear me, as well as I shall hear you, I'll assure you that, Mr. *Oates*, in plain *English*: ask as many Questions of the Witnesses as you will, that are proper to be asked; but I'll have no Descants, nor Reflections: I know him, and he is very well known in the City of *London*, he is a Man of very considerable Quality, and very good Repute.

Oates. I beseech your Lordship to forgive me, if I mistake in my Questions, I do assure you I design no Reflections on Mr. *Foster*.

L. C. J. Ask what Questions you will, but do not reflect.

Oates. I desire to ask Mr. *Foster* one Question more, and that is, that he would be pleased to tell the reason why at the beginning of his Evidence he said, it was his unhappiness to be a Jurymen at that time?

Mr. Foster. Really, Sir, I think it is not a happiness for any Man to be of a Jury, where the Life of a Man is in question. I assure you for myself, I never accounted it so, and if I could have avoided it, I should have been very glad to have been excused.

Oates. I have done with Mr. *Foster*.

Mr. At. Gen. My Lord, thus we prove what Mr. *Oates* swore at the Trial, which Mr. *Oates* himself will not deny; for the Fact, Mr. *Oates* has printed in his Narrative, as we have now proved it.

Oates. I intend to produce some others of the Jury-men by and by.

Mr. Sol. Gen. Now we shall call our Witnesses to prove, that what he then swore was false.

Mr. At. Gen. We call no more to the Point, what he did swear; but go on to disprove what he did then swear.

Oates. My Lord, I would put this Question to the Court, whether this be a Proof sufficient for this Point?

L. C. J. I leave that to the Jury, it is a Point of Fact that they are to try.

Oates. I beseech your Lordship, that the Court would be pleased to give me an Answer.

L. C. J. If you ask impertinent Questions, the Court is not obliged to answer them. Go on, Mr. Attorney.

Mr. At. Gen. Call *Martin Hillsley Esq;* and *Henry Thornton Esq;* Swear Mr. *Hillsley*. [Which was done.

Come, Mr. *Hillsley*, pray acquaint my Lord and the Jury what time you came from *St. Omers*, in the Year 78.

Mr. Hillsley. My Lord, I came from *St. Omers* the 24th of *April* New Stile, where I left the Prisoner, Mr. *Oates*.

L. C. J. From whence did you come, say you?

Mr. Hillsley. From *St. Omers* the 24th of *April*, New Stile.

L. C. J. What Year?

Hillsley. In the Year 78, that is, the fourteenth of *April* here; and the three and twentieth of *April* New Stile, I saw the Prisoner at *St. Omers*, and went to School with him, and on the four and twentieth I came from *St. Omers*, and went to *Calais*, and from thence into *England*; but he was never in my Company all the while I was coming for *England*, though he swore he came over with me.

L. C. J. The three and twentieth of *April* you say you saw him?

Mr. Hillsley. Yes, I was with him, that was the Day before I came from *St. Omers*.

L. C. J. You left him there the Day before you came away, you say?

Mr. Hillsley. I did not see him that Morning that I came away, but here are others that did.

Mr. At. Gen. Was he a Scholar there?

Mr. Hillsley. Yes, my Lord, he was.

Mr. At. Gen. Did you know him very well?

Mr. Hillsley. Yes, my Lord, I did.

Mr. At. Gen. Did he come over into *England* with you?

Mr. Hillsley. My Lord, I came from *St. Omers* to *Calais*, and never saw him; from *Calais* to *Dover*;

I never saw him from *Dover* to *London*, I never saw him all the way; and I am confident, he was not in the same Ship I came over in, for I should have seen him if he had.

Mr. *At. Gen.* Was he for some time before that constantly at *St. Omers*?

Mr. *Hilsley.* We went perpetually to School together.

L. C. J. What time did you take shipping after you went from *St. Omers*?

Mr. *Hilsley.* The very next Day; the Day I went from *St. Omers* was on the *Sunday* morning: On *Monday* I took shipping from *Calais* to *Dover*, and I arrived in *England* at Ten of the Clock the same Night.

Oates. When does he say he arrived in *England*?

L. C. J. He says, he went from *St. Omers* on the *Sunday*, he came that Night to *Calais*, and the next day went on board from *Calais*, and came that Night to *Dover*, that was *Monday* Night.

Mr. *Hilsley.* Yes, I came that Night to *Dover*, and I lay there that *Monday* Night, the next Day was the 26th of *April* New Stile.

Mr. *At. Gen.* Where came you then, from thence?

Mr. *Hilsley.* I came as far as *Bockton-street*, and there I lay four or five Days, and then I came to *Sittingbourn*, and by long Sea from thence to *London*.

Mr. *At. Gen.* Where did you meet Mr. *Burnaby*?

Mr. *Hilsley.* I met him hard by there, at a Relation's of mine.

Mr. *At. Gen.* Do you remember what Day you met him?

Mr. *Hilsley.* I think it was a Day or two before I came away from thence to *London*.

Mr. *Just. Withins.* Had you any Discourse with Mr. *Oates*, about your coming into *England*?

Mr. *Hilsley.* Nothing at all, Sir *Francis*, that I remember.

L. C. J. What time did you come to *London*?

Mr. *Hilsley.* I came within a few Days to *London*, I staid four or five Days there by the way; and I saw Mr. *Burnaby* within four Days, I think, after I came into *England*. It was about *Monday* seven-night after I came from *St. Omers*, that I came to *London*.

Mr. *At. Gen.* That was *May* New Stile.

Mr. *Hilsley.* That is their Stile. It was so.

Mr. *Sol. Gen.* In our Stile it was the 21st of *April*.

Mr. *Hansfys.* Pray did you give an account to any body, after you came to *London*, that you left *Oates* at *St. Omers* when you came away.

Mr. *Hilsley.* What say you, Mr. *Hansfys*? I did not well understand your Question.

L. C. J. Then mind me, Sir: It was asked of you, whether you had any Discourse with any body, after you came hither, that you had left Mr. *Oates* behind you at *St. Omers*?

Mr. *Hilsley.* I did tell some Persons I left an *English* Parson there, at the same time I came away.

L. C. J. Did you not name him, who it was?

Mr. *Hilsley.* Yes, I named him by the Name he went by there, and that was *Sampson Lucy*.

Mr. *At. Gen.* To whom did you tell it?

Mr. *Hilsley.* To one Mr. *Osbourne*,

Mr. *Sol. Gen.* Did he go by that Name of *Sampson Lucy* in the College?

Mr. *Hilsley.* Yes, he did sometimes, he had three or four Names, he was called sometimes *Titus Ambrosius*.

Oates. Now, my Lord, I desire I may ask that Gentleman a Question or two.

L. C. J. Ay, if they have done with him.

Mr. *At. Gen.* We have, my Lord.

L. C. J. Then ask him what you will.

Oates. I desire, my Lord, that you would be pleased to ask that Gentleman what Religion he is of; for it is a fair Question, and an equitable one, and that which very nearly concerns me? and I desire to know where he lives.

L. C. J. What Religion are you of, Sir?

Mr. *Hilsley.* I am a *Roman* Catholick.

L. C. J. Where do you live?

Mr. *Hilsley.* I live in *London*, I am of the *Inner-Temple*.

L. C. J. He says that he is a *Roman* Catholick, and lives in *London*.

Oates. Pray be pleased, my Lord, to ask him when he went to *St. Omers* first, and how long he stayed there?

Mr. *Hilsley.* My Lord, I was there about six Years, I presume it was about the Year 1672, when I went there first.

Oates. Pray ask him what he did there, what was his Business?

Mr. *At. Gen.* That is not a pertinent Question at all, with submission, my Lord.

Oates. I beseech you, Mr. Attorney, give me leave to ask my own Questions.

L. C. J. Ay, but you must ask fair and pertinent Questions.

Oates. My Lord, I would know what was his Employment there at *St. Omers*?

Mr. *Hilsley.* I know not my self of any particular Employment I had, any more than any of the rest that were there.

L. C. J. But, Mr. *Oates*, you must not ask any such Questions; what know I, but by asking him the Question, you may make him obnoxious to some Penalty, you must not ask him any Questions to ensnare him

Oates. My Lord, it tends very much to my Defence to have that Question truly answered.

L. C. J. But if it tends to your Defence never so much, you must not subject him to a Penalty by your Questions.

Oates. The nature of my Defence requires an Answer to that Question.

L. C. J. But shall you make a Man liable to Punishment, by ensnaring Questions? If a Man should ask you what Religion you are of,——

Oates. My Lord, I will tell you by and by my Reason, and I hope a good one, why I ask it.

L. C. J. I do not believe you can have any Reason, but to be sure we must not suffer any such entangling Questions to be asked.

Oates. Pray ask him, my Lord, when I came to *St. Omers*.

L. C. J. When did *Oates* come to *St. Omers*?

Mr. *Hilsley.* As well as I remember, he came to *St. Omers* either the latter end of *November*, or the beginning of *December*, in the Year 1677, I think it was that Year.

Oates. I desire you would ask him, whether they were not Priests and Jesuits that govern'd that House?

L. C. J. What a Question is that! I tell you 'tis not fit to be asked.

Oates. I demand an answer to it, upon the Oath he has taken.

L. C. J. And I tell you, upon the Oath you have taken, you are not bound to answer any such Question.

Oates. Good my Lord, let my Questions be answered.

L. C. J. No, Sir, they shall not: How now, do not think to put Irregularities upon us, if you will behave your self as you ought to do, and keep to that which is proper, well and good.

Oates. If your Lordship pleases, I think this very proper for me.

L. C. J. What, to ask such improper Questions as these are?

Oates. Truly, my Lord, I think they are fit Questions to be asked.

L. C. J. But we are all of another Opinion.

Oates. My Lord, I desire to know, whether they are not set on by their Superiours to do this?

L. C. J. That is not a fair Question neither.

Oates. Give me leave to make my Defence, my Lord, I beseech you.

L. C. J. Ay, in God's Name; but I pray you then make it in a regular and becoming way; for I know of no Privilege you have more than other People, to use Witnesses as you do.

Oates. My Lord, I look upon my self as hardly used in the Case.

L. C. J. I care not what you look upon your self to be, if you will ask Questions, ask none but fair Questions, and while you keep within Bounds you shall be heard as well as any of the King's Subjects; but if you will break out into Questions that are impertinent, extravagant, or ensnaring, we must correct you, and keep you within proper Limits.

Oates. Then, my Lord, I ask whether he was not a Witness at the Trial of the five Jesuits, and at *Langborn's* Trial?

L. C. J. Ay, that is a proper Question, what say you to't, Sir?

Mr. Hillsley. I was so, Sir.

Oates. Pray, my Lord, ask him what Credit he received at those Trials?

L. C. J. What a Question is that to ask any Man!

Oates. My Lord, I think it is a fair Question.

L. C. J. No, indeed, it is not a fair one at all.

Oates. My Lord, I desire to know what induces him to come here as a Witness now, since it appears that now he comes to give an Evidence that he gave six Years ago, and was not believed?

Mr. Hillsley. My Lord, I am subpoena'd.

L. C. J. He has given you an Answer to the Question, though I think it was an idle Question, and not at all to the Purpose.

Oates. It may be, he may have some particular reason to induce him to it now.

L. C. J. Well, he tells you he came because he was subpoena'd, and that is sufficient: He is not compellable to be a Witness, unless he be subpoena'd; but if a Man will come without a Subpoena, and give Evidence in a Cause, that is no Objection to his Testimony.

Oates. My Lord, I desire to know of him, whether he is to have any Reward for swearing in this Cause?

L. C. J. What say you, Sir, are you to have any Reward for your Evidence?

Mr. Hillsley. None at all as I know of, my Lord, I assure you.

Mr. Just. Withins. He is not paid for his Evidence, Mr *Oates*.

Oates. If he be or be not, I cannot tell, nor do I know who ever was paid for it.

L. C. J. Have you any more Questions to ask him?

Oates. Pray, my Lord, I desire to know what was the Occasion of his coming away from *St. Omers*?

Mr. Hillsley. I had finished my Studies.

Oates. Pray, my Lord, be pleased to ask him, if he never heard of any Consult of the Jesuits here in *England*, in the Month of *April* 78, and from whom he did hear of it?

Mr. Hillsley. I did hear of it among the rest of the Students of the College.

L. C. J. What did you hear of?

Mr. Hillsley. I did hear of a Consult of the Fathers in *April* 1678.

Mr. At. Gen. Yes, there was, but not such an one as *Mr. Oates* speaks of, nor was he at it.

Mr. Just. Holloway. For what was that Consult, I pray you?

Mr. Hillsley. It was nothing but a Triennial Congregation about the Affairs of the Society.

L. C. J. What were they to do there?

Mr. Hillsley. My Lord, I was informed among them there, that it was only what they used to have once in three Years for ordinary Affairs.

Oates. My Lord, he pretends to tell when I came thither, I desire to know of him from what time it was he saw me there, and how often?

Mr. Hillsley. Generally every Day, as near as I can remember, I think, *Mr. Oates*; you and I, *Mr. Oates*, went to School in the same Place.

Oates. Pray, how many Days was I absent from thence in that Time you were there?

Mr. Hillsley. You were there generally as often as I; I do not know whether ever you miss'd a Day or no.

Oates. Pray, my Lord, will you ask the Gentleman one Question more, whether he can particularly tell that he did see me every Day at *St. Omers*? For 'tis not enough for him to swear that he saw me there; but he ought to give an Account how he comes to know it by some particular Circumstances.

L. C. J. He has given you several Circumstances of his Knowledge; for he says he was there all the while from your coming, till the 23d of *April* New Stile, that he came for *England*; he says he was a Scholar in the same Form and Class with you, and because he does not remember himself to have been absent, he does not remember you to be absent neither.

Mr. At. Gen. And he swears particularly to the very Time he came over, which was *April* the 14th Old Stile.

Oates. Well, I have no more Questions to ask this Gentlemen.

L. C. J. Then call another.

Mr. Sol. Gen. Cryer, call *Mr. John Dorrel*.

[*Who was sworn.*]

L. C. J. Look ye, *Mr. Attorney*, you did open things at the first for *Method's* sake by Periods of Time; the first was *Hillsley's* coming over, the next was the meeting with *Burnaby*, now pray observe that *Method*, and call that *Burnaby* next.

Mr. At. Gen. My Lord, we shall call him by and by; but we have not done with this Business about *Hillsley*, we have some Witnesses that will give an Evidence to strengthen and back his Testimony. Come, *Mr. Dorrel*, what have you to say to this Matter?

Mr. Dorrel. My Lord, in *April* 1678, I came from *Brussels* to *England*, where presently after I came, I was with one *Mr. Osbourn* and my Mother; and there was a Discourse between my Mother and him about Religion.

L. C. J.

L. C. J. Where was that?

Mr. Dorrel. It was here in *England*.

Mr. At. Gen. Now tell the time when that was.

Mr. Dorrel. As near as I can guess, it was the 15th or 16th of *April* Old Stile, in the Year 1678.

Mr. At. Gen. Well, Sir, go on with your Story.

Mr. Dorrel. My Mother was laughing at his Religion, and telling him some ridiculous Stories, and he replied, there are a great many that are so ignorant, that are bred up in the Religion of the Church of *England*, that they are forced to be sent to the Colleges abroad to be taught, even some of the Clergy of that Church, and particulariz'd in one *Sampson Lucy* alias *Oates*, that was a Scholar at that time at *St. Omers*, as he was assured by a Gentleman that was newly come from thence. My Mother is now sick, or else she would have been here, and would have testified the same I now do.

Mr. Sol. Gen. This Gentleman is a Protestant, Mr. *Oates*.

Oates. What is your Name, Sir, I pray?

Mr. Dorrel. My Name is *John Dorrel*, Sir.

Oates. Were you never at *St. Omers* a Student there?

Mr. Dorrel. I was there, but before your time, Doctor; I had not the Happiness to be there, while you were there.

Oates. I pray, Sir, what Religion are you of?

Mr. Dorrel. I am a Papist now.

Oates. I desire, my Lord, the Court would be pleas'd to take notice of it, he owns he was reconcil'd to the Church of *Rome*.

Mr. Dorrel. Mr. *Oates*, to satisfy you, I went over when I was a Child of 12 or 13 Years old, and so was bred in that Persuasion.

L. C. J. Well, well, we all observe what he says.

Mr. Sol. Gen. Pray swear Mr. *Osbourne*.

[Which was done.

Mr. At. Gen. My Lord, we call this Person only to this Matter. Pray, Sir, will you give the Court and the Jury an Account what Discourse you had with Mr. *Hilsley* about *Oates*, and pray, Sir, tell the time when it was.

Mr. *Osbourne*. My Lord, I went out of Town the 30th of *April*, the Year before the pretended Plot was discover'd by Mr. *Oates*, and I met with Mr. *Hilsley* two or three Days before, and enquiring of him about the affairs of *St. Omers*, he told me of a Minister of the Church of *England* that was come thither to be a Student there, who went under the Name of *Sampson Lucy*, but his right Name was *Oates*; I ask'd him what he pretended to; did he intend to be of that Order? He told me, he did believe that he would not be admitted for his irregular and childish Behaviour, and that he had left him in the College; and this I afterwards in Discourse told to Madam *Dorrel*, who is a Protestant; and to my Mother, who is since dead.

Mr. At. Gen. Will Mr. *Oates* ask this Gentleman any Questions?

Oates. I only ask him what Religion he is of?

L. C. J. What Religion are you of, Sir?

Mr. *Osbourne*. I am a *Roman* Catholick, my Lord.

Mr. Sol. Gen. Now, my Lord, we come to call Mr. *Burnaby*. Pray swear him.

[Which was done.

Mr. At. Gen. Mr. *Burnaby*, pray will you acquaint my Lord and the Jury, of the time when you came from *St. Omers* to *England*, and when you met with Mr. *Hilsley*?

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Mr. *Burnaby*. I met with *Hilsley* on the 18th of *April* Old Stile, in the Year 78; then I pursued my Journey the following Day to *St. Omers*.

L. C. J. Where did you meet him?

Mr. *Burnaby*. Between *Sittenbourn* and *Canterbury*, and afterwards I pursued my Journey from *Canterbury* to *Dover*, from thence to *Calais*, and from thence to *St. Omers*. I arrived at *St. Omers* the 21st of *April* Old Stile, which was the 1st of *May* New Stile; upon the 2d of *May* Mr. *Oates* was in my Company, I was walking in the Garden, and he came into my Company.

L. C. J. When was it?

Mr. *Burnaby*. The 2d of *May* New Stile, and the third of *May* again I went into the Garden, and there he was with me again; and the 5th of *May* I saw him again.

L. C. J. Where?

Mr. *Burnaby*. In the *Rhetorick* Form.

L. C. J. But where, in what Place?

Mr. *Burnaby*. At *St. Omers*.

L. C. J. You speak of your own Knowledge, you are sure you saw him there at those times?

Mr. *Burnaby*. Yes, in the *Rhetorick* School, and in the Garden.

Mr. At. Gen. What more do you know of him?

Mr. *Burnaby*. I saw him again the 8th of *May* New Stile, that is the 28th of *April* Old Stile? I mean by New Stile, that Stile which was used in the Place where I was then.

Mr. At. Gen. How long was he there before he went away?

Mr. *Burnaby*. I know he was there from the 2d of *May*, the Day after I came thither, to the 20th of *June*, and then I went away, or thereabouts.

L. C. J. Did you see him daily all that time?

Mr. *Burnaby*. Yes, from Day to Day he was not out of the House.

L. C. J. Were you a Scholar there with him?

Mr. *Burnaby*. Yes, I was.

L. C. J. What Year was that?

Mr. *Burnaby*. In the Year 78.

Mr. At. Gen. Mr. *Oates* may ask him what Questions he will.

Oates. My Lord, he says he went away, I desire to know whither he did go.

Mr. *Burnaby*. I went away the 20th of *June* from *St. Omers*, it is no matter whither I went.

Oates. I desire he may give an account what Religion he is of.

Mr. *Burnaby*. I am a *Roman* Catholick.

Oates. My Lord, I desire to know whether he be not of that Order.

L. C. J. That I will not ask him, I'll assure you.

Oates. Truly, my Lord, I think it is a very hard matter for me to have Jesuits admitted as Witnesses in such a Cause against me.

L. C. J. I have told you already, you are not to ask any Questions of any Witnesses that may subject them to any Penalty, or make them accuse themselves of any Crime.

Oates. My Lord, I humbly desire he would give an account, whether he were not admitted into the Society.

L. C. J. I tell you, he is not to be ask'd that Question.

Oates. He has own'd it before.

L. C. J. Do you take your Advantage of it, if you can prove it.

Oates. Then, my Lord, I desire to ask him, whether or no he did appear as a Witness at the Trial of the five Jesuits.

Mr. *Burnaby*. No, my Lord, I did not.

Oates. Pray, my Lord, ask him whether he was not summon'd to appear then.

Mr. *Burnaby*. No, I was not.

Oates. Pray, my Lord, ask him what Reward he is to have for coming, and giving this Evidence.

L. C. J. Are you to have any Reward for being a Witness in this Cause?

Mr. *Burnaby*. None, my Lord, that I know of.

L. C. J. That was a proper Question to be ask'd, and you have a fair Answer to it.

Oates. Pray, Mr. *Burnaby*, by what Name did you go at *St. Omers*.

Mr. *Burnaby*. By the Name of *Blunt*.

Mr. *At. Gen.* And what Name did he go by there?

Mr. *Burnaby*. Who, Sir?

Mr. *At. Gen.* Mr *Oates*.

Mr. *Burnaby*. By the Name of *Sampson Lucy*.

Oates. My Lord, I desire you to ask him whether he did know of any Consult that was to be held here in *London*, in *April 78*, and by whom he knew it?

L. C. J. What say you, Sir, did you know of any Consult?

Mr. *Burnaby*. No, I neither heard of it, nor knew any thing of it.

Mr. *At. Gen.* Now, my Lord, we shall go on to another period of Time, and that is concerning *Pool*. Swear Mr. *Pool*. [Which was done.]

Mr. *Sol. Gen.* Pray will you acquaint my Lord and the Jury, whether you knew Mr. *Burnaby* at *St. Omers*.

Mr. *Pool*. Yes, I did, Sir.

Mr. *Sol. Gen.* Do you know the time when he came to *St. Omers*?

Mr. *Pool*. No, I do not remember it.

Mr. *At. Gen.* When did you come over from *St. Omers*?

Mr. *Pool*. The 25th of *April*.

Mr. *At. Gen.* What Stile?

Mr. *Pool*. Old Stile.

Mr. *At. Gen.* In what Year?

Mr. *Pool*. In the Year 78.

Mr. *At. Gen.* Did you know Mr. *Oates* at *St. Omers*?

Mr. *Pool*. Yes, I did know that Gentleman there?

Mr. *At. Gen.* Was he at *St. Omers* that time you was there?

Mr. *Pool*. Yes, he was.

Mr. *Sol. Gen.* Did you leave him there when you came away?

Mr. *Pool*. Yes, I did leave him there when I came away.

Mr. *Sol. Gen.* Pray tell the Court some particular thing why you remember it, and upon what account you came away.

Mr. *Pool*. Upon the Occasion of my Brother's Death I came over, and I can tell several Particulars of my Journey; I came away upon the *Thursday*, and I came to *London* upon the *Sunday* following.

Mr. *At. Gen.* You are sure you left Mr. *Oates* there then?

Mr. *Pool*. Yes, I am sure I did leave Mr. *Oates* there when I came away, and I came away thence the fifth of *May* New Stile, the twenty-fifth of *April* Old Stile.

Mr. *Sol. Gen.* Pray how long did you know Mr. *Oates* there?

Mr. *Pool*. I knew him there from *Christmas* before that.

L. C. J. You were of the College, were you not?

Mr. *Pool*. Yes, I was a Student there.

L. C. J. You are sure he was there all the while.

Mr. *Pool*. I do not remember he was a Day absent, and if he had gone away, particular Notice would have been taken of it.

L. C. J. Did you see him there two or three Days before you came away?

Mr. *Pool*. I saw him that Morning I came away.

L. C. J. And what time before?

Mr. *Pool*. I saw him two or three Days before that.

L. C. J. Can you name any particular Days?

Mr. *Pool*. I saw him the first of *May*, and the second of *May*, and the fifth of *May*, which was the 25th of *April* Old Stile, and then I came away.

L. C. J. Are you sure you left him there then?

Mr. *Pool*. I am sure I left him there, I can swear it without any difficulty at all.

L. C. J. What do you ask him, Mr. *Oates*?

Oates. I desire to know what Religion he is of.

L. C. J. What Religion are you of?

Mr. *Pool*. I am a *Roman* Catholick.

Oates. I desire your Lordship would ask him, whether he was a Witness at the Trial of the five Jesuits, or at *Langborn's* Trial.

Mr. *Pool*. No, I was never an Evidence before in my Life.

Oates. Pray, my Lord, ask him, whether he was not admitted into the Sodality of the *Virgin Mary*.

L. C. J. No, indeed, I shall ask him no such Question.

Oates. Pray, my Lord, let him answer it.

L. C. J. Prove what you can when it come to your Turn, but ask him no entangling Questions.

Oates. He has made himself liable to a Penalty by being in that Seminary.

L. C. J. I hope a Man may be at *St. Omers*, and yet not be punish'd for it, Mr. *Oates*.

Oates. It is my Defence to disable the Witnesses against me.

L. C. J. But they must not be ask'd what may make them accuse themselves.

Oates. My Lord, it is hard that the Witnesses shall not be made to answer my Questions.

L. C. J. Pray, Sir, be quiet, we have told you often enough already, you must not think to govern us, it must not be allow'd.

Oates. My Lord, I desire he may be ask'd then, what Reward he has to come, and swear in this Cause.

Mr. *Pool*. My Lord, I do not know that I am so much as to have my Charges borne.

L. C. J. Are you to have any Reward?

Mr. *Pool*. No, my Lord, that I know of.

Oates. Pray, my Lord, I desire he may be ask'd, what was the occasion of Mr. *Hilsley's* coming away from *St. Omers*.

Mr. *Pool*. Indeed I did not examine into the occasion at all, for I was never a Man that meddled or made on any side, but lived quietly in the College, and minded my Studies.

Oates. My Lord, I desire your Lordship to ask him whether he did know of any Consult of the Jesuits in *April 78*, and from whom he knew it.

Mr. *Pool*. I know not of any particular Consult, I heard something in general of a Triennial Congregation, but I cannot speak any thing of my own Knowledge.

Oates.

Oates. My Lord, I desire to know of him, if he can tell when I came to *St. Omers*.

L. C. J. Do you know when *Oates* came to *St. Omers*?

Mr. Pool. About *Christmas*, as near as I can remember, it was the latter end of *November*.

Oates. How much before or after *Christmas* was it?

Mr. Pool. I cannot tell exactly.

Oates. What Year was it in?

Mr. Pool. In the Year 77.

Oates. I desire to know of him, my Lord, whether he saw me every Day at *St. Omers* at Dinner.

Mr. Pool. I cannot say that ever I knew he was absent any one Day, never three Days I think I may affirm, but only when he was in the Infirmary.

Mr. At. Gen. That's the Place where they go when they are sick.

Oates. Pray, my Lord, ask him by what Name he went, when he was there in the College.

Mr. Pool. By the Name of *Killingbeck*.

Mr. Sol. Gen. By what Name did he go, I pray you?

Mr. Pool. By the Name of *Sampson Lucy*.

Mr. Sol. Gen. Swear *Mr. Henry Thornton*.

[Which was done.]

Mr. At. Gen. *Mr. Thornton*, pray where were you in the Year 78?

Mr. Thornton. At *St. Omers*, my Lord.

Mr. At. Gen. Do you remember *Mr. Oates* there, do you know him?

Mr. Thornton. Yes, I know him very well.

Mr. At. Gen. When did he come thither?

Mr. Thornton. He came there about *Christmas* 77.

Mr. At. Gen. How long did he continue there?

Mr. Thornton. He staid there till *St. John Baptist's* Eve in *June* 78.

Mr. At. Gen. *Midsummer* you mean.

Mr. Thornton. Yes, the Eve of *St. John Baptist*.

Mr. At. Gen. What Stile?

Mr. Thornton. New Stile.

Mr. Sol. Gen. Did you see him there all the while?

Mr. Thornton. Yes, I did see him every Day, I believe, in the Refectory at Dinner-time, and at Night in the Dormitory, where all the Collegians have their Beds: I lay over-against him every Night, I saw him particularly upon the Day of *Hilsley's* Departure, which was the 24th of *April* New Stile, and I saw him the 1st of *May* New Stile, upon the coming of *Mr. Burnaby* to the College; and particularly again I remember him there the 2d of *May*, when my School-fellows exhibited an Action, or Play.

Mr. At. Gen. Was *Mr. Oates* there then?

Mr. Thornton. Yes, I saw him present at it, and I know it by this particular Circumstance, there was a Scuffle between him and another about a Place to see the Play.

Mr. Jones. Did you see him the 23d of *April* Old Stile, that is, the 3d of *May* New Stile, which was the Day after your Play, that you remember?

Mr. Thornton. I do not remember that I did see him that Day, by any particular Circumstance, tho' I believe I did.

Mr. Jones. Do you remember when *Mr. Pool* came away from *St. Omers*?

Mr. Thornton. Yes, I do.

Mr. Jones. When was that?

Mr. Thornton. The 5th of *May* New Stile.

Mr. Jones. Was *Oates* at *St. Omers* at that time?

Mr. Thornton. Yes, he was there then, I am sure.

Mr. At. Gen. Was not he Reader there in the College?

Mr. Thornton. He was Reader in the Sodality, and to my knowledge, he did not miss once from the 24th of *April* New Stile, to the 24th of *May* New Stile, from being there, and reading in the Sodality.

L. C. J. What did he use to read?

Mr. Thornton. Some spiritual Book, or piece of Divinity, or the like, as it was usual to have read every *Sunday* and *Holiday*.

L. C. J. And that is one reason why you conclude he was there all that while, because every *Sunday* and *Holiday* he was to read, and did read.

Mr. Thornton. Yes, my Lord.

Oates. Pray, my Lord, be pleas'd to ask this Gentleman what Religion he is of.

Mr. Thornton. A *Roman* Catholick.

Oates. Where does he live?

L. C. J. Where do you live, *Mr. Thornton*?

Mr. Thornton. I am a *Northumberland* Man, that's my Country.

Oates. My Lord, I desire to know of him, when he did come from *St. Omers*.

Mr. Thornton. I came from *St. Omers*, my Lord, about two Years after that *Oates* went away from thence.

Oates. Pray, my Lord, be pleas'd to ask him, who it was that was Rector or Govenor of that House or College.

Mr. Thornton. It was one *Mr. Richard Asbby*.

Oates. Pray, my Lord, be pleas'd to ask him what School he was in there.

Mr. Thornton. I was in *Syntax*, my Lord.

Oates. Then, my Lord, I would ask him another Question, and that is this, Whether he was not a Witness in behalf of the five Jesuits and *Mr. Langborn*?

Mr. Thornton. No, I was not, my Lord.

Oates. My Lord, I desire to know if he can tell the occasion of *Mr. Hilsley's* coming away from *St. Omers*.

Mr. Thornton. It never concern'd me at all, and I never enquired into it.

Oates. Then, my Lord, I would ask him this Question, Why he is so precise as to his Remembrance of what was done in *April* and *May*, when he does not give any account of any other time, nor did the other Witnesses.

L. C. J. Yes, but they do; they give you a particular account from the time of your coming thither, which was about *Christmas*, some say the latter end of *November* or the beginning of *December*, they are not positive to any particular time, but thereabouts, and so from that time all along till *June*.

Oates. I beg your Lordship's pardon, I did not hear that he said any such thing.

L. C. J. If you will, I'll ask him that Question again for your Satisfaction.

Oates. If you please, my Lord.

L. C. J. Then mind what is said; Do you remember that *Oates* was there in *March* before, and in *February* before?

Mr. Thornton. Yes, I particularly remember in *March* before, he did read a ridiculous Book in the Sodality, and he was remarkable in the House by twenty ridiculous Passages.

Oates. I do acknowledge I did in *March* read a pleasant Book, call'd, *The Contempt of the Clergy*.

L. C. J. By whose order did he read that Book in the Sodality?

Mr.

Mr. *Thornton*. I do not know whether it was by his own Election that he was Reader there, or by the Command of the Prefect of the Studies, that has the Care of the Students, and appoints them their Business.

Oates. Pray, my Lord, be pleas'd to ask him how long he was resident at *St. Omers*.

Mr. *Thornton*. I was there seven Years.

L. C. J. You said he was there in *June*, till *Midsummer Eve*.

Mr. *Thornton*. Yes, he was so.

Oates. I own that I was there in *June*, but that was after I return'd from *England*.

L. C. J. When do you say he left the College first?

Mr. *Thornton*. He never left the College from the time of his coming thither first till *Midsummer Eve*, only one time that he was at *Watton*, and that was but a Day or two at most, which is not a League out of Town.

L. C. J. Do you remember him there about *Christmas* time?

Mr. *Thornton*. Yes, my Lord, very well.

L. C. J. When was it he went to *Watton*?

Mr. *Thornton*. About the latter end of *January*, as I do remember, and in *February* above *Shrove-tide*, I remember him particularly to be there.

L. C. J. Now, Mr. *Oates*, you see he speaks to other times besides *April* and *May*, and he brings, upon my Word, very notable Circumstances.

Oates. He says he went to School with me there, I think, my Lord?

Mr. *Thornton*. No, I say he was in the same College.

L. C. J. But not in the same Classis, for it seems you were in the Rhetorick Form, and he in the Syntax.

Mr. *Thornton*. My Lord, he went there by reason of his Age, and upon no other account; he might have gone elsewhere with us who were of a lower Form for any great store of Learning he had.

L. C. J. You hear him, I suppose, Mr. *Oates*, he gives no great Commendation of your Scholarship.

Oates. That is nothing to this Question; but pray, my Lord, be pleas'd to ask him, whether he did not hear of a Consult of the Jesuits held here in *England* in *April* 78?

L. C. J. What say you, Sir? Did you hear of any such Consult?

Mr. *Thornton*. Yes, my Lord, I did hear of a Triennial Congregation, such as used to be held by them, but that did not belong to me to enquire into it.

Oates. My Lord, I desire to know of whom he did hear it?

L. C. J. How do you know there was such a Consult, who told you of it?

Mr. *Thornton*. I heard of it in the House, and I had read that it was the Custom of that Society of People, to have such a Meeting once in three Years.

Mr. *At. Gen.* Pray for what purpose did they so meet?

Mr. *Thornton*. As I have been told, it was to send a Procurator to *Rome*, and for their managing their other Affairs, which concern'd their Society.

Mr. *Sol. Gen.* Have the Jesuits usually such a Consult once in three Years, Sir?

Mr. *Thornton*. I was never present at any such Congregation, I was not capable of it.

L. C. J. But was it used to be said so?

Mr. *Thornton*. Yes, my Lord, I have heard it said so, and read of it.

L. C. J. Mr. *Oates*. will you ask him any more Questions?

Oates. No, my Lord.

L. C. J. Well then, go on, Mr. Attorney, and call another Witness.

Mr. *At. Gen.* Swear Mr. *William Conway*.

[Which was done.]

Mr. *Sol. Gen.* Mr. *Conway*, pray will you give my Lord and the Jury an account where you were in the Year 1677, and in the Year 1678?

Mr. *Conway*, I was then at *St. Omers*, my Lord.

Mr. *Sol. Gen.* Do you remember Mr. *Oates* there at any time?

Mr. *Conway*. Yes, my Lord, I do.

Mr. *Sol. Gen.* Pray, at what time was he there, as you remember?

Mr. *Conway*. He came in *December* before *Christmas*, 1677, and did not go away till *June* 1678.

Mr. *Sol. Gen.* What time in *June* did he go away?

Mr. *Conway*. About the twentieth of *June*, I think.

Mr. *Sol. Gen.* Were you there all that Year?

Mr. *Conway*. Yes, I was there a Scholar in the College.

Mr. *Jones*. Was he all the time you speak of in the College?

Mr. *Conway*. He lay out one Night.

Mr. *Sol. Gen.* What time was that?

Mr. *Conway*. In *January*, to the best of my remembrance.

Mr. *Sol. Gen.* Could he be out of the College any time and not be miss'd?

Mr. *Conway*. No, my Lord, he could not.

Mr. *Sol. Gen.* Did you miss him at any time?

Mr. *Conway*. No, my Lord.

Mr. *Sol. Gen.* Was he there in *April* 1678?

Mr. *Conway*. Yes, my Lord.

Mr. *Sol. Gen.* Can you tell any particular Passages that can make you remember it?

Mr. *Conway*. Yes, my Lord, I can.

Mr. *Sol. Gen.* Tell my Lord and the Jury how you can remember it.

Mr. *Conway*. I remember Mr. *Hillsley's* Departure, which was the 24th of *April* New Style, and soon after Mr. *Burnaby* came, but I do not know the time exactly; I was desirous to know of Mr. *Burnaby* whether he met Mr. *Hillsley* upon the way, and he told me he did meet him, and the next Day I saw Mr. *Oates* and Mr. *Burnaby* walking together very familiarly, and I took particular notice of it at that time, Mr. *Burnaby* being but newly come, so that I took him to have known Mr. *Burnaby* before, or else I concluded him to be a little impudent by his intruding into his Company.

Mr. *Sol. Gen.* Do you remember him in *March* before?

Mr. *Conway*. Yes, Sir.

Mr. *Sol. Gen.* What Particulars do you remember of his being there then?

Mr. *Conway*. I remember him to be there on the *Thursday* in *Mid-Lent*, the Scholars in the College had a peculiar Recreation, which they call, *Sawing of the Witch*, and Mr. *Oates* was among them, and I was one of them that broke a Pan about his Head for Recreation.

Mr. *Sol. Gen.* Do you remember the 1st of *May*, that there was in your College a Play acted?

Mr. *Conway*. As for the Play, I remember what Part Esquire *Pool* acted in it, but I remember not any Particulars that can make me so sure as to swear that *Oates* was there?

Mr. *At. Gen.* Do you remember any scuffling for a Place there?

Mr. *Conway*. I do not remember it of my own Knowledge, I heard of it afterwards.

Mr. *Sol. Gen.* You say that you saw Mr. *Burnaby* and him walking together the next Day after he came?

Mr. *Conway*. Yes, I did so, Sir.

Mr. *Sol. Gen.* Did *Oates* use to read in the *Sodality*?

Mr. *Conway*. My Lord, there was another chosen according to the Custom to read, but Mr. *Oates* took the Book, and did read.

Mr. *Sol. Gen.* Did he read constantly?

Mr. *Conway*. I did never miss him any *Sunday* or *Holiday* all the time.

L. C. J. From what time to what time did he read?

Mr. *Conway*. From a little after *Easter* till he went away.

Mr. *At. Gen.* Is it usually taken notice of in the College when any Person who is a Student goes away from the College?

Mr. *Conway*. There is nothing more discours'd of among the Scholars than that, when it happens any one goes out of the College.

L. C. J. And pray when did he go away?

Mr. *Conway*. In *June*, about the twentieth, as near as I can remember.

Mr. *Sol. Gen.* Did you observe him at Dinner there constantly?

Mr. *Conway*. Yes, he sat by himself.

Mr. *Sol. Gen.* How came that to pass?

Mr. *Conway*. He sat at a little Table in the Hall by himself, for he pretended, being a Man in Years he could not diet as the rest of the young Students did, and therefore obtain'd leave to sit alone at a little Table by himself, and he sat next to the Table of the Fathers, to which all the Students were to make their Reverence before they sat down.

L. C. J. He was a very remarkable Man by his sitting by himself; did he sit there always?

Mr. *Conway*. He changed his Table once, and I took notice that he sat on the other side of the Refectory.

Mr. *Sol. Gen.* When was that I pray, can you remember?

Mr. *Conway*. That was a little after *Easter*.

Mr. *At. Gen.* Will Mr. *Oates* ask him any Questions?

Oates. Pray, my Lord, will you ask this Gentleman what Religion he is of.

Mr. *Conway*. I am a *Roman* Catholick.

Oates. Pray, ask him where he lives.

L. C. J. Where do you live, Sir?

Mr. *Conway*. Where now at present, my Lord?

L. C. J. Where do you usually live?

Mr. *Conway*. I am a *Flintshire* Man, my Lord.

Oates. Pray ask him what name he did go by at *St. Omers*?

Mr. *Conway*. By the Name of *William Parry*.

Oates. Pray ask him by what Name he gave his Evidence in at the five Jesuits Trial.

L. C. J. Were you a Witness at the Trial of the five Jesuits?

Mr. *Conway*. Yes, I was.

L. C. J. By what Name did you give your Evidence there?

Mr. *Conway*. By the Name of *Parry*.

Oates. Then I desire the Court to take notice he represented himself by a feign'd Name in a Court of Record.

Mr. *Conway*. I went by both Names, my Lord.

L. C. J. Well, make what Advantage you can of it by and by.

Oates. Pray, my Lord, ask him, if ever he heard of any Consult of the Jesuits held here in *England* in *April* 1678.

Mr. *Conway*. Yes, I did.

Oates. Pray, my Lord, ask him who inform'd him of that Consult.

Mr. *Conway*. I heard it among the rest of the Scholars, and seeing some of the Fathers go over to it, I was told so.

Mr. *At. Gen.* Is it an usual thing for them to have such Meetings?

Mr. *Conway*. They have a Congregation ordinarily once in three Years.

Mr. *Sol. Gen.* Does it go by the Name of a Consult, or what Name has it?

Mr. *Conway*. Some call it a Congregation, and some a Consult.

Mr. *Sol. Gen.* What is the end of such Meeting, as you have heard?

Mr. *Conway*. They say it was to chuse a Procurator to send to *Rome*, and give an account of the Province.

Oates. My Lord, I would ask him another Question, whether he is to have any Reward for giving this Evidence here.

Mr. *Conway*. No, not that I know of, but what I expect from Almighty God.

Oates. Pray ask him how long he liv'd at *St. Omers*.

Mr. *Conway*. Five Years.

Oates. My Lord, I have done with him.

Mr. *Sol. Gen.* Then call Mr. *Haggerstone*, and swear him. [Which was done.]

Mr. *At. Gen.* Mr. *Haggerstone*, pray will you acquaint my Lord and the Jury, were you at *St. Omers* in the Year 1678, with Mr. *Oates*?

Mr. *Haggerstone*. Yes, I was, my Lord, I had the Honour to be of the same Bench with the Doctor of *Salamanca*.

L. C. J. You mean you were of the same Class with him.

Mr. *Haggerstone*. Yes, my Lord of the same Class.

L. C. J. In what Year was it?

Mr. *Haggerstone*. In the Year 1678.

Mr. *At. Gen.* In what Form were you?

Mr. *Haggerstone*. In the same Bench with Dr. *Oates*, in the Rhetorick Form.

Mr. *At. Gen.* Do you remember Mr. *Oates* in *April* 1678.

Mr. *Haggerstone*. Yes.

Mr. *At. Gen.* What time?

Mr. *Haggerstone*. He spoke unto me on the 25th of *April*.

Mr. *At. Gen.* What Stile do you mean?

Mr. *Haggerstone*. New Stile, Sir; to avoid Confusion, I speak of the Stile of the Place where I was; he ask'd me concerning our School-fellow Mr. *Hilsley*, who was then gone from the College, whether I had heard any thing from him since he went away, and he spoke of an Indisposition he had, for which he prescrib'd him a Medicine of Poppy, and he thought it would do his Business effectually.

L. C. J. Who said so?

Mr. *Haggerstone*. The Doctor of *Salamanca*; he was call'd *Sampson Lucy* in the College: and likewise he forbid him to chew Tobacco, which he used to do very much; he was call'd *Titus Ambrosius*, he had twenty Names.

Mr. *At. Gen.* Was he there all *April*, Sir?

Mr. *Haggerstone*. Yes, he was, Sir.

Mr. *At. Gen.* Did you know him in *March* before?

Mr. *Haggerstone*. Yes, he was there all *March* before.

Mr. *At. Gen.* Was he there in *February*?

Mr. *Haggerstone*. Yes, as near as I can remember, he was absent but one Day, and then he went to *Watton* in *February*, or else in *January*.

L. C. J. Do you remember when he came thither first?

Mr. *Haggerstone*. Yes, my Lord, he came in *December* near *Christmas*, as I remember.

L. C. J. Was it about that time, upon your Oath?

Mr. *Haggerstone*. I speak it upon my Oath, it was.

L. C. J. When did he go away?

Mr. *Haggerstone*. About the latter end of *June*.

L. C. J. Was he absent any time between *December* and *June*?

Mr. *Haggerstone*. I do not remember that he was absent, save only in *January* or *February*, and that was not for above a Night, when he went to *Watton*.

L. C. J. Might not he be absent, and you not mind it, or know it?

Mr. *Haggerstone*. Sure if he had been absent, we could not but have known it.

L. C. J. How so, pray you?

Mr. *Haggerstone*. If any goes away, 'tis so publick, that it cannot be without notice being taken of it.

Mr. *At. Gen.* Can you remember by any particular Token he was there in *April* or *May*?

Mr. *Haggerstone*. He spoke to me on the 29th of *April* New Stile, and told me, that there was a craving *Englishman* had been there to beg an Alms, and there was a Collection made for him among the Scholars, but he said he would give him nothing, for he told me he had been cheated by such an one of some Pieces of Eight in *Spain*; this I remember was the 28th or 29th of *April* New Stile. I saw him there the 1st of *May*; upon the 2d of *May* there was an Action of the Scholars, and he was present at it; the 5th of *May* I was at School with him, when Mr. *Pool* went away for *England*, and I heard him about that time preach a pleasant Sermon, for he would undertake sometimes to preach, and he said in it, That the late King *Charles II.* halted betwixt two Opinions, and a Stream of Popery went between his Legs.

L. C. J. Was this in *May*?

Mr. *Haggerstone*. Yes, just after Mr. *Pool* went away for *England*, and he had some pretty Reflections in his Sermon about *Toby's Dog* wagging his Tail.

L. C. J. Well, do you ask this Witness any Question, Mr. *Oates*?

Oates. Pray be pleas'd to ask him, my Lord, what Religion he is of?

Mr. *Haggerstone*. I am a Papist, my Lord, I am not ashamed of it.

Oates. Pray, my Lord, ask where he lives?

Mr. *Haggerstone*. At *London*.

Oates. Pray ask him what Countryman he is?

Mr. *Haggerstone*. I am a *Northumberland*-man; my Father is Sir *Thomas Haggerstone*, a Man better known than your Father, Dr. *Oates*.

L. C. J. Nay, nay, do not be in a Passion, Man.

Oates. Pray ask him how long I was with him at *St. Omers*.

Mr. *Haggerstone*. For half a Year at least.

Oates. My Lord, I desire to know how long he staid there himself?

Mr. *Haggerstone*. I studied my whole Course of Humanity there.

L. C. J. How long were you there in all?

Mr. *Haggerstone*. Seven Years.

Oates. Pray, my Lord, ask him, whether he knows of any Consult held, or to be held, here in *England* in *April* 1678?

Mr. *Haggerstone*. Yes, my Lord, I saw two of the Fathers go from *St. Omers* to the Congregation, and was there at their Return; but all that time I frequented Dr. *Oates's* Company, and he remained in the College.

Oates. Pray, who were these two Fathers?

Mr. *Haggerstone*. Mr. *Williams* and Mr. *Marsh*; and when they return'd, *Oates* asked me about it, whether they had been to the Consult, and I told him there was such a thing, but he never knew it till afterwards; but this I am sure of, he was never missing all the while, I sat on the same Bench with him.

Oates. Pray, my Lord, ask him what Name he went by at *St. Omers*.

Mr. *Haggerstone*. I went by the Name of *Harry Howard*, my Mother was a *Howard*, Doctor.

Oates. Pray ask him, whether he came into *England* when he went away from thence?

Mr. *Haggerstone*. No, I went and studied my Philosophy at *Doway*.

Oates. I desire to ask him one Question more.

Mr. *Haggerstone*. Twenty, If you please, Doctor.

Oates. I desire to know of him the occasion of Mr. *Hilsley's* coming away?

Mr. *Haggerstone*. I do know it, but truly I cannot tell whether it be fit for me to speak of it? it was upon some unhandsome account, but I must not blemish any Gentleman, I think.

Oates. My Lord, I will ask him one Question more, whether ever he was admitted into the Society?

L. C. J. I will not ask him that Question; how often have I told you no such Questions are to be ask'd? Must I make him liable to Penalty? No, ask Questions that are fair, and you shall have a fair Answer.

Oates. My Lord, I have done then with him.

Mr. *Sol. Gen.* Then swear Mr. *Robert Beeston*.

[Which was done.]

Mr. *At. Gen.* Pray, Sir, were you at *St. Omers* in the Year 77 and 78?

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

Mr. *At. Gen.* Did you see Mr. *Oates* there then? Do you know him?

Mr. *Beeston*. Yes, I know him very well, I did see him there.

Mr. *At. Gen.* What Months did you see him there?

Mr. *Beeston*. He came there in *December*, the beginning as I remember, and he staid there to *June* the latter end.

Mr. *At. Gen.* What year was that in?

Mr. *Beeston*. He came in 77, and went away in 78.

Mr. *At. Gen.* Did you observe him to be there in April and May 78?

Mr. *Beeston.* The latter end of April, and the beginning of May, I did.

Mr. *At. Gen.* Tell the Court particularly how you remember it.

Mr. *Beeston.* My Lord, I saw him the first of May at *St. Omers*, where he played at Nine-pins, and I laid a Wager upon the same side that he did, and lost my Money as well as he.

L. C. J. Do you remember any other time?

Mr. *Beeston.* I saw him the 2d of May, by the same token that I met him in the College that Day, when our School exhibited an Action in the Hall, and I met him after Supper; now in this Action I had both acted and sung, and they came and congratulated me for my singing. Mr. *Oates* said, if I had paid for learning to sing, I had been basely cheated: and then in the Morning I was chosen Reader in the *Sodality*, the 25th of April, or thereabouts, for a Fortnight, and Mr. *Oates* by his own Submission was admitted to read, only with this Condition, that if ever he were wanting, I was to read again: but this I say, I never supplied the Place; therefore I am sure he did continue there all the while, and if he had been out, I must have been called upon to read.

L. C. J. Were you in the College all the time he was there?

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

L. C. J. Did you miss him at any time?

Mr. *Beeston.* No, I never miss'd him.

L. C. J. Are you sure he was not away all that time?

Mr. *Beeston.* I am sure, as much as a Man can be certain of one that is of the same Family with himself; nay, I am as sure of it, as that I was there my self.

L. C. J. Can you speak any thing particularly of his reading?

Mr. *Beeston.* My Lord, I was to have read, if he was absent; but I was never called upon to read, and therefore I may well conclude he was there all the while.

L. C. J. He gives a material Evidence.

Mr. *Sol. Gen.* Was Mr. *Oates* such a remarkable Man that he must be miss'd?

Mr. *Beeston.* He was very particular, both for Age, and that he had a particular Table to eat at.

Mr. *Sol. Gen.* Can you remember any thing else?

Mr. *Beeston.* I remember too, that when Mr. *Burnaby* came first, he was often with him; the 2d, 3d, and 4th of May, I saw him there with Mr. *Burnaby*, and I took particular notice of the Friendship between them, which I thought strange between Persons that I supposed never saw one another before.

L. C. J. Have you any Questions to ask this Man, Mr. *Oates*?

Oates. My Lord, I desire to ask this Gentleman what Religion he is of?

Mr. *Beeston.* I am a Roman Catholick.

Oates. Pray, my Lord, be pleased to ask him, when he went to *St. Omers*, and when he came away from thence, and how long he was resident there?

Mr. *Beeston.* I know not exactly what Year it was I came, but I staid the greatest Part of seven Years there.

Oates. Pray, my Lord, ask him, what Jesuits went from *St. Omers* to the Consult of April 78?

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Mr. *Beeston.* There was some that pass'd by, I did not take much notice of them.

Oates. Pray, my Lord, ask him, who it was informed him of that Consult?

Mr. *Beeston.* I do not know who particularly, I only heard of such a Rumour.

Mr. *At. Gen.* Was it an extraordinary thing?

Mr. *Beeston.* No, it was but an ordinary thing as they used to have once in three Years.

Oates. You say you saw me every Day there?

L. C. J. He says he believes he might, because you were Reader in his stead; and if you had been absent, he must have been called upon to read, which he was not, he says.

Oates. Very well, my Lord, I desire you would ask him, whether he does not remember such a thing as an Eight-days Exercise, wherein those that perform the Exercise, are separated from all Company during that time.

Mr. *Beeston.* Yes, my Lord, I do remember that he was once in that Eight-days Exercise, and during the Eight Days I saw him walk in the Garden several times.

Oates. Pray, my Lord, ask him, if he were an Evidence at the Trial of the five Jesuits, or *Langborn*, and whether he gave this Evidence long ago?

Mr. *Beeston.* No, I did not, I was not there.

Oates. Pray, my Lord, ask him what Reward he is to have?

L. C. J. Are you to have any Reward for your Testimony, Mr. *Beeston*?

Mr. *Beeston.* No, my Lord.

Oates. My Lord, I desire to know of him, how he comes to be pick'd out among the rest of the Students there, to come here, and be an Evidence in this Cause?

Mr. *Beeston.* My Lord, I was subpoena'd by his Majesty, if I knew any thing of this Matter, that I should come here and testify my Knowledge.

Oates. Pray, by what Name did he go at *St. Omers*?

Mr. *Beeston.* By the name of *Beeston*, as I do now.

Oates. And is that his own Name?

Mr. *Beeston.* Yes, my Lord.

L. C. J. Pray go on, Mr. Attorney.

Mr. *At. Gen.* Swear *Clement Smith*.

[Which was done.

Mr. *Sol. Gen.* Pray, Sir, were you at *St. Omers* in the Year 77 and 78?

Mr. *Smith.* Yes, I was.

Mr. *Sol. Gen.* Do you remember Mr. *Oates* there at that time?

Mr. *Smith.* Yes, I was in the same Class with him.

Mr. *At. Gen.* Pray when came he thither, and how long did he stay there?

Mr. *Smith.* He came a little before *Christmas*, and staid till *June*.

Mr. *At. Gen.* Was he not absent at any time all that while?

Mr. *Smith.* No, he was not, except one Day.

Mr. *At. Gen.* Do you remember *Watton's* Business, his going thither in *January*?

Mr. *Smith.* He told me of it, and that he design'd to ask the Rector leave to go.

L. C. J. Was he absent any other time till *June*?

Mr. *Smith.* No, my Lord, for I will tell you, I every Day dined with him, eat a Collation with him in the afternoon, and breakfasted and supped in the same Refectory, during all that time, except when he or I was in the Infirmary.

L. C. J. When ever he was absent, he was in the Infirmary, was he?

Mr. Smith. Yes, my Lord.

L. C. J. Did not he miss his Breakfast any time all that while?

Mr. Smith. If he did, we used to enquire after him.

Mr. At. Gen. Pray when were you in the Infirmary?

Mr. Smith. The 21st of *April* New Stile, I fell sick, and I remain'd sick till *May* the 7th, and was in the Infirmary, and then he visited me almost daily, or every other Day in the Infirmary; and on the 2d of *May* I saw him and one *Mr. Burnaby* together, and on the Day *Mr. Pool* departed, which I take to be the 5th of *May*, *Mr. Oates* came to me as soon as he was gone out of the House, and told me of it; and he did the same too that Day that *Mr. Hillsley* went away, which was the 24th of *April* New Stile.

Mr. At. Gen. Was not he in the Infirmary himself?

Mr. Smith. Yes, during this time he came into the Infirmary, and was sick there.

Mr. At. Gen. When was that?

Mr. Smith. A Day or two after *Mr. Hillsley* went away, and continued there two or three Days, and I remember it particularly by this Circumstance, that he propos'd a Question to the Physician about himself in *Latin*, and spoke a Solecism, which was this, he said, *Si placet Dominatio vestra.*

Oates Who did say so?

L. C. J. You did, he says, speak that false *Latin* to the Doctor.

Oates. That's false *Latin* indeed!

L. C. J. We know that, but it seems it was your *Latin*.

Mr. At. Gen. When came he away from *St. Omers*?

Mr. Smith. About the 20th of *June*; something after the 20th of *June*, as I remember.

L. C. J. Are you sure he was not out of the College so long as to make a Journey to *London*, and back again?

Mr. Smith. No, I am sure he could not without being miss'd; and going to School with him, and eating Dinner and Supper with him constantly always at the same place, I must needs know if he had gone.

Oates. When went I away from *St. Omers*, does he say?

Mr. Smith. After the 20th of *June* 78.

L. C. J. He is your old Acquaintance and School-fellow, *Mr. Oates*; you visited him when he was sick.

Oates. What Religion is this Gentleman of, my Lord, I would know?

Mr. Smith. I am a *Roman* Catholick.

Oates. I desire your Lordship to ask him how long he liv'd at *St. Omers*?

Mr. Smith. Above six Years.

Oates. Pray ask him, when he came away?

Mr. Smith. A little after *Dr. Oates* came away.

Oates. Did he come directly for *England*?

Mr. Smith. No, I did not.

Oates. Whither did he go then?

Mr. Smith. I went about a little——

Oates. Where, my Lord?

Mr. Smith. I went about to take some Turns in the Low-Countries; I went to *Watton*, and up and down.

Oates. He is a Jesuit, my Lord; and that the World knows, and must know.

L. C. J. I know nothing of it, I do assure you.

Oates. Pray, my Lord, be pleased to ask him, whether he did not hear of a Consult of Jesuits in *April* 78, and what Jesuits went from *St. Omers* to it?

Mr. Smith. I heard it as a Rumour in the College, that there was to be a Congregation at that time, but I know not where particularly it was to be kept; but I know that then there pass'd by *St. Omers* two Fathers, *Mr. Merish*, and *Mr. Williams*.

Oates. What were they?

Mr. Smith. Jesuits.

L. C. J. He told you they were Fathers.

Mr. At. Gen. Pray, was it an extraordinary, or an ordinary Meeting that?

Mr. Smith. They used to say in the College, that it was an ordinary thing to have such a Congregation every three Years.

Mr. Sol. Gen. Pray, swear *Mr. Edward Price*.

[Which was done.]

Mr. At. Gen. Pray, *Mr. Price*, will you give my Lord and the Gentlemen of the Jury an account, whether you were at *St. Omers* in the Year 77, and 78.

Mr. Price. I was there both these Years.

Mr. At. Gen. Do you remember *Mr. Oates* there?

Mr. Price. Yes, my Lord, I do.

Mr. At. Gen. When did he come, and when did he go away?

Mr. Price. He came there about *December* 77, and he continued there till *June* 78.

Mr. At. Gen. Was he absent from *St. Omers* at any time all that while?

Mr. Price. Never, that I know of, but one Night at *Watton*, when he came back the following Day, and that was in *January*.

Mr. At. Gen. Do you remember particularly that he was there in *April* and *May* 78?

Mr. Price. I remember *Mr. Hillsley*, according to the foreign Stile, left *St. Omers* upon the 24th of *April* 78. I was told the following Day that *Mr. Oates* went into the Infirmary, which was *Monday* the 25th, and staid there a Day or two, and upon *Wednesday* the 27th I saw him going to Mass; then upon the Sunday following, which was the 1st of *May* New Stile, came *Mr. Burnaby* to *St. Omers*, and I saw him in *Oates's* Company that Day, and I saw him on *Monday* again the 2d of *May* in his Company; I saw him the 3d of *May* at the Table, which I particularly remember, because it was the Feast of the Invention of the Holy Cross: the 4th of *May* I have no Circumstance to remember him by; but the 5th of *May* I saw him take his leave of *Mr. Pool*, and I likewise saw him the 10th or 11th of *May* at another of our Actions, wherein *Mr. Watson* had a Quarrel with him, and beat him. I should have miss'd him above any other Man, because he was so noted a Man.

Mr. At. Gen. What was he noted for? For any thing else but his distinct Place in the Refectory?

Mr. Price. Yes, he was very absurd, and always quarrelling with the Students there.

L. C. J. Do you remember him read in the *Sodality*?

Mr. Price. I was not of that Bench that he was of.

Oates. My Lord, I desire to know what this Gentleman's Religion is?

L. C. J. What Religion are you of, Sir?

Mr. Price. If your Lordship please to know, I am a *Roman* Catholick.

Oates.

Oates. My Lord, I desire to ask him, when he went first to *St. Omers*, and when he came away?

Mr. Price. I was six Years at *St. Omers*; I was there a twelve-month before Mr Oates came thither, and came from thence about three Years ago.

Oates. Did you come directly to *England* when you came away?

Mr. Price. My Lord, I went to *Liege* to study Philosophy, and I live now with my Father at home.

Oates. My Lord, I desire to ask him, whether he did not hear of a Consult to be held in *April 78*?

Mr. Price. I did hear there was a Congregation which was their usual Triennial Meeting, and particularly I remember about that time there came Mr. Williams, and Mr. Marsh, and it was reported that they were going to the Congregation.

Oates. I desire to ask him, if he was not a Witness at the Trial of the five Jesuits, or at the Trial of *Langborn*?

Mr. Price. No, I was not.

Oates. Pray, what Name did he go by at *St. Omers*.

Mr. Price. By my own Name, which is *Edward Price*.

Mr. Sol. Gen. Then swear the next, that is, Mr. *James Doddington*.

Mr. At. Gen. Pray, Sir, were you at *St. Omers* in the Year 77, and 78?

Mr. Doddington. Yes, Sir, I was.

Mr. At. Gen. Did you know that Gentleman Mr. Oates there?

Mr. Doddington. I know him very well.

Mr. At. Gen. What time did he come to *St. Omers*, and how long did he stay there?

Mr. Doddington. He came about *Christmas*, and staid about the latter end of *June*.

Mr. At. Gen. How do you remember he staid there so long, what Circumstances have you to make you remember it?

Mr. Doddington. In general his Conversation and Canting Stories after Dinner and Supper, and Times of Recreation, made him so remarkable, that no body could miss him all the time he was there.

Mr. At. Gen. Did you observe him to be in the Hall, or at the Exercises?

Mr. Doddington. Yes, I saw him several times.

Mr. Sol. Gen. Do you remember the time Mr. *Hilsley* went away?

Mr. Doddington. Yes, it was a little after *Easter*, and I do remember that two or three Days after I went into the Infirmary, and saw Mr. Oates there, and had Discourses with him.

Mr. At. Gen. Do you remember Mr. *Burnaby's* coming to *St. Omers*, and when was it?

Mr. Doddington. Yes, the 1st of *May* Mr. *Burnaby* came to *St. Omers*, and the next Day I saw Oates with him, and for ten or twelve Days successively they were in one another's Company; and then of a sudden the Correspondence broke off, but I know not upon what account.

L. C. J. Was he a Reader there, as you remember?

Mr. Doddington. I do remember he did read in the *Sodality*.

L. C. J. When was that?

Mr. Doddington. I remember he read at *Shrove-tide*.

Oates. Did you hear me read there?

Mr. Doddington. Yes, that I did, Sir.

Oates. Were you of the *Sodality*?

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Mr. Doddington. Yes, I was, Sir.

Mr. At. Gen. Do you remember the time he came away from *St. Omers*?

Mr. Doddington. It was about *Midsummer*, my Lord.

Mr. At. Gen. Were you out of the College yourself at any time when he was there?

Mr. Doddington. No, I was not.

L. C. J. Come, I will ask you a plain Question; Was he so long at any time out of the College as to come to *London* and stay here two or three Days, and come back again?

Mr. Doddington. My Lord, he was so remarkable by his Stories and ridiculous Actions, and falling out with every one of the College, that if he had been absent, we must needs have missed him.

L. C. J. Did you miss him at any time?

Mr. Doddington. My Lord, I never miss'd him but one Day.

L. C. J. When was that?

Mr. Doddington. They said he was gone to *Wat-
ton*.

L. C. J. What time was that?

Mr. Doddington. In *January*, about six Weeks after he came first.

Oates. Pray, my Lord, ask him what Religion he is of?

Mr. Doddington. I am a *Roman* Catholick.

Oates. And a Scholar of *St. Omers*.

L. C. J. Make your Remarks by and by.

Oates. Pray, my Lord, ask him what Name he went by at *St. Omers*?

Mr. Doddington. By the Name of *Hollis*, my Lord.

Oates. Pray, my Lord, ask him how long he was resident there?

Mr. Doddington. Near upon five Years.

Oates. Pray, my Lord, ask him the occasion of his coming over at first?

Mr. Doddington. I had Business in *England*, and I had a mind to see my Friends.

Oates. Pray, my Lord, ask him, whether he did not pretend at the five Jesuits Trial, that he came over upon the King's Proclamation, to call home those that were in the Seminaries?

L. C. J. Were you at the Trial of the five Jesuits?

Mr. Doddington. Yes, I was; but if I came over upon the King's Proclamation, what hurt is there in that?

L. C. J. None at all, as I know of.

Oates. Pray, my Lord, ask him, whether he did return again to *St. Omers*, or no?

Mr. Doddington. My Lord, I pass'd by *St. Omers* once, but I never staid a Day in the College since.

Oates. Pray, my Lord, be pleas'd to ask him, whether he ever heard of a Consult of the Jesuits in *April 78*?

Mr. Doddington. I did hear of a Congregation.

Oates. Call it a Consult or a Congregation, it is all one.

L. C. J. He says he did hear of it.

Oates. Ask him by whom he did hear of it?

Mr. Doddington. I saw the Provincial when he came back from *England*.

Oates. Who was that Provincial, what was his Name?

Mr. Doddington. Mr. *Whitebread*.

Oates. Was not Mr. *Whitebread* resident some time at *St. Omers*?

Mr. Doddington. Yes, a while he was.

D 2

Oates.

Oates. Pray, was not that House under his Government?

Mr. Doddington. My Lord, I can give no account of that, but it is generally under the Government of the Rector of *St. Omers*.

Mr. Hansfys. Pray, Sir, give me leave to ask you one Question: *Mr. Oates* speaks of *Mr. Whitebread*; pray, how did *Mr. Whitebread* use *Oates*, when he came back from *England*?

Mr. Doddington. I heard say, he did check him very severely for his many Miscarriages.

L. C. J. He heard it, he says, but he does not know it of his own Knowledge; that is no Evidence.

Mr. Sol. Gen. Pray swear *Mr. William Gerrard*.
[Which was done.]

Mr. At. Gen. Were you at *St. Omers*, *Mr. Gerrard*, in the Years 77 and 78?

Mr. Gerrard. Yes, I was.

Mr. At. Gen. Did you know *Mr. Oates* there?

Mr. Gerrard. Where is he, Sir?

Mr. At. Gen. There he is in that Corner, do you know him?

Mr. Gerrard. Yes.

Mr. At. Gen. When came he to *St. Omers*?

Mr. Gerrard. He came to *St. Omers* in the Year of our Lord 77, and he went away in June 78.

Mr. At. Gen. Was he there all the time?

Mr. Gerrard. I never remember to have miss'd him, but only once when he went to *Watton* for a Night.

Mr. At. Gen. By what Tokens do you remember him at any time there in *April* or *May*?

Mr. Gerrard. The 2d of *May* we had a Play, and he was there then, and I remember the 26th of *May* he was confirm'd, and so was I, it being *St. Augustin's Day*, and in the Refectory he had a Table by himself, and I used always at Meal-times to pass by that Table and make a Bow to the Fathers above before I sat down at Table; and I do not remember that ever he was absent, and if he had, I should surely have miss'd him.

L. C. J. When was *St. Augustin's Day*, that you say you and he were confirm'd?

Mr. Gerrard. It was the 26th of *May*.

Mr. At. Gen. Do you remember him in *April* there?

Mr. Gerrard. I cannot tell any particular Circumstance in *April*, but I do not remember to have miss'd him at all in *April*.

Mr. Sol. Gen. But you saw him there the 2d of *May*, you say?

Mr. Gerrard. Yes, I did so, and the 26th of *May*.

Oates. The 26th of *May* Old Stile I was there, my Lord.

L. C. J. Ay, but he says the 26th of *May* New Stile.

Oates. I was not there then, my Lord.

L. C. J. He swears you were.

Mr. Sol. Gen. Pray, between the 2d and 27th of *May* New Stile was he absent from *St. Omers* at any time?

Mr. Gerrard. I never remember to have miss'd him at all in that time.

Mr. At. Gen. Do you remember *Mr. Pool's* and *Mr. Hillsley's* going away?

Mr. Gerrard. I do remember *Mr. Hillsley's* and *Mr. Pool's* going away, but I cannot speak particularly and exactly what time that was.

L. C. J. Is it usual to have Scholars go away without being miss'd?

Mr. Gerrard. No, my Lord, and he had a particular Place by himself.

Oates. Pray, ask him, my Lord, how he came to know that I went away in *June*?

Mr. Gerrard. We miss'd him in his Place then, and 'twas discours'd of all over the Town, that when the Provincial came he was to be dismiss'd.

Oates. I desire to know what Religion this Gentleman is of?

Mr. Gerrard. My Lord, I am a *Roman* Catholic.

Oates. Pray, my Lord, ask him what Name he went by at *St. Omers*?

Mr. Gerrard. By the Name of *William Clovel*.

Oates. Pray, my Lord, ask him, when he went to *St. Omers*, and how long he was resident there?

Mr. Gerrard. I came there about two Years before he came, and was there about two Years after he went away.

Oates. Pray, my Lord, ask him, whether he came directly for *England* when he left *St. Omers*?

Mr. Gerrard. No, my Lord, I was four Years in *Low-Germany* and *France*, and came into *England* the last Year.

Oates. Pray, Sir, were you a Witness at the five Jesuits Trial, or at *Langborn's* Trial?

Mr. Gerrard. No, I was not; I came but last Year to *England*, I tell you.

Oates. Pray, my Lord, ask this Gentleman, whether he did not know or hear of a Consult of Jesuits, that was to be in *April* 78, and from whom he heard it?

Mr. Gerrard. My Lord, I know it is the Custom of the Fathers of that Order to have a Congregation once in three Years, about the Affairs of their Society, but then no Person is admitted to be one of that Congregation, but them that have been eighteen Years Jesuits; and he not having been so much as a Novice, I know not how, if he had been here, he could have been present at it.

L. C. J. He says, that there used to be a triennial Congregation for the Business of the Society, but you could not be present at it, because you had not been eighteen Years a Jesuit.

Mr. Gerrard. *Ann. decimo octavo corrente*, is the Word of the Rule.

Oates. Pray, my Lord, ask him this Question, How he knows that to be the Rule?

Mr. Gerrard. You or any Man may read them in their Books.

L. C. J. It seems he has read them, and he says you must pass through eighteen Years before you be admitted of the Congregation; and he believes you were not there, for you were not capable of so much as a Noviceship.

Oates. I desire your Lordship to ask him, whether or no he heard me read in the Sodality?

Mr. Gerrard. Yes, I did.

Oates. Were you of the Sodality?

Mr. Gerrard. Yes, I was.

Oates. Pray, my Lord, ask him, what Oaths are there taken before they be admitted into the Sodality?

L. C. J. No, by no means, I will not do it.

Oates. Why, my Lord, may not I ask it, to shew what kind of Men these are?

L. C. J. No, indeed, it is but the same Question again, that I told you before is not to be asked, for it may make him liable to a Penalty; if you come to be a Witness, no man should ask you a Question that might make you obnoxious to a Penalty, no more must you ask them any such Questions.

Oates.

Oates. I have done with him, my Lord.

Mr. Sol. Gen. Where is my Lord *Gerrard* of *Bromley*?

Lord Gerrard. Here I am, Sir.

Mr. At. Gen. Pray, my Lord, do you remember *Mr. Oates* at *St. Omers* in the Year 77, and 78?

Lord Gerrard. He was disguised in another Habit, and another colour'd Perriwig, the Hair was blacker than that he has on now; but I remember his Face very well, and know him again by the Tone of his Voice, which was very remarkable; but I never remember that he was absent from *St. Omers* after he came thither. I remember his coming exactly, which was about *Christmas*; nor did I ever hear that he was absent till *June* 78, New Stile, when he went away.

Mr. Sol. Gen. Do you remember, my Lord, when *Mr. Burnaby* came?

Lord Gerrard. I do remember *Mr. Burnaby's* coming, but what time it was, I cannot exactly tell.

L. C. J. Is my Lord *Gerrard* sworn?

Mr. Sol. Gen. I think so.

Lord Gerrard. No, my Lord, I am not sworn.

L. C. J. You must be sworn, my Lord. [*Which was done.*]

Now if you be pleased to ask my Lord any Questions, do.

Mr. At. Gen. My Lord, we desire to know of my Lord *Gerrard* of *Bromley*, whether he knew *Mr. Oates* at *St. Omers*.

Lord Gerrard. My Lord, I remember he came in 77, as I take it, it was the beginning of *December*; and never heard he was absent or miss'd till *June* 78. I remember particularly upon the 25th of *March*, there was a new Lector to be Reader of the Sodality; and *Mr. Oates* desiring it, he was appointed to read. I was there my self, and I never missed him; I heard him read, that I do remember, several *Sundays* and *Holidays* and never knew him absent any one: however for five or six Weeks he was constant at Reading; and I can the better remember it, because he had a particular Cant in his Tone, which all Men may know, who ever conversed with him.

Mr. Sol. Gen. If *Oates* please to ask my Lord *Gerrard* any Questions, he may.

Lord Gerrard. Pray, my Lord, let me speak a Word or two more.

L. C. J. Ay, my Lord, pray go on.

Lord Gerrard. I remember I heard *Mr. Oates* was at the Confirmation, which was upon *St. Austin's* Day; there was a Confirmation by a Catholick Bishop, about the 26th of *May* New Stile, I remember I heard *Mr. Oates* was there, and the Bishop did particularly note him as a Person of elder Years than the rest of the Students.

L. C. J. Do you know this, my Lord, of your own Knowledge?

Lord Gerrard. I do, my Lord.

L. C. J. Because you say, you heard it.

Lord Gerrard. My Lord, further I remember this, when the News of the Plot, being discovered by *Oates*, came to *St. Omers*, where he went by the Name of *Sampson Lucy*, and sometimes *Titus Ambrosius*, it was wondered by all the Scholars that knew him there, how he came to be so impudent to pretend he was at such a Consult the 24th of *April* 78, when all the College saw him every Day in *April* and *May* at *St. Omers*, as much as a Man can be seen in a Family, and was never known to be absent so much as one Day; besides, my Lord, 'tis a thing as generally noted as a thing can be, that no

Scholar goes away from, or comes to the College of *St. Omers*, but it is particularly known to the whole House; it is the common News and Discourse as much as any new Occurrences are here about the Town.

Mr. Sol. Gen. If *Oates* be pleased to ask him any Questions, he may.

Oates. My Lord, I desire this noble Lord may be asked a Question or two; I do not remember his Lordship there.

Lord Gerrard. I do very well remember the Matter by particular Remarks.

Oates. Yes, my Lord, you have occasion to remember me, and so have your whole Party. Pray, my Lord, let my Lord *Gerrard* be asked what Name his Lordship went by at *St. Omers*.

Lord Gerrard. *Mr. Oates*, I am not difficult in telling the Name I went by there. It was *Clovel*.

Oates. Pray, my Lord, I desire to know what Religion his Lordship is of?

Lord Gerrard. Neither am I ashamed to own my Religion, *Mr. Oates*; I am a Catholick.

Oates. Pray, my Lord, if you please, because this noble Lord pretends he heard me read, I desire to know of him whether he was of the Sodality?

Lord Gerrard. I remember you particularly by your Voice, and that is one thing that particularly brings you to my Remembrance now.

Oates. Pray ask this Noble Lord, if he was a Witness at the *Jesuits* Trial?

Lord Gerrard. No, I was never a Witness in my Life before; by the Oath that I have taken.

L. C. J. 'Tis very well, my Lord.

Oates. Pray, my Lord, ask this Nobleman, whether he did not know of a Consult in *April* 78, and from whom he knew it?

Lord Gerrard. No, I know of none, nor heard of and but by Rumour, after that you pretended to discover such a thing.

Oates. Did his Lordship see me every Day, does he say?

Lord Gerrard. I cannot say every Day, but I saw him at the Refectory generally, and I remember it particularly, because he sat at a Table by himself; I believe he could not be absent without being miss'd because we knew every Person that came in and went out.

Mr. Sol. Gen. Then swear *Mr. Samuel Morgan*.

[*Which was done.*]

Mr. At. Gen. *Mr. Morgan* were you at *St. Omers* in 77, and 78?

Mr. Morgan. I was, my Lord.

Mr. At. Gen. Did you observe *Mr. Oates* to be there at that time?

Mr. Morgan. Yes, I did.

Mr. At. Gen. Pray give an account when he came, and when he went away.

Mr. Morgan. He came 14 or 15 Days before *Christmas*, as I remember, and went away in *June*.

Mr. At. Gen. What *Christmas* do you mean, *Mr. Morgan*?

Mr. Morgan. *Christmas* 77.

Mr. At. Gen. And when did he go away?

Mr. Morgan. In *June* 78, he went away.

Mr. At. Gen. Was he absent any time during that space?

Mr. Morgan. My Lord, I know not that he was ever absent above one Night in all that time.

Mr. At. Gen. What time was that one Night?

Mr. Morgan. Truly, my Lord, I cannot tell what Month it was very exactly.

Mr. *At. Gen.* Whither was he gone that Night ?

Mr. *Morgan.* He went to *Watton*, three Miles off from *St. Omers*.

Mr. *At. Gen.* Do you remember the time when Mr. *Hilsley* came away, and when Mr. *Burnaby* came to *St. Omers* ?

Mr. *Morgan.* Yes, I do, my Lord, very well.

Mr. *Sol. Gen.* Was Mr. *Oates* there when *Hilsley* went away ?

Mr. *Morgan.* He was there then.

Mr. *Sol. Gen.* Was he there when Mr. *Burnaby* came ?

Mr. *Morgan.* He was there when Mr. *Burnaby* came thither.

Mr. *Sol. Gen.* Was he there when Mr. *Pool* came away ?

Mr. *Morgan.* Yes, my Lord, he was so.

Mr. *Sol. Gen.* I will ask you this short Question, do you believe in your Conscience that he was absent any particular time all that while ?

Mr. *Morgan.* No, my Lord, I have no reason to believe so.

Oates. Pray, my Lord, ask him what Religion he is of.

Mr. *Morgan.* I am of the Church of *England*.

Oates. When were you reconciled to the Church of *England* ?

Mr. *Morgan.* Five years since.

Oates. I desire to know of him what induced him to be reconciled to the Church of *England*.

L. C. J. This is not a pertinent Question, nor fit to be asked. Is he to give an account of his Faith here ?

Mr. *Just. Withins.* It seems Mr. *Oates* is angry when the Witnesses are Papists, and when they are Protestants too.

Oates. When was it that I came to *St. Omers*, do you say ?

Mr. *Morgan.* You came thither in *December 77*.

L. C. J. So he told you before ; why do you repeat things over and over again ?

Oates. When was it I went away from thence, say you ?

Mr. *Morgan.* In *June 78*.

Mr. *Sol. Gen.* Do you remember the 24th of *April* Old Stile that Year ?

Mr. *Morgan.* Yes, my Lord, I do remember it very well.

Mr. *Sol. Gen.* Do you remember him to be at *St. Omers* that Day ?

Mr. *Morgan.* Yes, I do, by this Circumstance.

Mr. *Sol. Gen.* Ay, pray tell my Lord and the Jury that Circumstance, how you come to remember it.

Mr. *Morgan.* We had the Trial of *Ireland* brought over to us soon after it was printed, and there we found mentioned, that Mr. *Oates* had depos'd, that the 24th of *April 78*, there was a Consult of the Jesuits, and they met at the *White Horse Tavern*, where they resolv'd to kill the King, and he carried that Resolution from Chamber to Chamber, and he did nominate the Day ; and having it then fresh in my Memory, tho' he swore that he was the 24th of *April* Old Stile in *London* at that Consult, yet I found him to be at *St. Omers* by a very particular Circumstance. My Lord, I was playing at Ball that Day, and struck it over into a Court, into which I could not get over myself, but I saw Mr. *Oates* then walking in the Court, and I came and borrow'd his Key, and so went in, and there pass'd between us Words of Friendship.

L. C. J. When was this, do you say ?

Mr. *Morgan.* The 24th of *April 78*, Old Stile.

Oates. I desire to let his Orders be seen.

L. C. J. No, he shall not be put to shew any such thing.

Oates. He is a Minister of the Church of *England*, my Lord.

L. C. J. Sir, we tell you we will not do it ; what ado is here with your impertinent Questions, have not I told you, you shall not ensnare the Witnesses ?

Oates. He was going to pull out his Orders himself.

Mr. *At. Gen.* My Lord, Mr. *Oates* may see them if he will, he is a Beneficed Minister of the Church of *England*.

L. C. J. Does he mean those Orders ?

Mr. *At. Gen.* Yes, he does, and here they are.

L. C. J. Let him see them. [*Which was done.*]

Oates. My Lord, I desire to know of this Gentleman, what Name he went by at *St. Omers*.

Mr. *Morgan.* By the Name of *Morgan*.

Mr. *Sol. Gen.* Swear Mr. *Arundel*.

[*Which was done.*]

Mr. *At. Gen.* Pray, Sir, will you give an account in short, whether you were at *St. Omers* in 77 and 78, and the Time when *Oates* came thither, and when he went away ?

Mr. *Arundel.* I was there when Dr. *Oates* came, and when he went away.

Mr. *At. Gen.* When was that ?

Mr. *Arundel.* Sir, I cannot be positive to the time exactly, but I think it was about *January 77*, that he came there, and he went away about *June 78*. I cannot be positive to the time exactly.

L. C. J. He does not particularly remember the time, but he thinks it was about *January 77*, he came thither.

Mr. *Arundel.* I beg your Lordship's pardon, he came there about *December*.

Mr. *At. Gen.* Do you remember any particular Circumstances, that you saw him there any particular time ?

Mr. *Arundel.* Upon *St. Augustin's Day* I saw him confirm'd.

Mr. *Sol. Gen.* What Day is that ?

Mr. *Arundel.* The 26th of *May* according to the foreign Account.

L. C. J. Did you know him there then ?

Mr. *Arundel.* Yes, my Lord, I say I saw him confirm'd.

Mr. *Sol. Gen.* Do you remember Mr. *Hilsley's* going away ?

Mr. *Arundel.* I do not remember the time particularly, but I do remember Mr. *Oates* was actually there then.

Mr. *Sol. Gen.* Do you remember when Mr. *Burnaby* came to *St. Omers*?

Mr. *Arundel.* No, I do not remember the time, but he was there then too.

Mr. *Sol. Gen.* Do you remember when Mr. *Pool* went away ?

Mr. *Arundel.* No, I cannot tell what Day it was, but he was there at the time of his going away, upon my Oath.

Mr. *Sol. Gen.* Can you tell any other particular time ?

Mr. *Arundel.* The 11th of *May* New Stile, there was an Action exhibited in the College.

L. C. J. Was *Oates* there then ?

Mr. *Arundel.* To the best of my remembrance he was.

L. C. J. He does not affirm any Particular, but only speaks in general.

Oates.

Oates. Are you a Protestant too, Sir ?

Mr. Arundel. No, Doctor, I am not.

Oates. Pray, my Lord, I desire to know what Religion he is of ?

Mr. Arundel. I am a Papist, my Lord.

Oates. Pray ask him by what Name he went at *St. Omers*.

Mr. Arundel. I believe you know that as well as I, Dr. Oates.

L. C. J. You must answer his Question.

Mr. Arundel. I went by the Name of *Spencer*, my Lord.

Oates. I do remember him, my Lord, to have been there.

Mr. Arundel. Sir, your humble Servant.

Oates. It is almost seven Years ago, my Lord, and I may not so well remember them as they do me ; but I desire to know when he went to *St. Omers* first, and how long he was there.

Mr. Arundel. I was there seven Years.

Oates. Pray, my Lord, ask him whether he was of the Sodality.

Mr. Arundel. Yes, my Lord, I was.

L. C. J. Was he Reader of the Sodality ?

Mr. Arundel. Yes, my Lord, in my time he was Reader.

Oates. Then, my Lord, I desire to ask him whether he ever heard of a Consult of the Jesuits, that was to be held in *England*, in *April 78* ; and from whom he heard it.

Mr. Arundel. Yes, my Lord, I did hear in the College of a Congregation.

Mr. Sol. Gen. Was that an extraordinary one, or of course ?

Mr. Arundel. It was only of course, as they told us ; once in three Years they have one.

Oates. Pray, my Lord, be pleas'd to ask this Gentleman what Studies he follow'd at *St. Omers*.

L. C. J. He was of the Sodality, he says.

Mr. Arundel. My Lord, I studied to the end of Rhetorick.

Oates. My Lord, I desire to know whether when he came from *St. Omers*, he did come directly for *England*.

Mr. Arundel. No, I went from thence to *Paris*, my Lord.

Mr. Sol. Gen. Swear Mr. *Christopher Turberville*.
[Which was done.]

Mr. At. Gen. Pray, Mr. *Turberville*, will you acquaint my Lord and the Jury whether you were with Mr. Oates at *St. Omers*, and when ?

Mr. *Turberville*. Yes, my Lord ; he went by the Name of *Sampson Lucy* there, and there I saw him, and there I was with him all the time ; I was there before him, and I remain'd there after he went away.

Mr. At. Gen. What time did he come to *St. Omers*, I pray you ?

Mr. *Turberville*. Before *Christmas*.

L. C. J. In what Year ?

Mr. *Turberville*. In the Year 77.

Mr. At. Gen. What time was it he went away ?

Mr. *Turberville*. In *June 78*.

L. C. J. Were you there all that while at *St. Omers* ?

Mr. *Turberville*. Yes, I was.

L. C. J. And to the best of your apprehension, you think he was there all that while.

Mr. *Turberville*. Yes, I do so, my Lord.

Mr. Sol. Gen. Can you speak of any particular Days you can remember ?

Mr. *Turberville*. Yes, I do remember him upon the fourth, fifth, and sixth of *May*, for two or

three Days together ; for, my Lord, I do remember this Circumstance, Mr. *Pool* about that time went away, and that very Day Mr. *Pool* went from the College, I chang'd my Lodging, and went into his Lodging, and that Day I saw Dr. Oates in the Chamber, and by the Chamber-Door.

Mr. At. Gen. Did he continue in the College from the time he came about *Christmas*, to the time he went away in *June* ?

Mr. *Turberville*. Yes, he did, all the while, except it were one Night in *January*, when he went to *Watton*.

L. C. J. What time in *June* did he go away ?

Mr. *Turberville*. I am not positive, but I am morally sure he went away the 23d of *June*, as near as I can remember.

Oates. I was there in *June*, that is very well known.

L. C. J. What do you remember of his reading in the College ?

Mr. *Turberville*. I do remember he was Reader there on *Sundays* and *Holidays* for a great while ; I cannot swear upon what *Sunday* he began, but he left off the *Sunday* before he went away.

L. C. J. As near as you can remember, when did begin to read ?

Mr. *Turberville*. It was the beginning of *April*, or latter end of *March*, I cannot justly swear which it was.

Mr. *Molloy*. Did he read on *Holidays* as well as *Sundays* ?

Mr. *Turberville*. Yes, he did.

Oates. I must ask this Gentleman one Question, if your Lordship please, and that is this, what Name he went by at *St. Omers*.

Mr. *Turberville*. I went there by the Name of *Farmer*.

Oates. Pray you, my Lord, ask him what Religion he is of ?

Mr. *Turberville*. It is a hard Question to answer that.

Oates. Nay, my Lord, I desire to know what is his Religion.

Mr. *Turberville*. I am, my Lord, a *Roman Catholic*.

Oates. Ask him when he went to *St. Omers* first, and how long he staid there.

Mr. *Turberville*. I was there seven Years very near.

Oates. I desire to know whether he did come away directly to *England*, when he came from *St. Omers*.

Mr. *Turberville*. No, my Lord, I went into *Italy*.

Oates. Pray you, my Lord, I desire to know whether he did go to *Rome*.

L. C. J. What if he did, what then ? that is not at all to the purpose, he went into *Italy*.

Oates. Pray, my Lord, be pleas'd to ask him this Question further ; was he a Witness on the behalf of the five Jesuits, or of *Langborn* at their Trials ?

Mr. *Turberville*. No, my Lord, I was not.

Oates. Pray, my Lord, be pleas'd to ask him then what Reward he has been promis'd, or is to have for giving this Evidence.

Mr. *Turberville*. None at all, my Lord.

Oates. Pray, my Lord, ask him whether or no he heard of any Consult of the Jesuits in *April 78*, and from whom.

Mr. *Turberville*. There was a Congregation, as I heard, but I do not remember that any of the Fathers went from the College to it ; several came by

by there, and lodg'd there as they went, and as they came back.

Oates. Pray, my Lord, ask him how he came here to be a Witness in this Cause.

Mr. Turberville. I was subpcena'd.

Oates. Who serv'd the Subpcena upon him?

Mr. Turberville. The Managers; it was sent to me by the King's Counsel, I suppose; a Man brought it to me.

L. C. J. 'Tis no matter who brought it you, you were subpcena'd, that's enough.

Mr. Sol. Gen. Swear *Mr. Anthony Turberville.*

[Which was done.]

Mr. At. Gen. Were you at *St. Omers* in 77 and 78?

Mr. A. Turberville. Yes, my Lord, I was.

Mr. At. Gen. Did you observe the Defendant *Mr. Oates* there at that time?

Mr. A. Turberville. Yes, I observ'd him all the while he was there.

Mr. At. Gen. When did he come to *St. Omers*?

Mr. A. Turberville. In the Year 77, about *Christ-mas*.

Mr. At. Gen. When went he away?

Mr. A. Turberville. A Gentleman who was formerly sworn (*Mr. Thornton*) and I were at Breakfast with him the self-same time when he went away.

L. C. J. When was that?

Mr. A. Turberville. I suppose about the latter end of *June* 78?

Mr. At. Gen. Did you observe him to be there in *April* or *May* 78?

Mr. A. Turberville. He was not absent above one Night in *January* that I can remember, from his first coming thither, for it was impossible he should be absent and not miss'd, he sitting at a distinct Table by himself, and his Conversation being so remarkable for a great many ridiculous Actions, and a great many pretty Jest's that he us'd; so that he was like a silly Person, as I may call him, that us'd to make sport, and no body could be miss'd so soon as he: And I saw a little Boy in the College beat him up and down with a Fox's Tail. Indeed, my Lord, all his Actions were very remarkable: I saw him very much abusive to Persons that liv'd with him in the College; and *Mr. Oates* could not be a Person of this Note, but all the World must take notice of him, and all that knew him must miss him, if he were away.

L. C. J. You hear him, *Mr. Oates*; he gives you a particular Character; he says you were a very notorious Person in many Instances.

Mr. A. Turberville. My Lord, I was a Person then the youngest in the whole Company, and *Mr. Oates* being very abusive to me, I did what became me to right myself upon him.

Oates. Pray, my Lord, be pleas'd to ask this Gentleman what the Name was he went by at *St. Omers*.

Mr. A. Turberville. By my Grandmother's Name, which was *Farmer*.

L. C. J. Do you remember the time when *Mr. Hillsley* went away from *St. Omers*?

Mr. A. Turberville. He went away upon a Sunday. *Mr. Oates* remain'd afterwards there: I am positive I saw him several days after.

L. C. J. Do you remember when *Mr. Burnaby* came thither?

Mr. A. Turberville. Yes, my Lord, and *Mr. Oates* was there then.

L. C. J. Will you ask him any Questions? if you are not ready, I will ask him some for you. Come, what Religion are you of?

Mr. A. Turberville. I am a Roman Catholick, my Lord.

L. C. J. Well, and how long were you at *St. Omers*?

Mr. A. Turberville. Six Years and upward, my Lord.

L. C. J. When you came away from thence, did you come directly for *England*?

Mr. A. Turberville. I took a Circumference round.

Oates. My Lord, I do find my Defence is under a very great Prejudice.

L. C. J. Why so? because we won't let you ask impertinent Questions, or such as may render the Witnesses obnoxious to a Penalty.

Oates. No, my Lord, it is not fit they should, for there is a Turn to be serv'd.

L. C. J. What do you mean by that? Ay, and a good Turn too, if these Witnesses swear true: 'Tis to bring Truth to light, and perjur'd Villains to condign Punishment.

Oates. Good, my Lord, be pleas'd to hear me.

L. C. J. If you behave not yourself with that Respect to the Court as you ought, pray get you gone. Do you think you shall give such Language as this in a Court of Justice?

Oates. My Lord, I did not design—

L. C. J. If you behave yourself as you should, you shall have all due Regard; but if you fly out into such abusive Extravagancies, we'll calm you as you ought to be calm'd.

Oates. I would vindicate myself, I meant it not of the Court.

L. C. J. So you had need. Don't think we sit here to let you asperse the Justice of the Court and of the Nation, as if the Judges sat here to serve a Turn.

Oates. I say these Men do come to serve a Turn; but I laid no Aspersions upon the Court, nor meant it of them.

L. C. J. Behave yourself as you ought, and you shall be heard with all the Fairness can be desir'd.

Oates. I did perceive your Lordship and the Court made yourselves pleasant with my Questions.

L. C. J. I did not make myself pleasant with your Questions, but when you ask impertinent ones you must be corrected: You see we do the same thing with them; I find fault with nothing but what is not to the purpose.

Oates. My Lord, I desire it may be observ'd, that these Men that come now, are the same Witnesses that appeared at the *Old Bailey*, and were not believ'd there.

L. C. J. Observe what you will by and by.

Mr. At. Gen. No, they are other Men, but they bear the same Testimony indeed.

Mr. Sol. Gen. Swear *Mr. Clavering.*

[Which was done.]

Mr. At. Gen. Come, Sir, I'll ask you a short Question; were you at *St. Omers* with *Mr. Oates*, and when?

Mr. Clavering. Yes, I was: I came the 10th of *December* 77, to *St. Omers*; he told me he came thither that Day too, and I liv'd there all the time that he was there, which was till towards the middle of Summer: I do not remember that he ever was absent, but once at *Watton*.

Mr. At. Gen. Do you remember *Mr. Burnaby's* coming thither?

Mr. Clavering. *Mr. Oates* was there when *Mr. Burnaby* came there.

Mr. Sol. Gen. Was he there when *Psal* came away?

Mr. *Clavering*. He was there when Mr. *Pool* went away, and likewise I remember his being there at the time of the Congregation.

Mr. *At. Gen.* Pray tell the Circumstance how you know he was there then.

Mr. *Clavering*. There came a Gentleman there that desir'd a Charity of the Students, and I was the Person that made the Collection for him in the House; and I remember he did ask if there was any one that was a Student there that had been in *Spain*: We told him there was one, and describ'd him; upon which he knew the Gentleman in *Spain*. Upon that I told Mr. *Oates*, that there was one there that knew him, but he deny'd to come and speak with him. Now I remember that it was the time of the Congregation, for some made Enquiry why he got so little Money at *Watton*, and it was said it was because the Fathers were gone to the Congregation in *England*. And he ask'd me particularly, what was done at the Congregation in *England*?

L. C. J. Did *Oates* ask that Question?

Mr. *Clavering*. Yes, my Lord, he did.

L. C. J. Whom did he ask it of?

Mr. *Clavering*. Of me.

L. C. J. When was that?

Mr. *Clavering*. I think it was about the time of the Congregation.

L. C. J. How came he enquire after it?

Mr. *Clavering*. I was talking with him, and said he to me, *Know you nothing what the Business is that they are to do at the Congregation?* Said I, *Mr. I ucy, I know not what they do; I think not much: For I hear at those Meetings many times they stay an hour or two, and have done when they have chosen their Procurator.*

Mr. *Sol. Gen.* And you believe he was there all the time?

Mr. *Clavering*. Yes, my Lord, I do believe it.

Oates. Pray, my Lord, let me ask him a Question or two.

L. C. J. Ay, what you will.

Oates. What Religion is this Gentleman of?

Mr. *Clavering*. I am a Catholick.

Oates. A Roman Catholick you mean, I suppose?

Mr. *Clavering*. Yes, I always understood it so, Mr. *Oates*.

Oates. My Lord, I desire to know how he came not to be produc'd at the Jesuits Trial, to give this Evidence he gives now?

Mr. *Clavering*. I can give a very good Reason perhaps: I was then, my Lord in *Germany*.

L. C. J. That's Reason good enough of all conscience.

Mr. *Just. Withins*. That was a new Question, and you have a satisfactory Answer, I think.

Mr. *Sol. Gen.* Swear Mr. *John Copley*.

[Which was done.

Mr. *At. Gen.* Were you at *St. Omers* in 77 and 78?

Mr. *Copley*. Yes, I was.

Mr. *At. Gen.* Was *Oates* there then?

Mr. *Copley*. I saw him all the time he was there.

Mr. *Sol. Gen.* When did he come thither?

Mr. *Copley*. He came a little before *Christmas*, to the best of my Remembrance.

Mr. *Sol. Gen.* When went he away?

Mr. *Copley*. In 78.

Mr. *Sol. Gen.* In what Month in 78?

Mr. *Copley*. In *June* 78.

Mr. *Sol. Gen.* Was he absent any part of that time?

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Mr. *Copley*. I was there, and he was there too.

Mr. *Sol. Gen.* Was he absent any part of the time from *Christmas* to *June*.

Mr. *Copley*. Nay, I am sure he was there all the time, except that Night that he was absent at *Watton*, and that was in *January*.

Oates. Pray, my Lord, ask him what Religion he is of?

Mr. *Copley*. Does your Lordship ask me that Question?

L. C. J. Yes, I do ask you; Mr. *Oates* would know it.

Mr. *Copley*. I am a Roman Catholick, my Lord.

Mr. *Sol. Gen.* Swear Mr. *Cook*. [Which was done.

Mr. *At. Gen.* Did you know Mr. *Oates* at *St. Omers*, and when?

Mr. *Cook*. He came there a little before *Christmas* 77.

Mr. *At. Gen.* How came you to know him there?

Mr. *Cook*. I liv'd in the House then.

Mr. *At. Gen.* Was he there all *April* and *May*?

Mr. *Cook*. Yes, he was till the latter end of *June*.

Mr. *At. Gen.* Did you see him every day?

Mr. *Cook*. Yes, I did.

Mr. *At. Gen.* Can you tell any particular time?

Mr. *Cook*. I am positive he was there the 30th of *April*.

Mr. *At. Gen.* What Stile?

Mr. *Cook*. New Stile.

L. C. J. How do you know he was there then?

Mr. *Cook*. It is a remarkable time; there is a Procession that they keep there on that Day from the Sodality to the Church, and I saw him go among the rest at the latter end among the Rhetoricians.

L. C. J. What say you, was he there on that Day Mr. *Hilsley* went away?

Mr. *Cook*. I do not remember that.

L. C. J. Do you remember *Burnaby*?

Mr. *Cook*. I was there when Mr. *Burnaby* went away.

L. C. J. But when he came, was *Oates* there?

Mr. *Cook*. I cannot speak particularly to that.

Mr. *At. Gen.* What was your Place in the College?

Mr. *Sol. Gen.* My Lord, he is a Lay-man, be sure.

Mr. *Cook*. I was a Servant in the House.

Oates. In what Place do you serve?

Mr. *Cook*. I was a Taylor.

Oates. I do not remember him.

Mr. *Cook*. But I remember you.

Mr. *Sol. Gen.* Swear *Jo. Wright*, Esq;

[Which was done.

Mr. *At. Gen.* Do you remember *Oates* at *St. Omers*?

Mr. *Wright*. Yes, I do.

Mr. *At. Gen.* When was it?

Mr. *Wright*. The Winter before the notice of the Plot was.

Mr. *At. Gen.* What Year was it in?

Mr. *Wright*. In the Year 77.

Mr. *At. Gen.* What Month in that Year did he come thither?

Mr. *Wright*. I cannot tell, it was Winter-time.

Mr. *At. Gen.* When did he go away?

Mr. *Wright*. He went away in Summer, I cannot tell just the time.

Mr. *At. Gen.* Was he absent at any time, from his coming in Winter, to his going away in Summer?

Mr. *Wright*. The Scholars said he was once at a Place called *Watton*.

L. C. J. Come, this says nothing to the purpose.

Mr. Sol. Gen. My Lord, we leave it here.

L. C. J. What say you to it then, *Mr. Oates*?

Oates. Has *Mr. Attorney* done?

Mr. At. Gen. Yes, we have done for the present.

L. C. J. Then are you to make your Defence.

Oates. My Lord, here is an Indictment brought against me for Perjury; and this Indictment sets forth, *That I should upon the 17th of December appear at the Old Bailey, and there swear, That there was a Treasonable Consult of the Jesuits met at the White-Horse Tavern in the Strand, and that this Treasonable Consult did divide itself into lesser Companies and Meetings, and that I carried about a certain Resolution, which the Jesuits came to, concerning killing the King, from Chamber to Chamber to be sign'd.* My Lord, I have a great Exception to make to this Indictment, and that is, my Lord, as to the Form. For, by your Lordship's Favour, I think the Perjury is not well assign'd, and according as I am advised, I offer this to your Lordship's Consideration. It says in the Assignment of the Perjury, *Ubi revera & in factis prædictis Titus Oates non præfens fuit ad aliquam Consultationem Jesuitarum apud le White-Horse Tavern prædict' in le Strand in Com' Midd' prædict' super vicessimam quartum diem April' anno Dom' Millesimo.*

L. C. J. How, *Millesimo*!

Oates. My Lord it is Law-Latin, I suppose it may serve in a Court?

L. C. J. No, it is true Latin there.

Oates. I cannot tell how to read it better.

L. C. J. I do believe that.

Oates. It is written in such a Hand, I cannot read it; but the Substance of it is, it says here, That I did not carry any Resolution from Chamber to Chamber *signata*. Now the Evidence charged upon me to be given, is, that I did not see it *signat*: So that the Assignment of the Perjury does not pursue the Oath as it is set forth; for if it be *signat* in the Evidence that was given, it ought to be *signat* in the Perjury that is assigned; and I humbly crave the Opinion of your Lordship and the Court upon this Point.

L. C. J. Look you, *Mr. Oates*, that you offer'd before, and I gave this Answer, which I must now repeat, That now we are upon the Fact, and this Exception will be sav'd to you for its proper time, if you be convicted. It is not proper now; but suppose there were that thing which you say is an Objection, yet you must know, that there are two Perjuries that are assign'd; the one is upon the first part of your Oath, which was, that you were present at a Consult of the Jesuits the 24th of April 78, at the *White-Horse Tavern* in the *Strand*, *Ubi revera* you were not there. Now, do you admit in the first place, that you were forsworn in that particular?

Oates. No, my Lord, I do not.

L. C. J. If the Jury find that you were forsworn in that first Point, that you were not there, it will be easily believed you swore false in the other Point, that you did not carry the Resolution from Chamber to Chamber.

Oates. But, my Lord, it is not well assign'd, I think.

L. C. J. That will be sav'd to you after the Verdict, I tell you, if there be occasion for it.

Oates. My Lord, I suppose the Proof ought to be according to the Record, and the Record makes the Perjury differ from the Oath.

L. C. J. I tell you, that is to the Form, and that will be sav'd to you after the Verdict one way or the other.

Oates. Then will your Lordship be pleased to consider there was a Record brought in, which is almost the same with that I am to offer to be read on my behalf, and which is the first Proof that I have to offer of the Consult that was held in *London* in *April* 78. And I desire *Mr. Percivile* may be called, I forget his Christian Name, and *Mr. Vaughan* who is my Solicitor: But pray, my Lord, let me first have the Opinion of the Court, whether they did prove the Words that I am said to swear, as they are laid in the Indictment.

L. C. J. Yes, very fully, we think so; but the Jury are to try that, that is a Point of Fact: but if you will, you shall have our Thoughts about it; We think they are fully proved.

Cryer. Here is *Mr. Percivile*.

Oates. Pray swear him. [*Which was done.*]

L. C. J. What do you ask him?

Oates. *Mr. Percivile*, you examin'd the Conviction of *Mr. Ireland*, pray put it in: Is it a true Copy?

Percivile. Yes, it is.

Oates. My Lord, I desire that the Conviction and Attainder of *Mr. Ireland* may be read.

Mr. At. Gen. It has been read already.

Oates. My Lord I will not take up the Court's time any more than is necessary for my Defence.

L. C. J. Nay, do as you will, as long as you offer things pertinent and decent, the Court will hear you with all Patience, and you may take what time is necessary for you.

Oates. I thank your Lordship: I design'd nothing at all of Reflection upon the Court, but a Reflection on the Witnesses that came in against me.

Cl. of Cr. This is a Copy of the same Record that was before read.

Oates. Well, if that be allowed for Evidence for me, I am contented to spare the time of the Court, not to read it again; but, my Lord, I offer this, and desire to have Counsel assign'd me to argue this Point in Law; that is, whether or no the Convictions and Attainders of *Ireland*, *Whitebread*, and the rest of them, of a Treasonable Consult of the 24th of *April* 78, where it was resolved to murder the late King, ought not to be taken as a sufficient Legal Proof of the Fact, so long as those Attainders remain of force? And whether the Averment of that being false, is to be received against those Records?

L. C. J. There is no difficulty in that at all in the World, *Mr. Oates*.

Oates. My Lord, I do not know the Law, and therefore I pray I may have Counsel assign'd to argue that Point.

L. C. J. There is no question in it. God forbid, if a Verdict be obtain'd by Perjury, that that Verdict should protect the perjurd Party from being prosecuted for his false Oath. There were no Justice in that; nor is it an Averment against a Record, for this is not a Writ of Error in Fact that will reverse it, but the Record remains a good Record and unimpeached still: But tho' it be a good Record, yet it is lawful to say this Verdict was obtain'd upon the Testimony of such an one, that forswore himself in that Testimony, and for that particular Perjury he may surely be prosecuted.

Oates. Is not that Attainder an uncontrollable Evidence of the Fact, till it be revers'd?

L. C. J.

L. C. J. Yes, it is against the Party attainted; but if that Attainder was founded upon a Verdict that was obtain'd by Perjury, God forbid but he should be told so that did perjure himself.

Oates. Well, my Lord, if your Lordship rules that for Law, then I will go on; and I must now observe to the Jury in the opening the Evidence two things. First, That the Indictment upon which *Ireland* was tried, was found the 16th of *December* 78, and on the 17th of *December*, the next Day *Ireland* was tried at the *Old-Bailey*; and then I find this Indictment brought against me for Perjury, is found at the *Old-Bailey* six Years after the Fact, by special Commission. Now, I submit it to your Lordship's and the Jury's Consideration, why the Presentment and the finding of this Bill for Perjury has been so long delay'd, since it appears by the Evidence, that the Witnesses that have been produc'd to prove the Perjury, were either at the Trial of the five Jesuits, or might have been produced then; and tho' they are not all the same Persons, yet they all bear the same Testimony that was then offered, but were not credited; and I hope when my Evidence is heard, they will have the same Reputation with this Jury that they had with those others. My Lord, I must acquaint your Lordship and this Court, That in this Indictment for which *Mr. Ireland* was convicted, *Mr. Whitebread* and *Mr. Fenwick* did undergo part of the Trial, and did hear the whole body of the Evidence that the Witnesses testified against them; but there being but one Witness against them two at that time, which was my self, (*Mr. Bedloe* being then upon an Intrigue, as your Lordship may remember) my Lord Chief Justice *Scroggs*, who was then the Mouth of the Court, did discharge the Jury of *Mr. Whitebread* and *Mr. Fenwick*, and remanded them to Prison, which *Mr. Whitebread* six Months after did remark to the Court, and urg'd it as a Plea for himself to be discharged; but that being over-ruled by the Court, he was tried. Now, he had six Months time to provide himself with new fresh Evidence to asperse me, and to endeavour to falsify that Testimony I gave in against *Whitebread* and *Fenwick*, when *Ireland* was tried, and so he knew what it was. I must further observe to you, my Lord, and Gentlemen of the Jury, That my Case is very hard, that since the Substance of my Testimony was with Credit receiv'd, and the Jury upon convicting them were acquainted, "That they had found, an unexceptionable Verdict; "That all the Objections against the Evidence were then fully answer'd; That there was no thing that the Prisoners had been wanting in to object, which could be objected; and that the thing was as clear as the Sun:" And yet after six Years time, I must come to be called to an account for Perjury in my Testimony of that part of the Popish Plot, with which the King and Kingdom, four successive Parliaments, all the Judges of the Land, and three Juries, were so well satisfied. I shall therefore offer to your Lordship and the Jury's Consideration the unanimous Votes of three Houses of Commons; I shall offer the Proceedings of the House of Lords, that is the highest Judicature in the Kingdom; I shall prove what I have open'd by the Testimony of several Noblemen that are here, who will testify this for me. My Lord, I shall prove, that several Attempts have been made to baffle this Testimony, as that of the Murder of *Sir Edmundbury Godfrey*, who took my Depositions, the Contrivance of *Paine*, *Farewell*,

and *Thompson*, made in the Year 81 or 82, I forget which; I shall then produce Evidence that I was actually here in Town at the time in question; and then upon the whole I shall submit it to your Lordship and the Jury. But to prepare your Lordship and the Jury the better for my Evidence, I would again urge the strangeness of this Prosecution, and the Hardship that is put upon me, to be tried for Perjury in an Evidence given six Years ago, and formerly very industriously, tho' not successfully, endeavoured to be falsified by sixteen *St. Omers* Youths, that were produced and examined before all the Judges in the Kingdom, and that not only once at *Whitebread's* Trial, but a second time at *Langborn's* Trial; in neither of which would the Jury believe them, because of their Religion and Education, and the Persons under whom they were educated, who were Men of known Artifice. Then, my Lord, I would argue thus: If at that time my Evidence were true, it must be true still, for Truth is always the same; and if it were then true, and I can prove it to be true, 'twill be thought a hard thing without all doubt, that this should be put upon me. Then, my Lord, I would fain know from my Prosecutors, why this Indictment of Perjury has been deferred so long? Why these Witnesses that come now to testify this matter, and could then have been brought, did not come before, to justify at the Trials of these Persons what they now say, which might have sav'd their Lives, if true, and had it been credited. Then I shall offer to your Lordship what I desire you and the Jury would please to observe, That tho' the King's Counsel are now against me, yet they are also against themselves, for they were of Counsel for the King in those Cases; particularly *Mr. Solicitor* at *Langborn's* Trial, *Sir Robert Sawyer* at *Sir George Wakeman's* Trial; they were of Counsel before for the Truth of my Testimony; they are now against it, I only mention that, and pass it over. But this is not the first Attempt that has been made to discredit the Testimony of the *Popish Plot*, as I told you before. Now, can it be supposed that the Love and Desire of Publick Justice can be the Cause of this Attempt to falsify my Evidence after so many Trials, in which it has been credited and confirmed? Can any thing, my Lord, more plainly tend to destroy and subvert the Methods of Justice, to frighten all Witnesses from henceforth from ever appearing to discover any Conspiracies? And does it not tend to expose and vilify the known Understanding and Justice of the late King of Ever-blessed Memory, to arraign the Wisdom of his Privy-Council, his great and noble Peers, his Loyal Commons in three successive Parliaments, his twelve Judges, and all those several Juries that were upon those Trials? Had not those Juries Sense? Had they not Honesty? Had they no Consciences? And the Judges before whom those Conspirators were tried, were they Men of no Justice, nor Honour, nor Integrity, nor Conscience, nor Understanding? Shall those Juries be said to have drawn the innocent Blood of these Men upon their own Heads and the Nation? As, if I were perjur'd, it must be innocent Blood that was shed upon it.

L. C. J. No, no, that goes a great deal too far, *Mr. Oates*: The Jury have no share, nor the Judges neither, in that Blood which was shed by your Oath.

Mr. Just. Withins. No, that is your own most certainly, and not theirs.

Oates. But this, I say, makes it most plain: The Evidence was then true, and I hope I shall make it

as evidently plain, 'tis as true now; and I do not question, but upon the Evidence I shall now give, both positive and collateral, the Jury will believe me, and acquit me of this foul Accusation. Pray, my Lord, be pleas'd to consider, that when the Jury brought in *Ireland* guilty of the High-Treason, of which he was accused, and convicted him, *Pickering*, and *Grove*; says my Lord Chief Justice *Scroggs* (that then was) to them: *Gentlemen, you have done like very good Subjects, and very good Christians, that is, like very good Protestants; and now much good may do them with their thirty thousand Masses*; as I shall prove he did say. Then I insist, in the second place, that *Whitebread's* Conviction does re-inforce the Conviction of *Ireland*, because of the Attempt by the *St. Omers* Witnesses to have overthrown my Evidence: But since I am attack'd again in the same kind, by the violence of the Popish interest, and by the Malice of my Popish Adversaries, I am contented to stand the Test with all my heart. And then, to conclude all, I shall shew the Court, that 'tis in vain for the Popish Party to expect and think to wipe their Mouths, with *Solomon's* Whore, and say, *they have done no Wickedness*. No, I question not but thousands of Protestants in this Kingdom are fully satisfied and convinced of the Truth of the Popish Plot, all and every Part of it. Now, my Lord, if you please to give me leave to proceed on in my Evidence, I shall beg that these Records of Conviction may be read, which are my first Proof of the Consult; and I shall then bring Witnesses, *vivâ voce*, and shall make it appear, that what I did swear at those Trials was true.

L. C. J. Not to interrupt you in your Defence, or the Method you will take for it, I would put you upon that which is proper for you to apply yourself to, because the Question now is not, whether there was a Consult or Congregation of the Jesuits here upon the 24th of *April 78*? but the Question that toucheth you is, whether you were present at any such Consult here in *London* the 24th of *April 78*? These Gentlemen, some of them, do say, there was a Consult, and others that they heard of it, and believe there was such a one, because it was usual to have a Triennial Congregation for some particular Purposes: But the Question is, whether you have sufficient Proof to prove yourself to be here on the 24th of *April 78*, at which time it is agreed on all hands there was a Consult?

Oates. But will your Lordship be pleas'd to take notice of the drift of the Evidence, how they are consistent one with another? These Gentlemen that have now been sworn to prove that I was not at this Consult do attempt to prove that I was at *St. Omers*: Now to answer this, I shall not go about to prove that I was not then at *St. Omers*, but that I was actually then, and about that time, here in *London*; and then all that Proof that *Mr. Attorney-General* has brought, must be laid aside.

L. C. J. You say well; prove that.

Oates. Now, my Lord, to introduce and prepare the Jury for this, it will be necessary, I humbly conceive, to read the Records of the Conviction of *Whitebread* and *Ireland*.

L. C. J. Well, go your own way; we are not to direct you: I only tell you where the Question lies.

Oates. Sir *Samuel Astrey*, pray be pleas'd to read them in *English*, that the Jury may understand them. First read *Ireland's* Record.

[Which was done.

Oates. Now read *Whitebread's* Record: Read but the Attainder, I will not trouble the Court with the whole Record.

Cl. of Cr. " *Thomas White* alias *Whitebread*, *William Harcourt* alias *Harrison*, *John Fenwick*, *John Gaven*, and *Anthony Turner*, were found guilty of High-Treason, and attainted, and Execution awarded against them upon that Attainder."

Oates. Does not the Record say, the Jurors say upon their Oaths they are guilty.

L. C. J. Yes, I'll warrant you.

Cl. of the Cr. It is *dicunt super sacramentum suum*.

Oates. Very well. These, my Lord, I do produce as my first Evidence, to prove that there was a traiterous Consult, held upon the 24th of *April 78*, at the *White-Horse* Tavern in the *Strand*, it having been believed and affirmed by two Verdicts. Now give me leave to offer but this to the Court, that at the Trial of *Mr. Ireland* I gave so full and ample a Testimony against *Whitebread* and *Fenwick*, accompanied with all the Circumstances of Time and Place, that my Lord Chief Justice *Scroggs* said, *The Evidence might be sufficient to have satisfied a private Conscience, tho' it was not a legal Proof then to convict him, there being but one Witness against them*: And for this I call *Mr. Robert Blayney*.

Oates. Pray swear *Mr. Blayney*.

[Which was done.

L. C. J. What do you ask *Mr. Blayney*?

Oates. *Mr. Blayney*, have you your Notes of *Ireland's* Trial here?

Mr. Blayney. Yes, Sir, I have.

Oates. Pray will you look into what my Lord Chief Justice *Scroggs* said when he discharg'd the Jury of *Whitebread* and *Fenwick*.

Mr. Blayney. Whereabouts is it, Sir, in the printed Trial?

Oates. It is Page 55.

Mr. Blayney. I have found the Place, what is it you would ask me about it?

Oates. Whether my Lord Chief Justice *Scroggs* did not use these Words to the Jury? *I do acknowledge that Mr. Oates has given a very full and ample Testimony, accompanied with all the Circumstances of Time and Place, against them all; that may go far with you, all things consider'd, to believe there is a Plot: Yet I do not think they have proved it against Whitebread and Fenwick by two Witnesses; tho' the Testimony be so full as to satisfy a private Conscience, yet we must go according to Law too. It will be convenient from what is already proved, to have them stay till more Proof come in; 'tis a great Evidence that is against them, but it not being sufficient in point of Law, we discharge you of them. It is not a legal Proof to convict them by, whatsoever it may be to satisfy your Consciences.*

Mr. Blayney. I have look'd upon my Notes, and I cannot find exactly those Words.

L. C. J. He says he cannot find that Passage as it is there.

Mr. Blayney. There is something to that purpose, my Lord.

Oates. Pray, Sir, will you look into your Notes in the very same Place, what my Lord Chief Baron said: *You must* (speaking to the Jailor) *understand they are no way acquitted: The Evidence is so full against them by Mr. Oates's Testimony, that there is no Reason to acquit them; it is as flat as by one Witness can be.*

Mr. Blayney. There is such a Passage, I find, in my Notes.

L. C. J.

L. C. J. He says there is such a Passage.

Oates. Then I desire Mr. *Blayney* would look into his Notes, what my Lord Chief Justice *Scroggs* said in his summing up the Evidence against *Ireland*. He mentions the Evidence of Sir *Dennis Ashburnham*, who was produced to discredit me, and then he adds, *When the Matter is so accompanied with so many other Circumstances which are material things, and cannot be evaded or deny'd, it is almost impossible for any Man either to make such a Story, or not to believe it when it is told.*—It is *Ireland's* Trial, Page 72.

Mr. *Blayney*. My Lord, I do find such a Passage in my Notes.

L. C. J. He says there is such a Passage in his Notes.

Oates. Then I would ask Mr. *Blayney* another Question at the bringing in the Verdict of the Jury against *Ireland*, *Pickering*, and *Grove*, my Lord Chief Justice *Scroggs* (that then was) had this Expression: *You have done, Gentlemen, like very good Subjects, and very good Christians, that is to say, like very good Protestants; and now much good may their 30,000 Masses do them.*

Mr. *Blayney*. Yes, my Lord, there is in my Notes such an Expression of my Lord Chief Justice *Scroggs*.

Oates. Pray you, Mr. *Blayney*, have you *Whitebread's* Trial? The Trial of the five Jesuits, I mean.

Mr. *Blayney*. My Lord when I receiv'd a Subpœna from Mr. *Oates* to be here this Day, and to bring my Notes of *Ireland*, *Whitebread*, and *Langborn's* Trials, I did (as I did before upon another occasion) make a Search for all my Notes, but could not find any but those of the Trial of *Ireland* and *Langborn*, and those I have brought here, but have not *Whitebread's*.

L. C. J. He says he has not the Notes of *Whitebread's* Trial; he cannot find them.

Oates. Then I must desire, my Lord, that the Printed Trials may be read.

L. C. J. No, they are no Evidence: If you can prove what was said at any of them, you may by Witnesses, but not by the Printed Books.

Oates. Then will your Lordship be pleas'd to give me leave to mention what was said by your Lordship at that time, when you were Recorder of *London*, about your Satisfaction with the Evidence.

L. C. J. Ay, with all my heart; and whatever I said, I will own, if I can remember it.

Oates. Will your Lordship be pleas'd to be sworn then?

L. C. J. No, there will be no need for that; I will acknowledge any thing I said then.

Oates. Then, if your Lordship pleases, I will read those Passages out of the Books.

L. C. J. Ay, do so.

Oates. Says Mr. Recorder of *London*, (in particular to that Part of the Prisoners Defence, at the Trial of the five Jesuits, and the full Scope given them of making Objections to the Evidence) when he gave Judgment of Death upon these five Jesuits and *Langborn* (for I now speak of your Lordship in the third Person,) *Your several Crimes have been proved against you; you have been fully heard, and stand convicted of those Crimes you have been indicted for.*

L. C. J. I believe I might say something to the same purpose as you have read now.

Oates. I thank your Lordship for that Acknowledgment.

L. C. J. Ay, I'll own any thing I did say.

Oates. My Lord, I have one Passage more to urge, and that was, my Lord, after the Jesuits had been convicted, when the Jury brought in their Verdict, and found *Whitebread*, *Fenwick*, *Harcourt*, *Gaven*, and *Turner* guilty, your Lordship, applying yourself to the Jury, said thus to them: *Gentlemen, you of the Jury, there has been a long Evidence given against the Prisoners at the Bar; they were all indicted, arraigned, and tried for High-Treason, depending upon several Circumstances: They can none of them say the Court refus'd to hear any thing they could say for themselves; but upon a long Evidence, and a patient Hearing of the Defence they made, they are found guilty; and for any thing appears to us, it is a just Verdict you have given.*

L. C. J. I believe I might say something to that purpose too at that time; and no doubt the Jury did (as the Case then stood) find an unexceptionable Verdict.

Oates. There is another place, my Lord, that I would instance in, for your Lordship's Opinion of the Evidence of the Popish Plot, and that is this: Now, my Lord, I bring your Lordship as you were of Counsel for the King at Mr. *Colledge's* Trial at *Oxford*, the 17th of *August* 81. There you, my now Lord Chief Justice, directing yourself to the Jury, had this Expression; *We come not here to trip up the heels of the Popish Plot, by saying that any of them who suffer'd for it did die contrary to Law; for if Mr. Dugdale was not a Person fit to be believ'd, or if the rest of the Judges who try'd Gaven were out in the Law, then that Man died wrongfully; for he had as much right to be try'd according to Law, as any other Person whatsoever.* This was your Lordship's Opinion of the Matter then, and your Lordship, as Counsel for the King, did there deliver the Law as well as Fact to the Jury. If then they went against Law, that would go to trip up the heels of the Popish Plot—

Mr. *Just. Withins*. We are got into an endless Wood of Sayings of People, I know not where and when; and when all is done, it is to no purpose.

Oates. My Lord, it is a Part, and a great Part, of my Defence, to shew what credit has been given to the Evidence of the Popish Plot.

L. C. J. Ay, but what Counsel says at the Bar, or what Judges say in the Court of their Opinion, is no Evidence of a Fact, of which the Jury are Judges only.

Oates. My Lord every Judge is upon his Oath, and delivers his Judgment according to his Oath.

L. C. J. Not as to the Fact, but only in Points of Law, so as to tell the Jury what the Law is, if the Fact be so and so.

Oates. My Lord, it goes a great way with the Jury to have the Judge's Opinion.

L. C. J. Mr. *Oates*, deceive not yourself; all this you have insisted on hitherto, has not been to the purpose, nor is any sort of Evidence in this Case; and therefore do not run away with an Opinion of this as Evidence; a Judge's Opinion is of value in Points of Law that arise upon Facts found by Juries, but are no Evidence of the Fact: for Judges only do presume the Fact to be true, as it is found by the Jury; and therefore say they, out of that Fact so found, the Point of Law arising is thus or thus. Then in case, after a Jury has given a Verdict of the Fact, a Judge's Opinion of the Fact (which may be perhaps contrary to the Verdict) should be an Evidence as to that Fact, that would be to overthrow and nullify the Jury's Verdict: No, that is not the Judge's Province. Surely you would

would not have a Judge's private Opinion, that twelve Men have found a Verdict against the Fact, to be an Evidence as to that Fact: No; but admit the Fact to be so or so, then the Person convicted of the Fact ought to suffer so or so. And by the same reason as this, a Jury of honest Gentlemen here, when I tell them here is a plain Fact either to convict you, or to acquit you upon this Indictment, are not bound to go by what I say in point of Fact, but they are to go according to their own Oaths, and according to the Evidence and Testimony of the Witnesses: It is not my Opinion that is to weigh at all with them, whether you are guilty of this Perjury, or are innocent, but the Evidence that is given here in Court. Therefore what my Lord Chief Justice *Scroggs* said at any of those Trials, or what I said, or any other Person, that either was of Counsel, or a Judge on the Bench, said as our Opinions, is but our Opinions on the Fact as it occur'd to our present Apprehensions, but is no Evidence nor binding to this Jury. I must tell you, there is no doubt, but that those Juries did every one of them believe the Evidence you gave, or they would not have convicted the Prisoners. Do you think they would have found a Verdict against their own Belief, and being upon their Oaths to make true Deliverance between the King and the Prisoners, have perjured themselves to hang others? if they had so done, they had committed wilful Murder, and the worst of Murders too, being under Colour of the Process of Law; but yet all this is no Evidence. I do not discommend you for insinuating these things, as introductive and preparative to what Evidence you have to offer; but it is no Evidence one way or other. Alack-a-day! how many times have we Causes here in *Westminster-Hall*, wherein we have Verdict against Verdict? and yet no Imputation to either of the Juries, which might give different Verdicts upon different Grounds. There was a notable Case lately of my Lady *Ives* at this Bar; We all thought upon the first Trial, that she had as good a Title to the Land as could be; all the Judges and the Counsel went away (I believe) satisfied with the Jury's Verdict for her: But when the Cause came to be heard again, we found all the Witnesses to prove her Title, were guilty of notorious Perjury, and the same Persons which did believe before that she was in the right, and the Jury had done well; when they heard the second Trial, did believe she was in the wrong, and accordingly the second Jury found it so; and we believe that last Verdict to be good, without any Reflection on the Credit of the first Jury, because the Evidence was as strong on her side then, as it was afterwards against her. In these Cases we give our Opinions always according to the present Testimony that is before us.

Oates. Then, my Lord, I offer this to your Consideration, that those Men that were thus charged by me with High-Treason, were Priests and Jesuits most of them, and particularly Mr. *Ireland*, in whose Trial I am said to have committed this Perjury; and you shall find him to have been by others proved a Priest and a Jesuit, and actually engaged in a Design against the Life of the King. If I then do prove that *Ireland* was engaged in a Design against the late King's Life, and was a Priest and a Jesuit, I desire to know, whether this be not a Collateral Evidence to render me of Credit sufficient, and support my Testimony?

L. C. J. By no means upon this Indictment. It's true it may give some Credit to your Testimo-

ny, but it is not of it self sufficient: Nay, I'll go a great way further than that; I will suppose that there was a Consult of the Jesuits upon the 24th of *April 78*, at the *White-Horse Tavern* in the *Strand*, where those you say were present; were all present; *Ireland*, and *Whitebread*, and *Pickering*, *Grove* and *Fenwick*, were all there, and that they did there come to a Resolution to destroy the late King: Suppose all this to be true, and yet you all this time are not innocent of the Fact imputed to you, because you swore directly, *That you were there at that Consult too*, which you were not, if these Men swear true, for then you were at *St. Omers* at that time; and therefore give us some sort of Testimony to satisfy us that you were here, and then you will set all right again. If the Jesuits and Priests did plot, that is nothing to make your Evidence true, if you swore that which you did not know of your own Knowledge.

Oates. Shall it be allow'd then, that *Ireland* was a Jesuit and a Papist?

L. C. J. If it should, that will be to very little purpose for your Turn.

Oates. There is the Evidence of a Record for it, my Lord; but if that be not sufficient, I can call Witnesses to prove it. Pray, call Mr. *Miles Prance*.

[*Which was done, but he did not appear.*]

Cryer. He is not here.

Oates. He was *subpœna'd*, my Lord, to come hither.

L. C. J. I can't help it, if he will not come; but I'll tell you, for method's sake, not to prescribe to you, but to tell you what I think may be more for your advantage than any of these Inferences that you are making. If you did call two or three Witnesses to prove that you were in Town the 22d, 23d, or 24th of *April*, it would be the best Defence you can make, and would give the best Answer to all that is objected against you.

Oates. I will do that, my Lord, then, and follow your Directions.

L. C. J. Do so, that's the best way.

Oates. *Cryer*, call *Cecilia Mayo*.

Cryer. Here she is.

Oates. Swear her.

[*Which was done.*]

L. C. J. Well, what do you ask this Witness?

Oates. Pray, Mrs. *Mayo*, give my Lord and the Jury an account, whether you did see me in *London* the latter part of *April*, or the beginning of *May 78*? For that is the Question now before the Court.

L. C. J. Ay, what say you? When did you see him in 78?

Mrs. *Mayo*. My Lord, I saw him the latter end of *April*: He came to Sir *Richard Barker's* House, where I did then live, and afterwards he came again thither within a few days. By this Circumstance I remember it; Sir *Richard Barker*, my Master, was sick all the Month of *April*, and in the Country, only he came now and then home for a little while, and went again: Now Mr. *Oates* came there when he was absent, and a young Man that lived in the House came to me, and told me, there was one Mr. *Oates* in the strangest Disguise that ever was. Says he, I think he is turn'd Quaker. No, said I, he is no Quaker, for they wear no Perriwigs, and I rebuked the young Man for saying so. As for Mr. *Oates*, I never saw his Face before that time, that I know of.

L. C. J. How do you know that to be Mr. *Oates* then?

Mrs. *Mayo*. The Family knew him, and they told me it was he: That is the Gentleman there.

I speak

I speak now nothing but that which I testified seven Years ago, and it is all Truth, and nothing but the Truth.

L. C. J. Ay, no doubt of it, thou swearest nothing but the Truth.

Mrs. Mayo. My Lord, he came three or four days afterwards again to the House, and then the Young-man, came to me, and told me, that *Parson Oates* was turn'd Jesuit; and thereupon I said to him, Good Lord! Why dost thou concern thy self with him? Can't not let him alone? I look'd upon him, and saw him at that time: And when he came that time, he went to *Sir Richard's* Lady's Sister, who is now in *Wales*, and coming to her, said she, *Mr. Oates, I hear you are turn'd Jesuit, and we can have no Society with you now*: At last, he staid to Dinner with them, and staid most of the Day there. Then he comes the latter end of *May*; *Whitsuntide* was in *May* that Year, and I know he came before *Whitsuntide* by this Token; I speak of the second time of his coming: Our Custom in the House was to wash and scour before the time, and I was sending for a Woman to come and help to wash and scour, and then he was walking in the Garden; and the Young-man came and told me *Oates* was there: He came into the Pantry to me, Look, said he, he is come again, and he is turn'd Jesuit by his Disguise. Why, *Benjamin*, said I, what hast thou to do with the Man? Can't not let him alone?

L. C. J. What was the Name of that Young-man you speak of?

Mrs. Mayo. Truly, my Lord, he is dead, or he would have testified the same thing.

L. C. J. But what was his Name?

Mrs. Mayo. *Benjamin*; I can't tell his other Name.

L. C. J. Well, go on.

Mrs. Mayo. Said I to him, Why dost thou scorn this Man? Prithee get out of the Room, I am not able to hear it: So he walk'd the space of an Hour in the Garden.

L. C. J. Is *Sir Richard Barker* living?

Mrs. Mayo. Yes, my Lord, he is, but he is not well.

L. C. J. Was he at home when *Oates* was there?

Mrs. Mayo. No, my Lord, I think not.

L. C. J. Who din'd with him, do you say, when he din'd there?

Mrs. Mayo. My Lady's Sister.

L. C. J. What is her Name?

Mrs. Mayo. *Madam Thurrel*.

L. C. J. And who else?

Mrs. Mayo. And her Sons.

L. C. J. Where are they?

Mrs. Mayo. They are both dead.

L. C. J. And who else was there?

Mrs. Mayo. One *Dr. Cocket*.

L. C. J. Where is he?

Mrs. Mayo. He is in *Wales* too, my Lord.

L. C. J. 'Tis a great Misfortune to have so many dead, or so far remote.

Oates. My Lord, six years time makes a great Alteration in a Family.

L. C. J. Was there any body else there?

Mrs. Mayo. There were two of the Daughters, and they could all come and testify the same thing.

L. C. J. Where are they, and what is become of them? Why are they not here?

Mrs. Mayo. They are living in *Lincolnshire*, my Lord, I think.

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

Mr. At. Gen. Pray, *Mrs. Mayo*, let me ask you a Question: What coloured Clothes had he on when you saw him first?

Mrs. Mayo. He had a whitish Hat, and coloured Clothes.

Mr. Sol. Gen. What time of the Day was it you saw him?

Mrs. Mayo. In the Morning.

L. C. J. Did he go publickly?

Mrs. Mayo. Yes, he went publickly.

Mr. Sol. Gen. Did he come often to the House?

Mrs. Mayo. He was there frequently, my Lord.

Mr. Sol. Gen. Then it seems he was so disguis'd that he could walk publickly in the Streets of *London* at Noon-Day, and was frequently in the Family?

Mrs. Mayo. Yes, my Lord.

L. C. J. Now tell me who was in the Family?

Mr. At. Gen. *Mrs. Mayo*,———

L. C. J. Pray, give me leave to ask her the Question: Who was there at that time?

Mrs. Mayo. *Sir Richard Barker's* Lady's Sister, *Madam Thurrel*, and his two Daughters, and two of his Kinsmen, and two of the Servants, one is here a Witness now.

L. C. J. Who is that, that is a Witness now?

Mrs. Mayo. One that belongs to *Sir Richard Barker*, and the other is now dead, and those two Kinsmen are dead.

L. C. J. What is become of the two Daughters, say you?

Mrs. Mayo. They are in *Lincolnshire*, as I take it, my Lord.

L. C. J. When did you hear from them?

Mr. At. Gen. My Lord, it is half a Year ago almost since *Mr. Oates* had notice of this Trial.

L. C. J. Where is *Sir Richard Barker* himself?

Mrs. Mayo. I was with *Sir Richard Barker*, and he purpos'd to have come hither; but being a crazy Man, and antient, it seems he could not, and desired to be excus'd, for he had a bad Night, and was not well; but he desired that the Court should know, if he were well, he would be there

Mr. At. Gen. Were you sworn at a former Trial about this Matter, *Mrs. Mayo*?

Mrs. Mayo. Yes, Sir, I was.

Mr. At. Gen. Do you remember what you swore then?

Mrs. Mayo. The same I do now.

Mr. At. Gen. Then I ask you this Question, How long before *Whitsuntide* was it that you saw *Mr. Oates* at *Sir Richard Barker's*?

Mrs. Mayo. A pretty while before, twice.

Oates. *Mrs. Mayo*, I'll put you a fair Question, Whether or no it might not be a Fortnight before *Whitsuntide*, you think?

Mrs. Mayo. The last time I saw you was a Week before *Whitsuntide*.

L. C. J. How can you tell it was but a Week?

Mrs. Mayo. 'Twas but a Week, because at that time I had sent the Boy for the Woman to scour and wash there.

L. C. J. Was that the last time you saw him?

Mrs. Mayo. Yes; I saw him several times before, and it was all before *Whitsuntide*.

L. C. J. How long before that, was the first time that you saw him?

Mrs. Mayo. He would be away for three or four Days, and come again.

L. C. J. But how long before the last time, was the first time you saw him?

Mrs. Mayo. He came still to and again.

L. C. J.

L. C. J. When was the time that you saw him next before the Week before *Whitsuntide*, which, as you say, was the last time you saw him?

Mrs. Mayo. I am not able to say that.

L. C. J. Did you believe it was within the compass of a Week before?

Mrs. Mayo. To the best of my remembrance it was.

L. C. J. When was the first time you saw him?

Mrs. Mayo. 'Twas in the beginning of *May*.

L. C. J. You said at first it was at the latter end of *April*.

Mrs. Mayo. Pray, my Lord, let me a little think; I am unwilling to be mistaken, I would say nothing but the Truth.

L. C. J. No, I would not have thee; but for God's sake, let us have the Truth, that is that we look for.

Mrs. Mayo. I say, the Coach-man saw him there as well as I, and he can tell you better than I.

L. C. J. But I ask you this Question positively, Was it in *May* or *April*?

Mrs. Mayo. To the best of my remembrance it was the beginning of *May*.

L. C. J. Was it within a Week of *May*?

Mrs. Mayo. I believe it was, I cannot tell exactly to a Day.

Mr. Sol. Gen. Was it so or not?

Mrs. Mayo. I cannot be positive to a Day; it is now six Years time since I was first examined about it.

Mr. At. Gen. But you can remember what you swore then, can't you?

Mrs. Mayo. I declare it, I speak not a Syllable, but I will aver to be true, before the great God.

Mr. Sol. Gen. Can you swear it was within the first seven Days of *May*?

L. C. J. You see, Mr. Solicitor, she says she cannot.

Mr. At. Gen. Did not you say at that Trial, that you did never see his Face till a Week before *Whitsuntide*, or a little after?

Mrs. Mayo. I did swear the same that I do now, to the best of my remembrance, and that is the Truth.

Mr. At. Gen. But did not you swear so?

Mrs. Mayo. I never saw him before that first time he came to Sir *Richard Barker's*, and after the last time that he came, I saw him not till after the Plot was discovered.

Mr. Sol. Gen. How long was that after he had been at your Master's House?

Mrs. Mayo. It was a good while, I cannot tell how long.

L. C. J. Was it within a Month, or two Months?

Mrs. Mayo. It was more, my Lord.

L. C. J. Where was Sir *Richard Barker* at that time?

Mrs. Mayo. He was at *Putney*.

L. C. J. Then he did not see him?

Mrs. Mayo. Not then he did not.

L. C. J. Did he afterwards?

Mrs. Mayo. Yes, he did see him afterwards.

L. C. J. How long afterwards was it?

Mrs. Mayo. I can't tell how long afterwards it was, my Lord.

L. C. J. About what time was it?

Mrs. Mayo. After the Plot was discovered he was up and down in the Family.

L. C. J. You never knew Mr. *Oates* before that time he came in a Disguise, and you did not know him then, but as they told you it was he?

Mrs. Mayo. No, I did not, but as they told me then; and this is the Man, I'll swear it.

Oates. Call *John Butler*.

Cryer. Here is *John Butler*.

Oates. Swear him. [Which was done.]

My Lord if you please I will propose my Questions to your Lordship; and my first Question is this, I pray your Lordship would ask him, whether he gave in any Evidence at the five Jesuits Trial, or *Langborn's* Trial, about my being in Town in *April* or *May* 78?

L. C. J. Did you give any Evidence at the five Jesuits Trial?

Butler. Yes, I did.

L. C. J. Did you give any Evidence at *Langborn's* Trial?

Butler. Yes, my Lord, I was a Witness there.

Oates. My Lord, it is so long ago, that ignorant People that come innocently without design, may not be so ready in their remembrance, as those that conn'd their Lesson for so long time together.

L. C. J. Well, well; what do you ask him next, whether he will stand by that Evidence he gave then?

Butler. That is all I have to say, my Lord: I did testify the Truth then, and will abide by it.

L. C. J. But he must give the same over again here, or it will signify nothing.

Oates. My Lord, it is now six Years since, and this Question was not thought to be stirr'd so long after: Therefore I beg so much Favour, that the Evidence he did give at Mr. *Langborn's* Trial may be read to him.

L. C. J. O! by no means.

Oates. My Lord, it is such a distance of time—

L. C. J. Look ye, if he has any Notes himself, he may look on them to refresh him.

Oates. My Lord, he comes raw hither, without any Instruction at all.

L. C. J. So should every Witness: God forbid we should countenance the instructing of Witnesses what they should swear.

Oates. I beg your pardon, my Lord, I did hope this Favour might be granted: I will then ask him some Questions.

L. C. J. Ay, ay, do, refresh his Memory by Questions as much as you can. Come, I'll ask him some Questions for you: Do you remember you saw Mr. *Oates* at any time in the Year 78?

Butler. If it please your Lordship, as near as I can remember I saw him in *May* before the Plot was discovered.

L. C. J. That was the Year 78.

Butler. I am sure I did see him about that time.

L. C. J. Where did you see him?

Butler. I was a Servant to Sir *Richard Barker*, and Mr. *Oates* I had been acquainted with before he went to Sea; he used to come to my Master's House frequently, and divers times he din'd at the Table, and I waited upon my Master there.

L. C. J. When was it that he din'd there at the Table?

Butler. A Year before that time in *May* that I spoke of before: It was before he went to Sea.

L. C. J. When did you see him again?

Butler. After he came from Sea, I saw him at my Master's House.

L. C. J. When was it that he went to Sea?

Butler. It was a Year or two before the *May* that I saw him disguis'd coming to my Master's House.

Mr. At. Gen. Ay, what Disguise did he come in?

Butler.

Butler. His Hair was cut off, close cropt to his Ears, and an old white Hat over his Head, and a short grey Coat over like a Horse-man's Coat.

L. C. J. How came you to take such notice of him at that time, as to be able to swear when this was?

Butler. I was call'd presently after for a Witness.

L. C. J. How long after this was it, that you were call'd to be a Witness?

Butler. It was when the Trials were at the *Old-Bailey*.

L. C. J. Was this the first time you had recollected these Circumstances?

Butler. Yes, my Lord, that was the first time.

L. C. J. Then how came you a Year and an half's time afterwards to remember the precise Month of *May*, when you did not know you should be call'd to question about it, and yet you cannot remember the time particularly when *Oates* went to Sea, but take the compass of a Year or two?

Butler. I guess it was a Year before, I cannot exactly tell.

L. C. J. When you can but guess at the time of such a remarkable Passage, within the Compass of a Year or two, how can you pitch upon the very Month for such a thing as this is, a Year and a half's time after?

Oates. No, my Lord, it was not so long as a Year and a half.

L. C. J. Pray, Sir, have patience,

Oates. My Lord, the Records shew, that *Ireland's* Trial was the 17th of *December* 78, and the five *Jesuits* Trial was the 15th of *June* 79.

L. C. J. Then it is a full twelve-month's time and more from the *May* that he says he saw you at *Sir Richard Barker's* to *Whitebread's* Trial, in which he was examin'd the first time. Now that which I desire of him, is, to give me a reason why he remembers it was in the *May* was twelve-month before?

Butler. My Lord, the Lady whom I did serve, died in *February* before, that Year.

L. C. J. But give me some reason of your Remembrance so long after.

Butler. My Lord, I do as well as I can.

L. C. J. Well, what is it?

Butler. My Lady was buried in *February*, and he comes into the Yard where I was cleaning my Coach, in *May* following that *February*, which was *May* before the Discovery of the Plot. He ask'd me what Alteration was in the Family? I told him my Lady was dead, and the Escutcheon was over the Door for her. He ask'd for Dr. *Tongue* when he came first in the House.

L. C. J. Why should he ask for Dr. *Tongue*?

Butler. My Lord, Dr. *Tongue* lodged there? and he did ask for him: I come to justify the Truth; upon my Salvation what I say is true.

L. C. J. Well, when he ask'd whether Dr. *Tongue* was within, what said you?

Butler. I told him, no; but he went into the Room where Dr. *Tongue* us'd to lie, but found him not there: so he went out again. That was the same time Mrs. *Mayo* saw him.

L. C. J. But, Friend, prithee mind what I ask thee, because thou must give me satisfaction how thou com'st to remember this, so as to be able to swear it; for his going to ask for *Tongue*, or the Escutcheon being over the Door, neither of those can be a Reason for you to remember that this was in *May*, for the Escutcheon may be up in *June*, or in *July*, or in *August*, or in any other Month after

the time you speak of: But how came you to take notice of this Business that it was in *May*?

Butler. Sir *Richard Barker*, my Master, was then sick at *Putney*, which was in *May*, tho' I cannot speak to a Day or a Week particularly.

L. C. J. Then prithee let me ask thee this Question, how long had your Master been sick before that?

Butler. He had never been well since my Lady died.

L. C. J. When was it that your Lady died?

Butler. In *February* before.

L. C. J. How long after that did your Master, Sir *Richard Barker*, continue sick?

Butler. Half a Year, I believe.

L. C. J. Why then, suppose your Master fell sick immediately after your Lady died, and he continued sick half a Year after, yet all this while *Oates* might come during his Sickness even in the Month of *June* or *July*, when 'tis acknowledg'd he was in Town, and not be here in *February*, which is testified by a great many Witnesses.

Butler. My Lord, I tell your Lordship the Truth, it was in *May*.

L. C. J. But how dost thou come to take notice it was in the Month of *May*, so as to be able to swear it?

Butler. My Lord, I tell your Lordship my Lady was dead, and the Escutcheon was over the Door.

L. C. J. So it might be, tho' he came in *June* or *July*, I tell ye.

Butler. My Master was sick at *Putney* at that time.

L. C. J. How long did he lie sick at *Putney*?

Butler. He was sick there a Fortnight, my Lord.

L. C. J. Then prithee when did thy Master go to *Putney*?

Butler. I cannot tell to a Day.

L. C. J. In what Month was it that he went?

Butler. It was the latter end of *April*, my Lord, as I remember.

L. C. J. How long continued he sick at *Putney*?

Butler. The matter of a Fortnight.

L. C. J. Was not your Master sick, when your Lady died, at *Putney*?

Butler. No, he was not there then.

L. C. J. When did he go to *Putney*, say ye?

Butler. He went not thither till the latter end of *April*, my Lord.

L. C. J. And did he continue at *Putney* but a Fortnight?

Butler. Not at a time, but he continued going and coming a quarter of a Year.

L. C. J. But this was the first time of his going, was it?

Butler. Yes, as I do remember.

Oates. My Lord, he is my Witness, and I desire I may examine him.

L. C. J. Hold there, Mr. *Oates*; he is mine too. All the Witnesses are mine to satisfy me in the Truth of the Fact.

Oates. And to satisfy the Jury too, my Lord.

L. C. J. Yes, and to satisfy the Jury too, but I must and will sift out the Truth, for both our Satisfaction.

Oates. My Lord, it is now, come the next Month, six Years ago since the Evidence of this Matter was first given by these Witnesses.

L. C. J. Then, Mr. *Oates*, I'll come a little rounder to you, and I'll put you into a certain way of clearing this Business. I'll tell you what you shall do; you had a Lodging in Town, as

well as Diet, and as well as you did eat at Dr. *Barker's* sometimes, so you eat and lay sometimes elsewhere. You were here in Town a great while together, if your own Assertions be true; for you were from *April* till *June* in Town: Now come and give us account by some Witnesses, if you can, where did you lodge at that time, and where did you diet? For it seems you had but one Meal at *Sir Richard Barker's*.

Oates. Is that the Question, Sir, here in hand?

L. C. J. Ay indeed is it, and the main one too.

Oates. I beg your Lordship's pardon if I mistake, but I think that is not now in question; for these *St. Omers* Men do swear, That I was all *April* and *May* at *St. Omers*: Then if I do prove that in *April* and *May* I was not at *St. Omers*, but here in *London*, it is Argument good enough against them that their Evidence is false. And indeed, can your Lordship or the Jury expect, that I being then engag'd among and for the Papists, and afterwards an Evidence against them to discover their Treasons, can bring any of them to testify for me now? No, they will as certainly forswear themselves, as these young Fellows have all done.

L. C. J. Let me ask you a shorter Question: Did you always lie in a Papist House all the two Months you say you were here?

Oates. My Lord, I lay at several Houses.

L. C. J. Tell me the Names of those Houses, or any of them.

Oates. It is not to the Point in question here, my Lord.

L. C. J. Yes it is very much; but I perceive it is a Secret, and let any body judge why.

Oates. My Lord, they that have by the Principles of their Religion, Liberty to affirm or deny any thing, and can have Dispensations for the Violations of Oaths and Sacraments, certainly are not to be admitted as Witnesses in such a Case as this.

L. C. J. Talk not to me of Dispensations, and I know not what; I speak from a plain demonstrative Proof: Can it be believed that you should be here in *England* so long, and as they say, publicly, and no Person living see you that we can hear of, but an old Woman that never saw you, nor knew you before, and a Coachman that tells a wild Story without Reason? If you will not tell me where you lay, can you tell me where you did eat all that time?

Oates. I can tell where I did lie that time.

L. C. J. Do so then. Let us hear it, that will be your best Defence.

Oates. Is that the Point, my Lord, in question?

L. C. J. Ay, upon my Word is it the main Point in this Case.

Oates. If it should go upon that foot, my Lord, it is impossible for me now to prove it; for 'tis well known, I lay sometimes with Mr. *Whitebread*, and sometimes with Mr. *Mico*, neither of which can I have to testify for me; and besides, I must insist upon it, these things were in question at *Whitebread's* Trial, nor do I believe that Mr. *Whitebread*, if ask'd at his Death, would have justified, and stood by it, that I was not here then.

L. C. J. Well, this I must certainly say, I cannot help it, but it will stick with me till better answered. I can never be satisfied, that if you were here so long, there should no better Evidence be produced to prove you here.

Oates. My Lord, nor can I help your Dissatisfaction, but I am to satisfy all that hear me this

Day, that is a very hard Case that is put upon me; I have taken the most effectual Course that I could, to provide for Evidence to make my Defence; and I think, by your Lordship's good Leave, those that I have produc'd do prove me here in Town in *April* and *May* 78. And if your Lordship has done with this Witness, I'll call another.

L. C. J. Well, go on as you will. I tell you what sticks with me,

Oates. Pray call Mr. *Philip Page*.

Mr. Sol. Gen. Hold, Sir, a little; I would ask these Witnesses a few Questions before they go away. You *Butler*, let me ask you, pray, the first time you saw Mr. *Oates* at the time you speak of, was it in *April* or *May*?

L. C. J. He swore it was the beginning of *May*.

Butler. To the best of my knowledge it was the beginning of *May*.

Mr. Sol. Gen. Who did you tell first, that there was Mr. *Oates*. at that time?

Butler. I told it Mrs. *Mayo*.

Mr. Sol. Gen. Consider, Friend, what you say now, you are upon your Oath, and consider what you said at the former Trial, when you were upon your Oath too.

Oates. Pray, my Lord, I desire my Witnesses may be examined without Threatnings.

L. C. J. It is not a Threatning, it is an Admonition not to go beyond the Truth.

Mr. Sol. Gen. Be sure you be in the right in what you say, and now I ask you upon your Oath, when was the first time you saw Mr. *Oates* when he came in that Disguise you speak of?

Butler. I told you it was in *May*, Sir.

Mr. Sol. Gen. How far in *May*, consider well what you say.

Butler. To the best of my Remembrance, it was the beginning of *May*.

Mr. Sol. Gen. Do you think it was within a Week, or the first ten Days of *May*?

Butler. I cannot tell that, as well as I remember, it was the beginning of *May*.

Mr. Sol. Gen. When you saw him first in *May*, who else, as you remember, was by?

Butler. Mrs. *Mayo*.

Mr. Sol. Gen. And no body else?

Butler. Yes, one *Benjamin Turbet*, who is since dead.

Mr. Sol. Gen. But consider your Oath, Friend, once more, and recollect yourself; Do you swear positively Mrs. *Mayo* was by, and did see him at the same time?

Butler. I saw her look out of the Window into the Yard, and I believe she did see him.

Mr. Sol. Gen. Well then, let us examine her Evidence and your's together, and see how they agree.

Oates. My Lord, these are not Questions tending to satisfy the Jury at all, as to the Point in question.

L. C. J. Are they not? methinks they are, whatsoever you think.

Oates. After six Years time, to ask such poor ignorant People such trifling Questions!

L. C. J. Pray, Sir, be contented, and let the King's Counsel examine the Witnesses.

Oates. My Lord, he says I was here in *May*, that's enough.

L. C. J. Well, Sir, I know what he says.

Mr. Sol. Gen. And you shall hear Mr. *Oates*, how your Witnesses agree.

L. C. J. Go on, Mr. Solicitor, and do you sit still and be quiet.

Mr. Sol. Gen. Then, my Lord, I would ask him this Question more; the first time you saw *Oates* come to Sir *Richard Barker's*, what Habit, pray you, was he in?

Butler. He was in a Disguise.

Mr. Sol. Gen. Ay, what Disguise?

Butler. He had a white Hat flapping over his Ears; his Hair cut short, close to his Ears, and a grey short Coat.

Mr. Sol. Gen. Had he never a Perriwig on?

Butler. No, his Hair was cut short to his Ears.

Mr. Hanfes. Was he in such a Disguise, that a Man might not ordinarily know him, that had known him before?

Butler. Truly, my Lord, I did not know him when he first came in, 'till he spoke to me, and asked me, how do you, *John*? and then I recollected who he was, that it was *Mr. Oates*.

Mr. Sol. Gen. Was he always in the same Habit, when he came thither?

Butler. The next time he came he had a Cinnamon-coloured Suit, and a long black Perriwig that was curl'd down thus far, and a black Hat, with a green Ribbon and green Cuff-strings about his Wrists.

L. C. J. Did you ever see *Oates* dine there?

Butler. Yes, I did.

L. C. J. When was that?

Butler. After my Master came home from *Putney*.

L. C. J. Who was there besides?

Butler. One Sir *William Thurrel* and Madam *Thurrel*.

L. C. J. How often did he dine there?

Butler. Several times.

L. C. J. Who else was there?

Butler. My Master and his Daughter.

L. C. J. And who else?

Butler. Mrs. *Mayo*.

L. C. J. What is become of your Master's Daughter?

Butler. I beg your pardon for that, my Lord.

L. C. J. Where is she, Man?

Butler. She is at home, I suppose.

L. C. J. What dost thou beg my pardon for then?

Butler. My Lord, I call to mind she did not dine with them.

L. C. J. Did she dine at any time with him there?

Butler. Yes, I remember several times; but not then.

L. C. J. When did you see your Master's Daughter last?

Butler. I have not seen her this Quarter of a Year.

L. C. J. Where is she now?

Butler. At home at *Putney*, my Lord, I believe.

L. C. J. And she was several times there when he din'd there?

Butler. Yes, she was at home.

L. C. J. Did Mrs. *Mayo* see him at Dinner there?

Butler. Yes, I believe she did.

L. C. J. How often did he dine there about this time you speak of?

Butler. Several times.

L. C. J. Do you think seven times?

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Butler. I do think he might have din'd there seven times.

L. C. J. Did he more than seven times, do you think?

Butler. I cannot number how many times it was.

L. C. J. Now come in Mrs. *Mayo* again.

Mrs. Mayo. Here I am, my Lord.

L. C. J. Mrs. *Mayo*, give me leave to ask you a Question or two.

Mrs. Mayo. Yes, my Lord, what you please.

L. C. J. You say (if I do not mis-remember; if I do, I beg your pardon, and you'll correct me) a Week in *May* was the first time you saw *Mr. Oates*, and that was at Sir *Richard Barker's*.

Mrs. Mayo. I think it might be about the beginning of *May*.

L. C. J. Had he been in the House before?

Mrs. Mayo. Not at that time that I know of, but as they told me.

L. C. J. Who told you?

Mrs. Mayo. That Coachman there, *John Butler*, and one *Benjamin* who liv'd in the House.

L. C. J. Then you did not see him the first time he came; what say you, *Butler*?

Butler. She did see him out of the Window in the Yard.

L. C. J. Well, let that pass then: come I'll ask you another Question upon your Oath, How often have you seen him dine there?

Mrs. Mayo. I saw him dine at that time that I spoke of.

L. C. J. Did not he dine there above once?

Mrs. Mayo. No, he did not.

L. C. J. What say you, *Butler*?

Butler. He did dine there several times with them.

L. C. J. Then one of you two must be mistaken, I am sure.

Oates. My Lord, if your Lordship would please to give me leave to speak, I would set it right.

L. C. J. Good Sir, let them set themselves right if they can, we need none of your Instructions.

Oates. My Lord, I desire——

L. C. J. Why, how now; pray, Sir, be at quiet. Mrs. *Mayo*, pray what Habit had *Oates* when you saw him first?

Mrs. Mayo. He was in a grey Hat and a grey Coat.

L. C. J. Was his Hair short or long?

Mrs. Mayo. He had on a kind of a short Wigg.

Mr. Sol. Gen. Are you sure it was a Wigg?

Mrs. Mayo. Yes, a kind of a brown Perriwig.

L. C. J. And he says his Hair was cut short to his Ears.

Oates. These things are very lean stuff to perjure a Witness upon.

Mr. Sol. Gen. When he came the second time, what Clothes had he on?

Mrs. Mayo. Afterwards he came in black Clothes and a long Perriwig.

Mr. Hanfes. What coloured Perriwig was that, a black or a white one?

Mrs. Mayo. Not a black, but a brown.

Mr. Sol. Gen. You say it was long.

Mrs. Mayo. Longer than his other, yet not very long neither.

L. C. J. Here are I know not how many Contradictions in these Witnesses Testimonies.

Oates. Truly, my Lord, I do not find in the Examination of the *St. Omers* Witnesses, you were

so strict, or bore half so hard upon them, as you do upon my Witnesse; what does it signify, my Lord, whether the Wigg were long or short, black or brown?

L. C. J. We have no other way to detect Perjuries, but by these Circumstances; and 'tis the Duty of a Judge to enquire into all Particulars; as in a Controversy about Words, were they spoken in *Latin* or in *English*, and so to all Places and Postures of sitting, riding, or the like; as you know the Perjury of the Elders in the Case of *Sassanna*, was by their different Testimony in particular Circumstances discovered.

Oates. My Lord, I will ask her but one short Question; by the Oath you have taken, *Mrs. Mayo*, to speak the Truth, the whole Truth, and nothing but the Truth, as you expect the face of God with Comfort in another World; did you see me at *Sir Richard Barker's* at any time in *May 78*; the *May* before the Plot was discovered, for that is the main Question.

Mrs. Mayo. Yes, I did, and I speak nothing here, but what I speak as in the Presence of the Lord.

L. C. J. Prithee, Woman, dost thou think we ask thee any thing that we think thou dost not speak in the Presence of the Lord? We are all of us in the Presence of the Lord always.

Mrs. Mayo. And shall answer before him for all that we have done and said, all of us, the proudest and the greatest here.

L. C. J. But I would not have so much to answer for, as thou hast in this Business, for all the World.

Mr. Sol. Gen. Well, we have done with her now, she may go away.

L. C. J. Where does she live now?

Cryer. *Mrs. Mayo*, where do you live now?

Mrs. Mayo. In *Leaden-ball-street*, my Lord.

L. C. J. When did you see *Sir Richard Barker's* Daughter?

Mrs. Mayo. About a Fortnight ago.

L. C. J. Where?

Mrs. Mayo. In *Barbican*, in *London*.

L. C. J. Do you live with *Sir Richard Barker* now?

Mrs. Mayo. I do not live with him now.

L. C. J. Did his Daughter use to be at the Table at Dinner?

Mrs. Mayo. She was often in the Country, my Lord.

L. C. J. Did she eat at his Table at that time when *Oates* was there?

Mrs. Mayo. I am not able to say whether she did or not; she used to be in *Wales* at *Sir Thomas Middleton's* sometimes, and with *Madam Thurrel* her Aunt, who was her Mother's Sister, and her two Daughters.

L. C. J. In *Wales*, dost thou say, where?

Mrs. Mayo. My Lord, in your own Country, at one *Dr. Cocket's*; I know your Lordship, tho' your Lordship does not know me.

L. C. J. I am very glad of it, good Woman; but prithee did ever *Sir Richard Barker* dine with *Mr. Oates*?

Mrs. Mayo. I cannot say he did, he went to and fro.

L. C. J. Well, have you any more Witnesse?

Oates. *Cryer*, call *Philip Page*.

Cryer. Here he is, Sir.

Oates. Pray swear him. (*Which was done.*) Pray be pleas'd to give my Lord and the Jury the best account you can of my being in Town. But, *Mr. Page*, the Question that I first ask you, is

whether I was here in *April* or *May*, and in what Year it was that you did see me at your Master's House?

L. C. J. When did you see *Mr. Oates* at your Master's House? You mean *Sir Richard Barker* to be his Master, I suppose.

Oates. Yes, my Lord.

L. C. J. What do you say to it?

Page. Truly, I cannot be positive to the Year, but to the best of my Remembrance it was 78.

Oates. Pray tell my Lord and the Jury some Circumstances in that Year that did happen to you, that makes you believe it was 78.

Page. Sir, I'll give you the best Satisfaction I can to the best of my knowledge; he came to *Sir Richard Barker's* one Evening, and there he enquired for *Dr. Tongue*: He was in a Disguise, in a light-colour'd Coat, something like to Frize, but it was not Frize; the Term that they give it, I cannot so readily tell. He had his Hair cut short, almost to his Ears, and he had a broad-brimm'd Hat on, and a small Stick in his Hand, walking melancholy about the Hall: I happening to be the first body he met with, as I suppose, he ask'd me if *Dr. Tongue* was within. I told him no, I had not seen him of a considerable time. He then ask'd me where *Sir Richard Barker* was? I told him he was ill now at *Putney*. Says he, when will he be here? I told him, I could not tell.

L. C. J. Did he see any body there but you?

Page. That I cannot tell, my Lord; not that I know of.

L. C. J. What time of the Year was it?

Mr. At. Gen. And what Month?

Page. What Year and what Month it was, I am not able to say, my Lord.

L. C. J. What became of him after that?

Page. He went out of our Gates then, Sir; he was walking up and down melancholy, and not finding any one, as I suppose, to answer him, he continu'd walking in the Patients Hall, where they used to wait on *Sir Richard Barker*, that came to discourse with him about Physick; and upon my Answer to his Question, he went away.

L. C. J. Did you ever see him any other time near to that time?

Page. No, I did not.

L. C. J. Did you use to wait at Table?

Page. No, I did not.

L. C. J. What Service were you then engaged in at *Sir Richard Barker's*?

Page. I made up the Physick, my Lord.

L. C. J. Did you not acquaint the Coachman, nor *Mrs. Mayo*, nor *Sir Richard Barker* with it?

Page. I think *Sir Richard Barker* was in Town soon after, and I did acquaint him with it.

Oates. But can't you tell what time this is, Sir?

Page. I can say no other than I have said; I believe it was in 78.

L. C. J. Was this in *June*, *July*, or *May*, or when?

Page. I cannot say punctually what Month it was, my Lord; but to the best of my Knowledge and Remembrance, it was in the Beginning of *May*.

Oates. Had not your Master a Patient at *Issington* at that time, that was sick of a Fever?

Page. Yes, he had.

Mr. Just. Wilkins. Why, would *Mr. Oates* have given the Patient Physick?

Page. No, my Lord, but 'twas about that time that the Patient was under my Master's Cure.

Oates.

Oates. Indeed the *St. Omers* Men do swear thorough-fitch, but my honest Witnessess are cautious, it being so long ago; and he that is a Minister of the Church of *England* (as they say) speaks to a very Day, upon a much slighter Circumstance. Pray call Mr. *William Walker*.

Cryer. Here he is.

Oates. Swear him. (*Which was done.*) Be pleas'd, *Walker*, to give my Lord to understand, when 'twas you saw me here in *London* in Disguise, and when it was you swore six Years ago at the *Old-Bailey*, that you saw me here in *London*: Sir, the time in Controversy is this: I came here to discover a Plot of the Papists against the King's Life and the Religion, and I swore——

L. C. J. You must not ask Questions in that manner. It is properest for you to propose your Questions to the Court, and they will ask the Witnessess.

Oates. Then I will not ask him, but propose it to your Lordship.

L. C. J. Ay, propose what Questions you please, and if they are fair, I'll ask them.

Oates. Then, my Lord, I would ask Mr. *Walker* this Question; when 'twas he met me with a Disguise, in what Year and what Month?

Mr. Walker. My Lord, I have been interrogated in former Times upon this Point, six or seven Years ago; and I do confess I did see the Man, and met him between *St. Martin's-Lane* and *Leicester-fields*; and truly, my Lord, I think I may say it was my Unhappiness to meet with him; for I have had a great deal of Trouble by it since, Subpœna upon Subpœna, Trouble after Trouble, that I am even weary of it; for I am an old Man. But I do say I did meet him at that end of the Town, between *St. Martin's-Lane* and *Leicester-fields* in a strange Disguise; he was just like a Vagrant, a very Rascal, and that's true, I believe, my Lord.

Mr. At. Gen. Did you know him before?

Mr. Walker. Yes, or I had not known him then.

L. C. J. When was this?

Mr. Walker. My Lord, I'll tell you; my Lord Chief Justice *Scroggs*, when I was at the *Old-Bailey*, ask'd me if I knew what time I saw him thus; said I, my Lord, 'tis almost a Year and an Half since I saw him; and I being an old Man, little thought it worth the while to lay up the particular time in my Memory: but I'll cast about in my Thoughts to make the best Conjecture I can; for now I will not be upon my Oath, it being but Conjecture.

L. C. J. But now you are upon your Oath, remember that, Man.

Mr. Walker. My Lord, I am speaking what I said to the Court at that time.

L. C. J. Pray do not tell us an old tedious Story of the Questions and Answers in the *Old-Bailey*, but mind what is said to you here; my Question is now, what time you saw *Oates* disguised between *St. Martin's-Lane* and *Leicester-fields*, as you say you did.

Mr. Walker. My Lord, I cannot prescribe the time; but I'll guess as near as I can with the best probability, and that is, upon this Circumstance; when I went forward into *Leicester-fields*, in the Court before the House, I saw the Elm-Trees budded forth as big as an Hazle-Nut; so that I did conjecture by that Token, it might be between *Lady-Day* and the latter end of *April*; that was the time as near as I could guess.

L. C. J. In what Year was it?

Mr. Walker. I cannot very well tell what Year it was.

L. C. J. Was it in 77 or 78?

Mr. Walker. Truly, my Lord, I never thought it worth so much taking notice of, to fix the particular time in my Memory.

Oates. Whether was it that Year the Plot was discover'd, or the *Michaelmas* following?

Mr. Walker. I cannot tell when the Plot was discover'd, or whether it be found out yet or no.

Oates. But was it the Year before you were examin'd?

Mr. Walker. To answer you, Mr. *Oates*, when it was exactly, I cannot say; truly I would give you the best Satisfaction I could, and do you as much Right as I would do myself. I think if that time when I was examin'd were in 77 or 78, it was near a Year and a Quarter before I did see you.

L. C. J. Well, what can you make of this?

Oates. 'Tis not to be supposed he is a very willing Witness; but yet he says, 'twas a Year and a Quarter before the Trial in which he was examin'd, which must be in *April 78*.

L. C. J. I would know this Question of you: Were you present at the *Old Bailey*, when the five Jesuits were tried?

Mr. Walker. I was there, my Lord.

L. C. J. Were you at any Trial but one?

Mr. Walker. I was not examin'd at any time but one.

L. C. J. Have you any more Questions to ask him?

Mr. Walker. My Lord Chief Justice that then was, did ask me, if I knew any of the Prisoners at the Bar; and I look'd upon all of them, and I said I knew not either of them.

Oates. Pray, my Lord, ask him whether he was not produc'd, when the *St. Omers* Men were produc'd, and gave his Evidence as to my being in Town at that time.

L. C. J. He hears the Question, let him answer it.

Mr. Walker. I am not able to answer you, because you put several Questions together; but this I say, I was never examin'd but once, though I have been subpœna'd often, to my great Torment and Trouble.

Oates. Did you give Evidence at that Trial, that you saw me in *April 78*?

Mr. Walker. I testified that I saw you, and by such Circumstances, it must be about such a time as well as I could suggest; but I could not, nor cannot speak positively.

Oates. Now, my Lord, I shall go on to another Part of my Evidence, and call some other Witnessess; and first of all, I come to Mr. Serjeant *Maynard*, and I desire he may be sworn.

[*Which was done.*]

L. C. J. What do you ask my Brother *Maynard*?

Oates. I call Mr. Serjeant *Maynard* to give an account of the Proceedings of the House of Commons upon my Discovery of the Popish Plot.

L. C. J. We will not admit that to be any Evidence at all; nor can it be by Law.

Oates. My Lord, Mr. Serjeant *Maynard* was one of the Committee of the House of Commons that managed the Impeachment, and can give an account of the Evidence and Records that were produced at the Trial of the late Viscount *Stafford*.

Mr. Serj. Maynard. I know nothing truly, nor can remember any thing of it now.

L. C. J. He says he remembers nothing.

Mr. Serj. Maynard. If Mr. *Oates* had told me before-hand, when he subpœna'd me, what time, and

and what particular things he would have examin'd me to, probably if I was there, I have Notes that I then took; but I can never swear to my Memory, for any Cause so long ago.

Oates. My Lord, I am very sorry Mr. Serjeant *Maynard's* Age should so impair his Memory.

L. C. J. I dare say, you are not more sorry than he is for his Age.

Oates. Well, my Lord, I cannot help it: Then I desire Mr. *Blayney* may be ask'd whether he has his Notes of my Lord *Stafford's* Trial.

Mr. *Blayney.* No, my Lord, I have them not here; Mr. *Oates* by his Ticket of his Subpœna, desir'd only the Notes of *Ireland, Whitebread,* and *Langborn's* Trial.

L. C. J. But I must tell you, Mr. *Oates*, if those Notes were here, they could be of no use to you, without the Record of my Lord *Stafford's* Attainder; if you ask any thing upon another Trial, you must produce first the Record of that Trial, and then you may examine to what was given in Evidence at the Trial.

Oates. My Lord, it is of Record in the House of Lords.

L. C. J. But that we are not to take notice of, without the Record be brought in Evidence before us: We must go according to the Course of Law in all Cases.

Oates. Then, my Lord, I must betake myself to another Part of my Defence; and that is, to prove the frequent Attempts made to baffle the Discovery of this Popish Plot, and to stifle the Murder of Sir *Edmundbury Godfrey*, and to sling it upon a Protestant Peer.

L. C. J. But that is no Evidence neither.

Mr. Just. *Holloway.* Surely that is very collateral Evidence.

L. C. J. Nay, it is no Evidence at all in this Case; we must not admit of any such Evidence to be given.

Oates. Good, my Lord, if this had not been true, which was sworn by Witnesses that had discover'd the Plot, why should these Men appear to suborn Witnesses (and they have been convicted of Subornation, and endeavouring) to baffle the Discovery, particularly as to Justice *Godfrey's* Death?

L. C. J. Mr. *Oates*, I must keep you to Evidence that is proper; we are upon our Oaths to go according to Law, and the Jury are upon their Oaths to try this Cause according to their Evidence; and we are bound to give them this Advice in Point of Law, that nothing must weigh, or have any Consideration with them, that you offer, if it be not legal and proper Evidence. if you can say and prove, that any of the Witnesses that have been produc'd this Day against you, have been tamper'd with; or that they have tamper'd with any of the former Evidence, that is a good Evidence against them; but it must not be by any means admitted, that the Time of the Court be taken up, or the Jury inveigled by that which has not a natural Tendency to the Business before us.

Oates. But if your Lordship please, this Consult in *April 78*, was discover'd to the House of Commons, among the other parts of the Discovery of the Treasons of several Noblemen and Gentlemen: Now upon the Discovery of the Plot, I desire that I might give in Proof the Proceedings of the House of Commons.

L. C. J. No, no, you cannot.

Oates. Pray, my Lord, is not the Journal of the House of Commons Evidence?

L. C. J. No, we say it is not at all.

Oates. Is that the Opinion of the whole Court, my Lord?

L. C. J. Yes, undoubtedly, there is no Question of it.

Oates. Is any Record of the House of Lords Evidence?

L. C. J. Yes, I tell you it is, and that because it is a Record; but there is a vast Difference between the Records of the House of Lords, and the Journals of the House of Commons.

Oates. The Journals have been deliver'd in as Evidence before now.

L. C. J. I cannot tell what they have been, but I am sure they ought not to be, and whatever they have been elsewhere, they cannot be here; and I'll tell you a plain Reason for it, because they have not so much Power in the House of Commons, as to give an Oath: But the House of Peers is a Court of Record, and therefore their Proceedings are Evidence, as the Proceedings of the *King's-Bench* here, or any Court of Record are.

Oates. Then, my Lord, if that part of my Evidence be over-ru'd, before I come to sum up my Evidence, I desire to offer this thing: My Lord, I can produce several Members of the House of Commons in the several Parliaments, that can remember how they proceeded against the Lords in the Tower, and the Popish Traitors upon my Discovery, and what Credit I had in the House of Commons; will that be Evidence, pray my Lord?

L. C. J. No, it will not, if you will produce any one that you told this to before the publick Discovery, that may be Evidence such as it is, and is often allow'd; but what the House of Commons did upon the Discovery, that's not any Evidence at all.

Oates. Then, my Lord, suppose I can prove, that I gave an early and timely Account to any of the House of Lords of this Conspiracy, and did acquaint them with the Consult in *April* as Part of it; I desire to know whether in producing any of those Lords, I shall give that which is Evidence.

L. C. J. Call whom you will that you told any thing to, that is a sort of Evidence, I tell you.

Oates. Then I call my Lord of *Devonshire*.

L. C. J. Here is my Lord of *Devonshire*.

Oates. My Lord, I beg your pardon for the trouble I put your Lordship to; but your Lordship sees the Necessity of it: It is for the Justification of the Truth, to which I will give my Blood for a Seal if I be call'd to it.

L. C. J. My Lord of *Devonshire*, your Lordship must be sworn. [Which was done.]

Oates. Will your Lordship please to acquaint the Court and the Jury (your Lordship being at that time a Member of the Commons House) what Account I gave there of this particular Consult (to keep to that Point that is here in question) before the Court this Day, and with what Credit I was received in all these Parliaments; for my Credit and the Credit of the Parliament is now in question.

Earl of *Devonshire.* My Lord, all I can say to it is this; you Mr. *Oates* gave a long Account of a Consult and Conspiracy among the Jesuits: But I cannot remember any Particular, it is so long ago.

L. C. J. Every body knows this, you gave a long Narrative into the House of Commons and House of Lords too.

Oates. Ay, and it was a true one; but my Lord of *Devonshire*, I desire your Lordship would be pleas'd

pleas'd to give the Court and the Jury an Account, with what Credit I was received in those three Parliaments your Lordship sat as Member in.

Earl of *Devonshire*. I remember that the two *Westminster* Parliaments after the long Parliament, were so satisfied with the Discovery, that they pass'd a Vote in the House of Commons——

L. C. J. The Votes of the House of Commons are no Evidence at all.

Oates. They show what Opinion the Parliament was of.

L. C. J. Many Votes that have been made of late, I hope will neither be Evidence for, nor put in practice again.

Earl of *Devonshire*. My Lord, it is well known to all the World the Vote I speak of.

L. C. J. Nay, my Lord, I speak not to your Lordship; for we all know those Votes that I speak of were not according to your Lordship's Mind: But we only say thus in general, that because the House of Commons cannot give an Oath, therefore what is done there, is not an Evidence here, or in any Court of Record.

Oates. But, my Lord, that I must urge; I do perceive that in the time of Parliament, and during the sitting of the House of Commons, Votes have been brought in as Bars to the Proceedings of Inferior Courts; and this Court does not look upon itself as superior to the great Court of Parliament: and then if they may be brought——

L. C. J. Which they cannot be, nor never were, nor I am sure ought to be; nor I hope never will be as long as there is any Justice in the Nation.

Oates. But, my Lord, you will allow the Records of the House of Lords to be Evidence?

L. C. J. Yes, I tell you, I will, and for that reason, because they are Records out of a Court of Record: An Order of Court-Baron is no Evidence, because it is no Court of Record; but a Judgment of a Court-Leet is Evidence, because it is a Court of Record; and there's the difference.

Oates. My Lord, I call in the next place my Lord of *Anglesey*, if he be in Court.

L. C. J. No, he is not here.

Oates. Pray, will you give me leave to call my Lord Keeper then?

L. C. J. See in the Court of Chancery, whether my Lord Keeper be there.

Cryer. No, my Lord, he is not; he's gone.

Oates. He was *subpana'd*, my Lord, and I can have Affidavit made of it: He was a material Witness for me.

L. C. J. I cannot help it; he is not here.

Oates. Pray call my Lord Chief Baron.

L. C. J. Go one of you into the Exchequer, and see if my Lord Chief Baron be there, and tell him, Mr. *Oates* calls for him as a Witness.

Oates. And Mr. Justice *Levinz*.

Cryer. The Courts are both up; and they are all gone.

Oates. They were *subpana'd*, I am sure, to be here; well, go and see, whether they are or no.

L. C. J. In the mean time do you call some other Witnesses.

Oates. I call my Lord Chief Justice *Jones*.

L. C. J. The *Cryer* is gone to look for the Judges.

Oates. Then I call my Lord of *Clare*.

L. C. J. Here is my Lord of *Clare*.

Earl of *Clare*. My Lord, I can remember nothing, it is so long time ago.

L. C. J. My Lord of *Clare* says, he can remember nothing.

Oates. I only call my Lord of *Clare* to ask him one Question, which I hope his Lordship will remember.

L. C. J. Swear my Lord of *Clare*.

[Which was done.]

Well, what is it you ask my Lord?

Oates. My Lord of *Clare*, the Question I would ask your Lordship is, with what Credit I was received in the House of Lords upon my Discovery; and that you will, to the best of your Memory, give my Lord and the Jury an Account, how the House of Peers proceeded upon my Evidence?

Earl of *Clare*. Truly, my Lord, I cannot give any Account, it is of so long standing.

Oates. It is a great while ago, my Lord, and therefore it is hard measure, that I must be brought to this Trial so long after.

L. C. J. If it be a long time, we cannot help it: We cannot force People to prosecute sooner than they will do.

Oates. I desire Mr. Baron *Gregory* may be called.

L. C. J. He is not here, but see and call my Brother *Gregory*; I hear they are all together in the Treasury.

Oates. Then I call Mr. *Williams*, that was Speaker of the House of Commons.

L. C. J. Here is Mr. *Williams*. [He was sworn.]

Oates. I desire, Mr. *Williams*, because you were then Speaker of the Commons House of Parliament, you would be pleas'd to tell what you remember concerning the Credit I received in that Parliament, in which you were Speaker, upon the Discovery I made of the Popish Plot; and particularly as to the Consult of Jesuits to kill the late King in the Month of *April* 78.

Mr. *Williams*. My Lord, my Memory is never very good; but especially in a Case that is at such a distance of time, and which consists of so many Particulars as this, I mean Mr. *Oates's* Discovery. But this, my Lord, I do remember; he was examin'd at the Bar of the House of Commons, and gave a long account: But it is more than any Man can do, to tell every Particular that is said in that House.

L. C. J. Was he upon his Oath, Mr. *Williams*, at the Bar of the House of Commons?

Mr. *Williams*. My Lord, he was as other Men are, that are examined in the House of Commons.

L. C. J. We all know it could not be upon Oath, they have not Power to give an Oath.

Mr. *Williams*. What Reputation he was of, I cannot say so well, as what their Proceedings did testify.

L. C. J. Nor in case they did believe him never so much, is it any thing to this Question; which is, whether he swore true or false at *Ireland's* Trial.

Mr. *Williams*. My Lord, when a Person is brought to the Bar, there to be a Witness in any Cause, every body is silent, and the Witness is heard what he has to say; and so was Mr. *Oates*. When he had done, he withdrew; but what the Opinion of the House was upon it, I must submit to their Votes and Resolutions.

L. C. J. Which, you know, Mr. *Williams*, are no Evidence.

Mr. *Williams*. That I must submit to the Court.

Oates. I desire my Lord of *Clare* would be pleas'd to tell, if he remembers, what Credit the House of Lords gave me upon my Discovery.

Earl of *Clare*. My Lord, I do not well hear Mr. *Oates's* Question.

Oates. My Lord, my Question is this, When I was brought to the Bar of the Lords House, whether I did not receive the Thanks of the Lords House for my Discovery ?

Earl of *Clare*. Truly, Sir, at the beginning of the Discovery of the Popish Plot, I was not in Town, nor in the House.

L. C. J. But now, Mr. *Oates*, I hope you are satisfied by the Answer that is given by your own Witness, that what is done in the House of Commons, is no Evidence ; and I would have you remember that is the Reason of it, because they are no Court of Record, and because they cannot so much as give an Oath.

Oates. My Lord, I see my Lord of *Huntingdon* is here ; and though I did not subpoena his Lordship, nor design'd to have troubled him, yet being here, I desire his Lordship would give an account what Credit I had in the House of Lords upon my Discovery.

L. C. J. Swear my Lord of *Huntingdon*.

[*Which was done.*]

Earl of *Huntingdon*. I do believe, my Lord, Mr. *Oates's* Discovery found a good reception in the House of Lords ; but it was grounded upon the Opinion, that what he said was true, and that he was an honest Man ; for so the House then accounted him to be : and upon this it was their Lordships gave credit to his Testimony. And indeed had the matter been true, it was of high importance to have it throughly examin'd : But since that time it being apparent there were so many and great Contradictions, Falsties, and Perjuries in his Evidence, upon which so much innocent Blood hath been shed ; I believe a great many Persons who were concern'd in the Trials of those unfortunate Men, are heartily afflicted and sorry for their share in it : And I do believe most of the House of Peers have altered their Opinion, as to this Man's Credit ; and look upon his Evidence as I do, to be very false.

L. C. J. Do you hear him, Mr. *Oates* ?

Oates. No, my Lord, I do not very well.

L. C. J. Then, my Lord of *Huntingdon*, turn your Face to the Jury ; and say what you said to us over again.

[*Which his Lordship did to the same effect.*]

Oates. Very well, my Lord.

Mr. Just. *Withins*. There's your Credit with the House of Lords, Mr. *Oates*.

Oates. My Lord, I call'd you in to answer my Question, as to somewhat that is past, and not to give your Judgment how you are inclined to believe now.

L. C. J. Nay, but with your Favour, it was to declare what Opinion the House of Lords had of you ; and he says very well, and that this is in truth the same Answer that must be given, for the Judges and the Juries that tried the People upon your Evidence. Says my Lord of *Huntingdon*, at first truly I did believe Mr. *Oates* did swear true, and he had Credit with me, and so he had with others ; but now upon further Examination into things, and in process of time Discoveries have been made of the Truth, and that what he swore is false ; so that now I believe in my Conscience he is actually forsworn, and has drawn innocent Blood upon the Nation ; and no body will believe a Word he says.

Oates. Well, my Lord, I have done with my Lord of *Huntingdon*.

Mr. Just. *Withins*. And he has done with you, as I perceive.

L. C. J. Yes, truly, methinks ye shake hands, and part very fairly.

Mr. Just. *Holloway*. There's my Lord Chief Baron ; what say you to him, Mr. *Oates* ?

L. C. J. Is my Lord Chief Baron sworn ?

Cryer. Yes, my Lord, he is.

L. C. J. Then what do you ask him ?

Oates. My Lord, I call'd your Lordship, because your Lordship sat as a Commissioner of *Oyer* and *Terminer* in the *Old-Baily*, at *Ireland*, *Whitebread* and *Langhorn's* Trials ; and that which I call your Lordship for, is to give an account to my Lord and the Jury, of the Satisfaction your Lordship received concerning the Fulness and Fairness of the Evidence then deliver'd by me in those Trials.

L. C. Baron. My Lord, I cannot charge my Memory with it.

L. C. J. He says he cannot remember.

L. C. Baron. No, not in particular ; but in general I remember there were a great many Persons that gave Evidence in those Trials on the one side and the other : There were a great many Persons that came from *St. Omers*, that gave Evidence there of Mr. *Oates* being at *St. Omers*, when he said he was in Town.

Oates. And what Credit were they of, at that time, pray, my Lord ?

L. C. Baron. I think they were Persons of very good Credit ; they were Gentlemen of good Families many of them.

Oates. Did the Jury believe them at that time ?

L. C. Baron. I cannot tell what the Jury did.

L. C. J. Nor is it any matter at all what they did : But I would ask you, my Lord, but one Question : Have you heard this Evidence that has been given here to-day ?

L. C. Baron. No, my Lord, I have not.

L. C. J. If you had, I would then have asked you, whether you believe him now or not ?

L. C. Baron. Truly, my Lord, I never had any great Faith in him, I do assure you, as to my self.

Mr. Just. *Withins*. You hear what he says, Mr. *Oates* ; you had never any great Credit with him.

Oates. My Lord, I am not at all concerned at this ; I value my self more upon my own Innocency and Integrity, than any Man's good or bad Opinion whatsoever.

L. C. J. Ay, your Innocency is very great !

Oates. Then, my Lord, I will conclude my Evidence.

Mr. *At. Gen.* My Lord, before Mr. *Oates* goes to sum up his Evidence, we have some other Evidence to give.

L. C. J. What say you, Mr. *Oates* ? Will you call any other Witnesses to this Point ?

Oates. My Lord, if they bring any other Evidence, I hope I may have my turn to answer it.

L. C. J. Ay, truly, if they bring any new Evidence that you have not applied to already, God forbid that you should not be heard ; but if it only gives an Answer to the Evidence that has been given, then you must not retort on them ; for they are to have the last Word : but it is not fit withal, that you should be denied any thing that is necessary or really of advantage to you.

Oates. If they offer any new Evidence to my Disreputation, the Question is, whether I may have a time allotted me to make my Defence against that Evidence ?

L. C. J. Ay, ay, in God's name, by all means.

Mr. At. Gen. This is the usual Method of Proceedings; but I would know if *Mr. Oates* has any more Witnesses to examine to this Point, that he has examin'd to already?

Oates. My Lord, I think I have no further Evidence at present, till I hear what they further say.

Mr. At. Gen. Then may it please your Lordship, and you Gentlemen of the Jury——

Oates. I hope when your Lordship sums up the Evidence, you'll remember what has been said by the Witnesses.

L. C. J. You may assure your self, I will remember whatsoever has been said on the one side and t'other, as near as I can: The Gentlemen of the Jury are Men of Understanding, and I see they take Notes, and I'll give them all the Assistance I can.

Oates. Truly, my Lord, I have some more Witnesses to the same purpose, If your Lordship please to spare time to hear them.

L. C. J. Ay, ay, we sit here to hear the Witnesses, call whom you will.

Oates. Is my Lord *Lovelace* here?

L. C. J. I cannot tell, I do not see him here; but you did call my Brother *Gregory*, there he is, what say you to him?

Oates. Mr. Baron *Gregory* was Speaker of the House of Commons in one of the *Westminster* Parliaments.

L. C. J. Swear my Brother *Gregory*.

[Which was done.

Oates. I desire your Honour would be pleas'd to give this Court and the Jury an account, you being Speaker of the House of Commons, what Credit I received there in that House upon my Discovery of the Popish Plot?

Mr. Bar. Gregory. My Lord, that is a pretty general Question, it is not possible for me to remember the Proceedings in the House of Commons so long ago.

L. C. J. But, Brother, I tell you what he means by it: He would have you to answer this Question, whether he was of good Credit in the House of Commons or not?

Mr. Bar. Gregory. I know not what Answer to make about the Credit he there had; any Member of the House of Commons may give as good and better an account in that matter than I; and truly I do not remember that *Mr. Oates* was before the Bar of the House when I was Speaker: I believe it was before I was Speaker, that he was examined at the Commons Bar.

L. C. J. Well, he can remember nothing of it.

Oates. Is my Lord *Lovelace* there?

Cryer. He has been called, but he is not here.

Oates. Call my Lord of *Stamford*.

Cryer. He is not here.

Oates. Call Sir *Francis Winnington*.

Cryer. He is not here.

Oates. Call *Silas Titus*, Esq;

Cryer. He is not here.

Oates. Call Sir *George Treby*.

Cryer. He is not here.

Oates. Call Sir *Francis Pemberton*: These have been all subpoena'd.

Cryer. He is not here.

Oates. Is my Lord Bishop of *London*?

L. C. J. Here is my Lord Bishop of *London*, pray swear my Lord Bishop of *London*. [Which was done.

Oates. I beg your Lordship, if you can, would give an account of your Remembrance in this matter: Your Lordship was often in Committees of

the House of Peers about this Business, and from first to last you were in the Committee for further Examination of the Popish Plot; and you were not only of the Committee, but you also sat as a Baron in the House. I humbly beg your Lordship would please to tell, as far as you can charge your Memory, what Reputation I had in the House of Lords, where I was upon my Oath; and in particular, whether your Lordship remembers that I received the Thanks of the House for the Service I had done for the King and Kingdom in the Discovery.

Mr. Just. Holloway. It is a long Question, my Lord.

L. B. of London. It is so, my Lord; but my Answer will be very short: For it is a very little I can remember after so great a distance of Time, and the Transactions have been publick; nor can I acquaint the Court with any thing, but what is known already; and that is this, I remember that the Plot was discovered by him, and his Discovery was receiv'd as Evidence at the Bar of the House of Lords; and believ'd, and the Thanks of the House were given him at that time for it.

L. C. J. There's Sir *George Treby*; what do you ask him? But first let him be sworn.

[Which was done.

Oates. Pray be pleas'd to ask Sir *George Treby*, who was Chair-man of the Committee of Secrecy, and was Manager in the Trial of the Lord Viscount *Stafford*, that he will be pleas'd to tell what Credit I had in both Houses upon that Trial.

L. C. J. I told you before, you must urge nothing of that Trial, unless you have the Record here.

Oates. Then my Lord, I desire Sir *George* may give an account what he knows of the Correspondencies between *Mr. Coleman* and the *See of Rome*?

L. C. J. No, that will not be any Evidence at all in this Case; for that is not at all here in question.

Oates. Then, my Lord, I desire Sir *George Treby* may speak what he knows of my Credit in the House of Commons.

L. C. J. Ay, what says he to that?

Sir George Treby. My Lord, I can answer for nothing but my own Judgment; I cannot tell what Credit he had with any particular Member of the House of Commons; I do remember indeed, he was there several times at the Bar, but not upon Oath, but as others usually are there: and concerning the Discovery, there was a Vote all the Kingdom knows of, that they were satisfied there was a Plot, but whether that Vote was grounded altogether upon his Evidence, or how far upon his Evidence, I cannot tell, nor what any Man thought of it besides my self.

Oates. I desire *Mr. Serj. Pemberton* might be call'd again.

Cryer. He is not here.

Oates. Then pray call Sir *William Dolben*.

Cryer. He is not here neither.

Oates. Then I call Sir *Edward Atkins*.

Cryer. He is not here.

Oates. Call *Mr. Richard White*.

Cryer. He is not here.

Oates. My Lord, these were all subpoena'd, but they will not come; they are frighted away.

L. C. J. We know nothing of that, they may come if they will.

Oates. Call *Mr. Thomas Cox*.

Cryer. He is not here; but here is *Mr. White*.

Oates. I pray he may be sworn. [Which was done.] I desire to know of him, whether he were not a Jury-man upon the Trials of *Ireland* and *Whitebread*?

Mr. *White*. No, I was not.

Oates. Then I am mistaken ; I beg your pardon for this trouble.

L. C. J. Well, there's my Brother *Dolben* come now. What say you to him ? Swear my Brother *Dolben*.

[*Which was done.*]

Oates. May it please you, Sir *William Dolben*, you sat as a Judge upon the Trials of Mr. *Ireland*, Mr. *Whitebread*, and Mr. *Langborn* ; and I call you, Sir *William Dolben*, to give an account to my Lord and the Jury, what Credit my Evidence had at those Trials, and how the Jury was satisfied with it.

L. C. J. There is the Verdict, Man, that finds the Persons you speak of, guilty.

Oates. If that be Evidence enough, I am satisfied, my Lord.

L. C. J. Is not that better than his Opinion to shew how the Jury was satisfied ? Ay, certainly ; better than the Opinion of all the Twelve Judges for that point ; they would not have convicted them except they had been satisfied with the Evidence.

Sir *William Dolben*. Have you done with me, Sir ?

Oates. I have, Sir.

L. C. J. Have you called all your Witnesses, or will you call any more ?

Oates. No, my Lord, I will call no more at present.

Mr. *At. Gen.* Then, my Lord, we'll go on with another part of our Evidence. Gentlemen, you see Dr. *Oates*, to support his Credit, has given two sorts of Evidence ; the one is, some Records of Trials at the *Old-Bailey*, wherein he had the good hap to be believed ; the other is, several noble Persons, and other Gentlemen, as to the Credit he has had given to his Evidence before. What they have said I shall not meddle with at all at this time, but leave the Observations that are to be made thereupon, till we come to sum up the Evidence for the King. But as to the first part of his Evidence, that is, as to the Records produced, and the Verdicts therein given, and the Opinions of the Judges, we have this to say in point of Evidence as an Answer. First, we shall produce to you several Records, wherein he has not been believed ; at that of Sir *George Wakeman*, and my Lord *Castlemain* : and not only so, but we shall actually prove that he was perjur'd in them ; that what he swore against them was utterly false, and you will hear this was not the first time that he had sworn false ; for in an Accusation that he gave at a Trial at *Hastings*, we shall prove he swore Buggery upon a Person, which was prov'd false.

Oates. Can you produce any such Record, Mr. Attorney ?

Mr. *At. Gen.* Yes, we shall.

L. C. J. Do not interrupt the King's Counsel ; let them go on ; you shall be heard quietly in your time.

Mr. *Hanfes*. Nay, Mr. *Oates* need not be so hasty as to ask for the Records, by degrees we shall produce Records enough against him.

Mr. *At. Gen.* We shall prove also by the Journals of the Lords House, that he did forswear himself ; for after he had there made a long Narrative of the Plot, being ask'd whether he had any more to accuse, than those Persons that he had nam'd, and this upon his Oath ; he did there swear that he had no more Persons to accuse.

Oates. That were Members of that House, it was.

L. C. J. Sir, you must be quiet till they have done.

Mr. *At. Gen.* But soon after he bethought himself, and accuses the Queen and his Royal Highness the Duke, our now present Sovereign, of being in the Plot.

Oates. What Plot did I accuse them of ?

L. C. J. Nay, you must sit down and be quiet ; how now, will you not let the King's Counsel speak ? You were heard quietly, and so shall they be too.

Oates. Well, my Lord, I will be quiet.

Mr. *At. Gen.* These things, my Lord, will shew what Credit he was of at that time. Another thing we say to these Records, is this ; There were two other Witnesses, Mr. *Clay* and Mr. *Smith*, besides those that were now produced, which were the Home-Witnesses, that did positively swear, that in *April* and *May* 78, *Oates* was here in Town ; he did then indeed make use of those other canting Witnesses, for I cannot call them any otherwise, that beat so about the bush, and speak of Uncertainties, and contradict one another ; but those that I name, *Clay* and *Smith*, were Home-Witnesses ; and there lay the Credit of his being in town, when the Witnesses which came from *St. Omers*, say he was beyond Sea.

Oates. My Lord, I beg I may ask one thing ; whether my Lord Bishop of *London* be there still ?

L. C. J. No, my Lord of *London* is gone.

Oates. I am sorry for it, because he could have given an account of this *Smith*, for he knows him.

L. C. J. I cannot help it, you should have desired him to stay while he was here ; go on, Mr. Attorney.

Mr. *At. Gen.* I will, my Lord ; and this which I am going to say, as an Answer to his Evidence, will give a full Answer to that other Objection which he made ; which was, what was the Reason, when he had given such an Evidence so long ago, it should be delay'd so long e'er it was prosecuted. I'll give your Lordship a Reason, and a satisfactory one : Till those Discoveries were made that have lately been made, the Evidence these Witnesses gave, carried a Probability of Truth in it ; and Sir *Richard Barker* himself added his Testimony to it, tho' he does not think fit now to come and confirm it : I say hitherto it had some semblance of Truth, and so did ballance the other Testimony of them that came from *St. Omers*. But when we had discover'd that it could be testified by twenty Persons, that had not been at any of the former Trials, that he was certainly all that time at *St. Omers* ; and when we had discover'd the Tampering and Practices of Mr. *Oates*, in suborning these Witnesses to swear as corruptly as he swore at first, which we shall shew you palpably to be true that he did so ; that gave us Encouragement to go on to make Enquiry into the Matter : but this was not discover'd till half a Year ago, or thereabouts. Now as to one of those Witnesses, that is Mr. *Clay*, the Case stands thus : indeed I expected he would have brought the same Witnesses he did then, for I presume they are all about Town, but he has not thought fit to do that : This *Clay* was then a Priest, and a Prisoner in the Gate-House for that very reason, as being accused for being a *Romish* Priest. While he was there a Prisoner, Mr. *Oates* comes and threatens him, and solicits him to swear that he was here in town in *May* 78, that he might be provided with Proof against what the Boys of *St. Omers* (as he call'd them) would come to testify ; and threaten'd him, if he did not, he would hang him, for he could swear him to be
a Priest ;

a Priest; and this was about three or four Days before the Trial of the five Jesuits: At length they came to a Bargain and Agreement, as you will hear, that he should come and swear this; when Mr. Oates cannot pretend that the Evidence of Clay was known at all by any of the Committees that were concern'd in the Management of his Discovery; or that he was so much as thought of for a Witness. But we shall prove how it came to pass; and I believe, if Mr. Oates would call him now, (as I do not question he knows where to have him) Clay would not be so hardy now, as to affirm his former Testimony. Then as for Mr. Smith, his Case stands thus: Mr. Oates had sworn him into the Plot, as you will find in his Narrative that he gave in upon Oath, which is upon Record, and enter'd in the Journal of the Lords House. He was a School-master in *Issington*, and Oates swears High-Treason against him, and thereupon Warrants went out to take this Smith, and Mr. Oates was very violent in the pursuit of him but two or three Days before the Trial; and then, when all these Witnesses from *St. Omers* were come, as he knew very well, he was in some doubt his Design would have fail'd, and then does he prevail with Smith to become a Witness for him. And 'tis evident he did tamper with him, for that which was done by him at that time: For now he gives him under his Hand (to shew the Impudence, as well as Villany of the Man, as it has been evident enough in all his Carriage) a Paper that should give him authority to go free from all Procefs and Arrests upon any Warrants; and this Protection under Mr. Oates's Hand, is directed to all the King's Officers, thereby commanding them to take notice that this Mr. Smith, whom before he had accus'd of being in the Plot, was an honest Man, and employed in great Service for the King at that time. This Paper, when produc'd, will shew the Time when it was made; and then it will appear, that two Days after Smith comes and swears that he din'd with him the first Monday in May 78. This was what Smith swore then; and upon my mentioning of this Practice, if he have any shame in him, it must put him in some confusion; for we are prepared to prove by undeniable Testimony, that Mr. Oates did not dine with this Mr. Smith that Day; we shall prove it by the whole Family: but the first time ever Mr. Oates came there, was in July after, when he came into England from *St. Omers*, which these Witnesses say, was the latter end of June. Then it was that he was with Mr. Smith, and came to his House, and not before. And we shall prove by several Witnesses, that upon the Question being asked of Mr. Smith, how he came to testify such a thing, his Answer was, I must have died for it, if I had not done it; 'twas only a Mistake in point of time: But he threatened me, and so did some others too, that he wou'd have me hang'd for being in the Plot, if I did not comply with him, and swear this for him. My Lord, I shall offer this Evidence that I have open'd, and then I hope we shall satisfy the Jury, and all that hear his Trial, that he is one of the most notorious Villains that lives upon the Earth; to be sure that ever was known in this Kingdom.

Mr. Sol. Gen. First, my Lord, we'll produce our Records: Where is the Record of Sir George Wakeman?

Mr. Swift. This is the Record of Sir George Wakeman, and this is a true Copy; I examin'd it.

Mr. Sol. Gen. Pray, Sir Samuel Astry, read a Word or two of it.

Cl. of Cr. Here is an Indictment against Sir George Wakeman for High-Treason; he pleaded not guilty; and here is an Acquittal by the Jury.

Mr. At. Gen. He being acquitted, I desire he may be sworn. [Which was done.]

Mr. Sol. Gen. Pray, Sir George Wakeman, was Mr. Oates sworn against you at the Trial?

Sir George Wakeman. Yes, Mr. Solicitor, he was.

Mr. Sol. Gen. Do you remember what he swore against you at that Trial?

Sir George Wakeman. Yes, I do, Sir.

Mr. Sol. Gen. Was that true that he swore, by the Oath you have taken?

Oates. Is that a fair Question? I desire the Opinion of the Court?

L. C. J. Ay! why not?

Oates. He was legally accus'd; he cannot swear himself off.

L. C. J. But he is legally acquitted too; we have a Record for that here.

Oates. Ay, my Lord, he was acquitted; 'tis well known how.

Mr. Sol. Gen. Come, Sir, was that he swore against you at your Trial, true?

L. C. J. What do you say, Sir?

Sir George Wakeman. 'Twas false upon my Oath, my Lord.

Mr. Sol. Gen. What Particulars did he swear against you?

Mr. Pollexfen. Ay, pray tell the Particulars as near as you can what he swore against you.

Sir George Wakeman. My Lord, if your Lordship please, I will give a little Account what he swore against me before the King and Council.

Mr. Sol. Gen. That will not do, Sir George Wakeman; we do not ask you that.

L. C. J. No, it must be only the Evidence that was given upon this Acquittal, which is the Record here produc'd before us; what did he swear against you then?

Sir George Wakeman. He swore at that Trial, as near as I can remember, that I undertook for a certain Sum of Money, 15000 *l.* as I think it was, to poison the King, and I was to do it by the means of the Queen. I was to provide this Poison for her, and she was to give it to the King. This he swore at my Trial, which God forbid it should be true; nothing can be more false?

L. C. J. I ask you by the Oath you have taken, you are now acquitted, and so in no danger; and being upon your Oath, ought to speak the Truth, without Malice or Ill-will to him that did accuse you; was that he swore true or false?

Sir George Wakeman. False, false, upon my Oath; I speak it without any Malice against the Man in the World.

Mr. At. Gen. Then swear my Lord Castlemain.

[Which was done.]

Sir George Wakeman. My Lord, I'll be bound to make it appear, that all he swore against me was false.

Mr. At. Gen. And so was it he swore against my Lord Castlemain, and others that were acquitted at the same time with Sir George Wakeman.

Mr. Sol. Gen. First, read the Record of my Lord Castlemain's Acquittal.

Cl. of Cr. Here is the very Record itself: it was in this Court, my Lord Castlemain was indicted of High-Treason, and tried and acquitted.

Mr. At. Gen. My Lord Castlemain, pray what did Oates swear against you at your Trial? And pray

pray tell the Court, whether that was true or false.

Earl of *Castlemain*. My Lord, as near as I remember, Mr. *Oates* did swear at my Trial, that he met me in *Lincolns-Inn-Fields*, and that he went with me somewhere to Mr. *Fenwick's* Chamber in *Duke-street* in *Covent-Garden*, where he said I did talk a great deal of Treason, and a great Discourse of that kind he said there was, and he swore that I was in several Cabals in relation to the King's Death. I was afterwards acquitted by the Jury that tried me, as appears by the Record; and here I do declare, as in the Presence of God, and with all the Imprecations of Divine Vengeance to fall upon me, if I speak any thing but the Truth, that not only that which he swore, was false, but that I never had any Thoughts in my Heart, much less did ever declare in my Words, of any injury or hurt against the late King. And besides, that I never saw the Face of *Oates* in my Life, till after I was put in Prison upon his Accusation of me.

Oates. My Lord, I desire to know what Religion that noble Lord is of?

Earl of *Castlemain*. I am a *Roman* Catholick, my Lord.

L. C. J. We all know what Religion my Lord is of, you need not ask that Question.

Oates. That's not the Point, my Lord, I must have it declared in Evidence.

L. C. J. I wonder to see any Man that has the Face of a Man, carry it at this rate, when he hears such an Evidence brought in against him.

Oates. I wonder that Mr. *Attorney* will offer to bring this Evidence, Men that must have Malice against me——

L. C. J. Hold your tongue; you are a shame to Mankind.

Oates. No, my Lord, I am neither a shame to my self or Mankind: What I have sworn is true, and I will stand by it to my last Breath, and seal it if occasion be with my Blood.

L. C. J. 'Twere pity but that it were to be done by thy Blood.

Oates. Ah! Ah! my Lord, I know why all this is, and so may the World very easily too.

L. C. J. Such Impudence and Impiety was never known in any Christian Nation.

Oates. But this will not do the Work to make the Plot to be disbelieved; Things are not to be done by great Noises: I will stand by the Truth.

L. C. J. Can you think to out-face such Evidence as this with your Impudence?

Oates. But I hope you'll give me leave to make my Defence.

L. C. J. Then carry yourself as becomes you in the Court.

Oates. My Lord, I will do so.

L. C. J. If you do not, we know how to make you do it, you shall not think to domineer here.

Oates. My Lord, I hope I do behave myself as I ought.

L. C. J. No, you do not.

Oates. Ill Language may provoke any Man's Passion, my Lord.

L. C. J. Keep yourself within Bounds, and you shall be heard; but we'll suffer none of your Extravagancies.

Oates. My Lord, If I had been aware of this, I could have produc'd Evidence that would have supported my Testimony in these Matters.

L. C. J. Go on with your Proofs, Mr. *Attorney*.

Mr. *Attorney*. We will do so, my Lord.

Earl of *Castlemain*. Have you done with me, Sir?

L. C. J. Have you any other Questions to ask my Lord *Castlemain*?

Mr. *At. Gen.* No, my Lord.

L. C. J. Then your Lordship may sit down again where you were.

Mr. *At. Gen.* Now, my Lord, we shall show the Lords Journal where it is recorded, that he swore he could accuse no body else but those that he nam'd, and then we shall give an Account, that soon after, he accus'd our present Sovereign, and the Queen Dowager.

Mr. *Sol. Gen.* Where is the Clerk of the Parliament?

Mr. *Swift*. Here he is; Mr. *Walker*?

Mr. *At. Gen.* Swear him. [*Which was done.*]

Mr. *Sol. Gen.* Mr. *Walker*, is that the Journal of the House of Lords?

Mr. *Walker*. Yes, my Lord, it is.

Mr. *Sol. Gen.* Deliver it in to the Clerk, and let him read it.

L. C. J. Then you must direct to the time, or else it will be to no purpose.

Mr. *Swift*. Sir *Samuel Astry*, pray turn to *Friday* the 19th of *November* 78.

Cl. of Cr. Reads. *Die veneris decimo nono Novembris* 1678. *Titus Oates* being call'd in at the Bar, desired to be heard a few Words before he was sworn——

L. C. J. Mr. *Attorney*, I doubt this will not be Evidence: It is only a Paper of what he said, taken before the Lords; but now whether that was upon Oath or no, is the Question: nay it appears it was not upon Oath; but says, it was before he was sworn.

Mr. *At. Gen.* My Lord, I desire it may be read all out.

Cl. of Cr. Reads. *Titus Oates* being called in at the Bar, desired he might be heard a few Words before he was sworn to speak to the main Business: which being granted to him, he complained of the Restraint he is under, and being debarr'd of the liberty of his Friends coming to him, and of conversing with any body in private, and that no *Englishman* ought to be restrained, unless accused by one or more Witnesses; and pray'd that the Restraint might be taken off, that he might be enabled to give his Evidence more cheerfully, and that the House would be pleas'd to address the King for that purpose, and that his Pardon may be renewed, because he is under Misprison of Treason. To which the Lord Chancellor told him, that the House would take his Condition into Consideration: And then being sworn, he was told by the Lord Chancellor, that the Lords have received an Address from the House of Commons in part upon Evidence by him given there, and that the House expects he should give an Account what that is, which has begot such Astonishment in the House of Commons as is expressed in the Address. Upon which, *Titus Oates* said, that in *July* last, he saw a letter from Sir *George Wakeman*——

L. C. J. Is this Evidence, Mr. *Attorney*?

Mr. *At. Gen.* My Lord, the use we make of it is to prove that he did accuse the Queen.

L. C. J. What is the Accusation of the Queen to this Purpose?

Mr. *At. Gen.* My Lord, we say he had sworn several Days before, that he had no other Persons to accuse.

L. C. J. You should produce that first, that he swore so.

Mr. *At. Gen.* My Lord, we should so, I think, and I thought it had been so done.

L. C. J. This is no Evidence, for it is not upon Oath; it does not say so.

Mr. *At. Gen.* Yes, it does, my Lord; but we will go on in order.

L. C. J. Come then, let us see what was sworn about his having no more Persons to accuse.

Mr. *At. Gen.* Pray Sir *Samuel Astry*, look the 30th of *October* 78.

Cl. of Cr. Reads. *Die Mercurii* 30 *Octobris* 1678, *Titus Oates*, being called in, was sworn at the Bar, and required to answer to what he is now called in for, concerning his Discourse with the Lord *Annesley* last Night, about the Duke of *York*.

L. C. J. I doubt this will not be Evidence neither; for we are now speaking only about what shall be Evidence: We are not now meddling with the methods of the House in their Examination of Witnesses, but what is Evidence here; suppose an Oath be administered to me for a particular purpose in the House of Lords, that I shall answer to what is asked me concerning a Discourse that I had with a third Person.

Mr. *At. Gen.* Pray Sir *Samuel Astry* look the next Day; for there, my Lord, he is examin'd upon the general.

Sir *Samuel Astry* Reads. *Die Jovis* 31 *Octobris* 1678.

Mr. *At. Gen.* But first read the latter end of the former Day's Proceedings, beginning at those Words, *Upon Consideration*.

Cl. of Cr. Reads. Upon consideration of what *Titus Oates* had said, he was call'd in again, and told by the Lord Chancellor that the House has directed he shall be heard again to-morrow at Nine a-clock, and the Lords do expect that by the Oath he hath now taken, he should go thorow with what he hath to say, and therefore he should prepare himself to deliver the whole Truth of what he knows concerning the Design against the King's Person, and the Government of this Kingdom.

L. C. J. But still, Mr. *Attorney*, we are but where we were; for supposing upon my Examination upon Oath given me in the House of Lords to a particular purpose, that my Lord Chancellor should tell me here, my Lords intend to-morrow, that you by virtue of the Oath now given you, should come and give them Satisfaction as to other Questions, I doubt that would not be Evidence in *Westminster-Hall*: Let us not stretch any thing further than it should be upon any account whatsoever. For suppose I give you an Oath to make true Answer to such Questions as I shall ask you concerning what was said at the Sessions-house at such a Trial, and then I come after and ask you upon the Oath you have taken, what do you say concerning such a Business seven Years ago, would that be Evidence?

Mr. *At. Gen.* With Submission, my Lord, if a Man be told he is upon his Oath, to say all he knows of such a Design, what he says upon that Oath, is Evidence.

L. C. J. You say very true, Mr. *Attorney*, if I give him a general Oath; but what he says concerning any other Matter than that particular Thing which he was sworn to give an Account of, can never be Evidence.

Mr. *Sol. Gen.* Truly, my Lord, I think we need not labour in such a thing as this is.

L. C. J. Truly, Mr. *Sollicitor*, I think it is no Evidence at all; if you can prove he was sworn to

his whole Narrative; and can bring any thing out of that, you say something.

At. Gen. We desire that my Lord of *Berkeley* may be sworn. [Which was done.]

L. C. J. What do you ask him?

Mr. *At. Gen.* Pray, my Lord, will you give the Court and the Jury an Account, whether Mr. *Oates* was not sworn to his Narrative, and delivered in his Evidence at your Lordships Bar upon Oath.

L. C. J. My Lord of *Berkeley*, let me ask you this Question, Was every thing that he gave an Account of at the Bar of the Lords House, given in upon Oath?

Earl of *Berkeley*. I cannot remember that, my Lord.

L. C. J. It is impossible that he should.

Earl of *Berkeley*. All I can testify is but what I answered to the Question which was asked me at my Lord *Stafford's* Trial.

L. C. J. But that is not material now, my Lord, because the Record of that Trial is not here.

Earl of *Berkeley*. The same thing is entered here particularly.

Mr. *At. Gen.* My Lord, we desire it may be read again.

L. C. J. Read it again with all my heart.

L. C. J. This is a particular Oath to a particular purpose; and shall I help it by intendment, that he was afterwards sworn to the general Matter? No, I will not: Suppose any thing had happened afterwards that it should have been thought fit to prosecute *Oates*; could the Man have been convicted of Perjury for this? Certainly he never could.

Mr. *Sol. Gen.* Well, my Lord, we submit it to you; but we will now go on to prove that which Mr. *Attorney* opened, that *Oates* did suborn these Witnesses to swear what they did swear: You have had one part of the Evidence that was then given; now we shall prove that *Cley* was sworn at *Whitebread's* Trial, and what he did there testify about *Oates's* being in Town.

Oates. I own it, he was swore then.

Mr. *At. Gen.* Do you own that you suborned him?

Oates. No, I think not, Mr. *Attorney*.

Mr. *Sol. Gen.* Then we will prove that you did tamper with him, and by threatnings prevail'd with him to swear for you.

Mr. *At. Gen.* Nay, we will prove that he was mistaken in what he did swear a whole Year. Pray call Mr. *Charles Howard*.

Oates. My Lord, I desire I may have leave to ask the Court a Question, and I beg the Opinion of the Court in it, whether a Popish Recusant convicted, may be a good Witness?

L. C. J. We are not bound to answer your Question; for we see no ground why you should ask it: If you have any occasion to object against any Witness, and can produce any Record against him; then we will tell you more of our Minds.

Oates. Pray then let me ask you another Question, my Lord.

L. C. J. Prithee do not trouble us with thy Questions, let them go on with their Evidence.

Oates. My Lord, I desire to know, whether a Man confessing himself a Popish Priest—

L. C. J. We do not sit to answer every idle Question; 'tis nothing at all to the purpose: When you ask a proper Question, we will answer it.

Oates. Yes, it is my Lord, and you are of my Counsel in Matter of Law.

L. C. J. I am not so.

Oates. Yes, my Lord, the Court is always of Counsel for the Prisoner.

L. C. J. That were well, indeed, if we were bound to give Advice in every Case, where a Man is prosecuted at the King's Suit: indeed in those Cases where a Man can have no Counsel allowed him, the Court is of Counsel for him; but where he may have Counsel, the Judges are not of Counsel for him.

Mr. Just. Holloway. Besides, we are not here putting of Cases, but trying of a Cause.

Mr. Sol. Gen. Here is Mr. *Charles Howard*, swear him. [Which was done.]

Mr. At. Gen. My Lord, we bring this Gentleman Mr. *Charles Howard* only to this part of our Evidence, to prove that Mr. *Clay* was mistaken a whole Year, mistook 78, for 77.

L. C. J. But, Mr. Solicitor, if you take this confused Method, we shall never be at an end, and for my part I cannot make any thing of it; it is impossible for me to retain these things in Memory, so as to give any Direction to the Jury, if there be not a Method used: for do you think that it is possible for a Man to retain in his Head a hundred things huddled up and down without any Order?

Mr. Sol. Gen. We beg your Lordship's Patience but a little while, and we shall have it in very good Order. Swear *Higgins*. [Which was done.]

L. C. J. Pray what do you ask him?

Mr. At. Gen. The Matter we examine him to, is this; for I would open to you the Nature of our Evidence: first he swore *Smith* into the Plot, and then gave him a Certificate, that he was an honest Man.

L. C. J. Is that *Oates's* Hand?

Mr. At. Gen. We shall prove it to be so.

L. C. J. You must first prove what he swore of *Smith*.

Mr. At. Gen. My Lord, we desire that we may read his Narrative.

L. C. J. But first prove it, Mr. *Attorney*.

Mr. At. Gen. It is upon Record in the House of Lords.

L. C. J. Was that delivered in upon Oath to the House of Lords? Or else we shall be but where we were.

Mr. At. Gen. For Proof of that, we call my Lord *Bridgwater*.

L. C. J. Here he is. Swear my Lord. [Which was done.]

Mr. At. Gen. My Lord *Bridgwater*, do you remember the Narrative that *Oates* gave in to the House of Lords, and was it upon Oath? But first of all, if you please, I desire my Lord may see the Book, whether any thing be there under his Hand, and then, whether it be enter'd to be upon Oath, and whether this be the Journal agreeing with the Paper deliver'd him?

L. C. J. This is a Narrative, my Lord, that he himself deliver'd in, and I would ask my Lord *Bridgwater* this one Question: Was not this Journal compared with the Narrative given in upon Oath by Order of the Lords House?

Earl of Bridgwater. Yes, I must say I was one of the Committee appointed to take care of the Journal, and here is my Hand to it among other Lords, and that is a Copy of what Mr. *Oates* did deliver in as his Narrative, which was inserted upon a Report of the Committee into the Journal Book by Order of the Lords, and we did examine the Narrative with the Book.

L. C. J. But what is all this to our purpose now? Do not mistake me, my Lord *Bridgwater*, I do not speak to you now, but to Mr. *Attorney*: What does this prove as to the Matter in hand?

Mr. At. Gen. Pray, my Lord *Bridgwater*, did you see the Narrative brought in by *Oates*?

Earl of Bridgwater. That Narrative was deliver'd to us by the Clerk of the Parliament.

L. C. J. But, my Lord, do you know that Narrative was given in upon Oath?

Earl of Bridgwater. I know no other, but that the Clerk of the Parliament brought it to us.

Mr. At. Gen. Here is the Clerk of the Parliament will tell you that *Oates* was sworn to it.

L. C. J. Prove it if you can; but hitherto I see nothing that looks like Evidence.

Mr. At. Gen. Really, my Lord, I should take it to be as much Evidence as any that was ever offer'd in the World.

L. C. J. Pray, Mr. *Attorney*, let us reason the Point a little: Suppose you bring an Answer in Chancery, except the Man be sworn to it, can you read his Answer? and yet I ever look'd upon an Answer in Chancery as Evidence.

Mr. At. Gen. In that Case the Record proves it self, and so it should here; and therefore we desire it may be read.

L. C. J. But surely you would not allow an Answer to be Evidence, unless you prove it to be sworn.

Mr. At. Gen. Truly, my Lord, I always took it, that we need not come to prove a Man was actually sworn to his Answer; but if it be once enter'd upon Record in Chancery, it proves itself.

L. C. J. It is true, Mr. *Attorney*, if it appears upon Record that the Answer was sworn.

Mr. At. Gen. My Lord, if this Journal of the House of Lords is a Record, then that which is enter'd into it, is a Record; 'tis a thing recorded as a Deed enroll'd is, and proves itself.

L. C. J. Mr. *Attorney*, either we mistake one another, or we do not differ in Opinion. If you could make it appear that *Oates* brought this thing in the House of Lord, and deliver'd it upon Oath, that were Evidence; otherwise I cannot see how you can make Evidence of it.

Mr. At. Gen. I always thought, my Lord, that a Record out of a Court of Record, would have that Credit in another Court of Record, as to be read.

L. C. J. My Lord *Bridgwater* tells you, it was deliver'd to them by the Clerk of the Parliament.

Mr. At. Gen. Pray, my Lord, let the Clerk read what is at the end thereof.

Cl. of Cr. Reads. Hitherto examined the 3d of December, 1673. The Narrative and Examination of *Titus Oates* being first inserted, according to the Order of the House, of the 21st of November last, by us *Anglesy*, &c.

Mr. At. Gen. Pray read the Order of the 21st of November.

Cl. of Cr. Reads. Die *Jovis* 21st of November, 1678. Upon Report made by the Earl of *Bridgwater*, from the Lords Sub-Committees for the examining the Journal of this House, That upon Examination thereof, their Lordships find, that the Narrative made upon Oath by *Titus Oates*, at the Bar on the 31st of October last, of the horrid Design against his Majesty's Person and Government, is only mention'd in the Journal, but not enter'd at large in such manner as he then related it; and that therefore their Lordships desire the Direction of the House

House concerning this Matter: It is thereupon ordered, that the said Narrative made by *Titus Oates* on the said 31st of *October*, shall be enter'd at large, and inserted in the Journal, as Part of the Business of that Day.

L. C. J. Now you make it Evidence; for it appears that he was sworn, and gave his Narrative upon Oath.

Mr. At. Gen. Then now, my Lord, I hope we may read it.

L. C. J. Ay, read it.

Mr. At. Gen. Read the 54th Article.

Cl. of Cr. Reads. This is the Narrative of *Titus Oates*, the 54th Article. That one *Matthew Medborne*, a Player in the Duke's Theatre; one *Mr. Penny*, *Mr. Mannock*, *Mr. Sharpe*, and *Mr. Seddon*; and one *William Smith*, a School-Master at *Islington*; and one *Edward Everard*, and others, meet in a Club on *Thursday* Nights and *Sunday* Nights, with one *Jones* a Priest, and one *Keymasb* within-mention'd: And all these Persons are employ'd by the Jesuits, to vilify the House of Commons, and to go about the City to incense the People against them, and against the Bishops of the Nation; and they deliver this Treasonable Position, That the Commons assembled in Parliament are the Devil's Representatives, and not the Nations; which treasonable and detestable Words the Deponent did hear at the said Club, which is kept at *Fuller's-Rents*, near *Gray's-Inn*. And in the Month of *August* the Deponent was order'd by the Jesuits in *London*, to give the said Persons great Respects; and in their Names to thank the Club for their Faithfulness to them in that Particular.

Mr. At. Gen. Thus you see what he had sworn against him; now we shall shew how he dealt with him. Is that *Mr. Oates's* Hand?

Witness. It is; yes, I believe it is.

Mr. At. Gen. I believe he will hardly deny it himself.

Oates. Let me see it, I pray you, *Mr. Attorney*.

Mr. At. Gen. Shew it him. [*Which was done.*] Is that your Hand?

Oates. I cannot say it is my Hand, nor do I believe it to be so.

L. C. J. He does not own it to be his Hand.

Oates. I do not say it is not my Hand; but I do not remember any thing of it.

Mr. At. Gen. Read it, Sir, pray you.

L. C. J. What is it you would read?

Mr. At. Gen. A Certificate under *Oates's* Hand of *Mr. Smith's* Honesty, not three Days before the Trial of the five Jesuits.

L. C. J. Read it, let us hear what it is.

These are to certify that William Smith is no Papist; and that he is upon good Service at this time for his King and Country; of which, I hope, those that are Inquirers after Recusants, will take notice.

Witness my Hand this 3d Day of June 1679.

Titus Oates.

L. C. J. What harm is there in all this? I must needs say, I cannot comprehend what you would make of it.

Mr. At. Gen. This Protection was given *Mr. Smith* by *Mr. Oates*, three Days before the Trial; but after he had sworn him into the Plot in his Narrative.

L. C. J. I see not any Plot, for my part, that he swore him into, unless you mean Treason against

the House of Commons: For that is the Accusation he made, that he spoke such Words of the House of Commons. Pray read it again. [*Which was done.*]

L. C. J. Well, and what is all this?

Mr. At. Gen. Is not this a swearing him into the Plot?

L. C. J. No, not that I see; it only gives an ill Character of him.

Mr. At. Gen. But he is accused as a Confederate with the Priests and Jesuits.

Oates. Did I charge him, *Mr. Attorney*, with having any hand in the Plot against the King's Life?

Mr. At. Gen. I only offer this as an Evidence that there was tampering.

L. C. J. You call it a being in the Plot; I see no such thing.

Mr. At. Gen. And then he comes and gives him an Acquittal under his hand, and then produces him as a Witness.

L. C. J. There can be no great matter in this, *Mr. Attorney*.

Mr. At. Gen. Then, my Lord, we'll call *Mr. Smith himself*, and he will tell you how *Oates* drew him in: Swear *Mr. Smith*. [*Which was done.*] Pray acquaint my Lord and the Jury, how you came to swear at the former Trial, by whom you were persuaded, and how you varied from the Truth.

L. C. J. That is very nauseous and fulsome, *Mr. Attorney*, methinks, in a Court of Justice.

Mr. At. Gen. What did you swear at the former Trial? and was that true you did swear then?

L. C. J. I tell you truly, *Mr. Attorney*, it looks rank and fulsome; if he did forswear himself, why should he ever be a Witness again?

Mr. At. Gen. 'Tis not the first time by twenty that such Evidences have been given.

L. C. J. I hate such Precedents in all times; let it be done never so often. Shall I believe a Villain one Word he says, when he owns that he forswore himself?

Mr. At. Gen. Pray, my Lord, give me leave; I must pursue my Master's Interest.

Mr. Sol. Gen. My Lord, it was ever Testimony allow'd to be given, to detect a Subornation.

L. C. J. I am sure 'tis not fit to be allow'd at any time: If he did forswear himself in a Court of Record, in my Opinion he is not to be receiv'd as a Witness any more.

Mr. Sol. Gen. We do only make this use of him, to prove that *Oates* did suborn him.

L. C. J. Pray call some other Witnesses, if you have them, to contradict him; but do not offer to bring a Man to swear, that he did forswear himself before.

Mr. Sol. Gen. My Lord, we give Evidence here of a Man's being produced by *Oates*, to swear he was here in *May* 78, and he did make such an Oath: Now I hope, with Submission, my Lord, it is Evidence to contradict that Oath, if we can prove that he has confess'd he was forsworn, and mistaken in his Oath; such Evidence perhaps will be of little value, yet Evidence it is.

L. C. J. Make it what you will, *Mr. Solicitor*; I think it is of no value at all, nor to be admitted, for the Man to come and swear it himself: Prove what you can by others.

Mr. Sol. Gen. Surely, my Lord, this Confession of his to others, is of less value than when we bring the Man himself to confess his Fault; that Man himself coming and owning the thing, that he was mistaken, with great Sorrow for it, sure is a good Evidence.

L. C. J.