

Mr. *Thwait*.—"There is a circumstance, my Lord, which my Counsel have informed me would entirely quash this indictment as far as regards me, if I were inclined to take advantage of it. My description is not right: I am described as an inhabitant of *Westminster*, whereas I reside in the *Liberties* of the *Dutchy* of *Lancaster*. Anxious as I am to have my conduct examined into by my country, I despise the idea of availing myself of any paltry subterfuge. I feel perfectly convinced, that when the long expected day shall come, no *honest* Jury can say otherwise than I do now,—*Not guilty*."

Mr. *Bonney* then said, "I beg that your Lordships will allow me a few words before we quit the bar. I assure you, if I had been arraigned for any known and certain treason, for murder, or for felony, I would ask no favour of your Lordships; but when I stand before you upon a case, in which (and I believe I have your Lordships' opinion in my favour on the subject) if the facts charged against us should be proved, there would still be very great doubt upon the law, I trust I do not make an improper request when I solicit your Lordships, that we may be allowed as many of the little comforts and conveniences of life (to which we have been accustomed) as may be consistent with the security of our persons. Your Lordships, I am sure, will agree with me, that a situation in which a man can neither sleep by night, nor cast his eye on a ray of comfort by day, is not much adapted to prepare his mind for so important a trial as mine—and yet, my Lords, such is my situation.

"I beg to be understood not to intend the smallest insinuation against the Sheriffs; their language and their countenances, when they visited me yesterday in my cell, sufficiently convinced me of the concern they felt at not being able to afford me better accommodation. My request, therefore, to your Lordships is, that we may be remanded to the custody of the Governor of the Tower, where we have been treated, for two and twenty weeks, with the greatest humanity and attention."

Mr. *Richter* and Mr. *Baxter* also complained of the want of accommodation in the places where they were confined.

The *Lord President*.—"I must repeat, that the Court can only refer you to the discretion and humanity of the Sheriffs, who have already undertaken to pay attention to your complaints."

Mr. *Attorney General*.—"My Lord, as the Prisoners have signified their desire to be tried separately, I move that Mr. Hardy be tried first; and that the warrants, made necessary by a late Act of Parliament, for constituting the commission, be recorded."

Mr. *Erskine*, who, together with Mr. Gibbs and Mr. Vaughan, Counsel for the Prisoners, had come into Court during the reading of the Indictment by the Clerk of the Crown, apologized

apologized to the Court for their momentary absence, as not expecting the business of the Court to begin so early. He understood that Mr. *Horne Tooke* had stated, and truly, to the Court, the total want of communication between him and his Counsel, owing to his unexpected removal. He therefore confided in the discretion and humanity of the Court, that they would, in some degree, remedy this evil, by not proceeding to trial till Tuesday next at the soonest, in order to afford an interval for such communication between the Prisoners and Counsel as was necessary for their safety.

The *Attorney General* said, the Prisoners were duly apprized of their being to be arraigned as on this day. Their removal from the Tower to Newgate was arranged to take place as late as possible, in order to prevent their being embarrassed by interruption in their communication with their Friends and Counsel. Of the present objection he had heard nothing till the present moment, which he was convinced was unpremeditated, else he was satisfied that the Counsel would not have concealed it from him. As the great object, however, he had in view was, that a Jury of the Country should ultimately decide whether or not those charges were well or ill founded, which a Grand Jury had already declared were not totally destitute of foundation, he was ready to assent to the delay proposed, and therefore had no objection, if the Court so willed it, that the trial of Mr. Hardy should stand over till Tuesday.

The Court accordingly decided to postpone the commencement of the trials till Tuesday next. The *Attorney General* suggested to the Court, either that they must meet on Monday next, for which day the Petit Jury were summoned, or else they must be summoned afresh for Tuesday.

The Court directed that the Sheriff should give notice to the Gentlemen of the Jury, that their presence would not be necessary till Tuesday; and that the Court would meet on Monday morning *pro forma*, and so adjourn over to the following day, then to proceed to business.

The Court was then adjourned till Monday next at eight o'clock in the morning.

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MONDAY, OCTOBER 27.

The Court met at seven o'clock in the morning, *pro forma*, and adjourned till seven o'clock in the morning of the next day.

# THE TRIAL OF THOMAS HARDY.

SESSIONS-HOUSE, OLD-BAILEY.

TUESDAY, OCTOBER 27, 1794.

THE Court met precisely at eight o'clock, when the Prisoner, Mr. Thomas Hardy, was put to the Bar, and the names of the Jury being called over, and 134 being present, the Lord President ordered them to form the Pannel.

The *Clerk* of the Court then addressed the Prisoner:

Prisoner at the Bar, these good men you shall hear called, are those that are to appear between our Sovereign Lord the King and you, on the trial of your life or death; if, therefore, you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, and before they are sworn, and you shall be heard.—The Clerk then proceeded to call

Major Rhode, of Lemon-street, Goodman's-fields, Esq. and sugar-baker.

Mr. *Erskine*. I challenge him.

Charles Digby, Mare-street, Hackney, Esq.

Mr. *Erskine*. I challenge him.

Mr. *Attorney General*. Let the challenges be made public, that we may know who is challenged.

Mr. *Erskine*. I have no objection; but the Court being so full, I was not willing to give the gentleman the trouble of getting into the boxes.

Mr. *Attorney General*. I desire not that the gentleman should come out of his place; but I desire that the challenges may be publicly made.

Thomas Martin, oilman, King Edward-stairs, Wapping.—  
Sworn.

George Jefferys, of the Strand, jeweller and silversmith.—  
Sworn.

Hugh French, of Rathbone-place, Esq. and apothecary.

Mr. *Erskine*. I challenge him.

Robert Mellish, of Limehouse, ship-builder.

Mr. *Erskine*. I challenge this Juror.

William Harwood, of Hanwell, Esq.

Mr. *Attorney General*. I challenge him.

James Hagarth, of Southampton-place, New-road, Esq. and bui'der.

Mr. *Attorney General*. I challenge him.

Mr. *Erskine*. I challenge him.

Robert

Robert Lewis, of North-end, Fulham, Esq.—Having the gout on me, I would beg leave to be excused.

John Walker, of Kensington-square, Esq.

George Wade, of Southampton-row, Bloomsbury, stock-broker.

Mr. *Attorney General*. I challenge him.

Thomas Buck, of Acton, Esq.—Sworn.

Thomas Ayliffe, of Kensington-square, Esq;

Mr. *Erskine*. I challenge him.

Thomas Wood, of Hanging-hill, Ealing, Esq. and coal merchant.—Sworn.

Mark Hudson, of Bow, Esq. and brewer.

Mr. *Erskine*. I challenge him.

John Mandell, of Southampton-place, gent.

Mr. *Erskine*. I challenge him.

Henry Bullock, this side of Colnbrook.

Mr. *Attorney General*. I challenge him.

John Powsey, of Poplar, carpenter and surveyor.

Mr. *Erskine*. I challenge him.

Thomas Rhodes, of Hampstead Road, cow-keeper.

Mr. *Erskine*. I challenge him.

Edward Helme, of Parsons-yard, Esq. Kensington.—I am not a freeholder of the county of Middlesex.

Messrs. *Martin*, *Jefferys*, and *Walker*, who before had been sworn, then observed, that they were not freeholders of the county of Middlesex, and that they would have mentioned it before, but they did not know it would excuse them.

*Court*. Then you may withdraw.

Mr. *Erskine*. I do not make the objection.

*Court*. Such of the gentlemen that are not freeholders of the county of Middlesex, must withdraw.

Thomas Martin.

Q. Are you a freeholder of this county?

Mr. *Martin*. My freehold is in the city of London, in Cow-lane, West-Smithfield.

*Court*. You may withdraw.

Mr. *Attorney General*. Have you any copyhold estate in the county of Middlesex?

Mr. *Martin*. No, none.

George Jefferys of the Strand.—I am not a freeholder of the county of Middlesex.

*Court*. Then that gentleman may withdraw.

John Walker, of Kensington-square, Esq.

Q. Are you a freeholder of the county of Middlesex?

Mr. *Walker*. I am not.

Thomas

Thomas Buck.

Q. Are you a freeholder?

Mr. *Buck*. I am not.

Thomas Wood.

Q. Are you a freeholder?

Mr. *Wood*. Yes.—Sworn.

Jeffery Holmes, of Young-street, Esq.

Mr. *Attorney General*. I challenge him.

William Frazer, of Queen Square, Bloomsbury, Esq.

Q. Are you a freeholder?

Mr. *Frazer*. I am.—Sworn.

Apsley Pellatt, of St. John's-street, Clerkenwell, ironmonger.

Q. Are you a freeholder?

Hugh Ronalds; of Brentford, Esq. nurseryman.

Q. Are you a freeholder of this county?

A. I am.

Mr. *Erskine*. I challenge him.

Thomas Harrison, of Gray's Inn-lane, cow-keeper.

Q. Are you a freeholder of this county?

A. I am.

Mr. *Erskine*. I challenge him.

Daniel Goulet, of Edmonton, Esq. and broker.

Q. Are you a freeholder of this county?

A. I am not.

Richard Meux, of Ealing, Esq. and brewer.

Q. Are you a freeholder of this county?

A. I am not.

Dicker Saunders, of Sunbury.—I am not a freeholder. I am one of the people called Quakers.

Calvert Clapham, of Duke-street, Westminster, gent.

Q. Are you a freeholder of this county?

A. I am not.

John Leader, of Tottenham-street, gent.

Q. Are you a freeholder of the county of Middlesex?

A. Yes.

Mr. *Erskine*. Are you a freeholder and copyholder of the value of 10l. per year?

A. Yes. I am a freeholder of 10l. a year.

Mr. *Erskine*. I challenge him.

John Guest, of Clerkenwell, Esq. and potter.—I must beg leave to inform your lordships, that some time back, I had a dreadful fall, which hath hurted me so, that it is impossible for me to sit two hours in one posture.—Excused.

Charles Fourdrinier, of Charing-cross, stationer.

Q. Are you a freeholder of the county of Middlesex?

A. I am not.

Adam Steinmetz, of Limehouse, buiscuit-baker.

Q. Are you a freeholder of the county of Middlesex?

A. Yes.

Have you a freehold and copyhold of the value of 10*l.* a year?

A. Yes.

Mr. *Attorney General*. Are you a natural born subject?

A. Yes, Sir.—Sworn.

Alexander Baxter, of Kensington, Esq.

Q. Are you a freeholder of this county?

A. No, I am not.

Richard Child, of Old-street, distiller.

Q. Are you a freeholder of the county of Middlesex?

A. No, I am not.

Jeremiah Blakeman, of Limehouse, timber-merchant.

Q. Are you a freeholder of the county of Middlesex?

A. Yes.

Q. Are you a freeholder and copyholder to the amount of 10*l.* a year?

A. Yes.

Mr. *Erskine*. I challenge him.

Robert Kilby Cox, of Great Queen-street, Esq. and brewer.

Q. Have you a freehold to the value of 10*l.* a year?

A. Yes.

Mr. *Erskine*. I challenge him.

Richard Hunt, of Windmill-lane, Esq.—I am not a freeholder.

James Payne, of Turnham-green, Esq.

Q. Are you a freeholder of the county of Middlesex?

A. Yes. I am a freeholder to the value of more than 10*l.* a year.

Mr. *Attorney General*. I challenge him.

Newell Connop, distiller.

Q. Are you a freeholder?

A. I am.

Q. To the value of 10*l.* a year?

A. Yes.—Sworn.

William Sandby, of Teddington, Esq. and banker.—A person spoke for him, and begged leave to address the Court in behalf of him, that he is 76 years of age.—Excused.

John Mercer, of Uxbridge, mealman.

Q. Are you a freeholder?

A. Yes.

Q. Are you a freeholder to the amount of 10*l.* a year?

A. Yes.—Sworn.

John Rickson, of Hermitage-street, Wapping, cooper.

Q. Are you a freeholder of the county of Middlesex?

A. I am.

Q. To the amount of 10*l.* a year?

A. Yes. My name is spelt wrong in the notice that I have there; I spell my name Rixon, and this is spelt Rickson.

Clerk. It is spelt right in the pannel.

Mr. *Attorney General*. I challenge him.

Thomas Sayer, of Bow, Esq. and distiller.

Q. Are you a freeholder?

A. Yes.

Q. Is your copyhold and freehold together to the amount of 10*l.* a year?

A. Yes.—Sworn.

Edward Hale, of Highgate, gent.

Q. Are you a freeholder?

A. Yes, to the amount of 10*l.* a year.

Mr. *Erskine*. I challenge him.

George Fillingham, of St. John's-street, Clerkenwell, Esq. and hop-factor.

Q. Are you a freeholder?

A. Yes.

Q. To the amount of 10*l.* a year?

A. Yes.

Mr. *Erskine*. I challenge him.

Samuel Rudge, of Elstree, Esq.—I am not a freeholder.

William Perry, of Hillington, Esq.

Q. Are you a freeholder?

A. I am.

Q. Are you a freeholder to the amount of 10*l.* a year?

A. I am.

Mr. *Erskine*. I challenge him.

Richard Gough, of Forty-hill, Enfield, Esq.

Q. Are you a freeholder of the county of Middlesex?

A. Yes.

Q. To the amount of 10*l.* a year?

A. Yes.

Mr. *Erskine*. I challenge him.

Joshua Brooks, of New Road, Tottenham-court Road, dealer in birds.

Q. Are you a freeholder of the county of Middlesex?

A. My freehold is in the city, in the parish of St. Dunstan's.

Thomas Lawrence, of Strand on the Green, Chiswick, Esq.

Q. Are you a freeholder of the county of Middlesex?

A. No.

Thomas Skip Dyott Bucknall, Esq. of Baker-street, Portman-square.

Q. Are you a freeholder?

A. I must just speak first. I have been long subject to a very nervous

nervous

nervous cough, and I am apprehensive that I cannot sit out a very long trial. I come to shew my respect to the court; I am a freeholder, but my name is, I believe, not entered on the freehold books.

*Lord President.* If you really think yourself not able to support the fatigue of a long trial from your state of health, I should, for myself, be inclined not to press you on this service.

*Mr. Bucknall.* I have not been in a play-house for seven years, merely from fear.

*Lord President.* You behave very honorably in paying a proper respect to the court, by appearing, instead of attempting to make an excuse by others. We leave it to yourself; if you desire to be excused on account of your ill health, you may.

*Mr. Bucknall.* As there are many exceptions, I will stand this time, only do not call on me any more.

*Lord President.* Then you will serve now?

*A.* I will serve now.

*Mr. Erskine.* I cannot think of pressing Mr. Bucknall. I challenge him.

John Blackburn, of Edmonton, Esq. and merchant.

*Q.* Have you a freehold?

*A.* Yes, of 10l. a year.

*Mr. Erskine.* I challenge him.

Samuel Mills, of Moorfields, weaver.—I am only the tenant in possession. I am not of age till I am thirty-five, by my father's will. My father left, in his will, all his estate to my brother and me, and appointed trustees; and we are not of age till we are thirty-five.

James Oliphant, of Cockspur-street, hatter.—I am upwards of seventy years of age.

Joseph Bird, of Cock-hill, Ratcliffe, Esq.—I am not a freeholder.

John Dorwill.—He is not here.

Thomas Powell, of Tottenham-high-Cross, Esq. and merchant.

*Q.* Are you a freeholder?

*A.* I am.

*Q.* To the amount of 10l. a year?

*A.* I am.

*Mr. Erskine.* I challenge him.

William Emerson, of Bush-hill, Enfield, Esq.

*Q.* Are you a freeholder of the county of Middlesex?

*A.* No.

Nathaniel Stonard, of Bromley, brewer.

*Q.* Are you a freeholder of the county of Middlesex?

*A.* I am.



Q. To the amount of 10l. a year?

A. I am.—Sworn.

Joseph Mawley, of Tottenham-street, gent.

Q. Are you a freeholder of the county of Middlesex?

A. I am not.

Thomas Alien, of Bur-street, East-smithfield, brewer.

Q. Are you a freeholder of the county of Middlesex?

A. Yes.

Q. To the amount of 10l. per year?

A. Yes.

Mr. *Erskine*. I challenge him.

John Baker, of Ealing, Esq.

Q. Are you a freeholder, Sir?

A. I am.

Q. To the amount of 10l. a year?

A. I am.

Mr. *Erskine*. I challenge him.

William Row, of Tottenham-high-Cross, Esq.

Q. Are you a freeholder of the county of Middlesex?

A. I am not.

James Smith, of Ealing, Esq.

Q. Are you a freeholder?

A. Yes.

Mr. *Erskine*. I challenge him.

Bryan Marshall, of Hammersmith, gent.

Q. Are you a freeholder?

A. Yes.

Q. To the amount of 10l. a year?

A. Yes.

Mr. *Erskine*. I challenge him.

Joseph Nicoll, Neasdown, Wilsden, gentleman farmer.

Q. Are you a freeholder?

A. Yes.

Q. To the amount of 10l. a year?

A. Yes, I am.—Sworn.

Thomas Bird, of Limehouse, distiller.—I am not a freeholder.

Robert Vincent, of Ealing, Esq.—I am not a freeholder.

David Roberts, of Ealing, Esq.

Q. Are you a freeholder?

A. I am.

Q. To the amount of 10l. a year?

A. Yes.

Mr. *Erskine*. I challenge him.

John Rudge, I am above 70 years of age.

George Brooks, Esq. and banker, Green-street, Grosvenor Square.

Q. Are

Q. Are you a freeholder?

A. I am not.

William Arnold, of Queen Square, Esq.

Q. Are you a freeholder?

A. I am not.

Thomas Nixon, of New Ormond Street, Esq. and merchant.

Q. Are you a freeholder of the county of Middlesex?

A. No.

Thomas Smith, of Upperfide, Ealing, Esq. and distiller.

Q. Are you a freeholder of the county of Middlesex?

A. I am.

Q. Of 10l. a year?

A. Yes.

Mr. *Erskine*. I challenge him.

John Charington, of Mile End, Esq. and brewer.

Q. Are you a freeholder of the county of Middlesex?

A. Yes, of 10l. a year.—Sworn.

George Rigby, of Stoke Newington, Esq. and Irish factor.—  
I am no freeholder.

Thomas Allen, Bur Street, East Smithfield.

Q. Are you a freeholder of the county of Middlesex?

A. Yes, of 10l. a year.

Mr. *Erskine*. I shall challenge this gentleman, I see he is in  
a convenient place.

Andrew Burt, of Charlotte Street, Wapping, Esq.

Q. Are you a freeholder?

A. Yes, of 10l. a year.

Mr. *Attorney General*. I challenge him.

Charles Smith, of Bromley, distiller.

Q. Are you a freeholder?

A. Yes.

Q. Are you a copyholder and freeholder together to the value  
of 10l. a year?

A. Yes.

Mr. *Erskine*. I challenge him.

Archibald Paxton, of Buckingham Street, wine merchant.

Q. Are you a freeholder of the county of Middlesex?

A. Yes.

Q. To the amount of 10l. a year?

A. Yes.

Mr. *Erskine*. And I challenge him too.

Ralph Keddey.—I am no freeholder.

John Horsley, of Bull's Cross, Enfield, Esq.—I am no  
freeholder.

William Nicholl, a farmer, Harlesdown-hill, near Harrow.

Q. Are

Q. Are you a freeholder ?

A. Yes.

Q. To the value of 1*l.* a year ?

A. Yes.

Mr. *Erskine*. I challenge him.

Edward Franklin, of Wilfden, farmer.

Q. Are you a freeholder ?

A. Yes.

Q. To the value of 1*l.* a year ?

A. Yes. I am upwards of 66 years of age, and I have got such a complaint in my bowels, that I do not know how to stand.

Michael Henley, of Wapping, coal-merchant.

Q. Are you a freeholder of the county of Middlesex ?

A. Yes.

Q. To the value of 1*l.* a year ?

A. Yes.

Mr. *Erskine*. I challenge him.

John Thompson, of Chiswick, brewer.

Q. Are you a freeholder of the county of Middlesex ?

A. Yes, 1*l.* a year.

Mr. *Erskine*. I challenge Mr. Thompson. Be so good as to ask Mr. Thompson whether his freehold is in Middlesex ?

A. It is.

Q. And not in London ?

A. No.

Mr. *Erskine*. I challenge him:

Joseph Ainsley, of Broad-street, St. George's in the East, coal-merchant.

Q. Are you a freeholder of the county of Middlesex ?

A. Yes.

Q. To the value of 1*l.* a year ?

A. Yes.—Sworn.

The twelve Jurymen sworn to the trying of the cause, were as follow :

Thomas Buck, Thomas Wood, William Frazer, Adam Steinmetz, Newell Connop, John Mercer, Thomas Sayer, Richard Carter, Nathaniel Stonard, Joseph Nicholl, John Charington, and Joseph Ainsley.

The Indictment was then read over to the Jury, and the Prisoner given them in charge, informing them that he had put himself on his trial, on God and his country, which country they were, and their charge was to inquire whether he is Guilty or not ; if they found him guilty, they were to inquire what goods, lands, and tenements, he had at the time he committed the treason ;

son; and if they found him not guilty, they were to inquire whether he fled for it, and if they found he fled, then they were to inquire what goods, lands, and tenements, he possessed at the time of such flight.

The Indictment was opened by Mr. Wood, as follows:

Gentlemen of the Jury, this is an indictment against the Prisoner, Thomas Hardy, at the Bar, who, together with John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, in the Indictment are charged that they traiterously conspired, compassed, imagined, and intended to stir up, move, and excite insurrection, rebellion, and war against our Lord the King, and to subvert and alter the legislative rule and government now duly and happily established in this kingdom of Great Britain, and to depose our said Lord the King from the Royal state, title, power, and government of this kingdom, and to put and bring our said King to death.

The first overt act charged on this indictment is, that they met, conspired, consulted, and agreed among themselves, and together with divers other false traitors, to cause and procure a Convention and Meeting of divers subjects of our said Lord the King, to be assembled and held within this kingdom, with intent and in order that the persons to be assembled at such Convention and Meeting, should and might, wickedly and traiterously, without, and in defiance of the authority, and against the will of the Parliament of this kingdom, subvert, act, alter, and cause to be subverted and altered the legislative rule and government now duly and happily established in this kingdom, and depose and cause to be deposed our said Lord the King from the Royal state, title, power, and government thereof.

The second overt act charged is, that they did compose and write, and did then and there maliciously and traiterously cause to be composed and written, divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addressees, and writings, and did then and there maliciously and traiterously publish, and did then and there maliciously and traiterously cause to be published divers other books, pamphlets, letters, instructions, resolutions, orders, declarations, addressees and writings, so respectively composed, written, and published, and caused to be composed, written, and published, purporting and containing therein, among other things, incitements, encouragements, and exhortations to move, induce, and persuade the subjects of our said Lord the King to choose, depute, and send, and cause to be chosen, deputed, and sent, persons as delegates, to compose and constitute  
such

such Convention and Meeting as aforesaid, to be so holden as aforesaid, for the traitorous purposes aforesaid.

The third overt act is, that they traiterously did consult and deliberate among themselves, and together with divers other false traitors, of and concerning the calling and assembling such Convention and Meeting as aforesaid, for the traitorous purposes aforesaid, and how and when such Convention and Meeting should be assembled and held, and by what means the subjects of our said Lord the King should and might be induced and moved to send persons as delegates to compose and constitute the same.

The fourth overt act is, that they traiterously did consent and agree among themselves, and with other false traitors, that Jeremiah Joyce, John Augustus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, one John Lovatt, one William Sharp, and one John Pearson, should meet, confer, and co-operate among themselves, and together with divers other false traitors, whose names are to the said Jurors unknown, for and towards the calling and assembling such Convention and Meeting as aforesaid, for the traitorous purposes aforesaid.

The fifth overt act is, that they traiterously did cause and procure to be made and provided, and did then and there maliciously and traiterously consent and agree to the making and providing of divers arms and offensive weapons, to wit, guns, musquets, pikes, and axes, for the purpose of arming divers subjects of our said Lord the King, in order and to the intent that the same subjects should and might unlawfully, forcibly, and traiterously oppose and withstand our said Lord the King in the due and lawful exercise of his royal power and authority in the execution of the laws and statutes of this realm, and should and might unlawfully, forcibly, and traiterously subvert and alter, and aid and assist in subverting and altering without and in defiance of the authority and against the will of the Parliament of this kingdom, the legislature, rule, and government now duly and happily established in this kingdom, and depose, aid and assist in deposing our said Lord the King.

The sixth overt act is, that they did conspire, consult, and agree among themselves, and with divers other false traitors, to raise, levy, and make insurrection, rebellion, and war within this kingdom of Great Britain, against our said Lord the King.

The seventh overt act is, that they traiterously did conspire, consult, and agree among themselves, and together with divers other false traitors, to subvert and alter, and cause to be subverted and altered, the legislature, rule, and government now duly and happily established in this kingdom, and to depose and cause to be deposed our said Lord the King from the Royal state, title, power, and government of this kingdom.

The eighth overt act is, that they did traiterously cause and procure to be prepared and composed, divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addressees, and writings, and did then and there maliciously and traiterously cause and procure to be published and dispersed, divers other books, pamphlets, letters, declarations, instructions, resolutions, orders, addressees, and writings, the said several books, pamphlets, letters, declarations, instructions, resolutions, orders, addressees, and writings, so respectively prepared, composed, published, dispersed, and caused to be prepared, composed, published, and dispersed as last aforesaid, purporting and containing therein (amongst other things) incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of our said Lord the King to aid and assist in carrying into effect such traiterous subversion, alteration, and deposition as last aforesaid, and also containing therein, among other things, information, instructions, and directions to the subjects of our said Lord the King, how, when, and upon what occasions the traiterous purposes last aforesaid should and might be carried into effect.

The ninth and last overt act is, that they did procure and provide, and did then and there traiterously cause and procure to be provided, and did then and there maliciously and traiterously consent and agree to the procuring and providing arms, and offensive weapons, to wit, guns, musquets, pikes, and axes, therewith to levy and wage war, insurrection, and rebellion against our said Lord the King, within this kingdom, against the duty of their allegiance, and against the peace of our said Lord the now King, his crown and dignity, and against the form of the statute in that case made and provided. To this Indictment the Prisoner has pleaded Not Guilty, whereupon the issue is joined.

The Case was then opened in the following

### SPEECH OF THE ATTORNEY GENERAL.

Please your Lordship and Gentlemen of the Jury, in the course of stating what I have to offer to your most serious attention in this great and weighty business before you, affecting, as it certainly does, the dearest interests of community, and affecting, as you will remember throughout this business, every interest which can be valuable to the prisoner at the bar, I shall have frequent occasion to call that anxious attention to the different parts of the indictment which has just been opened to you. Why I forbear to do so at this moment is, because I think that attention will be more use-  
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fully given and acquired, both with respect to the public and to the prisoner, in another part of what I am now going to state.

Gentlemen, the prisoner who is before you stands charged, to state the indictment generally, with the offence of compassing his Majesty's death. He was committed on that charge by his Majesty's Privy Council. I will explain to you why I state these and the following facts. In consequence of the apprehension of this prisoner, and of several others charged by this indictment, and of others whose names do not occur in this indictment, proceedings of some notoriety were had in parliament, and an act passed, empowering his Majesty to detain such persons as he suspected were conspiring against his government: that act asserted, that a traitorous and detestable conspiracy had been formed for subverting the existing laws of this country, and for introducing that system of anarchy and confusion, which hath so fatally prevailed in France. The act, on the spur of emergency, was to contribute to authorise his Majesty's Privy Council in the detention, without mainprize or discharge, the prisoners then in prison for high-treason or treasonable practices, or who should afterward be apprehended under such circumstances, till the first of February, 1795.

Gentlemen, this measure, which did not suspend the operation of the Habeas Corpus act, that grand palladium of English liberty, but with reference to particular persons, under particular commitments, for particular offences, is a measure never admitted in this country by Parliament, but in cases in which, after giving all possible attention to the security of the rights of the subject from being broke in upon, it is found to be the last possible necessity, and which hath been repeatedly put in force in the best of times, in several cases where the wisdom of Parliament apprehended it was consistent with the measure of their duty, that the nation should part with it's liberty for a while, that it might not lose it for ever.

Gentlemen, appearing before you this day in the discharge of that duty which I have given me to execute, in the execution of which, it appears to me to be absolutely necessary, as you will collect from the fact, that I do appear here this day, I have to observe to you, that according to the true constitutional meaning of such an Act of Parliament, it is not that the trial of such persons should be delayed during the particular days of the suspension of the Act, but that the Act should, with reference to the time of trial, be allowed in the right execution of it; and it's operation only should be of that extent, which a due consideration of the public safety, tempered with a due attention to the liberty of the subject, calls for.

Gentlemen,

Gentlemen, the proceedings of the Legislature having been such as I have stated to you, his Majesty, in the exercise of his duty, as the grand conservator of the public peace, directed a commission to issue, to enquire whether any such treasons had been committed by any persons, and by whom. In the execution of the duties of that commission, a Grand Jury of this country hath declared, on their oath, that there is ground of charge against the person at the bar, and against others, sufficient to call on them, on a trial to be had before you, their country, to answer to an accusation for High Treason, in compassing his Majesty's death.

I have stated these circumstances to you in as strong terms as I can, expressive of this observation, that no proceedings of parliament ought to have, and I am persuaded, that no deliberation which they gave to the subject, had any influence on the judicial mind of a Grand Inquest; neither ought these proceedings to affect your enquiry, or induce you, in the determination which you are to make, on the issue you are now sworn to decide upon.

Gentlemen, there is not one circumstance of any proceedings before parliament, with reference to which you ought to suffer your minds to be influenced in the trial or decision of the case before you.

Gentlemen, it is obvious, that such proceedings as were had in parliament, providing for great emergencies, may be required and authorised by the genuine spirit of the Legislature, even in cases in which the Grand Jury would not be justified in finding a bill of indictment. It is much more obvious, that in a proceeding before you, the wisdom and the propriety of the legislature is not at all involved. You, therefore, gentlemen of the Jury, will consider the prisoner, as standing before you, in the full possession of an absolute right to the presumption of innocence, notwithstanding his charge in this indictment; except so far as that presumption is made by the simple fact that he hath been accused of by a Grand Jury of his country: and, before I conclude these observations, you will permit me to say, that, if there has been any thing that has fallen under your consideration by acts, or publications, that may have turned, or made any attempt to influence your minds, or any thing that may this day fall from any of those employed to try this grand cause, you will not suffer it to work any prejudice on your minds, either against the prisoner, or on the prisoner's behalf: on the other hand, I am perfectly sure, that your integrity will be a security to the public. You will not let any attempt of that kind make any impression on your breasts; and, on the other hand, I need not ask an English Jury to let them have any such attempt to influ-



ence them against the prisoner at the bar, nor an ill executed attempt to influence them in his favour.

Gentlemen, in order to understand the law of treason, as laid in the indictment, I shall take the liberty first to state to you the character, which, I apprehend, is necessary for the protection of those, whose person and government the statute avers it is.

Gentlemen, the power of the state, by which I mean the power of making laws, and enforcing the execution of them when made, is vested in the King; enacting laws in one capacity, that is, in his legislative character, by and with the advice and consent of the Lords spiritual and temporal, and Commons in Parliament, assembled in parliament, according to the law and constitutional custom of England; and in the other capacity, by executing the law when made, and himself subservient to the law when made, and acting with the advice thereof, when it hath been so made.

Gentlemen, the King's authority under the check, the constitutional and legal provisions and limitations, convenes and regulates the duration and existence of parliament; convenes those, which, according to the law and custom of the country, he is bound to call to attend the King in the parliament, sitting in his royal political capacity, and the Lords and Commons assembly, form the body political of this kingdom, by which is exercised sovereign authority and legislation. While the present law, the present constitution, and present government of Great Britain exists, no law can be made, but by that authority, no legislative power or authority can be created against the will, or in defiance, of that authority, whether in any, or any where constituted. An attempt to create such a power is treason, by the statute of the 25th of Edward the Third, for as in the King the power of legislation is vested, so also is the executive power of government to be exercised with the advice of parliament, and to be exercised according to those laws which are the birth-right and inheritance of the subject. Having on him the care and protection of the community, to him, in return, also the allegiance of every individual, according to the law of England, is due; that allegiance, by which the subject is bound, in the language of the statutes of this country, to defend him against all traiterous conspiracies and attempts whatever, whether made against his person, crown, or his dignity; it ascertains to whom this care and protection is committed; it ascertains to whom this allegiance is due, the breach of which, according to the opinion of the venerable Lord Hale, constituting High Treason is necessary to the peace of the community; it ascertains and defines accurately, what constitutes a breach of that allegiance, so essentially and absolutely necessary to the security of all that your ancestors have claimed, demanded,

demand, and insisted upon, as the antient undoubted rights, and liberties, of your country. The former of these objects is secured by the law and constitutional custom of England, that law which secures to you every right you have, whether of person or property: It hath made the crown which his Majesty wears hereditary, subject to limitations by parliament; and I beg your attention to that. The latter subject hath been most anxiously secured by the statute referred to in the charge, which brings forward the indictment which you are now to try. The King having this hereditary crown, the law and the constitution has also defined his duties, these duties which it is incumbent on him to execute for the benefit of his subjects, in the execution of which duty, they have aided him with money, and, in consideration of such service, they have clothed him with dignity.

Gentlemen, with respect to the duties of the King, they attach on him the instant he becomes such; so also, the moment his title accrues, the same instant the duty of allegiance from the subject, the breach of which is High Treason, attaches to him; he recognizes his duty in that oath which he is bound to take on him at his coronation, to promise, and swear to govern the people of this country, according to the laws and statutes in parliament agreed upon; mark the words, gentlemen, and the laws and customs of the same, that, to his power, he will cause law and justice, in mercy, to be executed; that he will maintain the laws of God, and the true profession of religion established by law. This oath, as stated by that great, venerable Judge, Justice Foster, is a public recognition, not only of the duties of the King, but the fundamental rights of the people, thereby being impressed on him; and throughout this case, it cannot be too strongly recollected that it imposes on him the most sacred obligation, to govern according to the laws and statutes in parliament assembled, and according to the laws and customs of the same, and no other. Addressing this Court, which is a Court of Law, in which you, the Jury, are sworn to make a true deliverance, according to the laws of England; can I impress it too strongly, and it cannot be supposed by possibility, that the King can, consistently with this oath, and with the antecedent duty, recognize any implicit engagement, and which the terms of it might engage him, either to act, or can he permit himself to act, according to the rules of government, by any bodies advice, assuming any character, functions, or situations; these rules of government being to operate as laws; the statutes agreed upon in parliament, and the laws and customs of the same, only excepted; this seems to be a necessary conclusion of reasoning, to be addressed to a court of law, that those that conspire, not to remove him out of the government altogether, if they conspire

to remove him from that government, against that statute, if they conspire to remove him from the title, power, and government; which the indictment, you will find, presently mentions, it is to subvert and alter the rule and government now established in this kingdom; he ought not to so govern, he cannot so govern, he is bound to resist such an attempt at the hazard of all it's consequences. Resistance necessarily produces deposition, or it endangers his life.

To the king, on whom these duties are incumbent, the law and constitution, for the better execution of them, has assigned various councils, and responsible advice; it hath clothed him under various constitutional checks and provisions, with various attributes and prerogatives, as necessary for the maintenance of the civil liberty of the people; it ascribes to him sovereignty, imperial dignity, and perfection; and, because the rule of government, in this kingdom, cannot exist, for a moment, without a person filling that office, it ascribes to him also, that he never ceases to exist. In foreign affairs, he makes war and peace; in domestic concerns, he is a constituted part of parliament, he has power to raise armies, and is the great conservator of the public peace, bound to maintain and vindicate the greatest trust that ever was reposed in man; the fountain of honour, office, and power; the great arbiter of public causes, and the head of the national charge. I hope it will not be thought amiss my stating this much, because it appears, that such are the duties and prerogatives, that the sovereign has, in this country, all existing for the protection and security of the people, in an established form of government. This accounts for the anxiety with which the law watches over his person; this accounts for the effect of ever compassing of his death or deposition; as it seems to co-exist with an intention to subvert and alter the constitution, it appears to be a design to depose him, under which the constitution is, and by which the exercise of those constitutional powers, appears to be created.

Gentlemen, consonant with this, the tenor and language in the charge of every indictment, is most clearly expressed. Lord Hale says, that a more high offence cannot be, than that committed more immediately against the person and government of the King; I cannot state it more strongly to you, or from an authority whose authenticity will be less questioned by you, when I state to you the opinion of one of the counsel for my Lord George Gordon; indeed, it is no more than what follows the exposition of the law of England, as delivered by all it's great lawyers, when it states it's principle thus, to compass or imagine the death of a king; such intention or purpose, visible only to the great author of our being, must be manifested by some  
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overt act; this is the definition obviously directed, not only to a security of his natural person, but to the stability of his government; the life of a prince being so interwoven in the constitution, that an attempt to destroy the one, is a rebellious conspiracy against the other.

Gentlemen, it will be my duty to state to you presently what is the law of an attempt against the life of the King.

Gentlemen, it seems, therefore, that before the ancient laws of England were changed, which even in the case of a subject, held the intent to kill, homicide, as well as in any case of a king, the intent to kill or depose him, without the proof, the fact, where the measures were taken to effect the attempt, was treason; with a difference, however, as to the nature of the acts.

That is stated again in the words of the great and venerable authority; I mean, Mr. Justice Foster, who says, that it was with great propriety that the statutes of treason obtained the rigour of the law in it's full extent in the case of the King; in the case of him, says he, whose life must not be in danger, because it cannot be taken away by treasonable practices, without involving the nation in blood and confusion; levelled at him, the stroke is levelled at the public tranquillity. That I may be fully understood what it is that I have to contend for in the course of this trial, is to put you in mind again of that which I have before stated, that it is absolutely and not less necessary to the security of individuals, than it is for the security of the nation at large, that the person and government of the King should be secured; on the other hand, the crime of high treason should not be undetermined, it should not be left either undefined in the law itself, or in the construction of that law; this is not to be collected merely in this country from reasonings at this time, obvious enough to be so collected, for the experience of your ancestors has informed you; and I beg to impress it on your minds, in what is to be found in their annals, in which no man knew how he ought to speak or to say without suspicion of high treason, in the anxiety which the preamble to the statute of Edward III. expresses, and the expressive language which your ancestors used, proves when the provision of that statute was first instituted, in the code of laws under which we all live.

Gentlemen, I admit too that it may ultimately save your time, that I treat the subject thus on the outset of it; that before this statute was made, on which the indictment now before you proceeds, this necessity for the security of the subject was not sufficiently provided for; and I say yet, with that statute in our code, with those who say it is not sufficiently provided for, if any construction is given to that statute which the legislation did not intend it to receive; it is necessary on these heads to trouble you  
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with some, though few observations. That the law of treason should be determined and certain, is not more necessary for the security of the public, than that there should be a law of treason, and that it should be faithfully, fully, and firmly executed. Every statute must have some form or regimen of government; it must be determined by whom, and under what mode the sovereign power is to be, and exist in the country, under which all are to be subject. No government can exist, except this power is placed somewhere; and an attempt to subvert that power is an attempt on the established law. It is also necessary, that an attempt of that sort should be guarded against being too severely handled. The offence against particular laws does not involve the destruction of the state, the destruction of all laws, but which leave laws for the sufficient protection and security of liberty and happiness.

This is also the reasoning of that great Judge Hale, who says, that the greatness of the offence, and the severity of the punishment on high treason, is, because the safety, peace, and tranquillity of the kingdom is highly concerned, and the safety and preservation of the person, dignity, and government of the King; and therefore the laws of the kingdom have given all possible security to the King's person and government, and punishes any attempt against it with the severest penalty.

To describe this great offence is what the legislature in King Edward the Third's time, proposed to perform, when they enacted the venerable and reverend statute on which this indictment is founded, made for the more precise definition of this crime, as was stated again by the authority of council; it was defining that which by the common law had not been sufficiently extended in the plain unextended letter of it. You will mark the words, they are these; It was made because the common law was not found to be a sufficient protection to the person and honour of the sovereign; but not only to the person and honour of the sovereign, but also an adequate security for the laws committed to his execution.

In addressing a Jury in a Court of Law, sworn to make deliverance according to that law which constitutes the seat in which they sit, there are two propositions which appear to be clear in this; the first is, that I ought not, that I cannot dare to call you to think, that I cannot dare to think of it myself, to say that there has been committed, under this statute, any offence, if the facts of the case to be laid before you, by the plain manifest authorized interpretation of the statute, does not constitute an offence under it; if the statute should seem to any man, or to you, not to be a sufficient and adequate security to the personal honour of the sovereign, in the due execution of the laws, he has, nevertheless, all the security which the law hath authorized  
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you to give him, and God forbid that you should think of giving him any more ; on the other hand you are bound by your oaths, if this law has been violated, and if the fact of violation is proved by evidence, convincing in its nature, and such in its form that the law requires, for the law in this case requires not only convincing but formal inquiry ; and if the evidence be such as the law requires, in evidence and form, you are bound to give to the prisoner that verdict which the statute violated would give, and which the statute intended should be given.

Men of honour and conscience acting under the sanction of a law, though of different opinions, it must take them to the same conclusion whilst judging of the same facts by the same law, whatever the principles of government may be, however they may differ in the effect of the facts laid down. In the trial of a person whose name I shall have abundant reason to mention to you in the course of these proceedings, The author of the Rights of Man ; it was judiciously, truly, justly, and strongly admitted in fact, that if the Jury had been composed of, that is, if there were twelve such men of this country, republicans, wishing to act from conscience, and from the nature of their oath, which is to give a verdict according to the law, if they were convinced that the crime had been committed, no man would have the audacity to say, that they could be capable, for a moment of not coming to the conclusion, which the facts call for, on the law that they are sworn upon.

The preamble to the statute on which this indictment proceeds, is to the following effect ; it states, and it states most truly, that divers opinions had been had before this time, that is, the time of the 25th of Edward III. in what cases treason should be said, and what not ; the King at the request of the Lords and Commons, has made a declaration, that it shall be treason to compass or imagine the death of our Lord the King. Or if any man do levy war against our Lord the King ; or if any man be adherent to the King's enemies in his realm, giving them aid and comfort in the realm or elsewhere, and thereof upon sufficient proof be attainted ; by which words is understood to be attainted by evidence ; be attainted of open deed by men of his own condition. And then, gentlemen, there is this, to which you are bound to give your attention for the sake of the prisoner, as well as for the sake of the public, the interests of both are blended in this : the act further says, because many other like cases of treason may happen in time to come, which cannot be thought of nor declared at present, it is accorded, that if any other case supposed to be treason, which is not above specified, doth happen before any Judge, the Judge shall tarry without going to judgment for the treason, till the cause be shewed and declared  
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before the King and his Parliament, whether it ought to be judged treason or other felony.

I desire to point out here, in the most marked way in which I can state, the anxiety with which the parliament wished to reserve to itself the judgment of treason, not being treasons specified in the statute, but being like treasons, they would not trust the subject to any court of justice on that point but themselves; it gives an authenticity to the law of England, on the case of treason, a degree of authority that does not belong to decisions in courts of judgment on any other case whatever.

Gentlemen, having read the statute to you, it is not unimportant as it seems to me, to observe that Hale and Foster, who have stated the judicial and other expositions of this statute, have stated them, and expounded the statute under the weighty conclusion which they most powerfully claim, against extending this statute by parity of reason; this circumstance alone appears to me to give infinite authority to it, the exposition which they state of it as found and as being according to the interpretation of it, which the legislature in Edward the third's time meant to give to it.

Gentlemen, it may save your time, and that of the court, if I trouble you here by reading the language of my Lord Hale, the language which he holds as describing the necessity which courts of justice are under to construe it, under the real specified treason, without parity of the construction as to the treason itself, when they come to construe it. Lord Hale states it thus: Now, says he, the crime of high-treason is the greatest crime against the faith and duty we owe to the sovereign and to human society, and brings with it the greatest and most fatal dangers to the government, as well as to the peace and happiness of the kingdom or state, and is therefore deservedly branded with the highest ignominy, and subject to the greatest penalties. Yet by these he instances, these laws which were before the statute of the 25th of Edward III. or the first of Henry IV. and therefore he adds, yet it appears how necessary it was that there should be some settled boundary for the crime of treason. How dangerous it is to depart from that statute, and not to multiply and enhance crimes into treason by ambiguous words; and how dangerous it is by construction and analogy, to make treasons where the letter of the law has not made them. In another passage, after having given his comment on this statute, after having stated what are the acts which fall within the letter of it, and the sound interpretation of it; he says, that the great wisdom and care of parliament has been to keep judges within the boundaries and express limits of this act, and not to suffer them to run beyond it.

I am persuaded as those were persuaded that conducted the  
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defence of my Lord George Gordon, that we live in days in which the judges of the country have neither inclination nor courage to stretch it beyond its limits; and those who dare to state it in any place in which they are not authorised to state it in, do not that justice to the country which is due to every individual.

Gentlemen, having said thus much, I now say, in order to be perfectly understood, that I do most distinctly disavow making any charge of constructive treason; that I do most distinctly disavow stating, in this indictment, any like cases of treason, not specified in this statute; I do now most distinctly disavow stating accumulative or analogous treason. I do most distinctly disavow enhancing by parity of reason that into treason which is not specified in this statute. And the question between us appears to be distinctly this, whether the defendant is guilty of a treason specified in the statute, and whether the evidence that is to be brought before you amounts to that proof, satisfactory to your minds and consciences (your minds and consciences being prepared to admit no proof but what you ought to receive under the obligation of an oath) of treason of an open deed specified in the statute.

Gentlemen, the indictment charges the defendant with compassing and imagining the king's death, and with having taken measures to effect that purpose. That I may be thoroughly understood, you will permit me to state here to you, that there is not only a manifest distinction, but a settled distinction, in the course of judicial practice in treason, settled for no other cause, but that there was a manifest distinction in treason, between like treasons, constructive treasons, like cases of treason, analogous or accumulated treasons, or various overt-acts of the same treason.

Gentlemen, the business before you is, whether the acts laid, or overt-acts of treason, specified in the statute and specified in the indictment, amount in all their circumstances to open deed done, by which a person may be probably attainted. The specified treason is the question that a Jury is to try. To explain myself on this: I take it to be clear, and I will not in this stage of the business, enter into the discussion of what I call the clear and established law of England concerning treason, because I will not in a case of high-treason urge the matter any more than I would about a crime committed against any other statute. I will not enter into the discussion on what is taken to be the clear and established law of England, that which not only secures the subject in this respect, but without which no power can be said to exist. But I am authorised to state to you, that the form in decisions, which for centuries have prevailed, are to be taken to



be treasons from the established law of the fact; for instance, deposing the King, entering into measures for deposing the King, conspiring with foreigners to invade the King, going to a foreign country to give invitation for the purpose of invading the King; conspiring to raise an insurrection, either to dethrone the King, or to imprison the King, or to oblige him to alter his measures, or to remove his Counsellors, have been held from the established law of the fact, and by decisions heretofore in Courts of Justice to be treason; and, that those who intend to do so have been guilty of overt-acts of treason to compass the King's death; and who will suppose that they were not acting under the influence of that weighty memento, which, they knew, ought to guide those who are to succeed them in the seats of judgment. Yet I give you this in their very words, which have concurred with Parliament into the bargain, in the construction and exposition of the statute, that all these things are overt-acts of the same treason that is specified in the Act of Parliament, because the law says, that he that does that which may endanger the King's life, the law holds him encompassing the King's death; if in the ordinary course of things, the measure which he takes is in pursuance of the purpose which, first affecting the King while he lives, in the ordinary course of things, will bring him to his grave when he dies. This is not raising constructive treasons; this is not raising treasons by analogy; this is not raising like cases of treason; it is stating overt-acts of treason, which are measures taken in pursuance of the treasonable purposes intended: which measures may necessarily be as various in their kind, nay, must necessarily be as various in their kind as the ways and means of which any facts and open deeds of the human heart can manifest itself to commit some one or other treasons mentioned in the statute.

Gentlemen, I observed it to you that Courts and Juries have constantly done this in the execution of the statute under which this indictment is framed; if therefore they have done wrong in doing this, if the interpretation they have made of the statutes are not right, if they have done it against the approbation of the statute, they have done it in the presence and under the eye of the parliament, which have expressly forbidden them to do it, the conclusion on that is, they have done it right.

Gentlemen, the courts of law argue uniformly with acts of parliament in this country; acts of parliament have been made over and over again, to bring them back again to the statute of EDWARD III. but we have lived to this hour and cannot find that they should say that the overt-act should not be taken to be an act of high-treason within the statute, because the statutes do not mention the various manners by which the human heart may shew its compassing of this purpose.

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Gentlemen, but this is not all, because what one sees charged is not only according to the laws of England ; but the proceedings in parliament are a parliamentary exposition, if I may so call it, where the statutes have been thus construed, and where this distinction between the overt-acts, in like cases of treason, have been acted upon, proposed by one house to the other, and acted upon by the crown in executing the sentence. Gentlemen, the distinction then only is, a like case of treason, is a case not specified in the statute, but a case productive of like mischief specified in the statute, but a like case of treason before it be proceeded upon must be shewn to parliament.

But the facts, the open deeds, alike in nature and tendency, but various in their circumstances, may prove the same intention to exist in the minds ; that there may be many measures to execute the same treason, and the like treason, appears in my mind to be obvious.

Gentlemen, I conceive what the treason law says is this, whether the jury are fully satisfied about the evidence by which they can probably attain to the conclusion, that the act laid is an overt-act of compassing the particular specified treason, whether measures are taken in pursuance of and to effect that which is specified in the Indictment.

Gentlemen, I profess for myself I am sorry to trouble you thus much at large ; but you will find it hath an application and a close application to the cause I have to lay before you ; this is an important public cause, and therefore we should thoroughly understand it. I do not know what a constructive overt-act is ; but I do understand constructive treasons, levying war against his Majesty, without declaring it to be levying war against his person, is constructive treason ; as when men do that which will eventually effect the King's life, as levying war, or pulling down prisons or other houses, are constructive treasons, they are levied against his royal Majesty, and it hath been held as constructive treasons by the decisions of judges of the highest character ; this hath been permitted to be proceeded upon as such, many had been convicted on them, execution hath followed, and no one hath ever doubted either the law or the justice of these determinations.

Gentlemen, but as for constructive overt-acts of compassing of the King's death, were the indictment lays the overt-act, the compassing the King's death, the step taken must be such a deed deliberately done as must satisfy deliberately the Jury, that there was an intention of deposing or putting the King in such circumstances, according to the ordinary course of mankind, so that his life would be in danger.

Gentlemen, I before stated to you for another purpose various  
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acts, which are acts of compassing the King's death. I will again repeat them to you, from that great authority Mr. Justice Foster, deposing, entering into any measures, conspiring to imprison the King, which you observe may be done without an actual intent to put him to death, is treason; but you find the reason why that is held to be compassing the King's death, with the sanction of all times, and various species of authorities that the country could give, was because it was a design to get his person into the power of the conspirators, because the course that the law has taken is not confined to attempts of any flagitious kind; as poison, assassination, &c. but the law has extended it to every thing wilfully and deliberately done or attempted, whereby his life may be in danger, and therefore entering into measures for deposing or imprisoning him, or to get his person into the power of the conspirators, this offence was an overt-act of treason within this statute, for, says he, experience has shewn that between the prisons and graves of kings the distance is very small, and experience has not grown weaker in the history of these modern times.

My Lord Hale also says this, that, though the design of the conspirators is not directly and expressly the death of the King, but something that in all probability will induce it, this is an overt-act of compassing the King's death.

The instance he gives is this, if men conspire to imprison the King by strong hand, or by force, or even write letters for that end: this is an overt-act of treason.

What is the reason he gives as the same in effect, though not in terms, as that given by Foster, who says it is in effect to despoil him of his kingly government; and all experience gives to see, that the reason given by Hale and Foster are the same, although the terms are different. Imprisonment is the same as deposition, and he that compasses deposition of the King compasses his death. It is the same as deposition because it is a temporary deposition of his kingly government, which according to this interpretation of the law usually ends in his death.

Treason, with regard to adhering with foreigners, is thus constituted: that if foreigners are not at war with you, the offence consists in going into a foreign country, or purposing to go there in order to invite force into this kingdom; this can only fall within the branch of treason, that branch of compassing the King's death. If they are at war with you, it amounts to another species; it is adhering to the King's enemies.

Gentlemen, having stated this much, I proceed now to consider the indictment, and I have stated it to you for that purpose, before I mention the substance of the indictment, as laying my claim to full credit with you that no man living can state it to you more  
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strongly than I wish to do, that we have all as great an interest in the true construction of this law as any man can have, that I may at once repel from myself, the supposition, that I mean to extend the law of treason in the charge that I have now brought before you, one single iota beyond what I conceive to be the established law in this country, as the law is that says, the property you bought yesterday you may give to whom you please to-morrow.

Gentlemen, the indictment finding several persons, in effect to be tried separately, though indicted jointly, combined in a particular act, which I will state to you by-and-by, has charged them generally with compassing the king's death; it has then proceeded to charge them with meeting among themselves to cause and procure a Convention of divers of his Majesty's subjects to be held within the kingdom, and it not only states that the Convention was to be held within the kingdom, but to be held with the intent and in order that the persons to be assembled at such Convention and Meeting should conspire, and agree to meet wickedly and traitorously, without, and in defiance of the authority, and against the will of the parliament of this kingdom, in order to subvert and alter, and cause to be subverted and altered, the legislative rule and government established in it, and to depose the King from the royal state, title, power, and government of this kingdom.

It then charges them for having published divers books, pamphlets, letters, orders, declarations, addresses, and writings, purporting and containing incitements, encouragements, and exhortations to persuade the subjects of the King, to depute or cause to be deputed, and send persons as delegates in a Convention, but such a Convention and Meeting to be held for the traitorous purposes before mentioned.

The third overt-act charged in this indictment is, that they had consultation among themselves, how, when, and where, such Convention should be assembled and held, and by what means the subjects of the King might be induced and moved to send persons as delegates to the same.

And it then charges, that these persons did consent and agree that Mr. Joyce, and several other persons, named in the indictment, should meet, confer, and co-operate among themselves, and together with divers other traitors, whose names are to the Jurors unknown, for and towards the calling and assembling such Convention and Meeting. It then charges the providing themselves with arms of different descriptions, for the purpose of arming divers subjects of the king for the same purpose as before mentioned.

And then it charges them with conspiring and agreeing  
among

among themselves to make war in the kingdom, and their conspiracy is stated to be to subvert the legislature, rule, and government of this kingdom, and to depose the king. From the indictment, therefore, you will have to form a conclusion, and if you shall not be satisfied that the calling of such a Convention was a means to effect that compassing and imagination, yet you will find, in the evidence that is to be laid before you, even if you pay no attention to that circumstance, you will find sufficient evidence of a conspiracy to depose the King. It then states again, that they published several books and other matters for that purpose; and it also charges them with a further overt-act, providing arms for that purpose.

Gentlemen, now having stated before you, that a conspiracy to depose the King, and not stated it to you in my own words, that a conspiracy to depose the King, to imprison him, or to procure an invitation thereto, with steps taken to effect such a purpose, is treason. You will find that a conspiracy to depose the King is expressly laid in this indictment, which will be clearly proved to you; and if a conspiracy to depose the King be an overt-act of high-treason, permit me then to ask you, what can a conspiracy be, to subvert the whole government, including in it the deposition of the King; to subvert the monarchy of the country? What can it be, but high-treason? In the object of such a conspiracy the whole of the state is included, in which the King is necessarily involved, because he is necessarily a part of it; and it is already shewn, that conspiring to depose him, is compassing his death.

Gentlemen, read, as you are, in the history of your country, give me leave to ask you, if measures had been taken, after the Revolution, to effect a conspiracy; to dethrone King William, and restore King James, the conspiracy would not have constituted the class of high-treason, although not actually meaning the death of King William? The law says, you cannot mean to dethrone a King without meaning to endanger his life.

Gentlemen, if the project had been to depose the same King William, and measures had been taken on it, not with a view to bring back to the throne James the Second, but merely to send back King William to his former character, the Prince of Orange, and not to restore King James, but to restore a Commonwealth, to restore what they meant that are charged in this indictment. If it was said, that these people meant a full and fair representation of the people, can a lawyer be found who will say that the guilt of high-treason would not have been incurred.

Gentlemen, I do not know what will be stated, but according to the best lights which I can gather, it does not appear to me

me probable, that any man will state it otherwise. On the other hand, far be it from me to say, as I would not wish to encounter the authority of a country for centuries, therefore I do not say that I am certain I am stating the authority of the country, but I cannot conceive or imagine on what principles it could be founded, if it was not high-treason.

Take it another way, could the regicides of Charles the First, if tried for compassing the death of Charles the First; if, instead of killing him, they had only deposed him; could it have been disproved by any man of common sense, if they had contended it, that though they would have been guilty of high-treason if they had placed another individual on the throne, yet that they were not guilty of it, because they deposed a King without substituting another King in his place, but leaving the government to be filled up by the Commonwealth. Supposing it had happened after King William came to the throne, or in earlier times, that any set of men in this country should have ventured to meet in an united association, for the purpose of deposing King William, under pretence of assuming a Convention of the People, will any man venture to contend, or would it have been possible to have contended, that because they met under the pretence of being a Convention of the People, that the conspiracy was not as complete in compassing the death of King William as if the conspiracy for compassing the death of the King had been by the same persons in some after united societies.

If I levy war on this country, I am guilty of high-treason; if I conspire for to levy war in his Majesty's dominions, I am guilty of high-treason; if I hold a fortress against the King, I am guilty of high-treason; if I am guilty of high-treason under these particular charges, am I guilty of no offence if I do the same acts for the purpose of destroying monarchy altogether, and with the destruction of monarchy unite the deposing of the King and monarchy at the same time; what is this but doing an act that is involving in it high-treason; and more high-treason in deposing the King; more in bringing about all that additional anarchy consequent on a change, if destruction can be called change.

To assert that measures taken for the total subversion of the monarchy of a country, including in it an intention to depose the King, are not overt-acts of compassing the King's death, merely because the statute of the 25th EDWARD III. has not used the words, but have left juries to determine what are overt-acts or overt-deeds; for though the words are not used, yet the statute include the words which the words comprehend; I say

if this was merely asserted in a Court of Justice, I should certainly say to them that ventured to say so, that they had ill considered the law; but if it should be attempted to be sustained, I should say, that it deserved to have an observation applied to it of an harsher kind of language.

This indictment, besides charging the prisoner to depose the King, in express terms, also charges him with conspiring to call a convention, against the will, and in defiance of, and against the authority of parliament, for the purpose of deposing him; it charges him also with doing further acts, namely, of publishing books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, containing incitements, inducements, and exhortations, to move, seduce, and persuade the subjects of the King to send delegates to such Convention; which I say are both overt-acts, and evidence of overt-acts of high-treason; namely, the conspiring to call the Convention, and the publishing instruments for that purpose.

Gentlemen, before I state to you the particular overt-acts, I must trouble you with some general observations, and I think it will have a tendency to render intelligible to you the complicated mass of evidence I have to lay before you. The Convention meant to be called by these charged with the conspiracy in this indictment, was, as I shall effectually prove from evidence, a Convention of persons who were to assume the character of a Convention of the people, claiming as such all civil and political authority, proposing to alter the government, otherwise than by the constituted legislature of this kingdom, otherwise than by these statutes, which the king is sworn to rule and govern by at the hazard of his life. If this is made out, it appears to me, it appears necessarily on the part of all who conspired in it, that they are guilty of the attempt of deposing the King, according to the law; of deposing him from that character which he holds in the government, and to which he is sworn.

If they conspire to assemble in a Convention, which is against the will of the Legislature, and to act in defiance thereof in such Convention, and so far to assume sovereign power, it is, according to the law of England, a conspiracy to depose from the sovereignty, him, who under restraint of the constitution and law, holds that sovereignty. There cannot be two sovereign powers in any state; there may be complication of authorities, and several authorities in subordination; but there cannot be two sovereign powers in any state. If a meeting assumes the Convention of the people, the King and Parliament must be obedient to the meeting, or the meeting obedient to the King and Parliament; if it is to be obedient to the King and Parliament, it cannot effect its purpose; if it was to dethrone the King, it

is an overt-act of high-treason; if the Meeting means to oblige the King and Parliament to be obedient to them, by the exertion of open force, though it may not effect its purpose, it makes no difference, the law must be the same, if the conspirators only project the Meeting, provided a step be taken by them towards that Meeting; because this, I say, is a conspiracy to constitute a new sovereign power, it is a conspiracy necessarily meant to depose the existing power; and of necessity to depose the King; I say, meant to depose, for I repeat it, whether the conspiracy is successful or no is very immaterial; and I would also say, whether the particular fact of calling such a Convention may be represented as not new in the history of this country, yet still it is not less the means of compassing the King's death.

There is also another distinction, to which I would beg your attention, and that is this, it is of no consequence, whether the first meeting was itself to be the Convention of the People, or was only to devise the means of forming a Constituted Assembly, or Body which should assume it; for any act of assembling it against the will, and in defiance of the authority of Parliament; any act taken towards the convention of such a body, is an act of conspiracy against the King; and any act done by such a body not formed by the Legislature, is an act done towards the deposing of the King from the sovereign power, who now has it vested in him, under the restraints of the constitution.

You cannot set about organizing a body, which is to act without the consent and in defiance of Parliament, without meaning to depose the King; because you cannot do it, without meaning to frame a body that is to usurp the powers of government.

I think, from the evidence I shall lay before you, it will most abundantly satisfy you, that the Convention to be called was meant to be a Convention that was to alter the whole frame of sovereign power in this country; that it was to form or devise the means of forming a representative government, to constitute in a body, founded on universal suffrage, and the alleged unalienable, and imprescriptible rights of man, all the legislative and executive government of the country; that a conspiracy of this kind would be an overt-act of high-treason, I presume, cannot be disputed, because it must necessarily include in it the deposition of the King.

I go further, and say, if it had been intended to have retained the name and office of King, and to retain it in the person of the present King, creating a new constitution to act with him (provided they would have allowed him to act with such a legislation) in calling on him, to act contrary to his coronation oath, it still would have been a conspiracy to depose him from his rule



and government of this kingdom, as now established; if he refused to accept, he must be deposed from that authority, and if he did accept, he could not be the King of England, as now by the law of England; he could not so govern, he must resist, and in resistance all the consequences of his life are in danger.

Thus, taking it in either way, and I care not with how much audacity the persons calling a Convention, say they are to be the Convention of the people; whether in order to take away the authority of the King and Parliament, or to allow the present King to act with them; yet it is an overt-act of high-treason. The King must be deposed while a constitution is framing, as it would be those that had sovereign authority that could frame it as a constitution, surely he is by parity of reason, and not by parity of reason as stating a treason not specified in the statutes, deposed. To be sure, he is deposed from his kingly government as Lord Hale states it, as in cases of temporary imprisonment. He could not, consistent with his coronation oath, but reject it when framed; he must reject it, the consequence of which is, his life would be in danger; for to suppose that such a meeting which proposes a new constitution would depart quietly home, if it was not accepted, is not according to the ordinary experience of mankind, more especially in these modern times.

The King in his Parliament could not have the sovereign power, the moment the Meeting could act as a national constituted Assembly, neither could such an assembly dare to meet, but the power which is to call it to meet, must take on itself to depose every other power. This is the character of a Convention. And with respect to the prisoner, he said, the Convention which I am to call, is sovereign, unlimited, uncontrollable, and by such a Convention my representative system is to be accomplished.

When in this country a vacant throne was given in the time of King James to King William, which, as they state in the Bill of Rights, represented all the estates of government of this realm; in the moment there ceased to be any exercise of the powers of the sovereign, in that instant the sovereign power of this country became vested in the King and Queen on the throne to be exercised; and the legislative part undoubtedly to be exercised with the advice and consent of Parliament formed according to the law and custom of this country; and the whole executive authority under the control and limitations of the Law and Constitution, and to be limited with the advice which the King has to be responsible for him.

I insist, therefore, that to conspire to assemble a meeting, that is to act as a Convention of the people, claiming all civil and political authority; or if indeed, one can conceive it a meeting  
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to frame the manner of bringing together such Convention, is conspiring to depose the King, it is an attempt to create a power subversive of the authority of the King and Parliament, a power which he is bound to resist at all hazards.

But it will not rest here, the evidence which will be offered to you, will prove satisfactory, that the express language of the Meeting, or of the Committee of Conference, was ultimately and finally, and then in their prospect, the deposition of the King.

Beyond this also, the Indictment has charged as overt-acts, a conspiracy, without the medium of a Convention, and without that Meeting to dethrone the King, by providing divers arms and offensive weapons. The Indictment further charges as overt-acts, a conspiring to levy war, I do not mean constructive war; and this I state, without question, to be an overt-act of compassing the King's death, and obliging the King to alter his measures of government, is levying of war; and this, whether they conspire to form a representative government, excluding the King entirely, which I say is the fact; or if they conspire to form a government, not excluding of him entirely, but compel him to govern with others, and without those, by whose advice and consent alone, he is bound and sworn to govern; I mean, the great council of the nation, the Lords and Commons in Parliament assembled according to the constitution of the country; and to constitute against his will, and against the present constituted authority of the country, a branch of legislation founded on principles of universal suffrage, and annual representation, without the authority of Parliament; that conspiring, the doing this I contend would be an overt-act of treason, of deposing him.

The object stated in the Indictment, the Indictment has charged it, was meant to be carried by force, by actual force, and there will be proof to make it out; that the case was not a case aiming merely to intimidate the legislature, nor induce it by any act done which was according to the forms of the Constitution, to new-model the sovereign power; it goes far beyond this, the application in any shape to Parliament was not only disavowed, but the very competency of Parliament after applied to, to make a law to new-model the government, was disputed and denied, from the idea of that competency, being recognized to be very repugnant to their principles.

I must say, that a conspiracy to compel the King by force, against his will, to give his assent to an act obtained in order to alter the government and frame of the constitution of the country, whether it was obtained by the two houses of parliament, or either of them, by over-awing him, or not over-awing him, is high-treason; that a conspiracy by force, to compel the King,

in the highest and most essential acts of the government of the country, to compel him, by force, to do that, is unquestionably an overt-act of treason, and of compassing his death, cannot be disputed; it is neither more nor less than to substitute the will of those that force him, in the room of that Royal will, in and by which alone the law and constitution of this country has declared, that the bill, however obtained, before it comes to him to receive the authority of the state, in him alone that will should be vested.

I have thought it necessary to state thus much, before I come to state the circumstances of the case. Gentlemen, it is not to be expected by persons who execute the duties of the great and important situation, which you are now called upon to execute, that the counsel at the bar should be able to state to you law that no man can question the tenor of it; nay, Gentlemen, it is not to be expected by you, that the counsel at the bar should be able to state to you, in all cases, the law, which men of great character and experience, may not dispute the circumstances.

It is the duty of counsel particularly, and more particularly it is the duty of those counsel that are to support the prosecution, not to bear down the circumstances with too great weight; for if he presses them unfairly, he betrays, in the most essential point of his duty, his uses to his Sovereign; it is his duty to endeavour to explain and expound the law that applies to the facts, according to the best ability he is able to do it, in the exercise of painful industry, under the reflection that, at least, he is much under the obligation of endeavouring to do it.

I have thought it my duty, to state distinctly and fairly, what are the grounds on which I proceed; and I have no doubt, at this moment, in my own mind, but I have stated these doctrines as the law of England would have stated them; but I claim from you and the public, that, in the fair exercise of my duty, conducted on the principles that I have stated to you, to do me the credit to believe, that I have stated them as I believe them to be, according to the statement of the law and constitution of the country.

I shall presume, for a moment, after having read to you the indictment, and given you that exposition of it, that I have humbly offered, to conclude that the indictment has told you, with sufficient certainty, what is meant to be imputed to the Prisoner, as overt-acts of compassing the king's death, and that it is not necessary to be disputed with.

I have said before, that in a case of high-treason, the evidence must not only be convincing, but it must be formal; and that the object, in the security of the person and government of the king, is the highest object that the law can look to.

Yet I must say at the same time, that the law for the security of the public, which is, in truth, involved in the person and government of the king, is inseparably united with it; the law has required that you should not have one witness only to prove the fact, if he was the most creditable witness in the world, but that that convincing fact, must be proved, at least, by two; or at least, one witness to prove one overt-act, and another witness to prove another overt-act of the same species.

I presume, on what I have stated, you may possibly reason thus, When this indictment charges, that these persons compassed the death of the King and to depose him; that they conspired to meet in a Convention, in defiance of the authority of Parliament; to subvert the rule and government of the King, against the will and in defiance of the Legislature; to dethrone a Monarch reigning in the hearts of the majority of the people; you will necessarily ask, by what process was this to be done? And when the indictment charges, that they made writings, and other instruments, to effect this purpose; you will necessarily ask, in what language could such incitements to such a momentous project be conveyed, and to whom it could be addressed? When it charges, that they deliberated with other traitors concerning the calling of it, you will ask, at what time, in what manner, and in what places, did they meet to accomplish such great deliberations?

You will ask, in what manner were they to bring together the subjects of the country, to send delegates, to assume sovereign power? The answer to all this, is a short one, that I think it will be proved to your satisfaction, that they meant, in the words of the act of parliament, to introduce that system of misery and anarchy which prevailed in France; it will be proved to your satisfaction, that they meant to introduce it by the same means, to proceed on the same principles, to the same end, and by the same acts, to execute the same purpose; to introduce it by clubs, that system which, till the experience of Europe saw what had passed in France, could hardly have been credited, and which those that had the rule of government there, in the last acts of its conspiracy, protested against; and this project might have been brought into France by a single individual; they protested against the existence of the clubs, as not possible to exist with the security of the country, if they acted on particular principles. And the same method was intended to introduce the same anarchy and confusion in this country; a country which, under the dispensation of Providence, is alike in its blessings, as its situation bids defiance to its enemies.

Until the administration of that constitution, and the principles  
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on which it exists, were introduced into this country by some individuals, it would not have been in the heart of man to conceive, that a project so deeply combined and complicated, and carried almost into inconceivable extent, at the same time framed with so much political craft, that it could have existed in any country; or that it has existed in this country of Great-Britain, to the extent, you will be satisfied on the evidence, it has existed in this country.

But the law of England does not require that any such extensive cases as these should be proved before you; if you are satisfied that a step was taken to effect that attempt, it is enough.

It is not the extent in which the project has proceeded upon, it is not its ruinous consequences, it is not that the means were really as competent to the end proposed as those that thought they were, in the first moment in which the scheme was conceived, whether well-conceived or ill-conceived, furnished with means adequate or not adequate to the purpose, the law then steps in for the security of the King and the safety of the subject.

The project, as applied to the persons now accused, seems to me to be this:

The idea imported from France in the latter end of 1791 or 1792, the intent was to constitute in London, with affiliated societies in the country, clubs which were to govern in this country, on the principles of the French government; on the alleged, unalienable, and imprescriptible rights of man; deposing thereby the moment they came into execution, in the act of creating a sovereign power, the King; and introducing a republican government, with a right of eternal reform, therefore with a prospect of eternal revolutions.

We have all heard of the Club, called the Jacobin Club, at Paris; this, with the affiliated societies, had turned aside the old government in France and introduced another, which could not exist on the principles which gave it birth, and has finally left that country in that indescribable state of things in which we now see it.

The great end and purpose of the persons concerned in this project, though neither altogether visible, nor not much disclosed, on its formation was, when they had sufficient influence on this country, by artifices unknown, as combination, affiliation, and fraternization, to make one body; then these who framed the project were to assemble a Convention of delegates of these clubs, to assume the powers of the people, supported in the assumption and exercise of these powers by the individual members of the united societies, and by their combined strength.

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We have no occasion in this cause to be disputing on abstract questions, as to the power of the people to change their government; I say, it was the intention of the delegates of these clubs to assume the power of the people; and this was to have been effected by calling a convention of delegates, who were to exercise the power which they professed to be inherent in them whom they represented.

It is not difficult to conceive, after what has happened in France, how it should happen that these fraternized societies, that the opinion of these fraternized societies should have the force of constituting the will of the majority of the people. You will find in the evidence to be laid before you, that it was perfectly understood how this was to be, by those named in this indictment, namely, from the great bulk of the community being engaged in different pursuits, and incapable of being combined.

I need not give you a stronger instance than that which happened in the year 1780, from a few thousands combining themselves to obtain a repeal of an Act which they considered as obnoxious. Is it possible, say you, for four or five thousand men to go to St. George's-fields, and to rob and plunder every man in the city of London, and for ten miles round, in consequence of such combination? and yet the thing happened, because the combinations of a few will bear down against those that are not combined, and with great facility; you will find them that are organized, prepared for emergencies and exigencies; such relying on their own strength, who act on combined strength, and in some instances acting with a security calculated to elude observation. In many instances these societies directed contrary means to the same end, representing their numbers greater than they really were, without a possibility that this representation should be set right; you will find them also inflaming the multitude under pretence of enlightening them, addressing themselves principally to those whose rights and interests are in the eye of the constitution of England as valuable as any, but whose education does not enable them to distinguish immediately between political truth and misrepresented truth held out to them, working up the passions of men whom providence hath placed in the lower but useful stations of life, against those who are in high respectable places, representing the great as their oppressors, their plunderers, as those they should not suffer to exist on the system of things existing in this country; and in order to prevent the possibility of their correcting their judgment upon the views of the association, not admitting any into these affiliated societies, till they had subscribed to their plan, the principles of which they were not to know till they had been admitted.

Gentlemen, to say that an act done was not meant to be done, till the persons conceiving it think the scheme practicable, I allow is reasonable; but they may think it practicable before it really is so. Now you will be abundantly satisfied from the evidence, that this convention was convened when the conspirators thought *the time was now come*, that that time was now come, and if not then laid hold of, would be lost for ever. The people of this country have a rooted attachment to it's government, and the public opinion is in this country, as well as in every other, it's principal, and therefore it became necessary with such to frame an opinion that the form of the British government was oppressive, and not founded on the natural, unalienable, and imprescriptible rights of man; with others they found it necessary to use a little caution, not to alarm them by taking advantage of the well-meaning ignorant part of mankind, to enlist them also in the project of destroying that constitution; to them the form of government was not spoken of in terms which they might understand to be a condemnation of it, though they were really such; but making use of general expressions, and I will beg your attention to these, such as obtaining a full and free representation of the people in Parliament, and this sometimes without mention of Parliament, and never as King and Lords co-existing with them, terms the same in their expressions, certainly of the same import as those which were used in the time when we had neither King or Lords; sometimes declaring that we might exist without Lords or King, declaring for such a representation of the people as necessary for the natural, unalienable, and imprescriptible rights of man, as stated by Mr. Paine; and you will find, that the persons mentioned in this indictment had no doubt of accomplishing it.

I remark these circumstances to you, because in the evidence to be laid before you, and I am now speaking to you of the general character of the evidence, and not the principles on which the charge is made, in the evidence to be laid before you for the plan of the execution of this purpose, some very remarkable particulars will occur, and I humbly beg your attention to them. You will find the leading clubs, I mean the Constitutional Society and the Corresponding Society in London, which were formed, whether created I will not say, but which was modelled by some of the leading members of the Jacobin Society in France, as will be proved by their own hand-writing in the year 1792. You will find enlisting in their affiliation many societies in the country, composed of men who express their doubts to them, as wishing to know the views of these societies in London, required information into the purposes of these societies in London, some professing one principle, and some another, but all assistance is  
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taken that is offered. Accordingly, you see that they might enlist all that came, to those who wrote to them that their sentiments were, that they ought to submit to no power but what they themselves had immediately constituted; to these they give answer in dark, cautious, and unintelligible terms, to those who had a proud attachment to the monarchy of the country, and expressed an apprehension for it in the conflicting principles in the various societies; they tell them that all these separations would be set right by a full and fair representation of the people in Parliament, (a name that was given to the Parliament under Cromwell) without telling them either what these words meant, or how that Parliament was to operate to reconcile these differences. They enlist again others, who express a wish to know whether they propose to have any House of Commons; or others who wish to know whether they intend to rip up monarchy by the roots, by answers calculated to satisfy them.

You will find again, that publications on the government which are alluded to in this indictment, and which will be given you in evidence, were admitted by these societies as their own, and circulated, if I may so express myself, in a mass round the country, in a manner that totally destroys the liberty of the press in this country, and for this reason, the liberty of the press never ought to be but under the due correction of the law; and it must always be for the security of the subject, that it should be under the due correction of the law. But you will find that these publications were either brought into the world with such a security as baffles all provisions made by the Legislature to prevent them, even in the dead of night, though they are the works of men who have talents to state them in open day, if they were fit to be stated in open day; and they also publish them in quantities, which make the applications of the law totally inadequate to make the punishment as great as the offence.

With respect to many of these publications, I may take notice from what may have happened in this country; though no man likes to talk less of himself than I do, yet I have been heard to say, both in Court and in Parliament, that certainly of some of these publications I have expressed a difficulty in my mind to conceive that such a publication was not High Treason. It did appear to me that a book, called the Address to the Addressers, the publishing of that was an overt act of High Treason, for deposing the King,—at least I thought it required an ingenuity and subtilty more than belonged to my mind to consider it otherwise; but there were others that saw it different to what I saw it, and therefore that book was treated only as a libel; but when I came to see it published, as connected with this project, which will be opened to you in this cause, I say it is a most distinguishing



tinguishing evidence of an overt act of High Treason, or it is an overt act of High Treason itself.

You will also not fail to observe the malignant wit, and if I may so express it, the industrious malignity with which discontent has been spread by these two societies in London; and the manner of spreading it, studiously and anxiously taught the manner of spreading sedition, fresh as from London, in every town; always with reference to the final accomplishment of the same purpose, and the passions of individuals assailed and taught to be assailed, not merely on government, but on various taxes, the game laws, the necessary establishment for the military and naval service of the country, &c. and with this intent, that society might overspread the whole surface of the island, and the island might become free by the same means by which France became so.

Stating to you the character of evidence, it is necessary for me to make one observation, and it is the last I shall trouble you with, with respect to the principles on which construction is to be given to the written evidence in this case that will be adduced to you. I desire to state this to your minds, as a principle perfectly reasonable in the administration in justice, to men who are called upon to prove the meaning of the language which they used; the meaning ought to be taken obviously, according to plain common sense. If the language admits of a double interpretation, it must then be construed according to the nature of the principles which that language is able to be construed in, and it must be construed with reference to the contents of all other papers that form evidence of the same system which the paper produced is meant to mean.

If you find the detailing the object of these societies, in detailing what they meant to do, in detailing how they meant to execute what they meant to do, they should state that they meant to do what was neither legal nor constitutional, it will be treason; it will be in vain that they have thought fit for their greater care and caution to express it otherwise.

You will have most abundant evidence that they meant to effect what they meant, not in a constitutional manner; and it will become those who take upon them their defence, to declare what in a legal and constitutional manner was intended to be done, after I have proved to your satisfaction that there was intended to be done, and intended to be done by the manner and instruments which the Indictment refers to.

Gentlemen of the Jury, the principle is, that equal active citizenship is the equal right of all, that on this principle a full representation is the right of all, and on which it requires no great penetration to discover, that such a representation must form a parliament, in which neither King nor Lords could enter; there  
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is an end of equal citizenship, if Kings or Lords make a part of it, they tell you this is a representative government. I shall satisfy you, that the publication of these principles of equal active citizenship, was to be established in the convention by an equal representative government, rejecting the King or Lords out of the system; these principles are the principles on which the constitution in France, in the year 1791, was formed, they were the principles of equal active citizenship, reserving the King in the Constitution, and forming a royal democracy.

Gentlemen, I shall prove to you by evidence, that these clubs in London knew that that constitution could not exist, and you will find on the transactions of these societies in October 1792, the clearest evidence what these societies meant in applying these principles, which they state themselves had destroyed the existence of a king in France. They acted with a full conviction that this must be the full effect of their own principles, and they acted with the full determination that it should be so.

Gentlemen, you will give me leave now to state to you, as well as I can, and as intelligibly as this mass of evidence will allow me to state, as the case I have now to state before you: the particular acts, the nature of which will be explained by all the rest of the evidence, which has led to the including of the several persons in this one indictment, arose out of a Letter, dated 27th of March, 1794, which was written by the prisoner at the bar, then the secretary to the London Corresponding Society; the words are these: "I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that Society, respecting the important measures which the present juncture of affairs seems to require; the London Corresponding Society conceive that the moment is arrived (mark the words, for in the rest I have to state, you will frequently hear of this moment) when a full and explicit declaration is necessary from all the friends of freedom, whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished on our parts as the treachery of others in the same glorious cause is notorious: the Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people, whether they concur with us in seeing the necessity of a speedy convention, for the purpose of obtaining, in a constitutional and legal method, (but the method will not be more legal because they call it so) a redress of those grievances under which we at present labour,

hour, and which can only and effectually be removed by a full and fair representation of the people of Great Britain; and then in the third resolution accompanying that letter, they say, that there ought to be immediately a convention of the people by delegates deputed from the different societies of the friends of freedom, assembled from various parts of the nation; (and what are the purposes they are to do? they are) to recall those wise and wholesome laws, that, (they say,) have been wrested from us. Before I have done, I shall prove to you what the meaning of this part is.

The Constitutional Society, there being present at that time six of the persons mentioned in this indictment, on a proposition so material as this, they immediately ordered that the secretary should acquaint the London Corresponding Society that they heartily concur in the object they have in view, and for that purpose.

Having stated to you this that happened on the 17th of March, 1791, and connected it with the various singular facts that happened in that year, you will give me leave to state to you what is the constructive nature of those acts from the various transactions of these societies, which I shall state to you from the beginning of January 1791.

The Attorney General here entered into the origin of the London Constitutional Society; that it was about the month of March 1791, that they were indebted to a gentleman of the name of Tooke, under whom the constitution was framed, and to a gentleman of the name of Vaughan, for the code of it's laws, and this was proved by a letter, signed Thomas Hardy, secretary, in the hand-writing of Mr. Tooke, accompanied by a string of resolutions; Mr. Hardy, and not the London Corresponding Society, apologizing for the liberty and presumption he takes in sending them to the Constitutional Society, and it also appeared that these resolutions had been settled with a good deal of deliberation, by the same gentleman in whose hand-writing they are, namely, the prisoner's, which resolutions were adopted by the Constitutional Society as their own, on the 30th of March, 1791. (See Reports of the Secret Committee, printed for J. S. Jordan, 2d Report, page 72.)

He now stated that there had been such correspondences with the London Corresponding Society, with the Constitutional Society, that he should be able so to connect them, as to make it's acts their own. He then proceeded to speak to the doctrines laid down by Mr. Paine, of a perfect representation, that it clearly recommended a deposition of the King; it was a book that put a King out of the government; but a book that says, a perfect representation of the people is to be formed, it is not to  
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be formed by Parliament, which that gentleman states is absolutely inadequate to the great constitution of the rights of man, and equal citizenship. It is a work that calls on the people of England to do themselves justice, and form a constitution for themselves, before they can have any government, which is to exist in the form of a legislature.

He next adverted to a resolution of the Constitutional Society, at a meeting, March 23, 1792, made at the time when some of it's members began to leave it, thinking the principles not such as are formerly set out upon. (See Jordan's Reports, 2d Report, page 71.) And it was a very remarkable thing, that the Sheffield and Norwich Societies were writing both the same day to the Constitutional Society, namely, on March 14, sixteen days before the thirtieth, when Mr. Hardy sent the resolutions to Mr. Tooke. The letter of the Sheffield Society, stating that they had taken the liberty to inclose a parcel to Mr. Hardy, in answer to a letter of his, by which he had informed them that there were in London a number of mechanics, shopkeepers, &c. forming themselves into a Society, on the broad basis of the rights of man, and desiring to know the manner of conducting this business at Sheffield; in answer to which, the Sheffield Society had given them their manner of proceeding, and hoped it might be of some use, as the improvement they were about to adopt was certainly the best for managing large bodies in great and populous towns, namely, dividing them into small bodies, or meetings of ten persons each, and these ten persons to appoint a delegate; ten of these delegates to form another meeting, and so on delegating from one to another, till at last they were reduced to a proper number for constituting the committee or grand council.

There is another letter of the same date which has this remarkable circumstance in it, that originally the word constitution was in it, and that is struck out, and the word country, in Mr. Tooke's hand writing, was substituted in it's place, as follows: "At the same time being sensible to a degree of certainty, the necessity of a radical reform of the *country* as soon as prudence and discretion will permit, and to establish it on that system which is consistent with the Rights of Man; for these reasons they request that certain members of their society may be admitted into the Constitutional Society, in order that the society at Sheffield may be strengthened, that is, the society may be able to govern itself with more propriety, and enabled to extend useful knowledge from town to village, and from village to town, until the whole nation be sufficiently enlightened and united in the same cause, which they say cannot fail to be the case, wherever the most excellent works of Mr. Thomas Paine find residence." Those works, which had held monarchy up as inconsistent

sistent with the Rights of Man, and the incompetency of parliament to frame a government.

This paper transmits an important fact; for though the Constitutional Society in London, and at Sheffield, seem not to have any connection till the 14th of March 1792, not but they might have been connected before, yet, from this 14th of March 1792, in consequence of introducing this system of extending useful knowledge from town to village, and from village to town, till the whole nation should be enlightened, when the number of the society were but two hundred, to the 13th of May 1793, they amounted to two thousand, exclusive of many that were in the villages; they declare that they have derived more true knowledge from the works of Mr. Thomas Paine, than from any other author or subject; that the practice, as well as the principles of government, is laid down in those works in a manner so clear and irresistibly convincing, that they had resolved to give him thanks for his two said publications, entitled Rights of Man, parts First and Second, combining principle with practice.

He then said, Gentlemen, I should go out of this court with grief, if I should state to you the doctrines of Mr. Paine otherwise than what I think of them; and that we may not misunderstand that principle and practice, you will allow me to read a few passages out of this second part of the Rights of Man, which says, it contains both the principles and practice of government, and then ask what these must have intended who meant to apply them to this country. You will recollect that the government of this country, is a government consisting in a King, having an hereditary crown, with the House of Lords and Commons, forming a parliament according to the constitution of England. That author, the subject of so much eulogium, in the first place expresses a great deal of what I cannot call good will to the people of England, for he says, that during the time of the American war, he was strongly impressed with the idea that if he could get over safe to England without being known, and remain in safety till he could get out a publication, he could open the eyes of the people of England with respect to the madness and stupidity of it's government. Having stated in his former book of the Rights of Man, that no good government could exist but on the Rights of Man, he states, that governments are hereditary either in whole or in part, (and with respect to this country, is vested in King, Lords, and Commons,) or entirely representative, or entirely in a commons house, a parliament if you choose so to call it. We know, in 1669, the ruling government was called a parliament, a commons house. Call it so. He then says, all hereditary government is in it's nature tyranny. An heritable crown or an heritable throne has no other significant

cant explanation, than that mankind are heritable property; to inherit a government is to inherit a people, as if they were flocks and herds. Hereditary succession is a burlesque upon monarchy, it puts it in the most ridiculous light. It requires some talents to be a common mechanic, but to be a king requires only the animal figure of man. This sort of superstition may last a few years more, but it cannot long resist the awakened reason and interest of man. In whatever part the separate parts of the constitution may be arranged, there is one system here laid down, that all hereditary government is slavery, and representative government freedom; then speaking of the Crown of England, that crown in which, according to the Law and Constitution of England, is vested the sovereignty; it signifies, says he, a nominal office of a million a year, (and give me leave here to observe, that this that has been so often detailed for the worst of purposes, cannot but be known to be a gross representation,) the business of which consists chiefly in receiving the money.

In another part of this book, p. 170, you will find Mr. Paine was very well aware that the principles laid down in the Constitution of France, which these two books were to recommend, and the principles laid down in Mr. Paine's book, were inconsistent with the practice of France at that present moment; it is there plain, from what is there said, that he foresaw that a representative government, founded on his principles with a king, could not exist.

These resolutions being received from Sheffield, a step is taken on it in the Constitutional Society, and which gives an authenticity to it is the book which I have now in my hand, and which is the minutes of the proceedings of that society; and it is remarkable, they are letters that are supposed to be received from Sheffield, they are referred in their letters to the books, and then, with a view of publication of them into the world, there is a resolution that this letter be published in the Morning Chronicle, World, Post, Times, Argus, English Chronicle, and General Evening papers. In this letter there is, first of all, in Mr. Tooke's hand writing, Society for Constitutional Information, 14th of March 1792; there is also Mr. Hardy's name, signed by Tooke; and then there is added, Ordered, that the secretary do return the thanks of this Society for Constitutional Information established at Sheffield; and that he expresses to them, with what friendship and affection this society embraces them as brothers and fellow labourers in the same cause, that he do assure them of our intire concurrence with their opinion, viz. that the people of this country are not, as Mr. Burke terms them, swine; but rational beings, better qualified to separate truth from error than himself, possessing more honesty and less craft.

“ Resolved,

“ That this society will, on Friday next, March 31, ballot for the twelve associated members recommended by the Sheffield Committees, and approved at this meeting.”

Then this meeting is to be ordered for the primary purpose of recommending the Rights of Man, recommending that principle and practice which makes the Sheffield people fellow labourers with the Constitutional, the combining principle and practice, which is aimed for the destruction of monarchy in this country, and for the purpose of recommending that representative government.

He then observed, that this society having expressed an inclination that there should be some associated members in the Constitutional Society, a filiation began in that society: accordingly on the 21st of March, twelve persons were balloted for as from the Sheffield Society, and became associated members of this society. On the 24th of March 1792, a paper appears to have been sent from the Constitutional Society, to a nest of societies established at Norwich, and it appears that the words, 24th of March 1792, are in the hand writing of Mr. Tooke; the letter informing them that their society consisted of some hundreds, and new societies were frequently forming, that their greatest care has been to preserve order and regularity, and to convince the world that riot and disorder were no part of their political creed; they believed that Mr. Burke had traduced the most greatest and most glorious revolution in the world; that their thanks were due to Mr. Paine, and more especially due for his first and second parts of the Rights of Man; and (say they) we sincerely wish that his labours (that is, the destruction of hereditary government and a limited monarchy) may be crowned with success in the general diffusion of liberty and happiness amongst mankind.

Another letter he adverted to from Norwich, which, though it was received on the 24th of March, was not read in the Constitutional Society till the 14th of May, wherein Mr. Paine's Rights of Man, and Mr. Barlow's book upon the Privileged Orders, are spoken of in high terms; Mr. Barlow's book being in the plainest language an advice to all people to get rid of kingly government; and how any man living could thank these people without informing them that they must be ignorant in the extreme, or something worse than ignorant in the extreme, is to me quite inexplicable. After stating the constitution of their society, the twelve names that are added are in the hand writing of Mr. Tooke.

Then this society returns thanks to Sheffield for it's communications, and resolves, that every individual has a right to share in the  
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government of that society of which he is a member, unless incapacitated, &c. And this that I have now read to you, I am very willing, if you please, that you should construe every word of it on this principle, that those that sent it to the Constitutional Society understood it to be consistent with the British government; and I claim no credit for the veracity that their conspiracy has existed, unless I shew you in the subsequent acts of these societies, that they meant by principle and practice, the direct opposite to the government of what is established here.

You will find there was a society in Southwark, and which, in a letter which I have to state to you, state there the admission of all Mr. Paine's principles. (See *Jordan's Second Report of the Commons*, p. 73) The Society of Constitutional Information return their thanks for that also, and then the same persons say, in the same paper, we call upon our fellow citizens, of all descriptions, to institute similar societies for the same great purpose, (for the purpose of diffusing the idea of representative government,) and we recommend a general correspondence (but attached for ever to the Constitutional Society) with each other, and with the Society for Constitutional Information in London, as the best way of cementing the common union, and of directing, with greater energy, our united efforts to the same common object. What are the objects of these societies stated to be? What are they? If you find the object of the Constitutional Society, you find the object of this society, as well as of the London Corresponding Society.

This London Constitutional Society, they resolve, that every society desiring an union or correspondence with this, and which doth not profess any principles destructive to truth or justice, or subversive to the liberties of our country, but which, on the contrary, seeks, as we do, the removal of corruption from the legislature, and abuses from the government, ought to be, and I hope will be, embraced with the most brotherly affection and patriotic friendship with this society. Now observe on this, that all this language is perfectly consistent with this principle on the minds of those who write, and they do not venture to explain it, that the principles that were productive of truth and justice, were all principles that were in competition to the principles of Mr. Paine, and all practice likewise.

I now come to state a circumstance or two, which leads me to state, what will be stated in the organization of the Corresponding Society; the French clubs gained the ascendancy over the country, being at first a very small body of men, and when they became large, subdividing themselves, as was the nature of these societies, from town to village, and from village to town, and hamlet



to hamlet, and all, as they express it, until there was not an unenlightened man in the country.

Then, according to the written evidence, it appears that a gentleman, of the name of Felix Vaughan, he having been deputed by this society on the 30th of April, was appointed to form a constitutional code of laws for the London Corresponding Society, in which there was the following regulation, namely, that every person, before he was admitted, should answer in effect to the three following questions :

1. Are you convinced that the Parliamentary representation of the people is at present imperfect ?

2. Does the welfare of the kingdom require that there should be a reform ?

3. Will you endeavour, by all justifiable means, to promote such reformation in Parliament ?

And then they form a purse, they frame a committee of delegates, &c. and this constitution having been formed, they publish it in the month of May, and what observations they state to the public on it, I shall have occasion to state to you presently.

The society for constitutional information having affiliated these societies very suddenly with themselves, whether Mr. Paine remained in this country, or not, I cannot tell ; but they found an inclination to affiliate itself with a society, calling itself the Friends of the People, meeting in Freemason's Tavern ; but it is a most important fact, that on the first attempt the Constitutional Society made to affiliate with them, and it ought to be said in justice to them, they rejected it. (See *Jordan's Second Report of the Commons*, page 119.)

He then proceeded to mention, though it was a little out of date, that this society at Sheffield, who had connected itself by affiliation with the Society for Constitutional Information, and the London Corresponding Society, had received intelligence about the 24th of May, what their object was, and the attention which the society of the Friends of the People meant to pay to the constitution ; and then, (says he,) doubt if you can what the Constitutional Society understood to be the object of the Sheffield Society, and the Sheffield Society understood to be the object of the Constitutional Society : for the Sheffield people disavow the Friends of the People, because they meant to keep to the forms of the constitution, as you will find in a letter written by the Sheffield Society on the 26th of May, 1792, to the Constitutional Society.

Having stated to you now what it was that the Friends of the People discovered to be the object of the Constitutional Society, and agreeing with me that their discovery on that subject was accurate and right, we will go back again, and proceed in order of time to the 7th of April, at which time Mr. Hardy sent from the  
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London Corresponding Society, a copy of their resolutions, to the Society for Constitutional Information that was established at Manchester, and desired also to have correspondence with them, as they were all engaged in the common cause, that society also hoping that the other great benefits that Mr. Paine had stated, would be carried into effect.

Then there is another letter of Mr. Vaughan's, desiring of Mr. Hardy his assistance in the important work. On the 18th of April, 1792, in furtherance of this plan, we find Mr. Hardy writes a letter to the President of the Society in the Borough, that is, the society that had so distinctly stated their principles, leading to a representative government, as the only security for the liberty of the country. He writes, I should be very happy to enter into a correspondence with your society, as we are all engaged in the same cause, namely, to have the rights of man re-established, especially in this nation.

There is another letter to this society, from a person of the name of Favell, who is chairman of the Friends of the People, in Surrey; he states himself thus: We cordially unite with you, and all similar societies in the kingdom; we shall transmit you a copy of our declaration, and hope for your further correspondence.

: On the 26th of this same month of April, it appears that there were some resolutions come to by the delegates of the united societies of Norwich, and this distinctly states that Mr. Paine's books were the means by which prejudices grown up in favour of the British government, were to be got rid of; at the same time desiring twelve men to be affiliated with the London Constitutional Society.

On the 11th of May, 1792, the Constitutional Society resolve that there should be a communication of that society with the society of the friends of the constitution at Paris, known by the name of the Jacobines, and they send them an address. (See *Jordan's Second Report of the Commons*, page 78.) This address was signed by the Chairman of the Constitutional Society, and transmitted to Watt at Paris, by Mr. Tooke.

He then adverted to the dangerous doctrines held forth by Mr. Paine in his first and second parts of the Rights of Man, and particularly in the book entitled the Address to the Addressers; Mr. Paine having gone the length of asserting therein the incompetency of government to reform itself; and having asserted that a representation of the people must do this work in convention, it was impossible not to apply to the country against the attacks that were made on government by that person, and it became necessary to ask a Jury whether this doctrine was to be tolerated? The consequence was, that these societies immediately enter into  
subscrip-