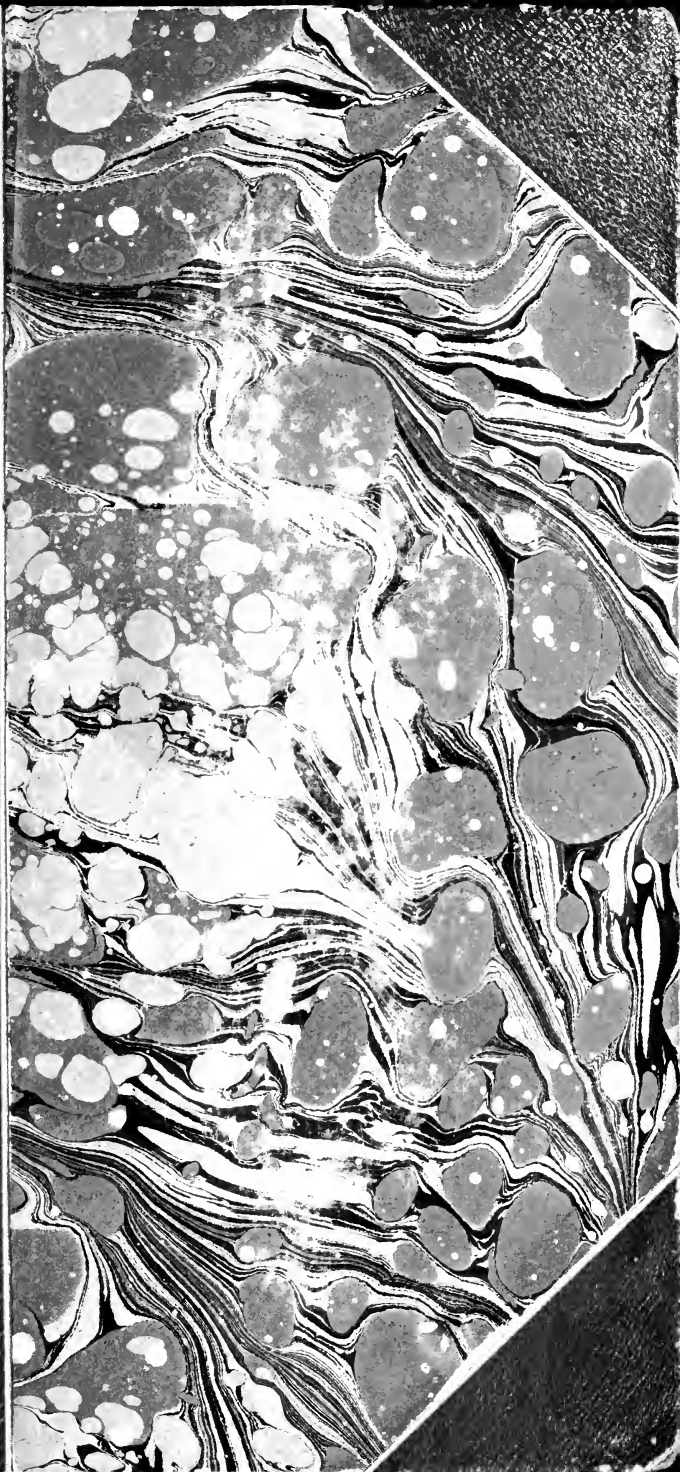


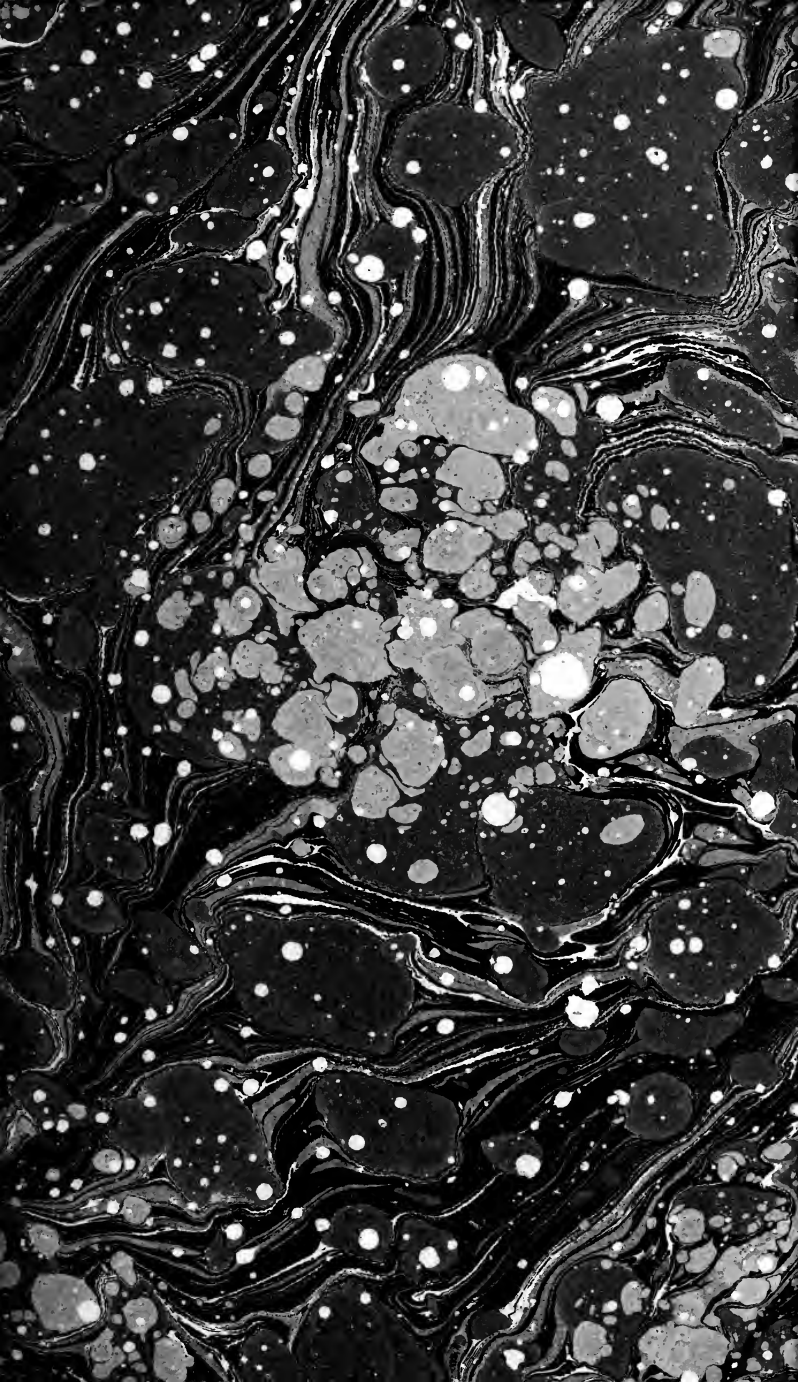


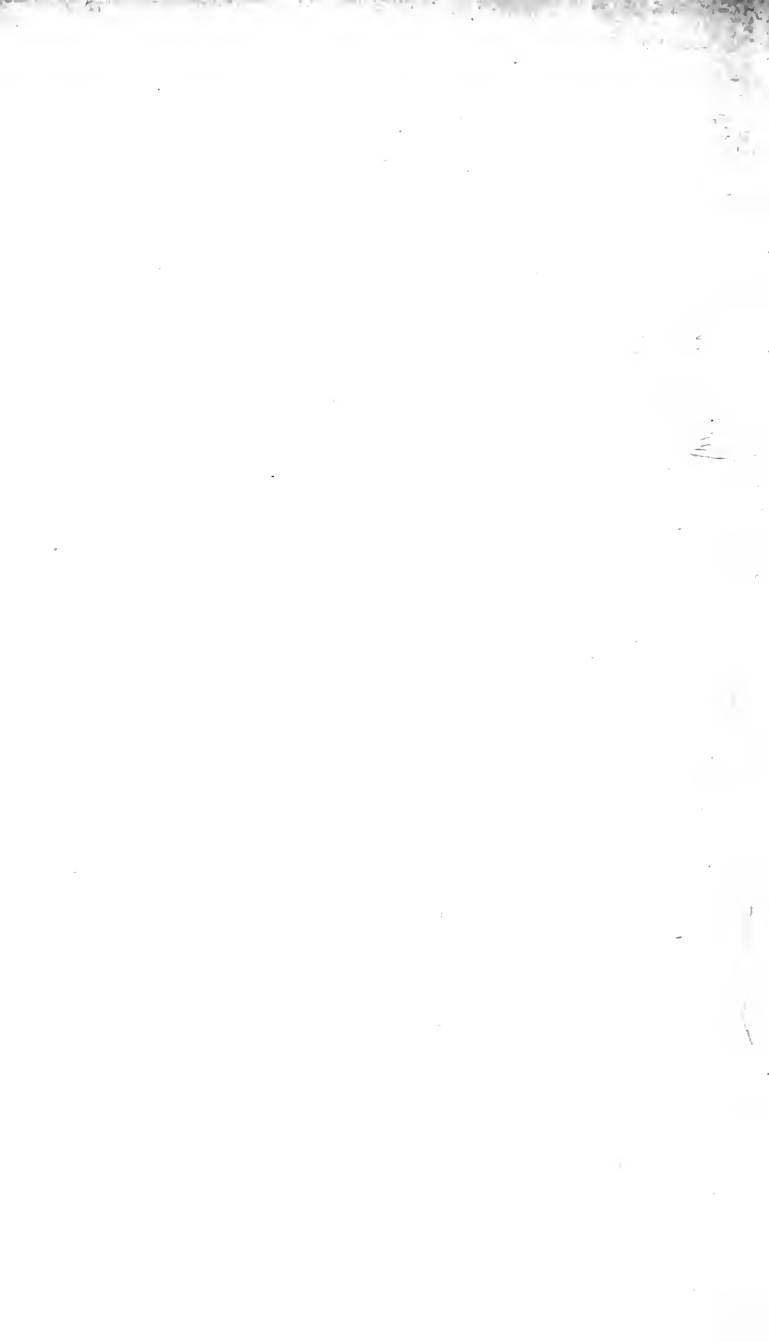
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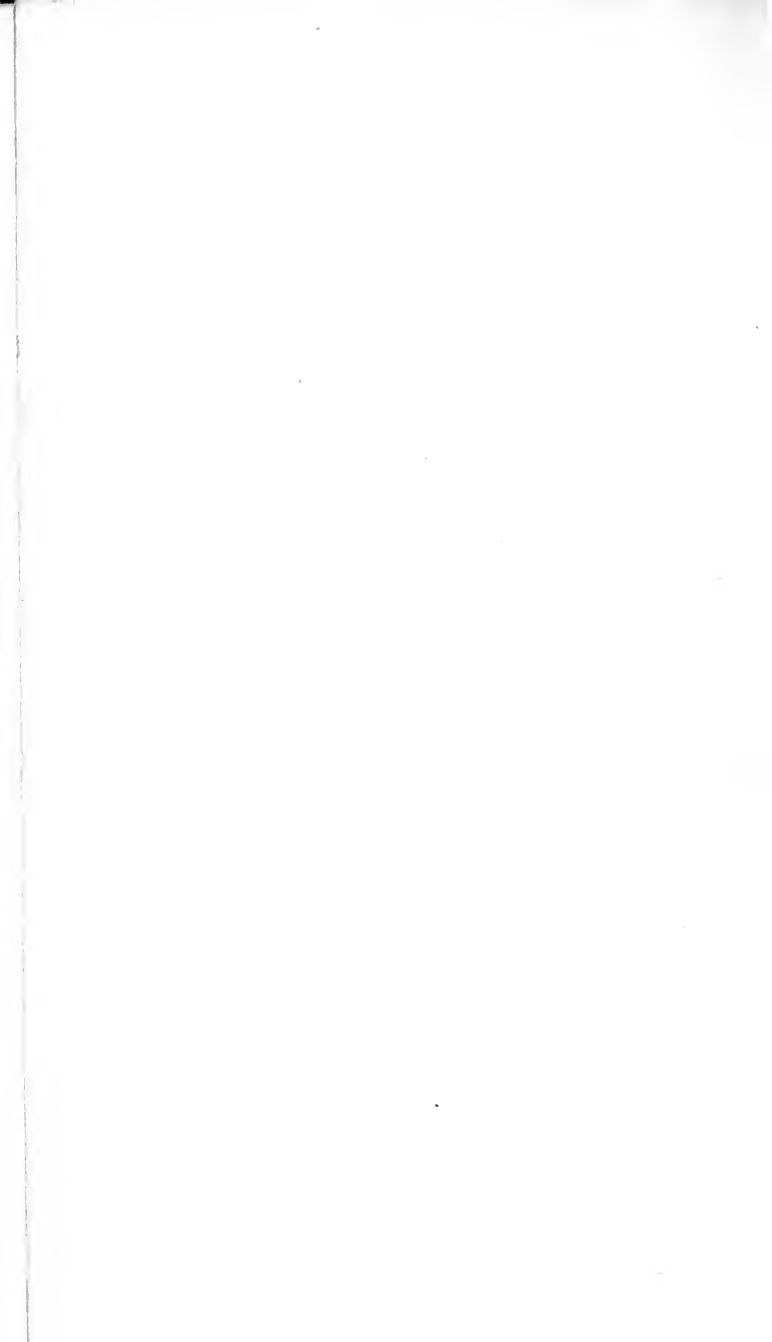


Alfred Mellor Watkin.





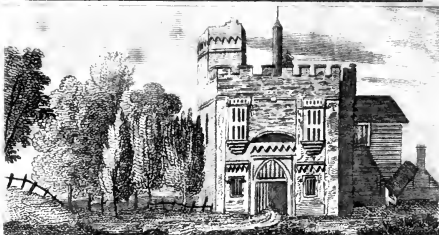




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ALGERNON SYDNEY.



Wells & Snow-Meyer sc

354 Strand

Rye House.

ABRIDGED TRIALS,

AND

Remarkable Cases

OF

CRIMINAL JURISPRUDENCE.

FROM

THE EARLIEST RECORDS

TO

THE YEAR 1825.

[ed. George Barrow]

"THE Annals of Criminal Jurisprudence exhibit human nature in a variety of positions, at once the most striking, interesting, and affecting. They present tragedies of real life, often heightened in their effect by the grossness of the injustice, and the malignity of the prejudices which accompanied them. At the same time real culprits, as original characters, stand forward on the canvas of humanity as prominent objects for our special study. I have often wondered that the English language contains no book like the *Causæ Celebres* of the French, particularly as the openness of our proceedings renders the records more certain and accessible, while our public history and domestic conflicts have afforded so many splendid examples of the unfortunate and the guilty. Such a collection, drawn from our own national sources, and varied by references to cases of the continental nations, would exhibit man as he is in action and in principle, and not as he is usually drawn by poets and speculative philosophers."

BURKE.

IN SIX VOLUMES.

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REMARKABLE TRIALS,

AND

CELEBRATED CRIMINALS.

ALGERNON SIDNEY, ESQ.

FOR HIGH TREASON, ARRAIGNED NOV. 7, 1683.

ALGERNON SIDNEY was the son of Robert, second Earl of Leicester, and of Dorothy, daughter of the Earl of Northumberland; and born at Penshurst, in Kent, in the year 1634. The chivalrous spirit and characteristic energy of his illustrious family, led him to espouse the cause of the people against the encroachments of the Stuarts, and the tyranny of their favorites; and he served during the Civil Wars as a Parliament colonel in Ireland. When the tribunal was appointed for trying Charles I. he was nominated one of the commissioners, but did not sit. After the Restoration, he was viewed with an eye of jealousy by the Court, and still lived in intimacy with the Republican and discontented party. An opportunity was found in the evidence of the infamous Lord Howard of Escrick, to seize his person and papers; and on the illegal evidence of the latter, and the questionable of the former, he was found guilty by one of those venal or alarmed Juries, who abuse their sacred duty.

The indictment sets forth the charge in the following terms:—

“*Middlesex Sessions.*—The jurors for our Lord the King, upon their oaths do present, that Algernon Sidney, late of the parish of St. Martin in the Fields, in the county of Middlesex, Esquire, as a false traitor against the most illustrious, most excellent Prince, our Lord Charles II. by the grace of God, King of Eng-

land, Scotland, France, and Ireland, and his natural Lord, not having the fear of God in his heart, nor weighing the duty of his allegiance, but moved and seduced by the instigation of the devil, utterly withdrawing the cordial love, and true, due, and natural obedience, which a true and faithful subject of our said Lord the King should bear, towards him the said Lord the King, and of right is bound to bear; contriving, and with all his strength intending, to disturb the peace and common tranquillity of this kingdom of England, and to stir up and move war and rebellion against the said Lord the King, in this kingdom of England, and to depose and deprive the said Lord the King, from the title, honour, and regal name, of the Imperial Crown of his kingdom of England, and to bring and put the said Lord the King to death, and final destruction, the thirtieth day of June, in the five and thirtieth year of the reign of our Lord King Charles II. now King of England, &c. and divers other days and times, as well before, as after, at the parish of St. Giles in the Fields, in the county of Middlesex, maliciously and traiterously, with divers other traitors to the jurors aforesaid unknown, did conspire, compass, imagine and intend to deprive and cast down, the said Lord the King, his supreme natural Lord, not only from the regal state, title, power, and rule of his kingdom of England; but also to kill and bring and put to death the same Lord the King, and to change, alter and utterly subvert the ancient government of this his kingdom of England, and to cause and procure a miserable slaughter among the subjects of the said Lord the King through his whole kingdom of England, and to move and stir up an insurrection and rebellion against the said Lord the King, within this kingdom of England, and to fulfil and perfect those his most horrid, wicked and diabolical treasons, and traiterous compassings, imaginations and purposes, the same Algernon Sidney as a false traitor, then and there, and divers other days and times, as well before as after, maliciously, traiterously and advisedly, did assemble himself, meet and consult, with the aforesaid other traitors to the jurors aforesaid unknown, and with the same traitors did treat of, and for those his treasons and traiterous compassings, imaginations and purposes, to be executed and fulfilled. And that the aforesaid Algernon Sidney as a false traitor, maliciously, traiterously and advisedly, then and there, and divers other days and times, as well before as after, upon himself did assume, and to the aforesaid other traitors did promise that he would be aiding and assisting in the execution of their treasons and traiterous compassings, imaginations and purposes aforesaid, and to fulfil, perfect, and reduce to effect, those their most horrid treasons and traiterous compassings, imaginations and purposes aforesaid, the same Algernon Sidney as a false traitor, then and there, falsely, maliciously, advisedly and traiterously did send one Aaron Smith into Scotland, to invite, procure, and incite divers evil disposed subjects of our said Lord the King, of his kingdom of Scotland, to come into this kingdom of England, to advise and consult with the aforesaid Algernon Sidney, and the aforesaid other unknown traitors in this kingdom of England, of aid and assistance to be expected and supplied from the kingdom

of Scotland to fulfil, perfect, and reduce to effect those their most wicked, horrid and traiterous treasons aforesaid. And that the aforesaid Algernon Sidney, to fulfil and perfect those most wicked, horrid and devilish treasons, and traiterous compassings, imaginations and purposes aforesaid, and to persuade the subjects of the said Lord the King of this kingdom of England, that it is lawful to make and stir up an insurrection and rebellion against the said Lord the King that now is, the said thirtieth day of June, in the five and thirtieth year of the reign of the said Lord the King that now is, at the parish of St. Giles in the Fields, in the county of Middlesex, falsely, unlawfully, wickedly, seditiously and traiterously did make, compose and write, and caused to be made, composed, and written, a certain false, seditious and traiterous libel, in which said false, seditious and traiterous libel among other things is contained as followeth in these English words, viz. 'The power originally in the people of England is delegated unto the Parliament, he (the most Serene Lord, Charles II. now King of England, meaning) is subject unto the law of God, as he is a man to the people, that makes him a King, inasmuch as he is a King, the law sets a measure unto that subjection, and the Parliament judges of the particular cases thereupon arising, he must be content to submit his interest unto theirs, since he is no more than any one of them in any other respect than that he is by the consent of all, raised above any other: If he doth not like this condition, he may renounce the crown; but if he receive it upon that condition (as all magistrates do the power they receive) and swear to perform it, he must expect that the performance will be exacted, or revenge taken by those he hath betrayed.' And that in another place in the said false, seditious and traiterous libel, among other things, these false, seditious, and traiterous English sentences are contained (that is to say) 'we may therefore change or take away Kings, without breaking any yoke, or that is made a yoke which ought not to be one, the injury is therefore in making or imposing, and there can be none in breaking it,' against the duty of his allegiance, against the peace of the said now Lord the King, his crown and dignity, &c. And against the form of the statutes in this case made and provided, &c."

How sayest thou, art thou guilty of this high treason whereof thou standest indicted, or not guilty?

Col. Sidney. My Lord, I find here a heap of crimes put together, distinct in nature one from another, and distinguished by law; and I do conceive, my Lord, that the indictment itself is thereupon void, and I cannot be impeached upon it.

L. C. J. [Sir George Jefferies.] We are not to admit of any discourses, till you answer the question, whether you be guilty or not guilty.

Att. Gen. [Sir Robert Sawyer.] If he will demur, my Lord, we will give him leave.

Sidney. I presume your Lordship will direct me, for I am an ignorant man in matters of this kind, I may easily be surprised in it, I never was at a trial in my life of any body, and never read a law-book.

L. C. J. Because no prisoner under your circumstances is to have counsel, but in special cases to be assigned in matters of law, the Court is bound by their oaths and duty of their places, that they shall not see any wrong done to you; but the business we are to tell you now is, you are to plead guilty, or not guilty, or demur, which is a confession in point of law.

Sidney. Under favour, my Lord, there may be indictments that are erroneous, and if they are erroneous and vicious, they are null, and ought not to be answered to.

Just. Withins. If you please to demur to it, you shall have liberty to make any exceptions.

Sidney. I do not demur, it is only exceptions. I think in matters of life, a man may give in his exceptions to the bill, and plead not guilty afterwards. I am sure in Sir Henry Vane's case, the Court said it, and offered him to do it; that which, under favor, I hope to do.

L. C. J. You must plead or demur.

Sidney. My Lord, if I put in exceptions to the bill, I do not plead till those exceptions are over-ruled. This was in the case of Sir Henry Vane.

L. C. J. Sir, I must tell you, you must either plead or demur.

Sidney. My Lord, there are in this indictment, some treasons or reputed treasons, that may come within the statute of the 13th of this King, which is limited by time, the prosecution must be in six months, and the indictment within three. Now, my Lord, if that this business here mentioned, be above six months before my commitment, or above three before the indictment, I think, under favour, I ought not to answer to these matters.

L. C. J. You are mistaken in the law. That will be saved when the fact comes to appear. If they allege the thing to be at a time, which, according to that allegation would maintain the indictment, and if upon the trial it appear otherwise, the Court is bound to take no-

tice of it when you come to your trial; but we are not bound to examine that before you have pleaded.

Sidney. My Lord, every body will acknowledge, that there have been, or may be, vicious indictments. Now if I plead to an erroneous indictment, and am acquitted, I may be indicted again. Bills of attainder have been upon errors in original indictments, as that of the Duke of Somerset. Now if there be here several things distinct in nature, and distinguished by law, that are put together, it is impossible to make a positive answer to any one. If any one should tell me, that I by myself, or by others, by sword or by pistol, conspired to kill the King, I can say, I did it, or I did it not. If any one say, I have levied war, and by several acts undertake to prove I have done it, I can say I have done it, or I have not. But here I do not find any thing specified, or can tell upon what statute I am indicted. I pray I may see the record.

L. C. J. That we cannot do. You shall hear it read again if you will, if you think it to be a void indictment, demur to it if you will.

Sidney. My Lord, I desire you to accept of this. (Shewing a parchment.)

L. C. J. What is it? Put in what plea you shall be advised; but if you put in a special plea, and Mr. Attorney demurs, you may have judgment of death, and by that you wave the fact.

Sidney. I cannot make any objection to the bill after I have pleaded, not guilty, for I accept the bill thereby to be good.

L. C. J. If you can assign any matter of law, do. But otherwise what a strange kind of thing would it be? All criminals would say in all cases, I doubt whether the bill be good or bad. And after I have thus considered of it, I will plead. You are misinformed, and this the Court tells you, as a duty incumbent on them.

Just. Withins. If you demur, and shew what your causes are, we will assign you counsel.

Sidney. I desire you will not try me, and make me run on dark and slippery places; I do not see my way.

L. C. J. Do not apprehend yourself to be so, as if the Court would run you to any inconvenience. But

they are bound to see the methods of justice preserved; they are those that you, and all the King's subjects are bound to conform to. If any one of us were in the same condition, we must observe the same methods of law.

Cl. of Cr. Art thou guilty, or not guilty?

Sidney. Then pray, my Lord, will you tell me this, is it true, that a man, how vicious soever an indictment is, must answer or demur to it?

L. C. J. He must either answer or demur.

Sidney. Are there no exceptions to be admitted?

L. C. J. None: And if you do not do the one, or the other, judgment passes, as if you had pleaded.

Sidney. This is a plea.

Just. Withins. Will you stand by it? Consider yourself, and your life, if you put in that plea, and Mr. Attorney demurs, if your plea be not good, your life is gone.

Sidney. Pray, my Lord, give me a day to consider of it.

L. C. J. No, we must not introduce new methods or forms for any body. The same case that is with you, may be with other people.

Sidney. My Lord, I do not pretend to any thing but what is law, and due to every man upon English ground. I should be very sorry to do that which may be hurtful.

L. J. C. You have the rule of the Court. You must do one or the other. Call him to it.

Sidney. I desire this may be read. (Shewing the same parchment.)

L. C. J. It shall not be read, unless you put it in as a plea.

Att. Gen. I must do my duty, Mr. Williams exceeds his liberty, he informs the prisoner several things.

Mr. Williams. I only said, if it was a plea, put it in: Mr. Attorney can hear all I say. (Whereon Mr. Williams was reproved by the Lord Chief Justice.)

Sidney. I only give it as an exception to the bill.

Cl. of Cr. Art thou guilty or not guilty?

Sidney. If any one should ask me any particular thing, I could tell how to answer.

L. C. J. He asks you a particular thing. It is the duty of the Court to pronounce judgment, if you do not plead.

Sidney. Why then, if you drive me upon it, I must plead.

L. C. J. I am sure there is no gentleman of the long robe would put any such thing into your head. There was never any such thing done in capital matters.

Sidney. My Lord, I am there indicted for conspiring the death of the King; I have not conspired the death of the King; I am there indicted for levying war, I have not done that. I am indicted for having invited others, of another nation: I have not done that neither. I am there indicted of having written a seditious libel to stir up the minds of the people against the King, I have not written any thing to stir up the people against the King.—

L. C. J. We are not to hear all this, you must plead as other people, or else in plain English we will pronounce sentence. We ought to give all men satisfaction that will be satisfied; but if they wont be directed, we can't help that.

Sidney. My Lord, If you put me upon this inevitable necessity, it lies upon you; I must plead then.

Cl. of Cr. Art thou guilty or not guilty?

Sidney. Not guilty.—*Cl. of Cr.* Culprit, how wilt thou be tried?

Sidney. By God and my country.

Cl. of Cr. God send thee a good deliverance.

L. C. J. If you be not guilty, I pray God you may escape.

Att. Gen. My Lord, will you please to appoint a day for his trial, that he may take notice of it now?

L. C. J. What time would you have?

Att. Gen. A week's time; do you think that will be enough?

Sidney. No, pray, my Lord, give me a fortnight's time.

Att. Gen. I will not oppose it.

Sidney. In the next place I desire a copy of the indictment.

L. C. J. We cannot grant it by law.

Sidney. I desire you would please to give me counsel.

L. C. J. We cannot do it; if you assign us any particular point of law, if the Court think it such a point as may be worth debating, you shall have counsel. But, if you ask for counsel for no other reason than mere asking it, we must not grant it. The Court is

bound to see that nothing be done against you, but what is according to the rules of law. I should be very loth to draw the guilt of any man's blood upon me.

Sidney. Has not every body counsel?

L. C. J. No.—*Sidney.* I have several points of law.

L. C. J. Tell us them.

Sidney. My Lord, will you oblige me that am an ignorant man, and confess myself so, upon hearing my indictment for things I know nothing of, a long thing, presently to raise a point of law.

L. C. J. It is not we that oblige you, Mr. Sidney, it is the law that obliges you. We are the ministers of the law, the law says we are not to allow you counsel without making your objections, that the Court may understand whether it be fit; the law says we may not allow you a copy of the indictment. Therefore, do not go away and say that we as men sitting here to impose upon you: we sit here only to administer the justice of the nation.

Just. Withins. Sir, you will have a fortnight's time to consider of objections in law.

L. C. J. If you will have it read, you shall. Those things that you may have by law, God forbid but you should have the benefit of them.

Sidney. I desire, my Lord, to hear it read again.

Att. Gen. Would you have it read in Latin.

Sidney. Yes, if you please, I do understand a little Latin. (The indictment was then read in Latin.)

Sidney. What is that statute?

L. C. J. When you come to your trial, Mr. Attorney will tell you what statute he goes upon. And he may give in evidence, any Act of Parliament that comprehends treason.

Sidney. Methinks he should say what statute he goes upon.

Just. Withins. Sir, would you have a new indictment?

L. C. J. He must take notice of his trial this day fortnight. Lieutenant of the Tower, you may take the prisoner back again. (The Lieutenant of the Tower then took away his prisoner.)

November 21st.

Sidney. My Lord, when I was last here, before your

Lordship, I desired a copy of my indictment, and I thought the law allowed it me. But being in an hurry, I was carried first to a tavern, then led through soldiers, and absolutely surprised. I could not give the reason why I thought the law allowed me a copy. My Lord, I was denied a copy, and thereby I was deprived of the benefit of a special plea I designed to have put in. This would have been a great help to your Lordship, and to me; the denial of which has been of great prejudice. Now, my Lord, of that which I thought was law then, I think I can give a better testimony that it is so now upon the statute of 46 E. III. wherein it is expressed, that *tout partes & tout gents*, that is, all people shall have a copy of every record; and it enumerates several matters, as well that against the King as other people. This is a general law still in force: my Lord Stafford had a copy, and my Lord Stafford, and the Lords in the Tower had copies of their indictments. And, under favour, I think it was never more necessary than to me, there never having been, perhaps, a charge so long and so confused. Now, my Lord, I have a copy transcribed of this statute. (Shewing a paper.)

L. C. J. [*Sir George Jefferies.*] We remember the law very well. Mr. Sidney moved for a copy of the indictment, and the Court denied him then, and they still refuse him. And yet all this while we deny you nothing that is law. You shall have the right that becomes a subject in your condition. And we must tell you, that notwithstanding all that case, we ought not to have given you so much favour (perhaps in strictness) as we did. And because you did particularly take notice of the case of Sir Henry Vane last time, I will shew you the Court were more indulgent to you than to that person. In Sir Henry Vane's case, by the opinion of all the judges, it was declared, that no copy ought to be given, of the whole, or any part of the indictment, except they shewed matter of law. But your counsel, since you went away, moved for the copy of the indictment; and to satisfy them, I directed the case that you took notice of to be read in the Court. And I thought they had been sufficiently satisfied. You had the indictment read to you in Latin, which was denied in the case of Sir Henry Vane. And there is a later case known to most persons here. By the opinion of all the judges of Eng-

land, a copy of the indictment was denied to my Lord Russell. Therefore arraign him upon the indictment; we must not spend our time in discourses to captivate the people.

Sidney. Is not this a good law, my Lord?—(Holding out the paper.)

L. C. J. You have the rule of the Court.

Just. Withins. Any thing the law will allow you, you shall have; but I am sure, if you advised with your counsel, they must tell you the same thing.

The Clerk of the Crown then called the jury; and, after several challenges, the names of the jury were as follow:—

JURY.

John Amger
Richard White
William Linn
Lawrence Wood
Adam Andrews
Emery Arguise

Josias Clerke
George Glisby
Nicholas Baxter
William Reeves
William Grove, and
John Burt.

L. C. J. Look you, gentlemen of the jury, there are some gentlemen at the bar, who, as we are informed, are apt to whisper to the jury; 'tis no part of their duty; nay 'tis against their duty: and, therefore, gentlemen, if you hear any of them by you that offer to whisper, or make comments in this cause, as you are upon your oaths, and I doubt not but will do your duty between the King and the prisoner; so I expect, if you hear the counsel say any thing, you will inform the Court. Let us have no remarks, but a fair trial in God's name.

Sol. Gen. [*Mr. Finch.*] Pray call Mr. West.

Col. Sidney. I pray one word, my Lord, before Mr. West be sworn; I have heard, my Lord, Mr. West hath confessed many treasons; I desire to know whether he is pardoned, or no?

L. C. J. I don't know that.—*Col. Sidney.* My Lord, how can he be a witness then?

L. C. J. Swear him: for I know no legal objection against him. He was a good witness in my Lord Russell's trial.

Col. Sidney. My Lord, if another did not except against him, 'tis nothing to me.

Mr. North. Pray give an account to the Court of what you know of a general insurrection intended in England.

Col. Sidney. What he knows concerning me?

L. C. J. We will take care of that, that no evidence be given but what ought to be.

Col. Sidney. Wherefore should he say any thing, unless it be to me and my indictment?

L. C. J. Mr. Sidney, you remember in all the trials about the late Popish plot, that there was first a general account given of the plot in Coleman's trial, and so in Plunket's, and others: I don't doubt but you remember it. And Sir William Jones, against whose judgment, I believe you went object, was attorney at that time.

North. Mr. West, what do you know of the general insurrection lately designed?

West. My Lord, I have had the honour to know Colonel Sidney several years; but I don't remember that I ever saw him from the time I came acquainted with any part of the conspiracy, till the discovery that was at the council.

North. Pray give an account of what you know of the plot in general.

West. My lord, in October last, Captain Walcot came to me, and told me that my Lord Shaftsbury had designed an insurrection in November; I used some arguments to dissuade him from it. But a little afterwards he came and told me, the thing was wholly disappointed, and then it went off, and my Lord Shaftsbury went for Holland. Colonel Rumsey afterwards, about Christmas, said there were some lords and gentlemen intended to make an insurrection. The persons were the Duke of Monmouth, my Lord of Essex, my Lord Howard, my Lord Russel, the prisoner at the bar, and Mr. Hambden, jun. After some time he told me they had altered their measures, and were resolved not to venture upon an insurrection in England, till they had a concurrency in Scotland. Afterwards I was not privy to any thing else, but what I had the report of from Mr. Nelthorp and Mr. Ferguson. Mr. Nelthorp told me the prisoner had said —

Col. Sidney. My Lord, I am very unwilling to interrupt the gentleman, —

L. C. J. You must not interrupt the witness. Go on, sir.

West. Mr. Nelthorp told me, the prisoner at the bar had sent Aaron Smith into Scotland, and given him a sum of money to bear his charges, and sent letters to some Scotch gentlemen to invite them to town. The letter bore a cant of settling some business in Carolina; but the business was coming up about the insurrection. After this Mr. Smith returned, and some Scotch gentlemen with him; and soon after Mr. Ferguson gave an account of that affair, and said, the Scotch proposed, if they might have thirty thousand pounds in ready money, they would undertake to make an insurrection in Scotland, without the concu-

rence of England. He said this proposal was agreed to, and money would be soon ready; and he said that Sheppard would return the money. That the arms were ready bought, and my Lord of Argyle would go into Scotland and head the Scots. He told me when things were thus settled, some difference arose about raising the money; and at last he told me, my Lord Grey did offer to raise ten thousand pounds out of his own estate, if the rest would pay their proportion. Then the Scots came down to less, but that would not be complied with. The places for the rising were Bristol, Taunton, York, Chester, Exeter, London. That there had been some debates, whether they should begin at London, or the other places, and at last it was resolved they should begin at London with the rest of the places.

My lord, this was the account I had of the matter in general of Mr. Ferguson; but he said they were disappointed. Afterwards he told me, the prisoner at the bar, and Major Wildman, were very instrumental in working of it off, because they could not agree upon the declaration to be made upon the insurrection. The English were for a commonwealth; but the Scotch gentlemen answered fairly, it might come to it in time, but the noblemen there would not agree to it at present. As to the prisoner in particular, I know nothing, and did never speak with him till since the discovery.

Attorney General. COLONEL RUMSEY,—*sworn.*

North. Pray, sir, will you give the Court an account of what you know of any insurrection intended, and how they designed to carry it on.

Col. Rumsey. My Lord, the latter end of October, or beginning of November, I was desired by my Lord Shaftsbury to go to Mr. Sheppard's, to know of the gentlemen that were met there, what was done about the rising intended at Taunton; and I had their answer, that Mr. Trenchard had failed them, and that it must cease for that time. That was all at that time.

Sol. Gen. What else do you know of any insurrection afterwards?

Col. Rumsey. After that we had several meetings at Mr. West's chamber, where we had divided the city into twenty parts, and seven parts Mr. Goodenough had brought an account of; the other thirteen he said nothing of, for he had not spoke with those that were to tell him how many men they would afford. There was there Captain Walcot, Mr. West, the two Goodenoughs, Mr. Borne, Mr. Wade, and myself.

L. C. J. What was the result of those debates?

Col. Rumsey. To see what number of men they could produce in the city for the insurrection.

L. C. J. Was there a rising designed?—*Col. Rumsey.* Yes.

L. C. J. And did these people meet?

Col. Rumsey. There was no time set.

Sol. Gen. When was the meeting?

Rumsey. There were several meetings in March, and April, and May.

Sol. Gen. After the meeting at Sheppard's?

Rumsey. Yes, a great while. It ceased, I think, six weeks or three months.

L. C. J. Whom did you meet with at Mr. Sheppard's?

Rumsey. There was the Duke of Monmouth, my Lord Grey, my Lord Russel, Sir Thomas Armstrong, Mr. Ferguson, and Mr. Sheppard.

Sol. Gen. Whom did you expect should head this army?

Rumsey. That was never said any thing of.

Att. Gen. Who were to manage the rising?

Rumsey. We that met there.

Att. Gen. Had you no expectation of great men?

Rumsey. Mr. West told me, and Mr. Goodenough, that there was a council, which were the Duke of Monmouth, my Lord Essex, my Lord Howard, Colonel Sidney, Mr. Hambden, and my Lord Russel; there were six.

L. C. J. What did he tell you of those six?

Rumsey. He told me they were managing a business with Scotland.

L. C. J. A business, pray speak plain, tell all you know.

Col. Rumsey. For the insurrection.

L. C. J. Say so then, we know nothing of the business you were about.

Col. Rumsey. My Lord, Mr. West had that discourse with my Lord Howard I never had; he is more fit to speak to that than me.

L. C. J. Speak of your own knowledge and no more.

Jones. After the death of my Lord Shaftsbury, who were the managers, and were to carry it on?

Col. Rumsey. I told you, Mr. West and Mr. Goodenough did tell me the Duke of Monmouth, my Lord Essex —

Att. Gen. He told you so before. Do you know there was an surrection then intended?

Col. Rumsey. Yes, because we met towards the management of it, the company that met at Mr. West's chamber, and other places.

Att. Gen. What discourse had you with Mr. Ferguson about it?

Col. Rumsey. Not about those gentlemen.

North. The next thing we shall shew, shall be that the Scotchmen came to town.

Col. Sidney. My Lord, I must ever put you in mind, whether it be ordinary to examine men upon indictments of treason concerning me, that I never saw, nor heard of in my life.

L. C. J. I tell you, all this evidence does not affect you, and I tell the jury so.

Col. Sidney. But it may prepossess the jury.

Mr. KEELING sworn.

Att. Gen. I ask you, in general, what you know of the rising to have been last spring?

Keeling. My Lord, it was some time last summer, Mr. Goodenough came to me, and brought me three papers numbered on the back-side; I asked him to what end he delivered them me? He told me, one was for myself, and I was to deliver the other two to whom I could trust in the two divisions. I asked him, what was the design? He said, to raise men; says I, do you design a general insurrection? He said, if he did not, if the King was taken off, this would do well; for then people would know how to

have recourse to a formidable body. And I have heard him say, that Colonel Sidney, whom I dont know, had a considerable part in the management of that affair.

Att. Gen. We charge him with conspiring, and there must be confederates in the case. Now then we come to the prisoner, we will call my Lord Howard, that was one of the persons that did consult.

The LORD HOWARD sworn.

Att. Gen. Pray acquaint my Lord and the Jury of your knowledge of what transactions there have been with the prisoner about this affair of the general rising.

L. Howard. Truly, my Lord, in the entering of the evidence I am about to give, I cannot but observe, what a natural uniformity there is in truth. For the gentlemen that have been before, have so exactly instanced, in every particular, with what I have to say, that two tallies could not more exactly fall into one another, though I confess I had not seen their faces, till the plot broke out, for some months before.

My Lord, and Gentlemen of the Jury, about the middle of January last, it was considered by some of us that met together, that it was very necessary and expedient to an enterprise that had been long in hand, and fallen flat then, that it should be revived by some consult or cabal that should be set up to give life to it, and governance to the motions of it. The first (for aught I know) movers of this, were the Duke of Monmouth, the gentleman at the bar, and myself: and there we did agree, that we should bethink ourselves of some few, we were willing it should not exceed five, at the most seven. This agreement being at first between us three; I remember the Duke of Monmouth undertook to engage my Lord Russel, and my Lord Salisbury; and this gentleman Colonel Sidney for my Lord of Essex, and Mr. Hambden; and these being put together, did presently constitute a little cabal, of as great a number as was intended. This being settled among them, it was within a few days after, I can't certainly tell when, but between the middle and latter end of January, that I was told, that the persons had agreed to enter into this conjunction of councils; and in order to that, they had appointed a meeting at Mr. Hambden's house, to which I was invited. This in time was between the middle and latter end of January, but I can't tell exactly. When we came there, there were all those gentlemen I before named, the Duke of Monmouth, my Lord Essex, my Lord Russel, Colonel Sidney, Mr. Hambden, and myself. It was at Mr. Hambden's house, which ranges on the same row with Southampton-house: and being met, Mr. Hambden, I suppose, did think it most properly belonged to him to take upon him the part, as it were, to open the sessions; that was, to give us a little account of the reason, end, and intention of that meeting: in which discourse, he took occasion to recapitulate some design, that had been before chiefly carried on by Lord Shaftsbury, before this time dead; and also took notice of the ready disposition and inclination of the minds of men to go on with it; and did give one instance of his judgment of it, that it being a design communicated to so many, it had not been so much as revealed, or a murmur or a whisper gone about it; from

whence he took occasion to tell us, that it was absolutely necessary for the future, there should be some council, that should be as a spring, a little to guide and govern the motions of the rest, for that there were divers things to be taken care of, which if not taken care of by particular persons, would all miscarry. This was the substance of the prologue and introduction he made. From hence he made a transition to some particular things, that he thought were most principally to be taken care of. And though it is impossible for me to remember the order and method in which we discoursed, or who said this or that, but that which the sense of all resulted to was this: that since we did not come prepared for it, we should consider what were the things that would hereafter challenge our particular care, that was, the time when, the places where, and the persons by whom these things should be carried on. This led into some particular discourse, concerning some of these heads: for the time; that it should be shortly, lest the minds of men should chill; and then as to the place where, whether in city or country, or both jointly. In all these, some opinions were given, but not settled to any resolution, but they were committed to our thoughts to be digested afterwards. But these being the things that every one was to take upon his thoughts, there was this pre-requisite to the undertaking, and that was to consider what magazines were to be got; and that led to another particular, which was, with what they should be gotten, and that was money; and thereupon was propounded a considerable sum to be raised; and, as I remember, the sum propounded by the Duke of Monmouth was twenty-five thousand pounds, or thirty thousand pounds. And then it was considered, how it should be raised without drawing observation or jealousy. These are only the heads that were then agreed on, hereafter to be better considered. But the present resolution that was taken, was, that before any procedure was made in any of these things, or any advance towards the undertaking; the first thing to be considered, was, how to make a coalition of councils between Scotland, and what we were doing here; and for that purpose, we should bethink ourselves of some fit person to be sent thither, to unite us into one sense and care. This is as much as occurs to my memory upon that meeting. About a fortnight or three weeks after, which I suppose carried it to the middle of February next, we had another meeting, and that was at Southampton-house, at my Lord Russel's, and there were every one of the same persons; and when we came there, there happened to fall in a discourse which I know not how it came in, but it was a little warmly urged, and thought to be untimely, and unseasonable; and that I remember was by Mr. Hambden, who did tell us, that having now united ourselves into such an undertaking as this was, it could not but be expected, that it would be a question put to many of us; to what end all this was? where it was we intended to terminate? into what we intended to resolve? That these were questions he met with; and, it was probable, every one had, or would, meet with from those persons whose assistance we expected; and that, if there was any thing of a personal interest designed or intended, that there were but very few of those, whose hearts were now with us, but would

fall off: and therefore, since we were upon such an undertaking, we should resolve ourselves into such principles as should put the properties and liberties of the people into such hands, as it should not be easily invaded by any that were trusted with the supreme authority of the land; and it was mentioned to resolve all into the authority of the parliament. This was moved by him, and had a little harshness to some that were there; but yet, upon the whole matter, we generally consented to it, that it was nothing but a public good that we all intended. But then after that, we fell to that which we charged ourselves with at the first meeting, and that was concerning sending into Scotland, and of settling an understanding with my Lord of Argyle: and in order to this, it was necessary to send a messenger thither to some persons, whom we thought were the most leading men of the interest in Scotland; this led us to the insisting on some particular persons; the gentlemen named, were my Lord Melvin, Sir John Cockram, and the Campbells; I am sure it was some of the alliance of my Lord of Argyle, and I think of the name. As soon as this was propounded, it was offered by this gentleman, Colonel Sidney, that he would take the care of the person; and he had a person in his thoughts, that he thought a very fit man to be entrusted; one or two, but one in special, and he named Aaron Smith to be the man, who was known to some of us, to others not; I was one that did know him, and as many as knew him, thought him a proper person. This is all that occurs to me that was at the second meeting, and they are the only consults that I was at.

Att. Gen. What was he to do?

L. Howard. There was no particular deed for him, more than to carry a letter. The Duke of Monmouth undertook to bring my Lord Melvin hither, because he had a particular dependance upon him, and I think some relation to his lady: but to Sir John Cockram there was a letter to be sent under the disguise of carrying on some business of the plantation in Carolina. This letter I suppose was writ by my Lord Russel (though I know it not) for he was personally known to my Lord Russel, and I do not know that he was known to any of us. About three weeks after this, then, he was dispatched I suppose.

Att. Gen. To what purpose were these gentlemen to come up?

L. Howard. These were to acquaint us how they found Scotland tempered, and what opportunities or advantages there were or might be of putting them into a commotion, and how men might be raised, and how they would fall under Argyle, and also to keep time and place with us. After this, I was with Colonel Sidney when he was going into London, and he took out several guineas, I cannot tell how much it was, I suppose they might be about sixty, and put them into his pocket (and set me down at my lodging), which he said were to give Aaron Smith; whether he gave them or no, I do not know; and after that he was sent.

Att. Gen. Who told you so?

L. Howard. Colonel Sidney, for I was enquiring of him; and he said, he had not heard of him in three weeks, or but once, when he was about Newcastle. After this, I had occasions that

called me into the country, and there I was. - Some time after that I went to the bath: and this is all the account I can give.

Sol. Gen. Do you know that Aaron Smith did go?

L. Howard. I know nothing but by hearsay. Colonel Sidney told me he was gone, and was upon the road, and he heard from him about Newcastle.

L. C. J. Did you understand by the discourse after he was gone, that he went in pursuance of that debate?

L. Howard. Yes, my lord, that was the whole end of his going.

Just. Withins. I think you say, that gentleman (speaking of Colonel Sidney) undertook to send him?

L. Howard. Yes, he did.

L. C. J. Will you ask him any questions?

Sidney. I have no questions to ask him.

Att. Gen. Silence — You know the proverb. The next step is to shew you, my Lord, that these persons came up immediately after Aaron Smith went down thither; and, according to that which was said to be the shadow and pretence of their coming hither, they pretended they came about Carolina business. Sir Andrew Foster and Mr. Blathwaite.

Sir ANDREW FOSTER sworn.

Att. Gen. Pray, sir, give an account what Scotch gentlemen came up lately.

Sir Andrew Foster. My Lord, about the end of the spring, or beginning of summer, as I remember, these gentlemen, Sir John Cockram, and Commissary Monro, and the two Campbells, father and son, came up hither. I did not see the father at all, but I saw the son the day of the Lord Russel's trial: but the other two, I think, I saw a little before the discovery of the plot.

Att. Gen. What did they pretend they came about?

Sir Andrew Foster. They pretended they came to make a purchase in Carolina, and I saw their commission from the persons said to be concerned in that design.

L. C. J. Who do you speak of?

Sir Andrew Foster. Sir John Cockram and Commissary Monro.

Att. Gen. As soon as the rumour came of the plot, what became of those gentlemen?

Sir Andrew Foster. Sir John Cockram absconded, but Commissary Monro never absconded; and the Campbells, I heard, were seized, changing their lodging from place to place.

Mr. ATTERBURY sworn.

Att. Gen. Mr. Atterbury, will you give my Lord and the Jury an account of what you know of these Scotchmen, their absconding and lying hid.

Atter. My Lord, upon the latter end of June, or the beginning of July, the beginning of July it was, I was sent for into London upon a discovery of some Scotch gentlemen that lay about Blackfriars; and when I came down there, there was the Common Serjeant and some others had been there before me, and found them making an escape into a boat.

Att. Gen. Who were they?

Atter. Sir Hugh Campbell, and Sir John Cockram, and one that was committed to the Gatehouse by the council as soon as brought thither.

Att. Gen. We shall end here, my Lord: how long had they been in town.

Atter. They had been in town some little time.

Att. Gen. We have done with this piece of our evidence. Now, to shew that while this emissary was in Scotland, at the same time the colonel (which will be another overt act of the treason) was writing a treasonable pamphlet, I will call you the witnesses. It is all of his own writing.—*SIR PHILIP LLOYD.*

Att. Gen. Sir Philip Lloyd, pray will you look upon those papers, and give my Lord and the Jury an account where you found them.

Sir Philip Lloyd. I had a warrant, my Lord, from the secretary by the King and Council, to seize Mr. Algernon Sidney's papers, and pursuant to it, I did go to his house, and such as I found there I put up. I found a great many upon the table, amongst which were these; I suppose it is where he usually writes, I put them in a pillow-bear I borrowed in the house, and that in a trunk; I desired Colonel Sidney would put his seal upon them, that there should be no mistake; he refused, so I took my seal, and sealed up the trunk, and it was carried before me to Mr. Secretary Jenkin's office. When the committee sate, I was commanded to undo the trunk, and I did so, and found my own seal upon it. And I took the papers out of the bag I put them into before.

L. C. J. Was Colonel Sidney present when you seized these papers?

Sir Phil. Lloyd. Yes?

Att. Gen. Are these some of those papers?

Sir Phil. Lloyd. Yes, I verily believe it.

Att. Gen. In the next place, I think we have some papers of his particular affairs which will prove his hand, Call Mr. Sheppard, Mr. Cooke, and Mr. Carey.

Mr. North. Sir Philip Lloyd, when were they seized?

Sir Phil. Lloyd. Towards the latter end of June, my Lord.

Juryman. Which June?—*Sir Phil. Lloyd.* Last June.

Mr. SHEPPARD sworn.

Att. Gen. Pray, will you look upon those writings. (Shewing the libel.) Are you acquainted with Colonel Sidney's hand?

Shep. Yes, my Lord.

Att. Gen. Is that his hand-writing?

Shep. Yes, sir, I believe so. I believe all these sheets to be his hand.

Att. Gen. How came you to be acquainted with his hand?

Shep. I have seen him write the indorsement upon several bills of exchange.

Mr. CARY sworn.

Sidney. My Lord, I desire you would please to consider this, that similitude of hands can be no evidence.

L. C. J. Reserve yourself till anon, and make all the advantageous remarks you can.

Att. Gen. Have you had any dealing with him?

Cary. I never saw him write, to my knowledge, more than once in my life, but I have seen his indorsement upon bills, and 'tis very like that.

L. C. J. Do you believe it his hand, as far as you can guess?

Cary. My Lord, it is like what came to me for his hand-writing.

L. C. J. And you believe it to be his hand?—*Cary.* Yes.

Mr. COOKE sworn.

L. C. J. What say you, Mr. Cooke?

Cooke. My Lord, I did never see Colonel Sidney write, but I have seen several notes that have come to me with indorsement of his name, and we have paid them, and 'tis like to this.

L. C. J. And you were never called to account for mispayment?—*Cooke.* No, my Lord.

Att. Gen. I pray it may be read. We will read as much as is necessary to prove the indictment.

Col. Sidney. I pray it may be all read.

L. C. J. Mr. Attorney must have what part he desires read, and you shall have what part you will have read afterwards.

Col. Sidney. I desire it may all be read.

Att. Gen. Begin there : Secondly, There was no absurdity in this, because it was their own case.

Clerk reads.

Secondly,—There was no absurdity in this, though it was their own case ; but to the contrary, because it was their own case ; that is, concerning themselves only, and they had no superior. They only were the competent judges, they decided their controversies, as every man in his own family doth, such as arise between him and his children, and his servants. This power hath no other restriction, than what is put upon it by the municipal law of the country, where any man, and that hath no other force, than as he is understood to have consented unto it. Thus, in England, every man (in a degree) hath a right of chastising them ; and in many places (even by the law of God) the master hath a power of life and death over his servant: it were a most absurd folly to say, that a man might not put away, or in some places kill, an adulterous wife, a disobedient son, or an unlawful servant, because he is party and judge, for the case doth admit of no other, unless he hath abridged his own right by entering into a society where other rules are agreed upon, and a superior judge constituted, there being none such between king and people: that people must needs be the judge of things happening between them and him whom they did not constitute, that they might be great, glorious, and rich ; but that they might judge them, and fight their battles ; or otherwise do good unto them, as they should direct. In this sense, he that is *singulis Major*, and ought to be obliged by every man, in his just and lawful commands, tending to the public good : and must be suffered to do nothing against it, nor in any respect more than the law doth allow.

For this reason Bracton saith, that the King hath three superiors, to wit, *Deum, Legem, & Parliament'* ; that is, the power, originally in the people of England, is delegated unto the Parliament. He is subject unto the law of God as he is a man, to the people that makes him a King, inasmuch as he is a King: the law sets a measure unto that subjection, and the Parliament judges of the particular cases thereupon arising : he must be content to submit his interest unto theirs, since he is no more than

any one of them, in any other respect, than that he is, by the consent of all, raised above any other.

If he doth not like this condition, he may renounce the crown; but if he receive it upon that condition, (as all magistrates do the power they receive) and swear to perform it, he must expect that the performance will be exacted, or revenge taken by those that he hath betrayed.

If this be not so, I desire to know of our author, how one or more men can come to be guilty of treason against the KING, As *Lex facit ut sit Rea*. No man can owe more unto him than unto any other; or he unto every other man by any rule but the law; and if he must not be judge in his own case, neither he, nor any other by power received from him, would ever try any man for an offence against him, or the law.

If the King, or such as he appoints, cannot judge him, he cannot be judged by the ways ordinarily known amongst us. If he, or other by authority from him, may judge, he is judge in his own case, and we fall under that which he accounts the utmost of all absurdities: if a remedy be found for this, he must say that the King in his own case may judge the people, but the people must not judge the King, because it is theirs; that is to say, the servant entertained by the master may judge him, but the master must not judge the servant, whom he took only for his own use. The magistrate is bound by no oath or contract to the people that created him, but the people are bound to its own creature, the magistrate.

This seems to be the ground of all our author's follies; he cannot comprehend that magistrates are for or by the people, but makes this conclusion, as if nations were created by or for the glory or pleasure of magistrates, and affect such a piece of nonsense; it ought not to be thought strange, if he represent, as an absurd thing that the headless multitude may shake off the yoke when they please. But I would know how the multitude comes under the yoke; it is a badge of slavery. He says, that the power of Kings is for the preservation of liberty and property. We may therefore change or take away Kings without breaking any yoke, or that made a yoke which ought not to be one; the injury is therefore in making or imposing, and there can be none in breaking it.

That if there be not an injury, there may perhaps be an inconvenience; if the headless multitude may shake off the yoke, I know not why the multitude should be concluded to be headless; it is not always so. Moses was head of the multitude that went out of Egypt. Othniel led them against the King of Mesopotamia, under the conduct of Phœbidas; they obtained a victory against the Moabites, they had the like success under Shamger, Barac, Gideon, Jephtha, Samuel, Sampson, and others against the Canaanites, Midianites, Philistines and others; the multitude that opposed Saul and Ishbosheth had David for its head; and the ten tribes that rejected Reoboam chose unto themselves Reoboam; the Athenians rising against the Thirty Tyrants had Thrasybulus; those that drave ——— from Thebes were conducted by Pelopidas: when the Romans drave out the Tarquins, they chose Brutus and Publicola, and they destroyed the De-

semviri under Horatius and Valerius. All the multitudes that afterwards revolted from them under Mauritius, Telerius, Spartanus and others, were not headless; and we know of none that were, but all either found heads, or made them. The Germans set up Arminius; the Britains, and others in later times, the Carinians, that rose against Peter the Cruel, had the Lord Detracta Mara.

The French when they grew weary of the corrupted races of Pharamond and Pepin, and the same Pepin and Hugh Capet: the Scots, when they slew James III. had his son to be their head; and when they deposed and imprisoned Queen Mary, the Earl of Murray and others supplied the want of age that was in her son. And in all the revolutions we have had in England, the people have been headed by the Parliament, or the nobility and gentry that composed it; and when the Kings failed of their duties, by their own authority called it. The multitude therefore is not ever headless, but doth either find or create heads unto itself, as occasion doth require; and whether it be one man, or a few, or more, for a short or a longer time, we see nothing more regular than its motions. But they may, saith our author, shake off the yoke; and why may they not, if it prove uneasy or hurtful unto them? Why should not the Israelites shake off the yoke of Pharaoh, Jabin, Sisera, and others that oppressed them.

When pride had changed Nebuchadnezzar into a beast, what should persuade the Assyrians not to drive him out amongst beasts, until God had restored unto him the heart of a man? When Tarquin had turned the regal monarchy of Rome into a most abominable tyranny, why should they not abolish it? And when the Protestants of the Low Countries were so grievously oppressed by the power of Spain, under the proud, cruel, and savage conduct of the Duke of Alva, why should they not make use of all the means that God had put into their hand for their deliverance? Let any man who sees the present state of the provinces that then united themselves, judge whether it is better for them to be as they are, or in the condition unto which his fury would have reduced them, unless they had, to please him, renounced God and their religion. Our author may say they ought to have suffered: the King of Spain by their resistance lost those countries; and that they ought not to have been judges in their own case. To which I answer, that by resisting they laid the foundation of many churches, that have produced multitudes of men, eminent in gifts and graces; and established a most glorious and happy commonwealth, that hath been, since its first beginning, the strongest pillar of the Protestant cause now in the world, and a place of refuge unto those who in all parts of Europe have been oppressed for the name of Christ: whereas they had slavishly, and, I think, I may say, wickedly as well as foolishly, suffered themselves to be butchered, if they had left those empty provinces under the power of antichrist, where the name of God is no otherwise known than to be blasphemed.

If the King of Spain desired to keep his subjects, he should have governed them with more justice and mercy; when, contrary unto all laws both human and divine, he seeks to destroy those

he ought to have preserved, he can blame none but himself, if they deliver themselves from his tyranny. And when the matter is brought to that, that he must not reign, or they over whom he would reign, must perish; the matter is easily decided, as if the question had been asked in the time of Nero or Domitian, whether they should be left at liberty to destroy the best part of the world, as they endeavoured to do, or it should be rescued by their destruction? And as for the people's being judges in their own case, it is plain, they ought to be the only judges, because it is their own, and only concerns themselves.

Att. Gen. The latter end, the last sheet of all. § 35.

L. C. J. The argument runs through the book, fixing the power in the people.

Cl. of Cr. The general revolt of a nation from its own magistrates, can never be called rebellion.

Att. Gen. § 37.

Cl. of Cr. The power of calling and dissolving Parliaments is not in the King.

Att. Gen. So much we shall make use of; if the Colonel please to have any other part read to explain it, he may.

Then the sheets were shewn to Colonel Sidney.

Col. Sidney. I do not know what to make of it, I can read it.

L. C. J. Ay, no doubt of it, better than any man here. Fix on any part you have a mind to have read.

Col. Sidney. I do not know what to say to it, to read it in pieces thus.

L. C. J. I perceive you have disposed them under certain heads: To what heads will you have read?

Col. Sidney. My Lord, let him give an account of it that did it.

Att. Gen. My Lord, we will not delay Col. Sidney from entering on his defence, only we have this piece of evidence to give further. One of his accomplices was my Lord Russel, we will give in evidence his conviction. We will only ask my Lord Howard, Was your Lordship sworn as a witness at the trial of my Lord Russel?

L. Howard. Yes.—*Att. Gen.* Whether or no, when you met, were there in those debates any reflections upon the King, that he had broken his duty?

L. Howard. Not that I remember.

Att. Gen. Why would you rise?

L. Howard. If you mean upon the misgovernment, not personally upon the King?

Att. Gen. Ay.—L. Howard. Yes, and principally and chiefly that, which we thought was the general disgust of the nation, the imposing upon the city at that time.

Just. Withins. That was complained of at that time?

L. Howard. Yes, my Lord, we took it all along to be the chief grievance.

L. C. J. Have you any more witnesses?

Att. Gen. Only the record.

Sol. Gen. I know there is no time misspent to make things clear. If the jury have a mind to have the words read again—

L. C. J. If they have a mind, let it.

[Then Mr. Trinder was sworn, and testified it to be a true copy of the record, and said he examined it at Fishmongers'-hall with Mr. Tanner.]

Then the record of the conviction of the Lord Russel was read.

L. C. J. What will you go to next, Mr. Attorney?

Sol. Gen. We have done, unless the jury desire to have the words of the libel read again. [But they did not.]

Col. Sidney. My Lord, I desire to know upon what statute I am indicted.

Att. Gen. My Lord, I will give as plain an answer. You are indicted upon the old statute of 25 Edw. III.

Col. Sidney. Then I desire to know upon what branch of that statute?

Att. Gen. Why, I will acquaint you; 'tis upon the first branch of that statute, for conspiring and compassing the death of the King.

Col. Sidney. Then, I conceive, what does not come within that, does not touch me.

Att. Gen. Make what inference you please, Colonel, we will answer you.

Col. Sidney. I desire to know what the witnesses have sworn against me upon that point?

Att. Gen. Go on, you have heard the witnesses as well as we.

L. C. J. He says you are indicted upon the statute of 25 Edw. III. which statute makes it High-Treason to conspire the death of the King, and the over-act is sufficiently set forth in the indictment; now the question is, whether 'tis proved?

Col. Sidney. They have proved a paper found in my study of Caligula and Nero; that is compassing the death of the King, is it?

L. C. J. That I shall tell the jury. The point in law you are to take from the Court, gentlemen: whether there be fact sufficient, that is your duty to consider.

Col. Sidney. I say, my Lord, that since I am indicted upon that statute, I am not to take notice of any other. I am indicted for conspiring the death of the King, because such a paper is found in my house; under favor, I think, that can be nothing at all to me. For though Sir Phillip Lloyd did ask me, whether I would put my seal to it, he did not ask me till he had been in my closet, and I knew not what he had put in, and so I told him I would not do it. Then come these gentlemen upon similitude of hands. My Lord, we know what similitude of hands is in this age. One told me within these two days, that one came to him, and offered to counterfeit any hand he should shew him in half an hour. So then, my Lord, I have nothing to say to these papers. Then for point of witness, I cannot be indicted, much less tried or condemned on 25 Edw. III. for by that act there must be two witnesses to that very branch unto which the treason does relate, which must be distinguished. For the levying of war, and conspiring the death of the King, are two distinct things, distinct in nature and reason, and so distinguished in the statute. And therefore the conspiring the death of the King is treason, and the other not. 1 Edw. VI. 12. 5 Edw. VI. 11. does expressly say, three must be two witnesses to either of these acts. Now here is my Lord Howard, (I have enough to say of him by and by,) 'tis he only who speaks of six men, whom he calls a select council, and yet selected by no man in the world. I desire to know who selected my Lord Howard? Who selected me? If they were selected by nobody, 'tis a bull to say they were a select council. If they were not selected, but erected themselves into a cabal, then they have either confidence in one another, or find they are almost equally able to assist in the design. Here is nothing of all this,—these six men were strangers to one another. For my own part, I never spake with the Duke of Monmouth above three times in my life, and one time was when my Lord Howard brought him to my

house, and cozened us both. He told the Duke I invited him, and he told me the Duke invited himself, and neither of them was true. Now that such men as these are, hardly knowing one another, should presently fall into a great and intimate friendship, and trust and management of such a business as this, is a thing utterly improbable, unless they were mad. Now I do find in my Lord Howard's deposition against my Lord Russel, that they were in prosecution of my Lord Shaftsbury's design; and yet he acknowledges the Duke of Monmouth said he was mad, and he himself said so too. Now that they should join with four more in the prosecution of the design of a madman, they must be mad too. Now whether my Lord Howard would have you think he was mad, because a madman cannot be guilty of treason, I cannot tell. My Lord Howard in his last deposition at my Lord Russel's trial, fixes the two meetings, one about the middle of January, the other ten days after: now he fixes one to be the latter end of January, the other in the middle of February. Then he makes it to be the prosecution of my Lord Shaftsbury's design. I do not find that any body there had any thing to do with my Lord Shaftsbury; for my part I had not. I had not seen his face for two years. Then, my Lord, what I go upon is, whatever my Lord Howard is, he is but one witness. The law of God, and the law of man, understood and taken by all men, does require two witnesses; Moses says so, so the Apostles the same after him, and Christ says the same, that every matter is to be established by two witnesses. There ought to be two witnesses to the same thing. Now for one to come and tell a tale of a tub, of an imaginary council, and another of a libel, a paper written nobody knows when, is such a thing as you never can get over. But, if the law of God be, that there must be two witnesses to the same fact, there is an end of this matter. And under the judicial law, the penalty would be in this case, to put a man to death. Now here are but two things, which if allowed, nobody will be safe, for perjury. The one is to suffer men to give their testimony, one to one thing, and another to another, that the fraud cannot be discovered; and the other is to take away the punishment. Now the punishment is taken away in some measure: and do but take away the other point, whereby the fraud

cannot be discovered; and then there is no defence to be made. That both witnesses should be to the same point; see the story of Susanna. Two elders testified they saw her in the act of adultery: they were carrying her to death; both of them said the same thing; until they were taken asunder and examined, the fraud was not discovered; and then one said she was under a tree of the right hand, and the other, under the tree on the left; and she escaped, and they were punished. But now if you apply it to several facts, my Lord Howard may say what he pleases, and if another shall come with a supplemental proof, no justice can be had. But, my Lord, I desire this, if there be two witnesses to prove the conspiracy, and in that there were those matters done that are treason, I must answer to it; but if there be not, I presume, I need say nothing to it. If you do not allow it me, I desire counsel to argue it.

L. C. J. That is a point of fact, whether there be two witnesses? I tell you beforehand, one witness is not sufficient.

Col. Sidney. Why then there is my Lord Howard, and not another.

L. C. J. Nay, do not make those inferences; I will tell the jury, if there be not two witnesses as the law requires in this case, they ought to acquit you.

Col. Sidney. You confound me, I cannot stir. You talk of a conspiracy; what is a conspiracy to kill the King? Is there any more witnesses than one for levying of war?

L. C. J. Pray do not deceive yourself; you must not think the Court and you intend to enter into a dialogue. Answer to the fact; if there be not sufficient fact, the jury will acquit you. Make what answer you can to it.

Col. Sidney. Then I say, there being but one witness, I am not to answer to it at all.

L. C. J. If you reply upon that, we will direct the jury presently.

Col. Sidney. Then for levying war, what does any one say? My Lord Howard, let him if he please, reconcile what he hath said now, with what he said at my Lord Russel's trial. There he said all he could; and now he has got I do not know how many things that were never spoken of there. I appeal to the Court, whether he did then speak one word of that, which

he now says of Mr. Hambden. He sets forth his evidence very rhetorically, but it does not become a witness, for he is only to tell what is done and said; but he does not tell what was done and said. He says, they took upon them to consider, but does not say what one man said, or what one man resolved, much less what I did. My Lord, if these things are not to be distinguished, but shall be jumbled all up together, I confess I do not know what to say.

L. C. J. Take what liberty you please. If you will make no defence, then we will direct the jury presently. We will direct them in the law, and recollect matter of fact as well as we can.

Sidney. Why then, my Lord, I desire the law may be reserved to me, I desire I may have counsel to that point of there being but one witness.

L. C. J. That is a point of fact. If you can give any testimony to disparage the witness, do it.

Sidney. I have a great deal for that purpose.

L. C. J. Go on to it then.

Sidney. Then, my Lord, was there a war levied? or was it prevented? Why then, if it be prevented, it is not levied; if it be not levied, it is not within the statute; so this is nothing to me.

L. C. J. The Court will have patience to hear; but at the same time I think it is my duty to apprise you, that this is but misspending your time. If you can answer the fact, or if you have any mind to put any disparagement upon the witnesses, that they are not persons to be believed, do it, but do not ask us questions this way or the other.

Sidney. I have this to say concerning my Lord Howard: He hath accused himself of divers treasons, and I do not hear that he has his pardon of any: he is under the terror of those treasons, and the punishment for them: he hath shewn himself to be under that terror: he hath said, that he could not get his pardon, until he had done some other jobs, till he was past this drudgery of swearing: that is, my Lord, that he having incurred the penalty of high-treason, he would get his own indemnity by destroying others. This by the law of God and man, I think, destroys a man's testimony. Besides, my Lord, he is my debtor, he owes me a considerable sum of money I lent him in time of his great necessity; he made some

covenants with me for the payment of that money, which he hath broken; and when his mortgage was forfeited, and I might take the advantage the law gives me, he found out a way to have me laid up in the Tower: he is very subtle man; at my Lord Russel's trial he carried his knife, he said, between the paring and the apple; and so this is a point of great nicety and cunning, at one time to get his own pardon, and at the same time to save his money. Another thing, my Lord, is, when I was prisoner, he came to my house, and spoke with my servant, and said, how sorry he was that I should be brought in danger upon this account of the plot, and there he, in the presence of God, with hands and eyes lifted up to heaven, swore he did not believe in any plot, and that it was but a sham; and that he was confident if I had known any thing, I should have told it him. He hath said somewhat of this before, I have several witnesses to prove both. He was desirous to go further, and he would not only pay my debt by his testimony against me, but he would have got my plate and other goods from me into his possessions, and he desired my man, as a place of trust, to put them into his hands. And the next news was, that there was a warrant against my Lord Russel and me. But then, my Lord, he made other affirmations in the same presence of God, that I was innocent in his opinion, and was confident of it; for if I had known any thing of it, I would have told it.

Now I know, in my Lord Russel's case, there was Doctor Burnet said something like it. And when he came to answer it, he said he was to face it out, and make the best of it he could. Now he did face it out bravely against God, but he was very timorous of man. So that, my Lord, he does say, at the same time, at my Lord Russel's trial, upon his oath, that he did believe that the religious obligation of an oath, did not consist in the formality of applying it to the place, &c. but in calling God to witness. So that when he called God to witness before Doctor Burnet and my servant, and others, this is not consistent with the oath he has taken here, as the gentleman said at my Lord Russel's trial; unless he has one soul in court, and had another at my house, these things are inconsistent, and cannot be true; and if he swear both under the religion of an oath, he swears himself perjured. Then, my Lord, he talks of

Aaron Smith, what have I to do with Aaron Smith? He says, I sent him; my Lord, there is nobody else speaks a word of it. Then by a strange kind of construction and imagination, they will have it, that some papers here, which are said to be found in my study, have relation to this plot, as they call it; I know of none, nor am in none. Now, my Lord, I am not to give an account of these papers, I do not think they are before you, for there is nothing but the similitude of hands offered for proof. There is the like case of my Lady Carr some few years ago. She was indicted for perjury, and, as evidence against her, some of her letters were produced, that were contrary to what she swore in Chancery, and her hand was proved; that is to say, it was like it. But my Lord Chief Justice Keiling directs the jury, that though in civil causes it is a proof, yet it is the smallest and least of proofs; but in criminal cases it was none at all. So that my Lord Howard's testimony is single; and what he talks of those two businesses that he calls a consult, and Aaron Smith, is destroyed by want of proof. What could six men do? can my Lord Howard raise five men by his credit? by his purse? Let him say as much for me, with all my heart; for my part, I do not know where to raise five men. That such men as we are, that have no followers, should undertake so vast a design, is very unlikely. And this great design that was carried on thus, had neither officers nor soldiers, no place, no time, no money for it. That which he said last time, which he forgot now, he talked of twenty-five, or thirty-thousand pound, but no man knew where it was to be had; but last time he said, it was spoken in jest. Now this is a pretty cabal, that six men should meet about business, and all neglect every one of the points relating to the thing they met about; make no step about the business, and if any one did speak of it, it was but in jest. This is maintaining of the plot very deeply. Then, my Lord, as to these papers, I do not think, I am to give any account of them, I would say nothing to the disparagement of Sir Philip Lloyd; I never saw him till he came to my house, but yet I say he is the King's officer, and when I am prosecuted at the King's suit, I think he ought to be no witness. The government of France is violent and absolute; but yet, a few years ago, a minister of state had his papers

taken from him, and abundance of them had dangerous plots against the King in them; but because they were inventoried in his officers' presence, or those deputed by him, there was no use could be made of them; it was an irreparable fault in the process, and that saved him. The similitude of hands is nothing: we know that hands will be counterfeited, so that no man shall know his own hand. A gentleman that is now dead, told me, that my Lord Arlington, about five years ago, desired him to write a letter, and seal it as well as he could. He wrote it with care, and sealed it with a wafer and wax upon it; and, within a few days, my Lord Arlington brought him five letters, and he did not know which was his own. The Attorney shews these papers to me, I do not know whether they are my own or no; but these very papers, such as they are, I abhor, as much as any one can such a design. Look upon them, you see they are all old ink. These papers may be written, perhaps, these twenty years, the ink is so old. But, my Lord, it is a polemical discourse, it seems to be an answer to Filmar, which is not calculated for any particular government in the world. It goes only upon these general principles, that according to the universal law of God and nature, there is but one government in the world, and that is entire and absolute; and that the King can be bound by no law, by no oath, but he may make all laws, and abolish them as he pleases: and this whether of age or not, a man, or a child of sense, or out of his sense. Now, my Lord, what if any man in his cabinet should have written this book? Then he has another principle; he says, it is the same thing whether a King come in by election, by donation, by inheritance, or usurpation, or any other way; than which, I think, never was a thing more desperately said. Cromwell, when one White, a priest, wrote a book, wherein he undertook to prove, "That possession was the only right to power," though he was a tyrant, and a violent one, (you need not wonder I call him tyrant, I did so every day in his life, and acted against him too,) it would be so odious a principle, he would not endure it, and he used him very slightly for it. Now this Filmar, that no man must write against, is the man that does assert it, that it is no matter how they come by their power; and gives the same power to the worst usurpers, as they that most

rightly come to the crown. By the same argument, if the errantest rascal of Israel had killed Moses, David, &c. and seized upon the power, he had been possessed of that power, and been father of the people. If this be doctrine, my Lord, that is just and good, then I confess it may be dangerous for any thing to be found in a man's house contrary to it; but if a Commoner of England write his present thoughts, and another man looking on his book writes his present thoughts of it, what great hurt is there in it? And I ask Mr. Attorney how many years ago that was written?

L. C. J. I do not know what the book was in answer to. We are not to speak of any book that Sir Robert Filmar wrote, but you are to make your defence, touching a book that was found in your study, and spend not your time, and the Court's time, in that which serves to no other purpose, than to gratify a luxuriant way of talking that you have. We have nothing to do with his book, you had as good tell me again, that there was a parcel of people rambling about, pretending to have seen Lord Russel's ghost, and so we may answer all the comedies in England. Answer to the matter you are indicted for. Do you own that paper?

Sidney. No, my Lord.

L. C. J. Go on then, it does not become us to be impatient to hear you, but we ought to advertise you, that you spend your time to no purpose, and do yourself an injury.

Sidney. I say, first, it is not proved upon me: and, secondly, it is not a crime if it be proved—

L. C. J. You began very materially in one thing, it is material for you to apply yourself to take off the credibility of my Lord Howard, who is a witness; call your witnesses to that purpose, or if you have any other point to take away the credibility of any other witness.

Sidney. My Lord, I have seven or eight points of law.

L. C. J. I hear not one yet.

Sidney. Why, my Lord, conspiring to levy war is not treason, and I desire to have counsel upon that.

L. C. J. It is not a question, you had as good ask me whether the first chapter in Littleton be law?

Sidney. My Lord, I have neither made war, nor conspired to levy war.

L. C. J. You are still in a mistake, you shall not think that we intend to discourse with you, to let you know how far the proof hath been given or not given, but when we come to direct the jury, then we shall observe how far the law requires there should be two witnesses. But whether there be such a proof, must be left to the jury.

Just. Withins. If you agree to the conspiracy, I will tell you my mind of it; I cannot give you my opinion in law, till that fact be stated.

L. C. J. The law always rises upon a point of fact; there can be no doubt in point of law, till there be a settlement in point of fact.

Just. Holloway. My Lord has put you in a right way: the conspiracy is proved but by one witness, if you have any thing to take off his credibility, it is to the purpose.

Sidney. Truly, my Lord, I do as little intend to mispend my own spirit, and your time, as ever any man that came before you. Now, my Lord, if you will make a concatenation of one thing, a supposition upon supposition, I would take all this asunder, and shew, if none of these things are any thing of themselves, there can be nothing joined together.

L. C. J. Take your own method, Mr. Sidney, but I say, if you are a man of low spirits and weak body, it is a duty incumbent upon the Court, to exhort you not to spend your time upon things that are not material.

Sidney. My Lord, I think it is very material, that a whimsical imagination of a conspiracy, should not pass for a real conspiracy of the death of the King; besides, if these papers were found in my house, it is a crime created since my imprisonment, and that cannot come in, for they were found since. My Lord, if these papers are right, it mentions two hundred and odd sheets, and these show neither beginning nor ending; and will you, my Lord, indict a man for treason, for scraps of paper found in his house, relating to an ancient paper, intended as innocently as any thing in the world, and piece and patch this to my Lord Howard's discourse, to make this a contrivance to kill the King? Then, my Lord, I think it is a right of mankind, and it is exercised by all studious men, that they write in their own closets what they

please for their own memory, and no man can be answerable for it, unless they publish it.

L. C. J. Pray do not go away with that right of mankind, that it is lawful for me to write what I will in my own closet, unless I publish it; I have been told, curse not the King, not in thy thoughts, nor in thy bed-chamber, the birds of the air will carry it. I took it to be the duty of mankind to observe that.

Sidney. I have lived under the inquisition——

L. C. J. God be thanked we are governed by law.

Sidney. I have lived under the inquisition, and there is no man in Spain can be tried for heresy——

Just. Withins. Draw no precedents from the inquisition here, I beseech you, Sir.

L. C. J. We must not endure men to talk, that by the right of nature every man may contrive mischief in his own chamber, and he is not to be punished, till he thinks fit to promulgate it.

Sidney. My Lord, if you will take scripture by pieces, you will make all the penmen of the scripture blasphemous; you may accuse David of saying, there is no God; and accuse the Evangelists of saying, Christ was a blasphemer and a seducer; and the Apostles, that they were drunk.

L. C. J. Look you, Mr. Sidney, if there be any part of it that explains the sense of it, you shall have it read; indeed we are trifled with a little. It is true, in scripture it is said, there is no God, and you must not take that alone, but you must say, The fool hath said in his heart, there is no God. Now here is a thing imputed to you in the libel; if you can say, there is any part that is in excuse of it, call for it. As for the purpose, whoever does publish, that the King may be put in chains or deposed, is a traitor; but whosoever says, that none but traitors would put the King in chains, or depose him, is an honest man; therefore apply *ad idem*, but do not let us wander.

Sidney. If they will produce the whole, my Lord, then I can see whether one part contradicts another.

L. C. J. Well, if you have any witnesses, call them.

Sidney. The EARL of ANGLESEY.

L. C. J. Ay, in God's name, stay till to-morrow in things that are pertinent.

Sidney. I desire to know of my Lord Anglesey, what my Lord Howard said to him concerning the plot that was broken out.

Lord Anglesey. Concerning this plot you are now questioned for?

Sidney. The plot for which my Lord Russel and I was in prison.

Lord Anglesey. The question I am asked is, what my Lord Howard said before the trial of my Lord Russel, concerning the plot; I suppose, this goes as a branch of that he was accused for. I was then in the country, when the business was on foot, and used to come to town a day or two in the week, living near in Hertfordshire, and I understanding the affliction my Lord of Bedford was in, I went to give my Lord a visit, we having been acquaintance of above fifty years standing, and bred together in Maudlin College in Oxford. When I came to my Lord of Bedford, and administered that comfort that was fit for one christian to give another in that distress, I was ready to leave him, and my Lord Howard came in. It was upon the Friday before my Lord Howard was taken, he was taken (as I take it) upon Sunday or Monday, my Lord Howard fell into the same christian office that I had been just discharging, to compassionate my Lord's affliction, to use arguments to comfort and support him under it, and told him, he was not to be troubled, for he had a discreet, a wise, and a virtuous son, and he could not be in any such plot, (I think that was the word he used at first, though he gave another name to it afterward,) and his Lordship might therefore well expect a good issue of that business, and he might believe his son secure, for he believed he was neither guilty, nor so much as to be suspected. My Lord proceeded further, and did say, that he knew of no such barbarous design (I think he called it so in the second place), and could not charge my Lord Russel with it, nor any body else. This was the effect of what my Lord Howard said at that time, and I have nothing to say of my own knowledge more than this; but to observe that I was present when the jury put my Lord Howard particularly to it; what have you to say to what my Lord Anglesey testifies against you? My Lord, I think, did in three several places give a short account of himself, and said it was very true, and gave them some further account why he said it, and said, he should be very glad it might have been advantageous to my Lord Russel.

Sidney. My Lord of Clare, I desire to know of my Lord of Clare, what my Lord Howard said concerning this plot and me.

Lord Clare. My Lord, a little after Colonel Sidney was taken, speaking of the times, he said, that if ever he was questioned again, he would never plead; the quickest dispatch was the best; he was sure they would have his life, though he was never so innocent, and discoursing of the late Primate of Armagh's prophecy; for my part, says he, I think the persecution is begun, and I believe it will be very sharp, but I hope it will be short, and I said, I hoped so too.

Att. Gen. What answer did your Lordship give to it?

L. Clare. I have told you what I know, my Lord, is too full of discourse for me to answer all he says; but for Colonel Sidney, he did with great asseverations assert, that he was as innocent as any man breathing, and used great encomiums in his praise, and then he seemed to bemoan his misfortune, which I thought

real; for never was any man more engaged to another, than he was to Colonel Sidney, I believe. Then I told, they talked of papers that were found. I am sure, says he, they can make nothing of any papers of his.

Att. Gen. When was this?

L. Clare. This was at my house, the beginning of July.

Att. Gen. How long before my Lord Howard was taken?

L. Clare. About a week before.

Att. Gen. I would ask you, my Lord, upon your honour, would not any man have said as much, that had been in the plot?

L. Clare. I cannot tell, I know of no plot.

Sidney. Mr. PHILIP HOWARD.

Just. Within. What do you ask him?

Sidney. What you heard my Lord Howard say concerning this pretended plot, or my being in it?

Phil. Howard. My Lord, when the plot first broke out, I used to meet my Lord Howard very often at my brother's house, and coming one day from Whitehall, he asked me, what news? I told him, My Lord, said I, there are abundance of people that have confessed the horrid design of murdering the King, and the Duke. How, says he, is such a thing possible? Said I, it is so, they have all confessed it. Said he, do you know any of their names? Yes, said I, I have heard their names. What are their names? said he. Why, said I, Col. Rumsey and Mr. West, and one Walcot, and others, that are in the proclamation (I cannot tell whether Walcot was in hold), said he, it is impossible such a thing can be; said he, there are in all countries people that wish ill to the government, and, said he, I believe there are some here; but, said he, for any man of honour, interest, or estate, to go about it, is wholly impossible. Said I, my Lord, so it is, and I believe it. Said I, my Lord, do you know any of these people? No, said he, none of them; only one day, said he, passing through the Exchange, a man saluted me, with a blemish upon his eye, and embraced me, and wished me all happiness; said he, I could not call to mind who this man was; but afterwards I recollected myself that I met him at my Lord Shaftsbury's, and heard afterwards, and concluded his name to be— his at whose house the King was to be assassinated—

Att. Gen. Rumbold?

Mr. Howard. Ay, Rumbold, my Lord. May I ask if my Lord Howard be here?

L. C. J. He is there behind you.

Mr. Howard. Then he will hear me. My Lord, said I, what does your Lordship think of this business? Said he, I am in a maze. Said I, if you will be ruled by me, you have a good opportunity to address the King, and all the discontented Lords, as they are called; and to shew your detestation and abhorrence of this thing; for, said I, this will be a good means to reconcile all things. Said he, you have put one of the best notions in my head that ever was put. Said I, you are a very good penman, draw up the first address (and I believe I was the first that mentioned an address, you have had many an one since, God send them good success), said he, I am sorry my Lord of Essex is out of town, he should present it. But, said I, here is my Lord

Russel, my Lord of Bedford, my Lord of Clare, all of you that are disaffected, and so accounted, go about this business, and make the nation happy, and the King happy. Said he, will you stay till I come back? Ay, said I, if you come in any time; but he never came back while I was there. The next day, I think, my Lord Russel was taken, and I came and found him at my brother's house again (for there he was day and night.) Said he, Cousin, what news? Said I, my Lord Russel is sent to the Tower. We are all undone, then, said he. Pray, said he, go to my Lord Privy Seal, and see if you can find I am to be taken up. Said he, I doubt 'tis a sham plot; if it was a true plot, I should fear nothing. Said I, what do you put me to go to my Lord Privy-seal for? He is one of the King's cabinet-council; do you think he will tell me? I won't go; but, said I, if you are not guilty, why would you have me go to inquire? Why, said he, because I fear 'tis not a true plot, but a plot made upon us, and therefore, said he, there is no man free. My Lord, I can say no more as to that time, (and there is no man that sits here, that wishes the King better than I do.) The next thing I come to, is this: I came the third day, and he was mighty sad and melancholy,—that was when Col. Sidney was taken; said I, why are you melancholy, because Col. Sidney is taken? Said I, Colonel Sidney was a man talked of before, why were you not troubled for my Lord Russel, that is of your blood? Said he, I have that particular obligation from Colonel Sidney, that no one man had from another. I have one thing to say farther, I pray I may be rightly understood in what I have said.

L. C. J. What, you would have us undertake for all the people that hear you? I think you have spoken very materially, and I will observe it by and by to the jury.

Col. Sidney. Pray call Dr. BURNET.

Just. Walcot. What do you ask Dr. Burnet?

Sidney. I have only to ask Dr. Burnet, whether after the news of this pretended plot, my Lord Howard came to him? And what he said to him?

Dr. Burnet. My Lord, the day after this plot broke out, my Lord Howard came to see me, and upon some discourse of the plot, with hands and eyes lifted up to heaven, he protested he knew nothing of any plot, and believed nothing of it, and said, that he looked upon it as a ridiculous thing.

[My Lord Paget was sent for at the prisoner's request, being in the hall.]

Sidney. My Lord, I desire Joseph Ducas may be called, (who appeared, being a Frenchman.)

Sidney. I desire to know, whether he was not in my house when my Lord Howard came thither, a little after I was made a prisoner, and what he said upon it?

Ducas. Yes, my Lord, my Lord Howard came the day after the Col. Sidney was taken, and he asked me, where was the Colonel Sidney? And I said, he was taken by an order of the King; and he said, Oh Lord! what is that for? I said, they have taken papers. He said, Are some papers left? Yes. Have they taken something more? No, well you must take all the things out of the house, and carry them to some one you can trust. I

dare trust nobody, says he; I will lend my coach and coachman, I said, if the Colonel Sidney will save his goods; he save them, if not, 'tis no matter. A little after the Lord Howard came into the house of Colonel Sidney, about eleven o'clock at night. When he was in, I asked him, what is this? They talk of a plot to kill the King and the Duke, and I told him, they spake of one general insurrection; and I told him more, that I understood that Colonel Sidney was sent into Scotland: when my Lord Howard understood that, he said, God knows, I know nothing of this, and I am sure if the Colonel Sidney was concerned in the matter, he would tell me something, but I know nothing. Well, my Lord, I told him, I believe you are not safe in this house, there is more danger here than in another place. Said he, I have been a prisoner, and I had rather do any thing in the world than be a prisoner again.

[Then my LORD PAGET came into the Court.]

Sidney. Pray, my Lord, he pleased to tell the Court, if my Lord Howard has said any thing to you concerning this late pretended plot, or my being any party in it.

L. Paget. My Lord, I was subpoenaed to come hither, and did not know upon what account. I am obliged to say, my Lord Howard was with me presently after the breaking out of this plot, and before his appearing in that part which he now acts, he came to me; and I told him, that I was glad to see him abroad, and that he was not concerned in this disorder. He said, he had joy from several concerning it, and he took it as an injury to him, for that it looked as if he were guilty. He said, he knew nothing of himself, nor any body else. And though he was free in discourse, and free to go into any company indifferently; yet, he said, he had not seen any body that could say any thing of him, or give him occasion to say any thing of any body else.

Col. Sidney. Mr. EDWARD HOWARD.

Mr. Howard. Mr. Sidney, what have you to say to me?

Col. Sidney. My Lord, I desire you would ask Mr. Edward Howard, the same thing, what discourse he had with my Lord Howard about this plot?

L. C. J. Mr. Howard, Mr. Sidney desires you to tell what discourse you had with my Lord Howard about this plot.

Mr. Howard. My Lord, I have been for some time very intimate with my Lord, not only upon the account of our alliance, but upon a strict intimacy and correspondence of friendship, and I think I was as much his as he could expect from that alliance. I did move him during this time, to serve the King upon the most honourable account I could, but that proved ineffectual: I pass that, and come to the business here. As soon as the plot broke out, my Lord having a great intimacy with me, expressed a great detestation and surprise in himself to hear of it, wherein my Lord Howard assured me under very great asseverations, that he could neither accuse himself nor no man living. He told me, moreover, that there were certain persons of quality, whom he was very much concerned for, that they should be so much reflected upon or troubled; and he condoled very much their condition both before and after they were taken. My Lord, I believe in my conscience, he did this without any mental reser-

vation, or equivocation, for he had no reason to do it with me. I add, moreover, if I have any sense of my Lord's disposition, I think if he had known any such thing, he would not have stood his being taken, or made his application to the King in this manner, I am afraid not so suitable to his quality.

L. C. J. No reflections upon any body.

Mr. Howard. My Lord, I reflect upon nobody, I understand where I am, and have a respect for the place; but since your Lordship has given me this occasion, I must needs say, that that reproof that was accidentally given me at the trial of my Lord Russel, by reason of a weak memory, made me omit some particulars I will speak now, which are these, and I think they are material: my Lord, upon the discourse of this plot, did further assure me, that it was certainly a sham, even to his knowledge; how; my Lord, says I, do you mean a sham? Why, says he, such an one, cousin, as is too black for any minister of public employment to have devised; but, says he, it was forged by people in the dark, such as Jesuits and Papists, and, said he, this is my conscience. Said I, my Lord, if you are sure of this thing, then pray, my Lord, do that honourable thing that becomes your quality, that is, give the King satisfaction as becomes you; pray make an address under your hand to the King, whereby you express your detestation and abhorrence of this thing. Said he, I thank you for your counsel; to what minister said he, shall I apply myself? I pitched upon my Lord Hallifax, and I told him of my Lord's desire, and I remember my Lord Howard named the Duke of Monmouth, my Lord of Bedford, the Earl of Clare; and he said he was sure they would do it; that he was sure of their innocence, and would be glad of the occasion: and I went to my Lord Hallifax, and told him that my Lord was willing to set it under his hand, his detestation of this plot, and that there was no such thing to his knowledge. My Lord Hallifax very worthily received me; says he, I will introduce it; but my Lord Russel being taken, this was laid aside, and my Lord gave this reason. For, says he, there will be so many people taken, they will be hindered. I must needs add from my conscience, and from my heart, before God and man, that if my Lord had spoken before the King, sitting upon his throne, abating for the solemnity of the presence, I could not have more believed him, from that assurance he had in me. And I am sure from what I have said, if I had the honour to be of this gentleman's jury, I would not believe him.

L. C. J. That must not be suffered.

Att. Gen. You ought to be bound to your good behaviour for that.

L. C. J. The jury are bound by their oaths to go according to their evidence, they are not to go by men's conjectures.

Mr. Howard. May I go, my Lord?

Att. Gen. My Lord Howard desires he may stay, we shall make use of him.

Sidney. My Lord, I spoke of a mortgage that I had of my Lord Howard, I don't know whether it is needful to be proved; but it is so.

L. Howard. I confess it.

Sidney. Then, my Lord, here is the other point, he is under the fear, that he dare not but say what he thinks will conduce towards the gaining his pardon; and that he hath expressed, that he could not have his pardon, but he must first do this drudgery of swearing. I need not say, that his son should say, that he was sorry his father could not get his pardon, unless he did swear against some others.

Sidney. Call Mr. BLAKE. (Who appeared.) My Lord, I desire he may be asked, whether my Lord Howard did not tell him that he could not get his pardon yet, and he could ascribe it to nothing, but that the drudgery of swearing must be over first.

[Then my Lord Chief Justice asked the question.]

Mr. Blake. My Lord, I am very sorry I should be called to give a public account of a private conversation; how it comes about I don't know. My Lord sent for me about six weeks ago, to come and see him. I went, and we talked of news; I told him I heard nobody had their pardon, but he that first discovered the plot. He told me, no; but he had his warrant for it; and, said he, I have their word and honour for it, but, said he, I will do nothing in it till I have further order, and, said he, I hear nothing of it, and I can ascribe it to no other reason, but I must not have my pardon till the drudgery of swearing is over. These words my Lord said, I believe my Lord won't deny it.

Sidney. Call GRACE TRACY and ELIZABETH PENWICK. I ask you only, what my Lord Howard said to you at my house concerning the plot, and my being in it?

Tracy. Sir, he said that he knew nothing of a plot, he protested, and he was sure Col. Sidney knew nothing of it. And he said if you knew any thing of it, he must needs know of it, for he knew as much of your concerns as any one in the world.

Sidney. Did he take God to witness upon it?—*Tracy.* Yes.

Sidney. Did he desire my plate at my house?

Tracy. I can't tell that, he said the goods might be sent to his house.

Sidney. Penwick, what did my Lord Howard say in your hearing concerning the pretended plot, or my plate carrying away?

Penwick. When he came, he asked for your honour; and they said your honour was taken away by a man to the Tower for the plot; and then he took God to witness he knew nothing of it, and believed your honour did not neither. He said, he was in the Tower two years ago, and your honour, he believed, saved his life.

Sidney. Did he desire the plate?

Penwick. Yes, and said that it should be sent to his house to be secured. He said it was only malice.

Mr. WHARTON stood up.

Wharton. 'Tis only this I have to say, that if your Lordship pleases to shew me any of these sheets of paper, I will undertake to imitate them in a little time, that you shan't know which is which. 'Tis the easiest hand I ever saw in my life.

Att. Gen. You did not write these, Mr. Wharton?

Wharton. No; but I will do this in a very little time, if you please.

E. C. J. Have you any more witnesses?

Sidney. No, my Lord.

L. C. J. Then apply yourself to the jury.

Sidney. Then this is what I have to say. Here is a huge complication of crimes laid to my charge: I did not know at first under what statute they were, now I find 'tis the statute of 25 of Edw. III. This statute hath two branches; one relating to war, the other to the person of the King. That relating to the person of the King, makes the conspiring, imagining, and compassing his death, criminal. That concerning war is not, unless it be levied. Now, my Lord, I cannot imagine to which of these they refer my crime, and I did desire your Lordship to explain it. For to say that a man did meet to conspire the King's death, and he that gives you the account of the business does not speak one word of it, seems extravagant; for conspiracies have ever their denomination from that point to which they tend; as a conspiracy to make false coin infers instruments and the like. A conspiracy to take away a woman, to kill, or rob, are all directed to that end. So conspiring to kill the King, must immediately aim at killing the King. The King hath two capacities, natural and politic; that which is the politic can't be within the statute; in that sense he never dies, and 'tis absurd to say it should be a fault to kill the King that can't die: so then it must be the natural sense it must be understood in, which must be done by sword, by pistol, or any other way. Now, if there be not one word of this, then that is utterly at an end, though the witness had been good. The next point is concerning levying war. Levying war is made treason there, so it be proved by overt-act, but an overt-act of that never was, or can be pretended, here. If the war be not levied, 'tis not within the act; for conspiring to levy war is not in the act. My Lord, there is no man who thinks that I would kill the King that knows me, I am not a man to have such a design; perhaps I may say I have saved his life once. So that it must be by implication; that is, it is first imagined, that I intended to raise a war, and then 'tis imagined that war should tend to the destruction of the King. Now I know that may follow, but that is not natural or necessary, and being

neither natural nor necessary, it cannot be so understood by the law. That it is not, is plain, for many wars have been made, and the death of the King has not followed. David made war upon Saul, yet nobody will say he sought his death, he had him under his power and did not kill him : David made war upon Ishbosheth, yet did not design his death ; and so in England and France Kings have been taken prisoners, but they did not kill them. King Stephen was taken prisoner, but they did not kill him. So that 'tis two distinct things, to make war and to endeavour to kill the King. Now, as there is no manner of pretence that I should endeavour to kill the King directly, so it cannot be by inference, because 'tis treason under another species. I confess I am not fit to argue these points ; I think I ought to have counsel, but if you will not allow it me, I cannot help it ; but these things are impossible to be jumbled up together.

Now I say this, if I am not under the first branch, if not directly, I cannot be by implication ; though I did make war, I cannot be said to conspire the death of the King, because 'tis a distinct species of treason ; and my Lord Coke says, 'tis the overthrow of all justice to confound *Membra dividantia*. Now, if the making of war cannot be understood to be conspiring the death of the King, then I am not guilty of this indictment ; but here, my Lord, is neither conspiring the death of the King, nor making war, nor conspiring to make war. Besides, I say, 'tis not the best man's evidence here would be good in this case, because the law requires two. The next thing is the business of Aaron Smith, which my Lord tells so imperfectly, and so merely conjectural, that there is nothing in it, but his rhetoric in setting it out. He tells you of a letter sent with him, but he does not tell you by whom written, what was in it, or whether it was delivered or no : so that I think we may lay that aside, as the other, as things nothing in them at all. Then, says Mr. Attorney, these Scotch gentlemen are come to town : I profess I never heard the names of one of them till he named them to me in the Tower. I have not sent myself, nor written a letter into Scotland, since the year 59, nor do I know one man in Scotland to whom I can write, or from whom I ever received one. I returned into England in the year 77, and since that time have not written nor received a letter

from Scotland. Then some gentleman came hither ; what is that to me ? I never saw one of the Campbells in my life, nor Monro ; if any one can prove I have had communication with them, I shall be glad to suffer. Then here are papers ; if any thing is to be made of them, you must produce the whole, for 'tis impossible to make any thing of a part of them. You ask me, what other passage I would have read, I don't know a passage in them ; I can't tell whether it be good or bad. But if there are any papers found ('tis a great doubt whether they were found in my study or no, or whether they be not counterfeit ; but, though that be admitted that they were found in my house) the hand is such, that it shews they have been written many years. Then that which seems to be an account of the sections and chapters, is but a scrap ; and what if any body had, my Lord, either in my own hand or another's, found papers, that are not well justifiable, is this treason ? Does this imagine the death of the King ? Does this reach the life of the King ? If any man can say I ever printed a sheet in my life, I will submit to any punishment. Many others, my Lord, they write, and they write what comes into their heads. I believe there is a brother of mine here has forty quires of paper written by my father, and never one sheet of them was published ; but he wrote his own mind, to see what he could think of it another time, probably to blot it out again. And I myself, I believe, have burned more papers of my own writing than a horse can carry. So that for these papers I can't answer for them. There is nothing in it, and what concatenation can this have with the other design, that is in itself nothing, with my Lord's select council, selected by nobody, to pursue the design of my Lord Shaftsbury ? And this council that he pretends to be set up for so great a business, was to be adjusted with so much finesse as to bring things together. What was this finesse to do ? (taking it for granted, which I don't.) This was nothing (if he was a credible witness) but a few men talking at large of what might be or not be, what was like to fall out without any manner of intention of doing any thing. They did not so much as inquire, whether there were men in the country, arms, or ammunition ; but a war was to be made by five or six men, neither knowing nor trusting one another. What said Dr. Coxe :

in his evidence at Lord Russel's trial, of Lord Russel's trusting Lord Howard? He might say the same of some others. So that, my Lord, I say, these papers have no manner of coherence, or dependance upon any such design. You must go upon conjecture; and, after all, you find nothing but papers, never perfect, only scraps, written many years ago, and that could not be calculated for the raising of the people. Now, pray what imagination can be more vain than that? And what man can be safe, if the King's counsel may make such (whimsical I won't say,) groundless constructions?

Mr. Attorney says that the plot was broken to the Scots (God knows we were neither broken nor joined), and that the Campbells came to town about that time I was taken, and in the mean time my Lord Howard, the great contriver of all this plot, who was most active; and advised the business that consisted of so much finesse; he goes there and agrees on nothing; and then goes into Essex upon important business, greater than the war of England and Scotland; to what purpose? To look after a little pimping manor, and what then? Why then it must be laid aside, and he must be idle five weeks at the Bath, and there is no inquiring after it. Now, I desire your Lordship to consider, whether there be a possibility for any men, that have the sense of porters and grooms, to do such things as he would put upon us. I would only say this, if Mr. Attorney be in the right, there was a combination with the Scots, and then this paper was written; for those that say I did it, say I was doing it then, and by the notes, there is work enough for four or five years, to make out what is mentioned in those scraps of paper, and this must be to kill the King. And I say this, my Lord, that, under favor, for all constructive treasons you are to make none, but to go according to plain proof, and that these constructive treasons belong only to Parliament, and by the immediate proviso in that act. Now, my Lord, I leave it to your Lordship, to see whether there is in this any thing that you can say is an overt-act of treason mentioned in 25 Edw. III. If it be not plainly under one of the two branches, that I have endeavoured to kill the King, or levied war, then 'tis matter of construction, and that belongs to no Court but the Parliament. Then, my Lord, this hath been adjudged already in Throgmorton's

case. There are twenty judgments of Parliament, the act of 13 Eliz. that says — I should have somebody to speak for me, my Lord.

L. C. J. We are of another opinion.

Just. Withins. If you acknowledge the matter-of-fact, you say well.

Sidney. I say there are several judgments of Parliament, that do shew whatever is constructive treason does not belong to any private Court, that of 1 Mary, 1 Edw. VI. 1 Eliz. 5 Eliz. 18. another 13 Car. shews this. Now, my Lord, I say that, in the business concerning the papers, 'tis only a similitude of hands, which is just nothing. In my Lady Carr's case, it was resolved to extend to no criminal cause, if not to any, then not to the greatest, the most capital. So that I have only this to say, that I think 'tis impossible for the jury to find this matter, for the first point you proved by my Lord Howard, whom I think is nobody; and the last concerning the papers, is only imagination from the similitude of hands. If I had published it, I must have answered for it, or if the thing had been whole and mine, I must have answered for it; but these scraps, never shewn to any body, I think do not at all concern me. And I say, if the jury should find it (which is impossible they can) I desire to have the law reserved unto me.

Sol. Gen. My Lord, and you Gentlemen of the Jury. The evidence hath been long; but I will endeavour to repeat it as faithfully as I can. The crime the prisoner stands accused of, is compassing and imagining the death of the King. That which we endeavour to prove, is that compassing and imagining by, is by his meeting and consulting how to raise arms against the King, and by plain matter in writing under his own hand, where he does affirm, it is lawful to take away and destroy the King. I will begin with his meeting and consultation to raise arms against the King. The prisoner, gentlemen, hath endeavoured to avoid the whole force of this evidence, by saying, that this in point of law cannot affect him, if it were all proved; for this does not amount to a proof of his compassing and imagining the death of the King, and he is very long in interpreting the act of Parliament to you of 25 Edw. III. and dividing of it into several members or branches of treason, and does insist upon it, that though this should be an offence

within one branch of that statute, yet that is not a proof of the other, which is the branch he is proceeding upon, that is, the first clause against the compassing and imagining the death of the King. And, says he, conspiring to levy war, is not so much as one branch of that statute, but it must be war actually levied. This is a matter in which he is wholly mistaken, in point of law. It hath been adjudged over and over again, that an act which is in one branch of that statute, may be an overt-act to prove a man guilty of another branch of it. Levying war is an overt-act to prove a man guilty of conspiring the death of the King. And this was adjudged in the case of Sir Henry Vane; such as meeting and consulting to raise arms. And reason plainly speaks it to be so; for they that conspire to raise war against the King, cannot be presumed to stop any where, till they have dethroned or murdered the King.

Gentlemen, I will not be long in citing authorities; it hath been settled lately by all the Judges of England, in the case of my Lord Russel, who hath suffered for this conspiracy. Therefore that point of law will be very plain against the prisoner. He hath mentioned some other things, as that there must be two witnesses to every particular fact; and one witness to one fact, and another to another, is not sufficient; it hath been very often objected, and as often over-ruled: it was over-ruled solemnly in the case of my Lord Stafford. Therefore, if we have one witness to one overt-act, and another to another, they will be two witnesses in law to convict this prisoner. In the first part of our evidence, we give you an account of the general design of an insurrection that was to have been; that this was contrived first, when my Lord Shaftsbury was in England, that, after my Lord Shaftsbury was gone, the business did not fall; but they thought fit to revive it again; and that they might carry it on the more steadily, they contrived a council among themselves of six, whereof the prisoner at the bar was one. They were the Duke of Monmouth, my Lord of Essex, my Lord Howard, my Lord Russel, the prisoner at the bar, and Mr. Hambden. This council contrived to manage this affair, and to carry on that design, that seemed to fall by the death of my Lord of Shaftsbury, and they met; this we give you an account of, first by witnesses, that gave you an account in general of it. And though they were not privy to it,

yet they heard of this council, and that Colonel Sidney was to be one of this council. This, gentlemen, if it had stood alone by itself, had been nothing to affect the prisoner at all. But this will shew you, that it was discoursed among them that were in this conspiracy. Then my Lord Howard gives you an account, that first the Duke of Monmouth, and he, and Colonel Sidney, met, and it was agreed to be necessary to have a council, that should consist of six or seven, and they were to carry it on. That the Duke of Monmouth undertook to persuade my Lord Russel to it, and Colonel Sidney to dispose the Earl of Essex and Mr. Hambden; that these gentlemen did meet accordingly, and the substance of their discourse was, taking notice how the design had fallen upon the death of my Lord Shaftsbury, that it was fit to carry it on before men's inclinations were cool; for they found they were ready for it, and had great reason to believe it, because this being a business communicated to so many, yet for all that it was kept very secret, and no body had made any mention of it, which they looked upon as a certain argument that men were ready to engage in it. This encouraged them to go on in the conspiracy. Then, when the six met at Mr. Hambden's house, they debated concerning the place of rising, and the time; the time they conceived must be sudden, before men's minds were cool, for now they thought they were ready and very much disposed to it; and, for place, they had in debate whether they should rise first in the town or in the country, or both together. And for the persons, they thought it absolutely necessary for them to have the united counsels of Scotland to join with them, and therefore they referred this matter to be better considered of another time, and they met afterwards at my Lord Russel's house in February, where they discoursed to the same purpose. But there they began to consider with themselves, that after they had destroyed this government, if they had nothing to set up in the room of it, they were engaged to no purpose. For they very wisely considered, if this be only to serve a turn, and to make one man great, this will be a great hindrance in their affair; therefore, they thought it was necessary to engage upon a public account, and to resolve all into the authority of a Parliament, which surely they either thought to force the King to call, or otherwise that the people might call a Parlia-

ment, if the King refused; and they were to choose their own heads. But still they thought upon this point, that it was necessary for their friends in Scotland to have their councils united with them; and, in order to that, it was necessary to contrive some way to send a messenger into Scotland, to bring some men here to treat and consult about it; and Colonel Sidney is the man that engaged to send this messenger, and he had a man very fit for his turn, that is, Aaron Smith, whom he could confide in; and him he undertook to send into Scotland. This messenger was to fetch my Lord Melvin, the two Campbells, and Sir John Cockram. Colonel Sidney, as he engaged to do this, so afterwards he shewed to my Lord Howard money, which he affirmed was for that business; he says it was a sum of about sixty guineas, and he believes he gave it him, for that Colonel Sidney told him, Aaron Smith was gone into Scotland, that the pretence was not barefaced to invite them over, to consult of a rebellion, but to consult about the business of Carolina, being a plantation for the persecuted brethren, as they pretended in Scotland. Gentlemen, these Scotchmen that were thus sent for over, came accordingly, that is, the two Campbells and Sir John Cockram; and the discourse with Sir Andrew Foster was according to this cant that was agreed on beforehand, concerning a plantation in Carolina. This was what was pretended for their coming hither; but the true errand was, the business of the intended insurrection. Gentlemen, that they came upon such a design, is evident from the circumstances; they came about the time the business broke out, and in that time suspiciously changing their lodging, they were taken making their escape, and this at a time before it was probable to be known abroad that these men were named as part of the conspirators. These things do very much verify the evidence my Lord Howard hath given, and nothing that has been said at all invalidates it. The sending of Aaron Smith into Scotland, and his going, and the coming of these men, and their endeavouring to make their escape, are mighty concurrent evidences with the whole evidence my Lord Howard has given. Now, what objections are made against this evidence? Truly none at all. Here are persons of great quality who have given their testimony, and they do not impeach my Lord Howard in the least; but

some extremely confirm the truth of my Lord Howard. My Lord Anglesey gives you an account of a discourse at my Lord of Bedford's, that my Lord Howard came in, and that my Lord Howard should there comfort my Lord of Bedford, and enlarge in the commendations of his son, and say he was confident he knew nothing of the design, and he must be innocent. Gentlemen, this is the nature of the most part of the evidence. My Lord of Clare's evidence is much the same; that is, his denying that he knew of any plot. Now, here is my Lord Howard under a charge of high treason; for he was one of those conspirators not yet discovered, nor evidence of any discourse leading to any thing that should give him occasion to him to protest his innocence: and, says he, I know nothing of the plot. You would have wondered if he should have been talking in all places of his knowledge, and declaring himself: his denying of it under the charge, when he was not accused, is nothing to his confession when he comes to be apprehended and taken for it. Here Mr. Philip Howard says, he had several discourses with him about this business, upon the breaking out of the plot, and that he advised him to make an address, and that this was a thing that would be very acceptable, and very much for their vindication; and my Lord Howard (he says) thanked him for his very good advice; and said, he would follow it: and presently after, when my Lord Russel was apprehended, Mr. Howard tells him the news, that my Lord Russel was apprehended; this was sudden to him. And what? says he. We are all undone. When my Lord Russel, who was one of this council, that was a secret council, and could not be traced but by some of themselves, when he is apprehended, then he breaks forth into this expression, "We are all undone." By this argument my Lord Howard proves his guilt. For, why were they all undone, because my Lord Russel was apprehended, any more than upon the apprehending the rest? Yes, because my Lord was one of the six, and now it was come to the knowledge of that part of the spiracy. It was traced to the council of six, which in all likelihood would break the neck of the design. Now, though he put it off afterwards, saying, "I believe it is a sham plot," yet this was but a trivial delay. And then, when Colonel Sidney is taken, the same witness, Mr. Howard tells you, my Lord was very sad and me-

lancholy ; for then he had greater reason to lie under an apprehension of being detected. Therefore, gentlemen, this will rather confirm the truth of the evidence, than any way impeach it. Then (for I would repeat it all, though I think it had no great weight in it) Doctor Burnet says, that after the plot, my Lord Howard pretended he knew of no plot. This is no more than was testified by the other Lords before ; and all it imports, is, that my Lord did not discover himself to Dr. Burnet. But I would fain know, if my Lord had told Dr. Burnet, did it not argue that he had great confidence in him, that he thought him a man fit to be entrusted with such a secret ? And unless the Doctor desires to be thought such a man, he must own it is no objection, because my Lord Howard did not tell him. Ducas's testimony is no more than that he protested he was innocent, and believed Colonel Sidney was innocent ; and this was before my Lord Howard discovered any thing of this plot. Then Colonel Sidney objects, this is by malice, my Lord Howard owes him money, and seeks to pay his debts by taking away his life ; and in further prosecution of this malice, would have seized upon his goods. But the evidence does not receive such construction, for my Lord Howard only offered Colonel Sidney the civility of his house to protect his plate and goods. Now, gentlemen, there were two other witnesses, my Lord Paget and Mr. Edward Howard ; but they say no more than the rest of them, that he did protest his innocency, and Mr. Howard says, he advised him to make an address to the King. This, gentlemen, I repeat, not that it is material, but for no other reason, than because Colonel Sidney had produced it ; and so we are to think, he intended to make some use of it ; but I cannot see any inference to be drawn from it. There is one more witness, and that is Mr. Blake, to the credit of my Lord Howard, who comes here, and says, that when he discoursed about a pardon, my Lord said that he had a warrant for his pardon, but that he had not passed it, and could not yet ; and he apprehended the reason was, because the drudgery of swearing was not over. But this is what my Lord Howard had conjectured : first, it does not appear, that there is any promise of pardon at all to my Lord Howard, on any terms imposed on him. In the next place, whatever expectation he has of a pardon, he cannot reasonably

hope for it without making a clear discovery of all he knows: for to stifle the evidence he has given, is not the way to deserve a pardon of his prince. Therefore, gentlemen, whatever expressions were used, though he called it the drudgery of swearing, however unwilling he is to come to it, and though he gives it many hard names, and may think it very harsh to come and own himself to be one of the conspirators, it may be irksome, and very irksome; yet none of them tell you, that my Lord Howard said, that what he had said was not true. Now he has given his evidence, and you have heard all these objections against it, and yet not one of them touch on it in the least.

I come in the next place to the other part of the evidence,—the papers found in Colonel Sidney's house: in the first place he objects, they cannot affect him; for, says he, there is no proof they were found in my house, no proof they were written by me; for comparison of hands is nothing; and, if they were proved to be mine, it is nothing at all to the purpose: they are an answer to a polemical discourse, wherewith he entertained himself privately in his study. Why, you have observed, I know, that Sir Philip Lloyd in the first place swears, that by warrant from the Secretary he searched his house, and he found the papers lying upon Colonel Sidney's table in his study, when he went in there; and there is no ground nor reason for you to suspect otherwise than that they were there, and he found them there. For the surmise of the prisoner at the bar, that they might be laid there, is so foreign and without ground, that by and by you will think there is nothing at all in it. In the next place, we prove Colonel Sidney's hand, and that by as much proof as the thing is capable of; such a proof as in all cases has been allowed; and that is, for such men as are acquainted with the hand-writing, to swear they know his hand-writing, and they believe this to be his hand. You have heard from Mr. Sheppard, a man that used to transact business for him, pay money for him; and Mr. Cooke and Mr. Carey, men of known credit in the city of London, that have had similar dealings with Colonel Sidney, and they swear this is his hand-writing, as they verily believe. So that, gentlemen, this proof to you of Colonel Sidney's hand-writing verifies Sir Philip

Lloyd, that these papers must be found there, if Colonel Sidney wrote them; and then it being proved that they were written by him, the next thing will be, how far this will be an evidence to prove his compassing and imagining the death of the King. Compassing and imagining the death of the King, is the act of the mind, and is treason whilst it remains secret in the heart, though no such treason can be punished, because there is no way to prove it; but when once there is any overt-act, that is, any thing that manifests and declares such intention, then the law recognizes it, and punishes it as high treason.

Now, after this evidence, I think no man will doubt, whether it was in the heart of the prisoner at the bar to destroy the King. But first he objects, that this is a part of a book, and, unless you take the whole, nothing can be made of it; as it is in wresting of texts of scripture, says he, you may as well say, that David says there is no God, because David hath said, "The fool hath said in his heart, there is no God." But, gentlemen, the application will not hold; for you see a long discourse hath been read to you, a continued thread of argument; it is not one proposition, but a whole series of argument: these are the positions, "that the King derives all his power from the people; that it is originally in the people, and that the measure of subjection must be adjudged by the Parliament; and if the King does fall from doing his duty, he must expect the people will exact it." And this he has laid down as nowise prejudicial to him; for, says he, the King may refuse the crown, if he does not like it upon these terms. But, says he, if he does accept it, he must expect the performance will be exacted, or revenge taken by those he hath betrayed. He next sets up an objection, and then argues against it: Ay, but shall the people be judge in their own cause? And thus he answers it, it must be so; for is not the King a judge in his own cause? How can any man else be tried, or convicted of any offence, if the King may not be judge in his own cause; for to a judge by a man's self, or by his deputy, is the same thing; and so a crime against the King cannot be punished? And then he takes notice of it as a very absurd position, "that the King shall judge in his own cause, and not the people."

That would be to say, the servant entertained by the master shall judge the master, but the master shall not judge the servant. Gentlemen, after this sort of argument he comes to this settled position: "we may, therefore, (says he,) change or take away Kings, (without breaking any yoke, or that is made a yoke;) the injury is therefore in imposing the yoke, and there can be none at all in breaking of it." But he goes on in his book, that is by way of answer to an objection, that if there be no injury, yet there may be inconvenience, if the headless multitude should shake off the yoke. But, says he, I would fain know how the multitude comes to be headless; and there he gives you many instances in story, and from foreign nations he comes home to the English, and tells you how all rebellions in later ages have been headed; he tells you the Parliament is the head, or the nobility and gentry that compose it; and, when the King fails in his duty, the people may call it. The multitude therefore is never headless, but they either find or create a head; so that herè is a plain and avowed principle of rebellion established upon the strongest reason he has to support it.

Gentlemen, I conclude this, with the other evidence that has been given, will be sufficient to prove his compassing the death of the King. You see the affirmations he makes; when Kings do break their trust they may be called to account by the people. This is the doctrine he broaches and contends for: he says in his book, in another part, that the calling and dissolving of Parliaments is not in the King's power. Gentlemen, you all know how many Parliaments the King hath called and dissolved; if it be not in his power, he hath done that which was not in his power, and so contrary to his trust. Gentlemen, at the entrance into this conspiracy, they were under an apprehension that their liberties were invaded, as you hear in the evidence from my Lord Howard, that they were just making the insurrection upon that tumultuous opposition of electing of sheriffs in London. They enter into a consultation to raise arms against the King; and it is proved by my Lord Howard, that the prisoner at the bar was one. Gentlemen, words spoken upon a supposition will be high treason, as was held in King James's time, in the case of Collins in Roll's Reports, "the King being ex-

communicate, may be deposed and murdered," without affirming he was excommunicated; and this was enough to convict him of high treason. Now, according to that case, to say the King having broken his trust may be deposed by his people, would be high treason, but here he does as good as affirm the King had broken his trust. When every one sees the King has dissolved Parliaments; this reduces it to an affirmation. And though this book be not brought to that council to be perused, and there debated, yet it will be another, and more than two witnesses against the prisoner; for I would ask any one, suppose a man to be in a room, and there were two men, and he talks with both apart, and he comes to one and endeavours to persuade him that it is lawful to rise in arms against the King, provided he break his trust; and he should go to another man, and tell him the King hath broken his trust, and we must seek some way to redress ourselves, and persuade the people to rise; these two witnesses so tack this treason together, that they will be two witnesses to prove him guilty of high treason.

And you have heard one witness prove positively to you, that he consulted to rise in arms against the King; and here is his own book says, it is lawful for a man to rise in arms against the King, if he break his trust; and in effect he hath said, the King hath broken his trust: therefore, this will be a sufficient demonstration what the imagination of the heart of this man was, that it was nothing but the destruction of the King and the Government, and indeed of all Governments. There can be no such thing as government if the people shall be judge in the case: for what is so uncertain as the heady and giddy multitude? Gentlemen, I think this will be a sufficient evidence of his consulting the death of the King. You have here the prisoner at the bar, who is very deep in it. Indeed some men may by passion be transported into such an offence, and though the offence be never the less, whatever the motives are, yet in some it is less dangerous; for those that venture upon passion to raise commotions and rebellion, are not always so much upon their guard but that they may make some false steps to entrap themselves. But this gentleman proceeds upon a surer foundation; it is his reason, it is his principle, it is the guide of all his actions, it is that by which he leads and directs the steady course of his life. A man convinced of these principles, and who walks accordingly, what

will not he do to accomplish his designs? how wary will he be in all his actions? still reasoning with himself, which way to bring it most securely about. Gentlemen, this is a more dangerous conspiracy in this man, by how much the more it is rooted in him; and how deep it is, you hear, when a man shall write as his principle, that it is lawful to depose Kings, when they break their trust; and that the revolt of the whole nation cannot be called rebellion. It will be a very sad case when people act thus according to their consciences, and do all this for the good of the people, as they would have it thought; but this is the principle of this man. Gentlemen, we think we have plainly made it out to you, and proved it sufficiently, that it was the imagination of his heart to destroy the King, and that we have produced sufficient proof of high treason.

Sidney. Give me leave, my Lord, to say a very few words. I desire Mr. Solicitor will not think it his duty to take away men's lives any how: first, we have had a long story.—

L. C. J. Nay, Mr. Sidney, we must not have such remarks; I asked you before what you had to say; the course of evidence is, after the King's counsel have concluded, we never admit the prisoner to say any thing.

Sidney. My Lord, it was a wise man said, there never could be too much delay in the life of a man: I know the King's counsel may conclude, if they please. Mr. Solicitor, I would not have him think that it is enough by one way or another to bring a man to death: my Lord, this matter of Sir Henry Vane is utterly misrepresented.—

L. C. J. I must tell you, Gentlemen of the Jury, that what the prisoner says is not proved, and what the King's counsel have said, (of which there is no proof to make out,) must not be taken into any consideration.

Sidney. Then, my Lord, here is a place or two in Old Hales, (turning over my Lord Hales's book,) for the overt-act of one treason, not being an overt-act of another: your Lordship knows Coke and Hales were both against it. (He reads.) "Compassing by bare words is not an overt-act, conspiring to levy war is no overt-act."

Sol. Gen. I desire but one word more, for my own

sake as well as the prisoner's, and that is, that if I have said any thing that is not law, or misrepeated, or misapplied the evidence which hath been given, I do make it my humble request to your Lordship to rectify those mistakes, as well in point of fact as point of law; for God forbid the prisoner should suffer by any mistake.

L. C. J. Gentlemen, the evidence has been long, and it is a cause of great importance, and it is far from the thoughts of the King, or from the thoughts or desire of any of his judges here, to be instrumental in taking away the life of any man, whose life by law ought not to be taken away. For I had rather many guilty men should escape, than one innocent man suffer. The question is, whether upon all the evidence you have heard against the prisoner, and the evidence on his behalf, there is evidence sufficient to convict the prisoner of the high treason he stands charged with. And as you must not be moved by the denial of the prisoner further than as it is backed with proof; so you are not to be inveigled by any insinuations made against the prisoner at the bar, further or otherwise than as the proof is made out to you. But it is usual, and it is a duty incumbent on the King's counsel, to urge against all such criminals, whatsoever they observe in the evidence against them, and likewise to endeavour to give answers to the objections that are made on their behalf. And, therefore, since we have been kept so long in this cause, it will not be amiss for me (and my brothers, as they shall think fit,) to help your memory in the fact, and discharge that duty that is incumbent upon the Court as to the points of law.—This indictment is for high treason, and is grounded upon the statute of 25 Edw. III. By this statute, the compassing and imagining the death of the King, and declaring the same by an overt-act, is made high treason. The reason of that law was, because at common law there was great doubt what was treason; wherefore to reduce that high crime to a certainty was that law made, that those who were guilty might know what to expect. And there are several Acts of Parliament made between the time of Edward III. and that of 1 Mary; but by that statute all treasons that are not enumerated by After-Acts of Parliament remain as they were declared by that statute of 25 Edw. III.—And so are challenges and other matters,

insisted upon by the prisoner, left as they were at the time of that Act : I am also to tell you that, in point of law, it is not only the opinion of us here, but the opinion of them that sat before us, and the opinion of all the judges of England, and within the memory of many of you, that, though there be two witnesses required to prove a man guilty of high treason, yet it is not necessary there should be two witnesses to the same thing at one time. But, if two witnesses prove two several facts, that have a tendency to the same treason, they are two witnesses sufficient to convict any man of high treason. In the case of my Lord Stafford in Parliament, all the judges assisting, it is notoriously known, that one witness to a conspiracy in England, and another to a conspiracy in France, were held two witnesses sufficient to convict him of high treason. In the next place, I am to tell you, that though some judges have been of opinion that words of themselves were not an overt-act; neither my Lord Hales, nor my Lord Coke, nor any of the sages of the law, ever questioned but that a letter would be an overt-act, sufficient to prove a man guilty of high treason ; for *scribere est agere*, Mr. Sidney says, the King is a politic person ; but you must destroy him in his natural capacity, or it is not treason ; but I must tell you, if any man compass to imprison the King, it is high treason ; as was the case of my Lord Cobham. And my Lord Coke, when he says, if a man attempts to make the King do any thing by force and compulsion, otherwise than he ought to do, that it is high treason within that Act of 25 Eliz. 3.

But, if it were an indictment only for levying war, there must be an actual war levied ; but this is an indictment for compassing the death of the King ; and the other treason, mentioned in that Act of Parliament, for the levying war, may be given in evidence to prove the conspiracy of the King's death : for it is rightly told you by the King's counsel, that the imagination of a man's heart is not to be discerned ; but, if I declare such my imagination by an overt-act, which overt-act does naturally evince, that the King must be deposed, destroyed, imprisoned, or the like, it will be sufficient evidence of treason within that Act. In the next place, having told you what the law is, (for, gentlemen, it is our duty upon our oaths, to declare the law to you;) and you are bound to receive our declaration of the law, and, upon

this declaration, to inquire whether there be a fact, sufficiently proved, to find the prisoner guilty of the high treason of which he stands indicted: and for that, I must tell you, whatever happens to be hearsay from others, it is not to be applied immediately to the prisoner; but, however those matters that are remote at first may serve for this purpose, to prove there was generally a conspiracy to destroy the King and Government: and for that matter, you all remember it was the constant rule and method observed about the Popish plot, first to produce the evidence of the plot in general: this was done in that famous case of my Lord Stafford in Parliament. Gentlemen, I am also to tell you, this alone does not at all affect the prisoner at the bar, but is made use of as a circumstance to support the credibility of the witnesses; and that it is thus far applicable to the business before you is plain, by persons unconnected with the prisoner at the bar, (and I am sorry any man makes a doubt of it at this time of day,) that there was a conspiracy to kill the King; for after so full a proof in this place, and in others, and the execution and confession of several of the offenders, I am surprised to observe that the prisoner at the bar, and some others present, seem not to believe it.

But, gentlemen, you hear the first witness; I speak of West: he tells you he had the honour to be acquainted with Mr. Sidney, and that he had discourse with Walcot, a person convicted and executed for this horrid conspiracy. Why, says he, he told me at my chamber, that they were not the only persons concerned, but that there were other persons of high rank, who had their meetings for carrying on the business in other places. And Ferguson, who was the ringleader in this conspiracy, told him there was a design of a general insurrection; it was once laid down, but it is now taken up again. There are other counsellors of great importance; and he names, among the rest, the prisoner at the bar. Mr. West goes a little further, and he tells you this: he says, he did not only tell me so, but that there was a design to conciliate a correspondence with some persons in Scotland; and they were to do it under the cant of having business in Carolina. There is Mr. Keeling, he tells you too, there

was a design for a general and public insurrection; that he was present with the Goodenoughs, one and the other, and that they had taken upon them to divide, and did divide, the city into certain districts: and what was the intent? It was, that there might be a general insurrection; an insurrection, not only to destroy the King and the Duke, but to destroy all the King's loyal subjects; and, in taking away their lives, to take away the life of monarchy itself, and to subvert the religion established by law. Next comes in Col. Rumsey, who gives you an account that he had heard of such things in Mr. West's chamber; and tells you he had received such intelligence. And all these prove to you, that there was such a design to kill the King: and this is the substance of the general evidence produced to prove the conspiracy.

Then to make this matter come home to the prisoner, Lord Howard gives you an account, and directly swears, that about the middle or latter end of January last, he happened to meet with Colonel Sidney, the prisoner at the bar, and the Duke of Monmouth (they were the persons who first began to discourse about this matter), and that they met with a disappointment; the thing had slept a great while, and that it was fit it should be revived again; and that persons of quality were mentioned, who were to have an immediate share in the carrying on of the business, and that it should not be divulged to too many; accordingly, there were named, my Lord Russel, my Lord of Essex, my Lord of Salisbury, and Mr. Hambden. He tells you, the prisoner at the bar undertook for my Lord of Essex and Mr. Hambden, and he tells you, the Duke of Monmouth undertook for my Lord Russel, and the rest; and that this was the result of one meeting: he goes yet further, that pursuant to this it was communicated to those persons so to be engaged, and the place and time was appointed; the place, Mr. Hambden's house; but he is not so positive to the time, as to the place and persons. He says, all these persons met, and he gives you an account, that Mr. Hambden (because it was necessary for some person to break silence) gave some short account of the design of their meeting, and made some reflections upon the mischiefs that attended the Government; and the apprehensions which many people had upon the late choice of sheriffs, that

there had been a mal-administration of public justice ; and that it was fit some means should be used to redress these grievances. He cannot tell you positively, what this man, or that man, said there ; but he says, that all unanimously consented to what was then debated about an insurrection ; and in order to it, they conversed about the time, when it should be, and that they thought fit it should be done suddenly, while men's minds were wound up to that height, as they then were ; and as the first witness tells you, there was a consideration, whether it should be at one place, or at several places together : he says, then it was taken into consideration, that this could not be carried on, but that there must be arms and ammunition provided.

The next step is, about a necessary concern, the concern of money, and therefore our law calls money the sinews of war. My Lord Howard tells you, that the Duke of Monmouth proposed 25 or £30,000 ; that my Lord Grey was to advance £10,000 out of his own estate ; but then they thought to make their party stronger by the assistance of a discontented people in Scotland, my Lord of Argyle, and Sir John Cockram, and several other people there to join with them. That pursuant to this, they afterwards met at my Lord Russel's, and the same debate is reassumed, and among the rest, this particular point of conciliating a friendship with the Scotch ; when the Campbells, my Lord of Argyle, and my Lord Melvin, were particularly mentioned. Col. Sidney took upon himself to find out a messenger ; but it was my Lord Russel's part to write the letter : one of the messengers named to convey the same, was Aaron Smith ; he was known, says my Lord Howard, to some of us ; and then we all agreed, that Aaron Smith was the most proper man : upon this they broke up that very time. Afterwards comes my Lord Howard to Col. Sidney to shew him threescore guineas, and tell him, he was going into the city, and that they were to be given to Aaron Smith. He tells you after this, that he had some other discourse about a fortnight or three weeks afterwards with Col. Sidney ; and that Col. Sidney took notice, that he had sent him, and that he had an account of him, as far as Newcastle. So that it is very plain, that it was not a sudden and rash idea ; it is a little more than, according to the language we meet

with in some pamphlets of late, more than heats and stirs. Gentlemen, then I must tell you here are circumstances proved in pursuance of this design, for Sir Andrew Foster informs you, that Sir John Cockram, the Campbells, and one Monro, as I take it, came to town, and that he had discourse with some of them about their business of coming out of Scotland; and he says, they pretended it was about business of some trade to Carolina, which still corroborates the evidence. He tells you likewise, that there being a report of discovering the plot, they begun to hide; Sir John Cockram began to hide and skulk from place to place; they came first with that cant in their mouths, about Carolina; the messenger Atterbury, tells you, when they came to take these men, that they shuffled from place to place.

In the next place, gentlemen, I must tell you, that if in case there be but one witness to prove a direct treason, and another witness to a circumstance which contributes to the treason, that will make two witnesses to prove the treason. Because, (I will explain my mind,) not long ago all the Judges of England were commanded to meet together, and one, that is the senior of the King's counsel, was pleased to put this case: If I buy a knife of J. S. to kill the King, and it be proved by one witness I bought a knife for this purpose, and another comes and proves, I bought such a knife of J. S. they are two witnesses sufficient to prove a man guilty of high treason; and so it was held by all the Judges of England then present, in the presence of all the King's counsel. And, therefore, Mr. Sidney is mightily mistaken in the law: for in case of any treason (except the treason at the bar), or in treason for clipping and coining, one witness is sufficient at this day. Now, gentlemen, supposing all this should not be sufficient, here is a libel, and it is a most traitorous and seditious libel. If you believe, that that was Colonel Sidney's book, wrote by him, no man can doubt, but it is a sufficient evidence, that he is guilty of compassing and imagining the death of the King; and let us consider, what proof can be greater, than what has been given of it. Mr. Sheppard, an intimate acquaintance of his, who has seen him write, looks upon the hand, and says, he is extremely acquainted with the hand, and says, I be-

lieve, in my conscience, this book is Colonel Sidney's hand. Gentlemen, do you expect Mr. Sidney would call a witness who was present to see him write that book?

In the next place you have two tradesmen, Coke and Cary, and they tell you, one had seen him write once, the other had seen his hand-writing, and they both believe it his hand writing, and they have good reason, for they have paid several sums of money, upon notes which they took, as well as this, to be his hand-writing. Gentlemen, besides that, give me leave to tell you, here is another thing, that makes it more plain: this very book is found in Colonel Sidney's house, on the table in his study, where he used to write, by a gentleman, against whom Col. Sidney cannot make the least objection; and that there was this fairness offered by the gentleman, "Pray, Colonel, put your seal upon it, that you may see that no injury be done you;" but Mr. Sidney would not do it. Therefore he sealed them with his own seal, and carried them to Whitehall, where they were broken open, and swore that those papers were found in his closet, whereof this was one. Another thing which I must take notice of to you in this case, is, to remind you, that this book contains all the malice, and revenge, and treason, that mankind can be guilty of: it fixes the sole power in the Parliament and the people; so that he carries on the design still, for their debates at their meetings were to that purpose. And such doctrines as these suit with their debates; for there, a general insurrection was designed, and that was discoursed of in this book, and encouraged: they must not give it an ill name: it must not be called a rebellion, it being the general act of the people. The King, it says, is responsible to them, the King is but their trustee; that he had betrayed his trust, he had misgoverned, and now he is to give it up, that they may be all Kings themselves. Gentlemen, I must tell you, I think I ought more than ordinarily to press this upon you, because I know the misfortune of the late unhappy rebellion, and the bringing the late blessed King to the scaffold, was first begun by such kind of principles: they cried, he had betrayed the trust that was delegated to him from the people. Gentlemen, in the next place, because he is afraid their power alone will not effect it, he endeavours to poison men's judgments; and the method he makes use

of, is to colour it with religion, and quote scripture for his purpose; and you know how far that went in the late times; when we were for binding our King in chains, and our nobles in fetters of iron. Gentlemen, this is likewise made use of by him to stir up the people to rebellion. Gentlemen, if in case the prisoner designed to depose the King, and remove the King, and if in order thereunto he be guilty of conspiring to levy war; or, as to the letter wrote by my Lord Russel, if he was privy to it, these will be evidences against him. So that it is not upon two, but it is upon greater evidence than twenty-two, if you believe this book was written by him. Next I must tell you, gentlemen, upon, I think, a less testimony, an indictment was preferred against the late Lord Russel, and he was thereupon convicted and executed; of which the record has been brought. This is the evidence for the King.

For the prisoner, he hath made several objections; as that there was no war levied: for that, gentlemen, at the beginning of the cause, I told you, what I took the law to be, and I take it to be so very plainly. But, gentlemen, as to the credibility of my Lord Howard, he offers you several circumstances. First, he offers you a noble Lord, my Lord Anglesey, who says, that he attended my Lord of Bedford, upon the misfortune of the imprisonment of his son; after he had done, my Lord Howard came to second that part of a Christian's office, which he had performed and told him, he had a very good son, and he knew no harm of him; and as to the plot, he knew nothing of it. Another noble Lord, my Lord Clare, tells you, that he had some discourse with my Lord Howard; and he said, that if he were accused, he thought they would but tell noses, and his business was done. Then Mr. Philip Howard tells you, that he was not so intimate with him as others, but he often came to his brother's; and that he should say, he knew nothing of a plot, nor did he believe any; but at the same time, he said, he believed there was a mock plot; and then he pressed him about the business of the address; but that now my Lord of Essex was out of town, and so it passed off. Another thing Mr. Sidney notices: he says, it is an act of revenge in my Lord Howard, for he owes him a debt; except by his own allegation, this does not appear.

Sidney. My Lord, he hath confessed it.

L. C. J. Admit it; yet in case Colonel Sidney should be convicted of this treason, the debt accrues to the King, and he cannot be a farthing the better for it. But how does it look like revenge? I find in my Lord Howard, when he speaks of Colonel Sidney, that he was more beholding to him than any body, and was more sorry for him; so says my Lord Clare. Gentlemen, you have it likewise asserted, that he came to Colonel Sidney's house, and there he was desirous to have the plate and goods removed to his house, and that he would assist them with his coach and coachmen to carry them thither; and did affirm, that he knew nothing of the plot; and did not believe Colonel Sidney knew any thing: and this is likewise proved by a couple of maid-servants, as well as the Frenchmen. You have likewise something to the same purpose said by my Lord Paget, and this is offered to take off the credibility of my Lord Howard. Do you believe, because my Lord Howard did not tell them, I am in a conspiracy to kill the King; therefore he knew nothing of it; he knew these persons were men of honour, and would not be concerned in any such thing. But do you think, because a man goes about and denies his being in a plot, therefore he was not in it: nay, it seems so far from being an evidence of his innocence, that it is an evidence of his guilt. What would provoke a man to discourse after this manner, if he had not apprehensions of guilt within himself? This is the testimony offered against my Lord Howard, in disparagement of his evidence. Aye, but further it is objected, he is in expectation of a pardon: and he did say, he thought he should not have the King's pardon till such time as the drudgery of swearing was over. Why, gentlemen, I took notice, before this discourse happened, he swore the same thing at my Lord Russel's trial. And I must tell you, though it is the duty of every man to discover all treason, yet I say that, for a man to come and swear himself over and over guilty, in the face of a court of justice, may seem irksome, and provoke him to give it such an epithet. It is therefore for his credit, that he is an unwilling witness: but, gentlemen, consider, if these things should have been allowed to take away the credibility of a witness, what would have become of the testimonies that have been given of late

days? What would become of the evidence of all those that have been so profligate in their lives? Would you have the King's counsel call none but men that were not concerned in this plot, to prove that they were plotting? Aye, but gentlemen, it is further objected, this hand looks like an old hand, and it may not be the prisoner's hand, but be counterfeit; and accordingly there is a gentleman, who tells you what a dexterous man he is. He says, he believes he could counterfeit any hand in half an hour; it is a discreditable boast, but I hope he hath more honour than to make use of that art he so much glories in. But what time could there be for counterfeiting this book? Can you imagine that Sir Philip Lloyd did it through the bag sealed? Or who else can you imagine should, or, does the prisoner pretend, did write this book? So that, as on one side, God forbid, but we should be careful of men's lives; so on the other side, God forbid, that flourishes and varnish should come to endanger the life of the King, and the destruction of the Government. But, gentlemen, we are not to anticipate you in point of fact. I have according to my memory recapitulated the matters given in evidence. It remains purely in you now, to say whether you believe, upon the whole matter, that the prisoner is guilty of the high-treason whereof he is indicted.

Just. Withins. Gentlemen, it is fit you should have our opinions; in all the points of law we concur with my Lord Chief Justice: Colonel Sidney says, here is a mighty conspiracy, but there is nothing comes of it; who must we thank for that? None but the Almighty Providence: one of themselves being troubled in conscience, and came to discover it; had not Keeling discovered it, God knows whether we might have been alive at this day.

The Jury then withdrew, and in about half an hour's time returned, and brought the prisoner in GUILTY.

On Colonel Sidney being brought up for judgment on Monday, Nov. 26, the Lord Chief Justice said,—Mr. Attorney, will you move any thing?

Att. Gen. My Lord, the prisoner at the bar is convicted of high treason, I demand judgment against him.

Cl. of Cr. Algernon Sidney, hold up thy hand. (Which he did.) Thou hast been indicted of high trea-

son, and thereupon arraigned, and thereunto pleaded not guilty; and, for thy trial, put thyself upon God and thy country, which country has found thee guilty. What can'st thou say for thyself, why judgment of death should not be given against thee, and execution awarded according to law?

Sidney. My Lord, I humbly conceive I have had no trial; I was to be tried by my country, I did not find my country in the jury that tried me; there were some of them that were not freeholders: I think, my Lord, there is neither law nor precedent of any man that has been tried upon an indictment by a jury, who were not entirely composed of freeholders. Thus, I humbly conceive, that I have had no trial at all, and, if I have had no trial, there can be no judgment.

L. C. J. Mr. Sidney, you had the opinion of the Court in that matter before: we were unanimous in it, for it was the opinion of all the judges in England, in the case next preceding yours, though that was a case relating to corporations, that by the statute of Queen Mary, the trial of treason was put as it was at common law, and that there was no such challenge at common law.

Sidney. Under favour, my Lord, I presume in such a case as this, of life, and for what I know concerns every man in England, you will give me a day, and counsel to argue it.

L. C. J. It is not in the power of the Court to do it.

Sidney. My Lord, I desire the indictment against me may be read.

L. C. J. To what purpose?

Sidney. I have somewhat to say to it.

L. C. J. Well, read the indictment.

[The Clerk of the Crown then read the indictment.]

Sidney. Pray, Sir, will you give me leave to see it, if it please you.

L. C. J. No, that we cannot do.

Sidney. My Lord, there is one thing then that makes this absolutely void; it deprives the King of his title, which is treason by law, *Defensor fidei*. There is no such thing there, if I heard right.

L. C. J. In that you would deprive the King of his life; that is very plain, I think.

Sidney. If nobody would deprive the King more than I, he would be in no danger. Under favour, these are things not to be over-ruled in point of life so easily.

L. C. J. Mr. Sidney, we very well understand our duty, we do not need to be told by you what our duty is; we tell you nothing but what is law, and if you make objections that are immaterial, we must over-rule them. Do not think when we over-rule in your case, that we should not over-rule in all men's cases in your condition. The treason is sufficiently laid.

Sidney. My Lord, I conceive, too, that those words which are said to be written in the paper do not contain any treason; besides, there was nothing proved of them, except by similitude of hands, which upon the case I alledge to your Lordship, was not to be admitted in a criminal case. Now it is easy to call a thing *Proditorie*; but yet let the nature of the things be examined, I put myself upon it, that there is no treason in it.

L. C. J. There is scarce a line in the book but that is treason.

Just. Withins. I believe you do not consider it treason.

L. C. J. That is the worst part of your case; when men are rivetted in opinion, that Kings may be deposed, that they are accountable to their people, that a general insurrection is no rebellion, and justify it, it is high time, upon my word, to call them to account.

Sidney. My Lord, the other day I had a book, wherein I had King James's speech, upon which all that is there, is grounded in his own speech to the Parliament in 1603, and there is nothing in these papers, which is called a book, though it never appeared, for if it were true, it was only in papers found in a private man's study, never shewed to any body; and Mr. Attorney takes this to bring it to a crime, in order to some other counsel, and this was to come out such a time, when the insurrection broke out. My Lord, there is one person whom I did not know where to find then, but every body knows where to find now, that is the Duke of Monmouth; if there had been any thing in consultation, by this means to bring any thing about, he must have known of it, for it must be considered in prosecution of his designs: and if he will say there ever was any such thing, or knew any thing of it, I will acknowledge whatever you please.

L. C. J. That is over; you were tried for this fact: we must not send for the Duke of Monmouth.

Sidney. I humbly think I ought, and desire to be heard upon it.

L. C. J. Upon what?

Sidney. If you will call it a trial——

L. C. J. I do. The law calls it so.

Just. Withins. We must not hear such discourses, after you have been tried here, and the Jury have given their verdict; as if you had not justice done you.

Just. Holloway. I think it was a very fair trial.

Sidney. My Lord, I desire that you would hear my reasons; why I should be brought to a new trial.

L. C. J. That cannot be.

Sidney. Be the trial what it will?

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

Sidney. Cannot I be heard, my Lord?

L. C. J. Yes, if you speak that which is proper: it is a strange thing. You seem to appeal as if you had some great hardship upon you. I am sure, I can as well appeal as you. I am sure you had all the favour shewed you, that ever any prisoner had. The Court heard you with patience, when you spoke what was proper; but if you begin to arraign the justice of the nation, it concerns the justice of the nation to prevent you: we are bound by our consciences and our oaths to see right done to you; and though we are judges upon earth, we are accountable to the Judge of heaven and earth; and we act according to our consciences, though we do not act according to our opinion.

Sidney. My Lord, I say —In the first place, I was brought to Westminster by *Habeas Corpus*, the 7th of this month, granted the day before I was to be arraigned, when yet no bill was exhibited against me; and my prosecutors could not know it would be found, unless they had a correspondence with the Grand Jury, which under favour ought not to have been had.

L. C. J. We know nothing of it: you may as well tell us of somebody's ghost, as you did at the trial.

Sidney. I told you of two infamous persons that had acted my Lord Russel's ghost.

L. C. J. Go on, if you have any thing else.

Sidney. I prayed a copy of the indictment, making my objections against it, and putting in a special plea, which the law I humbly conceive allowed me: the assistance of counsel to frame it was denied.

L. C. J. For the copy of the indictment, it was denied in the case you cited. This favour shewed you today, was denied at any time to Sir Henry Vane, that is, to have the indictment read in Latin. Do not say, on the other side, we refused your plea. I told you, have a care of putting it in. If the plea was such as Mr. Attorney demurred to, I told you, you were answerable for the consequences of it.

Just. Withins. We told you, you might put it in, but you must put it in at your peril.

Sidney. My Lord, I would have put it in.

L. C. J. I did apprise you: if you put in a plea, it would be on your peril. I told you, we are bound by law to give you that fair notice of the great danger you would fall under, if it were not a good plea.

Sidney. My Lord, my plea was that which could never hurt me.

L. C. J. We do not know that.

Sidney. I desire, my Lord, this may be considered, that being brought here to my trial, I desired a copy of my indictment, upon the statute of 46 Edw. III. which allows it to all men in all cases.

L. C. J. I tell you the law is otherwise, and told you so then, and tell you so now.

Sidney. Your Lordship did not tell me, that was not a law.

L. C. J. Unless there be a law particular for Colonel Sidney. If you have any more to say—

Sidney. I am probably informed, and, if your Lordship will give me time, shall be able to prove it, that the jury was not summoned as it ought to be: my Lord, if this jury was not summoned by the bailiff, according to the ordinary way, but they were agreed upon by the Under-sheriffs, Graham and Burton, I desire to know whether that be a good jury?

L. C. J. We can take notice of nothing, but what is upon the record: here is a return by the sheriff; if there had been any indirect means used with the sheriff, or any other person, you should have mentioned it before they were sworn.

Sidney. Is there any thing in the world more irregular than that?

L. C. J. I know nothing of it. That time is past.

Sidney. Now, my Lord, all men are admitted on the jury.

L. C. J. Why, you did not like gentlemen, and now you do not like those that you have had. In plain English, if any jury had found you guilty, it would have been the same thing. It would have been a good summons, if they had acquitted you.

Sidney. When the jury, thus composed, was sworn, four witnesses, of whom three were under the terror of death for treason, were produced against me. And they confessed themselves guilty of crimes of which I had no knowledge, and told stories by hearsay. And your Lordship did promise, in summing up the evidence, that the jury should be informed what did reach me, and what did not; but I do not remember that was done.

L. C. J. I did it particularly; I think I was as careful of it as I possibly could be.

Sidney. My Lord Howard being the only witness that said any thing against me, papers, which were said to be found in my house, were produced as another witness, and no other testimony given concerning them, but that the hand resembled mine. No man can say, I read them, or shewed them to any man. None knew when they were written; the ink shewed, that they had been done many, and perhaps twenty or thirty years. Yea, some passages were read out of them, without examining what went before and after; when I desired the whole might be read, it was refused, unless I specified the passage, which I could not do, not knowing one word in them. When I alledged, that in criminal cases similitude of hands could not be taken for evidence, proposed my points of law concerning constructive treason, &c. And I conceived, that no Court under the Parliament could be judges of it, and desired the statute, which so enacted it, might be read, but it could not be obtained; and I cited many judgments in Parliament.

L. C. J. Mr. Sidney, if you arraign the justice of the nation so, as though we had denied you the methods of justice, I must tell you, you do what does not become you, for we denied you nothing that ought to have been granted. If we had granted you less, I think we should have done only our duty. What points of law do you mean?

Sidney. That of constructive treason within 25 Edw. III.

Sidney. Is writing an act?

L. C. J. Yes, it is *agere*.

[*Proclamation made for silence.*]

Mr. Bamfield. Sir, I pray you to hear me one word as *Amicus Curiae* : I humbly suppose that your Lordship will not give judgment if there be a material defect in the indictment ; as when the clerk read it he left out *Defensor fidei*, which is part of the style of his Majesty.

L. C. J. We have heard of it already, we thank you for your friendship, and are satisfied. Mr. Sidney, there remains nothing for the Court, but to discharge their duty, in pronouncing that judgment the law requires to be pronounced against all persons convicted of high treason ; and, I must tell you, that though you seem to arraign the justice of the Court, and the proceeding—

Sidney. I must appeal to God and the world : I am not heard.

L. C. J. Appeal to whom you will. I could wish, with all my heart, instead of appealing to the world, as though you had received something extremely hard in your case, that you would appeal to the great God of heaven, and consider the guilt you have contracted by the great offence you have committed. I wish, with all my heart, you would consider your condition ; but, if your own ingenuity will not provoke you, nothing, I can say, will prevail with you to do it, if the King's general pardon, in which you had so great a share of royal mercy, will not. I could wish, that, as a gentleman and as a Christian, you would consider, under what particular obligations you lie to that gracious King, who hath done much more for you. I should have thought it would have wrought in you, such a temper of mind, as to have turned the rest of your life into a generous acknowledgment of his bounty and mercy, and not into a state of constant combining and writing, not only to destroy him, but to subvert the Government ; and I am sorry to see you so earnest in the justification of the book, in which there is scarce a line but that contains the rankest treason, such as deposing the King : it not only encourages, but justifies all rebellion. Mr. Sidney, you are a gentleman of quality, and need no counsel from me : if I could give you any, my charity to your immortal soul would provoke me to it. I pray God season this affliction to you. There remains nothing with

the Court, but to pronounce that judgment which is expected, and which the law requires: therefore the judgment of the Court is—

That you be carried hence to the place from whence you came, and from thence you shall be drawn upon an hurdle to the place of execution, where you shall be hanged by the neck, and, being alive, cut down; your privy members shall be cut off, and burned before your face, your head severed from your body, and your body divided into four quarters, and they to be disposed of at the pleasure of the King. And the God of infinite mercy have mercy upon your soul.

Sidney. Then, O God, O God, I beseech thee to sanctify these sufferings unto me, and impute not my blood to the country, nor the city, through which I am to be drawn; let no inquisition be made for it, but if any, and the shedding of blood that is innocent, must be revenged, let the weight of it fall only upon those, that maliciously persecute me for righteousness' sake.

L. C. J. I pray God work in you a temper fit to go unto the other world, for I see you are not fit for this.

Sidney. My Lord, feel my pulse, (holding out his hand,) and see if I am disordered; I bless God, I never was in better temper than I am now.

His Majesty having been pleased to remit all the sentence but beheading, he was brought to a scaffold erected, for that purpose, on Tower-hill, where, having delivered the following paper to the Sheriff, his head was severed from his body.

Men, Brethren, and Fathers; Friends, Countrymen, and Strangers,

It may be expected that I should now say some great matters unto you; but the rigour of the season, and the infirmities of my age, increased by a close imprisonment of above five months, do not permit me.

Moreover, we live in an age that maketh truth pass for treason: I dare not say any thing contrary unto it, and the ears of those that are about me will probably be found too tender to hear it. My trial and condemnation sufficiently evidence this.

West, Rumsey, and Keyling, who were brought to prove the plot, said no more of me, than that they knew me not; and some others equally unknown to me, had used my name, and that of some others, to give a little reputation unto their designs. The Lord Howard is too infamous by his life, and the many perjuries not to be denied, or rather sworn by himself, to deserve men-

tion; and being a single witness would be of no value, though he had been of unblemished credit, or had not seen and confessed that the crimes committed by him would be pardoned only for committing more; and even the pardon promised could not be obtained till the drudgery of swearing was over. This being laid aside, the whole matter is reduced to the papers said to be found in my closet by the King's officers, without any other proof of their being written by me, than what is taken from suppositions upon the similitude of a hand that is easily counterfeited, and which hath been lately declared in the Lady Carr's case, to be no lawful evidence in criminal causes. But if I had been seen to write them, the matter would not be much altered. They plainly appear to relate unto a large treatise written long since in answer to Filmer's book, which, by all intelligent men, is thought to be grounded upon wicked principles, equally pernicious unto magistrates and people. If he might publish unto the world his opinion, that all men are born under a necessity derived from the laws of God and nature, to submit unto an absolute kingly government, which could be restrained by no law, or oath; and that he that hath the power, whether he came unto it by creation, election, inheritance, usurpation, or any other way, had the right; and none must oppose his will, but the persons and estates of his subjects, must be indispensably subject unto it; I know not why I might not have published my opinion to the contrary, without the breach of any law I have yet known. I might as freely as he publicly have declared my thoughts, and the reasons upon which they were grounded; and I am persuaded to believe, that God had left nations unto the liberty of setting up such governments as best pleased themselves. That magistrates were set up for the good of nations, not nations for the honour and glory of magistrates. That the right and power of magistrates in every country, was that which the laws of that country made it to be. That those laws were to be observed, and the oaths taken by them, having the force of a contract between magistrate and people, could not be violated without danger of dissolving the whole fabric. That usurpation could give no right, and the most dangerous of all enemies unto Kings were they, who, raising their power to an exorbitant height, allowed unto usurpers all the rights belonging unto it. That such usurpations being seldom compassed without the slaughter of the reigning person, or family, the worst of all villanies was thereby rewarded with the most glorious privileges. That if such doctrines were received, they would stir up men to the destruction of princes with more violence, than all the passions that have hitherto raged in the hearts of the most unruly. That none could be safe, if such a reward were proposed unto any that could destroy them. That few would be so gentle as to spare even the best, if by their destruction a wild usurper could become God's anointed; and by the most execrable wickedness invest himself with that divine character.

This is the scope of the whole treatise; the writer gives such reasons as at present did occur unto him, to prove it. This seems to agree with the doctrines of the most revered authors of all times, nations, and religions. The best and wisest of

Kings have ever acknowledged it. The present King of France hath declared that Kings have that happy want of power, that they can do nothing contrary to the laws of their country, and grounds his quarrel with the King of Spain, anno 1667, upon that principle. King James, in his speech to the Parliament, anno 1603, doth in the highest degree assert it: the scripture seems to declare it. If, nevertheless, the writer was mistaken, he might have been refuted by law, reason, and scripture; and no man, for such matters, was ever otherwise punished, than by being made to see his error; and it hath not (as I think) been ever known that they had been referred to the judgment of a jury, composed of men utterly unable to comprehend them. But there was little of this in my case; the extravagance of my prosecutors goes higher: the above-mentioned treatise was never finished, nor could be in many years, and most probably would never have been. So much as is of it, was written long since, never reviewed, nor shewn unto any man; and the fiftieth part of it was produced, and not the tenth of that offered to be read. That which was never known unto those who are said to have conspired with me, was said to be intended to stir up the people in prosecution of the designs of those conspirators. When nothing of particular application unto time, place, or person, could be found in it, (as hath ever been done by those who endeavoured to raise insurrections) all was supplied by *inuendoes*. Whatsoever is said of the expulsion of Tarquin; the insurrection against Nero; the slaughter of Caligula, or Domitian; the translation of the Crown of France from Meroven's race unto Pepin; and from his descendant unto Hugh Capet, and the like, applied by *inuendo* unto the King. They have not considered, that, if such acts of state be not good, there is not a King in the world that has any title to the crown he bears; nor can have any, unless he could deduce his pedigree from the eldest son of Noah, and shew that the succession had still continued in the eldest of the eldest line, and been so deduced to him. Every one may see what advantage this would be to all the Kings in the world; and whether, that failing, it were not better for them to acknowledge they had received their crowns by the consent of willing nations; or to have no better title unto them than usurpation and violence, which, by the same ways, may be taken from them. But I was not long since told that I must die, or the plot must die. Lest the means of destroying the best Protestants in England should fail, the Bench must be filled with such as had been blemishes to the Bar. None but such as these would have advised with the King's Council, of the means of bringing a man to death, suffered a jury to be packed by the King's Solicitors and the Under-Sheriff, admit of jurymen who were not freeholders, receive such evidence as is above mentioned, refuse a copy of an indictment, or to suffer the statute of 46 Edw. III. to be read, that doth expressly enact, it should in no case be denied unto any man, upon any occasion whatsoever, to over-rule the most important points of law without hearing. And whereas the Statute 25 Edw. III., upon which they said I should be tried, doth reserve unto the Parliament all constructions to be made in points of treason, they could assume unto themselves not only a

power to make constructions, but such constructions as neither agree with law, reason, or common sense.

By these means I am brought to this place. The Lord forgive these practices, and avert the evils that threaten the nation, from them. The Lord sanctify these my sufferings unto me; and though I fall as a sacrifice unto idols, suffer not idolatry to be established in this land. Bless thy people and save them. Defend thy own cause, and defend those that defend it. Stir up such as are faint, direct those that are willing, confirm those that waver, give wisdom and integrity unto all. Order all things so as may most redound unto thine own glory. Grant that I may die glorifying thee for all thy mercies, and that at the last thou hast permitted me to be singled out as a witness of thy truth; and even by the confession of my opposers, for that *old cause* in which I was from my youth engaged, and for which thou hast often and wonderfully declared thyself.

His attainder was reversed in Parliament the 1st of William and Mary.

JOHN HAMB DEN, FOR CONSPIRACY,

THE 6TH OF FEBRUARY, 1683.

Clerk of the Crown. Call the defendant John Hambden.

Mr. Williams. He appears.

Cl. of Cr. *Gardez votres Challenges.* Call Sir Charles Gerard.

Sir Charles Gerard, *sworn.*

Cl. of Cr. Roger Jennings, Esq. *sworn.*

Henry Hodges, Esq. *sworn.*

Joshua Galliard, Esq.

Williams. We challenge him for the defendant.

L. C. J. [*Sir George Jefferies*] What is your cause of challenge?—*Williams.* If your Lordship please to let him go through the panel, we will shew cause if there be not enough left without him.—*L. C. J.* No, shew your cause now, it being against the King.—*Williams.* He has an employment under the King, he has an office in the forest, and that we say is our cause of challenge.—*L. C. J.* What then, if he have?—*Williams.* My Lord, we suppose then he is not an indifferent person to try this cause.—*L. C. J.* Ay, let me hear it now proved and defended by any gentleman of the long robe, that that is a good cause of challenge. Shew me what law there is for it.

Williams. To be of the King's robe, or pay, or salary, is an exception in any case wherein the King is concerned.—*L. C. J.* Shew me any law for that if you can, Mr. Williams; I know you are a lawyer.—*Wallop.* It is the opinion of my Lord Coke in his Institutes, that it is a good cause of challenge.—*L. C. J.* But

there is the opinion of all the judges in Henry the Fourth's time against it.—*Wallop*. It is, my Lord, fol. 156.

L. C. J. But I can cite you three or four books, and you have them all together in *Rolls's Abridgment*, "Title Challenge," where he sets down four books, one after another, that it is no cause of challenge even to be the King's tenant; and there is a great deal of reason for it. For, if that were a good cause of challenge, mark the consequence: then all persons that hold lands in England hold them mediately or immediately of the King, and so the King could have no freeholders to be jurymen in his cause.

Williams. This is a more special cause of challenge than that.—*L. C. J.* What can be greater than that of being the King's tenant?—*Att. Gen.* [*Sir Robert Sawyer.*] Especially when all the land of England was held of the crown, as originally it was.—*Trevor*. My Lord, in 2d *Rolls* 646. *Tit. Trials*, there is the express opinion of my Lord *Rolls*, that to be of the livery, or a menial servant of the crown, is a good cause of challenge.—*L. C. J.* And look you but in the 1st case in the 1st part of the *Abridgment*, "Title Challenges," where he mentions three or four books to the same purpose, and it is quite otherwise.—*Williams*. My Lord, in that of 1st *Rolls*, he only cites some books, but the other is his own opinion.

L. C. J. Well, make out your fact if you have a mind to it; but it is well known, that neither Mr. Serjeant *Rolls*, nor my Lord *Coke*, when he delivered that opinion, are to be reckoned such authorities in crown matters.—*Williams*. We will ask him, my Lord, if you please; I suppose he will not deny it.

L. C. J. No, make out your fact if you will have any benefit by it, it is only a challenge to the favour, which ought not to be in the King's case. I am very glad that we are now to debate this matter with men of the robe, because we have had strange kind of notions and reflections spread abroad of late, as though the Judges now-a-days gave strange opinions, and as though persons that had been blemishes at the bar, were preferred to do strange things when they came upon the bench; but truly I wonder to hear that it should be a doubt, when at the same time that which we gave as our opinion about one particular challenge, that is as to freeholders, it was the opinion of all the judges, that that was no challenge, and all the counsel that were concerned in that case know it was the opinion of all the judges. But now if we meet with lawyers, I shall be glad to have the matter fairly argued and debated, and pray shew me what law or reason is for it.

Wallop. Certainly, my Lord, there is a great difference betwixt the general allegiance of all men, and so of a general tenure, and the dependance of any particular person who is a menial servant, and receives wages of the King.—*L. C. J.* I would desire to know of you, Mr. *Wallop*, which is the greater challenge, to say such a one is tenant, or such a one is immediate servant to J. S.?—*Wallop*. There is a great difference, my Lord, I think, between an immediate tenant, and the general tenure of all subjects.—*L. C. J.* But certainly the law is thus, if he were an immediate or a mediate tenant to any but the King, if

his Lord were party to the suit it would be a good challenge, but the being tenant to the King is no good challenge in the King's case.—*Williams*. My Lord, I take it, the Act of Parliament that takes away the court of wards and liveries, hath altered the law as to that matter of tenure; for now we hold in socage, and that other tenure is destroyed, that was between the King and his subjects.—*L. C. J.* But pray how comes it to be a challenge now that was not one before? Does that Act of Parliament make it a good cause of challenge? If it does, shew it. I tell you the old books are against it.—*Williams* I speak, my Lord, to the tenure, that that is nothing at all now to be objected, because all is now in socage.

L. C. J. I would not have Mr. Attorney insist upon a juryman, but yet withal I would not have it held as law, that it is a good cause of challenge.—*Wallop*. My Lord, we, finding in some cases that are in our books, that it is held to be a good cause of challenge, lay it before the Court.—*Att. Gen.* How many hundred errors do you find in my Lord Coke, notwithstanding all his learning!

L. C. J. I say, if I was Mr. Attorney, I would not contest for any particular man to be a juryman; I speak that as my advice; but I would not have it taken for law, nor would I have it broached abroad, that though the judges now were of one opinion, yet the law truly was of another.

Mr. Jones. If all that receive salary, or wages from the King, are not to be jurymen in the King's causes, then all the deputy lieutenants and militia officers, which generally are the most substantially freeholders, are excluded from being jurymen.—*Just. Withins*. Who will say so, Mr. Jones? No lawyer in England surely will say so.—*Williams*. Offices where there is no profit, will not be the same exception.—*Att. Gen.* But he is no menial servant of the King.—*Williams*. What is he, then?—*Wallop*. We hear that he is the keeper of one of the King's forests, and has a fee for it.—*Williams*. Well, we will ask him upon a *voyer dire*.—*Att. Gen.* My Lord, the fact is quite otherwise, and I desire they may make it out.

L. C. J. Truly, I think it is not *tanti* to insist upon any particular man, but I find we are in an age that is so full of cavils, that if we act but according to the precedents that went before us, we are thought to act as originals, and to make new laws, when we only follow the rules that we have received from our predecessors. And I say there was no such challenge at common law, that ever I read of, in any of our books, nor is it any challenge by the best authorities extant.

Mr. Jones. I desire them to shew me any such precedent, that any man was challenged by one that was tried at the suit of the King, for a challenge to the favour, but we must do unprecedented things, or else there will be no satisfying of some men.—*Att. Gen.* I would fain know, what one opinion in a straggling book is against the current of all our law?—*Williams*. Which do you call a straggling book, Mr. Attorney? My Lord Coke's Institutes, or my Lord Rolls' Abridgment?—*L. C. J.* I say the better opinion of the books is on the other side, and the greater number too.—*Att. Gen.* First of all, I do know of my own knowledge, he is no menial servant.

L. C. J. Mr. Attorney, I do debate it for learning sake; truly I know not the man, nor whether he be the King's servant, or not, but I speak against allowing the challenge, that if he be set aside, it may not be taken as a precedent, and so pass for law, that the King's servants cannot be jurymen. I would have you quit the man by consent, but not as a force-put, as though the law were so; for the law, I think, is otherwise.

Att. Gen. He is none, my Lord; they mistake.—*L. C. J.* Nay, I know nothing of the man, I tell you only what I think.—*Wallop.* He receives wages, or a fee from the King for his office.—*Just. Withins.* I would never, for my part, while I live, nor never did, while I was a practiser, stand upon any particular jurymen.

Att. Gen. He may be a jurymen by law, sure.—*L. C. J.* There is no doubt of it, Mr. Attorney.

Att. Gen. My Lord, if your Lordships have given your opinion, I desire he may stand by.—*L. C. J.* Well, Mr. Attorney waves him, let him stand by.—*Att. Gen.* But for no reason that has been offered.—*L. C. J.* No, no, I do not hear any thing of reason offered for it.

Cl. of Cr. Mr. Galliard, you may go down.

Thomas Harriott, Esq. *sworn.*

Thomas Earsby, Esq. *sworn.*

William Avery, Esq. *sworn.*

John Sharpe, Esq. *sworn.*

Richard Shoreditch.

Williams. We challenge him for the defendant.—*L. C. J.* What is your cause of challenge?—*Williams.* There is the same exception to him.—*L. C. J.* If Mr. Attorney will consent, with all my heart.—*Att. Gen.* No, we humoured you in one, we will not humour you any more.

Williams. Nay, here is something more clear for us, he is a Serjeant at Arms attending his Majesty.—*Just. Withins.* You know our opinions already, Mr. Williams, unless Mr. Attorney consent, we cannot do it.—*Williams.* We only acquaint Mr. Attorney with it, we must submit to your rule, he is certainly Serjeant at Arms, he came in the place of Dereham, who let my Lord Grey escape.

Att. Gen. Pray prove it, I do not know it for my share.—

Williams. Will you ask him the question?—*Att. Gen.* Pray prove it. Are we to gratify your client? Pray, let him better instruct his counsel.

L. C. J. If Mr. Attorney consent not, then he must be sworn.

Att. Gen. If there be enough without him that do appear, let him stand by.

Cl. of Cr. Stand down, Mr. Shoreditch.

Charles Good, Esq. *sworn.*

Att. Gen. That it may appear how fair things were carried, they would not strike out one of these men when they came before the Prothonotary, as they might have done.—*Just. Withins.* Truly that was not well done, to trouble the Court when you might make your exceptions there.—*Williams.* We did not know it then; now we do, we offer it to the Court.

Cl. of Cr. Samuel Rouse, Esq. *sworn.*
 Hugh Squire, Esq. *sworn.*
 Nehemiah Arnold, Esq. *sworn.*
 John Bifeild, Esq. *sworn.*

Att. Gen. May it please your Lordship, and you gentlemen of this jury, Mr. Hambden stands indicted of a high misdemeanor,—for conspiring, with several others, to raise rebellion within the kingdom, and to crave the assistance of the brotherhood of Scotland. Upon the face of the indictment, gentlemen, it appears to be a very high crime, and the matter of this indeed has been formerly in examination in other trials, and yet the party, you may observe, do not acquiesce in those trials, but think the persons accused lay under very great hardships, and that to a very great degree, as not having the advantage of counsel, nor of having their witnesses examined upon oath; and therefore, gentlemen, the King is pleased to go less in this case than in the others, that this gentleman, who is now before the Court, may clear his innocence, if he has any witnesses to do it; and, if there be any advantage that the having of counsel can contribute to his cause, he has that allowed him too.

We shall prove to you that Mr. Hambden, with five other persons (I shall name them)—the Duke of Monmouth, my Lord Russel, Mr. Sidney, my Lord of Essex, and my Lord Howard, met several times (the particulars we shall give you an account of); one was at Mr. Hambden's house, another was at my Lord Russel's; where they did contrive together, and took upon them to be a junto, or a council of six, collected out of the wisest men of the kingdom, to consider how they might better the affairs of the nation, and how they might make a stir: for they thought there was no way possible otherwise of doing it, but by their joint counsels to carry on a rising. And, that they might do it the better, they resolved to crave the assistance of Scotland. Gentlemen, we shall give you an account of their councils and debates, and shall shew you, that at length they came to a resolution, that the rising was to be carried on jointly in London, and the several parts of the kingdom, in several counties at once. Then they came to think, and consider whether it were not best to send into Scotland, to draw them in, too. And thereupon it was agreed by this junto, that they would send thither, and the management of it was committed to Mr. Sidney, to send some fit person into Scotland,

to treat with the malecontents there; and the better to carry on this joint design, some of them were to come up to London. And they were to have a pretence to treat about going to Carolina, and the purchasing some shares in the plantation there, of which my Lord Shaftsbury was a chief governor. We shall prove to you, gentlemen, besides all that I have opened, that the person to whom that trust was committed, Mr. Sidney, according to the duty that he had taken upon him, does employ one Aaron Smith, who all that know him, do know him to be a fit engine for such counsellors, and a fit instrument for such a conspiracy. We shall prove he actually was in Scotland, and that he went into Scotland upon this errand. And then we shall prove, that those gentlemen that were sent to, and were the persons named in their consults to be treated with, came here soon after to town; and, as soon as ever this plot was discovered, they fled and absconded themselves. Gentlemen, if we shall prove all this matter to you, I think it will be without any question clear, that this gentleman is notoriously guilty of this high misdemeanour. And, indeed, if you observe it, one of the persons has given judgment against himself, the Earl of Essex: he cut his throat in the Tower. But the party have been so diligent and officious as to fling that upon the Government; but that matter we shall have before the Court in judgment to-morrow. For two of the others they have received the judgment of the law, Lord Russel and Algernon Sidney; for two more of them the King has been pleased to take them into his mercy: the one is my Lord Howard, who is summoned to appear here to-day; the other is the Duke of Monmouth, who has confessed all this matter, and has taken his pardon, and we have summoned him also to be here this day; that the world, if they will have their eyes opened (I mean the discontented world), may see there is nothing sought but the peace and quieting of the kingdom.

Sol. Gen. [*Mr. Finch.*] My Lord, we will call our witnesses, and first we begin with the Duke of Monmouth.

Cryer. James Duke of Monmouth.

Att. Gen. Call him again.

Cryer. James Duke of Monmouth.

L. C. J. Was he served with a subpoena?

Att. Gen. My Lord, we will prove we have served

him in all places where he was like to be met with ; that we left subpoenas with his servants, who promised to deliver them to him.

L. C. J. Now call his Grace again.

Cryer. James Duke of Monmouth. [*But he did not appear.*]

Att. Gen. Pray swear my Lord Howard.

Lord Howard. My Lord, in January last was twelvemonth, about the middle of January, I was called out by Colonel Sidney, being then in my lodgings in Southampton-street, and carried by him to Mr. Hambden's house ; I do not know what they call the street, but the same side of the way with the fine house that is in Bloomsbury.—

Jones. By my Lord Montague's house that now is, you mean ?

Ld. Howard. Yes, of the same side of the way. When I came there, there was my Lord Russel and the Duke of Monmouth ; Colonel Sidney and I went together ; Mr. Hambden was then in the room where they were. Afterwards came in my Lord of Essex : this made up six. When they were there, we fell into discourses—

Att. Gen. Pray, my Lord, before you come to tell the particular discourses, give an account how, and upon what grounds, you came to have this junto of six ?

Ld. Howard. So much as I can give an account of is this.—It was about the day after Michael's day that I came to my own house, having been before in Essex, and that I think was Saturday. The Monday following Captain Walcot came to me and dined with me, and after dinner told me, my Lord Shaftsbury had left his house, and had betaken himself to a private lodging, and had hid himself from the rest of his friends ; but had a great kindness for me, (which kindness truly I wish he had spared,) and desired to see me : I took time to consider of it ; but I bade him go back to my Lord Shaftsbury, and tell him, if he had any thing of an extraordinary nature to acquaint me with, I would come and assist him all I could. He came the next day again, and shewed me to my Lord Shaftsbury's lodgings : he lodged then at one Watson's house, a citizen ; I know not what street they call it ; but it was in a little street by Wood-street. And when I came to him, I found my Lord Shaftsbury very much differing from what he used to be, who was more cautious ; and presently he informed me, that he was forced to withdraw himself from his own house, for fear of being attacked again by sham charges and plots, and false evidence, as he had been before : for now he said, he saw they had possession of all juries, by having those sheriffs, who were imposed upon the city, as he said, and he could not think his own life or any man's life safe ; for to be accused was sufficient to bring his life into very great danger, and for that reason he had withdrawn himself to that private retirement ; and, being there, he was resolved to make some speedy push, for recovering the liberties of England ; that there was preparation made in the city of several thousands of men, that were all in readiness to rise, and that, for his part, he was resolved to be set on horseback ; for get on horseback he could not ; and that there

were great numbers that were ready, when he did but hold up his finger, to be drawn together at any time : that divers had been drawn out of the country to join with them by insensible parties of horse ; I think he named about fourscore or an hundred ; which, since I found, were to be headed by Colonel Rumsey, upon the day of making and declaring the sheriffs ; but, finding there was nothing done, he withdrew himself and his man thither ; but there was such a general preparation in the city, that if some Lords did not unhandsonely desert them, they should be in readiness for action quickly. I asked him who he meant ? He told me, the Duke of Monmouth and my Lord Russel had very unhandsonely deserted him ; for they had promised and undertaken to be in readiness with men out of several counties in which they had an interest ; he named Somersetshire, Devonshire, and Cheshire, I think ; and that my Lord Grey should be disposed of into Essex to do the same there ; and, if they had held on this resolution, it had been such a sure game, that it could not have failed : but, said he, they are started, and say they cannot be in readiness to do it. My Lord, said I, I very much wonder that those persons you named should engage in any design, and fail of performing what they promised ! Said he, I will assure you it is so. And so he proceeded to speak several sharp things of the Duke of Monmouth, upon the account of his ambition, that he thought to have all under his command ; which was a secret lurking ambition in him, that he said, he always suspected the Duke to be guilty of. And now he found his suspicions true : that unless he might command all, he would do nothing. But, for his part, since he found the matter so, he was resolved to go on alone, rather than fail in his design. Said I, my Lord, I should be very forward to concur with you in any thing ; but I wonder your Lordship should step into an action of such danger, thus divided from those that are most likely to assist you in it. I cannot help it, said he ; I have left my house, and must go on. My Lord, said I, pray give me leave to go to the Duke of Monmouth, and expostulate the matter with him, and I will come and give you an account again. Said he, it is to no purpose, I dare say. Said I, my Lord, pray let me go and try, for I would not have you divided ; but I will promise you this, I will not tell him I came from you, but as from myself discourse it with the Duke. Well, said he, if you will, you may. This was upon Tuesday, I think the third of October, the third or fourth. So I went to the Duke of Monmouth the next day, which was Wednesday, and, finding him not at his house in Soho, and being told he was at Moor-park, I took an occasion to go to Moor-park, and I came there a little after dinner, and took him aside, and told him all this that I now have spoken about my Lord of Shaftsbury. Said he, I think the man is mad, what does he mean ? We did undertake to do this, it is true ; but not by that time he speaks of ; and things are not ready ; I know not what his own fears make him do ; but he does act so preposterously that he will undo us all. Said I, my Lord, all that I shall desire is, that there may be an interview betwixt you, and discourse the thing with one another, or else it may be a thing of very fatal consequence for him to step into an action of this danger and concern, while you are

thus divided. With all my heart, said the Duke, I would have nothing more ; I desire to speak with him. This made me hurry back again to my Lord of Shaftsbury the next day, and I told him all this, and desired he would give a meeting ; said he, I see they are false then to say they did not engage, they were engaged, and that against this time too, the confirmation and swearing of the sheriffs ; and now for me to meet with them, I know I shall run out into passion and anger, and therefore it is better omitted. Said I, my Lord, I must positively insist upon it. I must have an interview between you, for it is madness for you to go on thus divided, in so great a business. I could not prevail ; he would not ; but he told me, if I would I might go to them from him, and let them know I had been with him ; (for before I pretended to have it from a third person, and not from my Lord himself ;) and if they would be in readiness with what they promised, from the country, he would ask nothing from the city ; he would take that place upon himself, if they would perform their engagement for other parts ; but he resolved to go on. So I went to the Duke of Monmouth's again, and told him what he said, that I could not by any means get him to an interview. Says the Duke, he is a strange man, I know not what to do with him, we will all be in readiness as soon as we can ; but it is impossible to do it so soon. I went to my Lord of Shaftsbury again on the Saturday, and did then positively engage him that he would give a meeting to me, and the Duke of Monmouth, and some others. And we appointed time and place ; he appointed to come out in a parson's habit and a black periwig, to his own house, which he thought the safest place, because he would not discover his lodging to any of them, for fear it should come to be known. With these instructions I came to the Duke of Monmouth, to prepare about it, and proffered him to be ready the next day at evening, with my Lord Russel to go to him. All this while I had not spoken to my Lord Russel, but only to the Duke of Monmouth. And the next day, when I came from church to my own house, there met me a message from Colonel Rumsey, who I understood by my servants had been there, and left his name, with this message, that he came to tell me, the gentleman that was to meet could not meet. This was so confused a matter, that I was impatient till I knew the meaning of it. I took my coach and went directly to the Duke of Monmouth's again, and he told me, Colonel Rumsey had been with him, and told him my Lord of Shaftsbury was apprehensive there were a great many Tories about his house, and he feared being discovered, and therefore had removed his lodging, and so could not meet ; but we should hear from him in two or three days. So that was the last time that I saw my Lord of Shaftsbury, or indeed in a direct line did hear from him ; collaterally by Walcot I did afterwards hear, but by this means we were at a loss. After this the Duke of Monmouth did tell me (for he did not own to me that he saw him, but indeed swore to me that he did not see him ; but I find since that he did,) that he would do what he could, to prevent an untimely dangerous undertaking. But after this, it seems, they had a meeting at Mr. Shepard's house, where my Lord Shaftsbury sent a message to him and my Lord Russel ; but the Duke of

Monmouth only told me, that my Lord Russel had met with him, and seen him; but he never owned that he had met him himself or seen him. About four or five days after, Captain Walcot came to me, and told me, such a day was set for the rising. Upon which, being startled, I had nothing to do, but to hasten to the Duke of Monmouth, and endeavour to stop any rash proceeding; and it was stopped, as I thought; and so it continued for two or three days, and at that time, which was in October, there was a rumour up and down whispered, as if something would be attempted; but what it was we did not know: thus it went on for two or three days, and then it meeting with a disappointment upon the consultation at Mr. Shepard's, my Lord Shaftsbury took up his resolution to be gone, and went away to Holland, and died in Holland. This is the substance of what account which I can give of those former transactions.

Att. Gen. Now give an account of what was subsequent to this.

Ld. Howard. This was in November. After this there being frequent conferences between Colonel Sidney and me; for Colonel Sidney, by the way, knew nothing of all this, and I was cautioned by my Lord Shaftsbury, that I should not tell my friend Sidney any thing of it; and, asking him the reason why I should not? said he, I cannot well tell, but you will wonder when I tell you, that his own friend, Major Wildman, has barred him, and would not let him know it. The gentleman is now dead; but I will assure you he did know nothing of this for a month after: for he was gone into the country; but after my Lord Shaftsbury was dead, I told him the history of all these transactions, which before he was a stranger to. After this, when I had acquainted him with what had been intended in London, and what preparations had been made, and how what was intended had been suppressed, and in what posture affairs then stood, we then took up a resolution to form a council, that might for the time to come give such directions as might regulate the motions of this affair. Thereupon we began to think of the persons who they should be. He undertook to speak to my Lord of Essex and Mr. Hambden, and I was to bring the Duke of Monmouth to a right understanding with him in it. So I went to the Duke of Monmouth, and told him Colonel Sidney did present his service to him, and would willingly wait on him, but that he thought it would do him hurt, because he was a person of such note, and thereupon so obnoxious, that it might prejudice him to have seen him to come to him; and, therefore, if his Grace would please to appoint any third place, he should be very glad to kiss his hand. Said the Duke, I do not know any where truly to appoint. Why then, said I, I will tell you a place; let us even go to his house (having before prepared Colonel Sidney for it), and take him by surprise and dine with him, and then there will be the less suspicion. But, said I, you must not expect to be treated as the Duke of Monmouth, because he does not expect you; but take him as a philosopher, and dine with him as he uses to dine at his own table. Said the Duke of Monmouth, I care not for entertainment; I will go with you: and there at that time did the Duke of Monmouth undertake to bring in my Lord Russel, and my Lord of Salisbury. This was the only discourse prepa-

ratory to it that ever I knew of. Within a fortnight or three weeks after, nay, I think it was less than ten days after, Colonel Sidney came to me, and told me, my Lord of Essex was very forward in it. The Duke of Monmouth would prepare my Lord Russel, and my Lord Salisbury; and he himself did not doubt, but Mr. Hambden was very willing to be in it too; and they had appointed a meeting at Mr. Hambden's house, and he would carry me thither to the house; and this was the first meeting I knew of; and there we met all six.

Att. Gen. About what time was that?

Ld. Howard. It was about the middle of January; and truly I think I could reduce it to a certain day or two by the persons where I lodged.

Att. Gen. What was debated there?

Ld. Howard. When we came there every one discoursed what he would. There was a discourse of the time and places where to rise; but, among other things, it was resolved, as a principal point, that there should be a preparation made for the design, by a treaty with those of Scotland, and an understanding settled with Argyle, and a messenger sent to my Lord Argyle and others. And before this was done, we could not be ripe for any resolution; but this must be speedily done.

L. C. J. Pray, my Lord, give me your favour, I would not interrupt you; but to make things clear as we go, I desire to ask you, when you came first to Mr. Hambden's house, who spoke first, when you were all met together?

Ld. Howard. Every body discoursed what they pleased.

L. C. J. But who gave an account of the reason of the meeting? Will you please to recollect, and tell what you know, who began the discourse?

Ld. Howard. Something introductive to it was said by Mr. Hambden, we being at his house, as it is natural to conceive for any gentleman at whose house people are met, to say, Pray let us sit down, and talk of our business. Something leading and introductive was said by him.

L. C. J. Pray, my Lord, as near as you can remember, will you give an account what was the thing he began to discourse of? Did he seem to take any notice, or have any knowledge of your meeting, and other things before?

Ld. Howard. It was a general hint, and intimation to us of the ends of our meeting, that we were there come to consult and advise one with another, how to put things into a better method and posture than formerly: and he desired that we would sit down and discourse of these things. My Lord, I would not charge myself with particulars positively.

Att. Gen. Upon what questions did you debate and consult, my Lord?

Ld. Howard. Those were started severally. Some would speak of the time when it should be, whether it were not convenient now, or when? Others offered something concerning the places, whether it should be begun in the city or in the country, or both together. Others took it into consideration, what persons were to be prepared in the several countries to be assisting in it, that were probable to carry it on. And then some discoursed concerning the raising of money, and then what sum should be

raised, and I think that was started by the Duke of Monmouth ; but I am sure the sum that he named was twenty or thirty thousand pounds. The last thing that was talked of, but which was concluded to be the thing principally to be taken care of, was the settling such a concurrence and correspondence with Scotland, that they might chime in at the same time, that so we might give as many diversions both from home and abroad, as could be at one and the same time.

Att. Gen. My Lord Howard, did Mr. Hambden discourse of this matter ?

Ld. Howard. I cannot speak of the discourse of any one in particular; for I cannot say it was put to the vote, as we formerly expressed it; but it may be said that we were all consenting and concurring.

L. C. J. Did any of you dissent from the rising ?

Ld. Howard. No, no, my Lord.

Att. Gen. Did any of you oppose it at all ?

Ld. Howard. No, no ; that was discoursed of as a thing resolved.

L. C. J. I ask you this question, my Lord Howard, was there any sort of complaint made of the Government, that it was uneasy, and that occasioned you to enter into these debates ?

Ld. Howard. There was, I cannot say a complaint, because there was no person to complain to ; but it was spoken of as a matter of great grievance, that such a force and violence should be put upon the city in their election of officers, and the tendency of that as to all juries, though I cannot distinctly remember the particular things.

L. C. J. You say you were talking of a messenger to be sent into Scotland to my Lord of Argyle, and others, to chime in with you in this matter, as you say ; pray did you come to any resolution about that, and what did you resolve upon ?

Ld. Howard. That there should be one only at that time. And afterwards it was the matter of the debate at the next meeting, which was that meeting at my Lord Russel's, which was about this time twelvemonth, in February some time.

Att. Gen. How long after the first meeting at Mr. Hambden's was that ?

Ld. Howard. My Lord, I think it was about a fortnight.

Att. Gen. Who was there ?

Ld. Howard. The same persons that met before. But then there was little spoken of but the business of Scotland.

L. C. J. Was Mr. Hambden there at the second meeting ?

Ld. Howard. He was there.

L. C. J. At my Lord Russel's you say it was ?

Ld. Howard. Yes.

Att. Gen. What resolution did you come to then ?

Ld. Howard. Then we came to a resolution that somebody should be sent, and we began to discourse who was fit ; and Colonel Sidney propounded Aaron Smith ; to some of the company he was known, to others not ; but those that did know him, did approve of him as a fit person.

Att. Gen. To whose province was that committed of sending this person into Scotland ?

Ld. Howard. Colonel Sidney undertook it himself.

Att. Gen. Did the rest consent to it?

Ld. Howard. Yes, nobody did oppose it, but left it to him.

L. C. J. Did you name the person then that was to go?

Ld. Howard. He was not so named as to be with any solemnity approved or disproved; but it was left to Colonel Sidney to manage it, and he naming Smith as a fit person, (he told us, by the bye, not to put it to the question for our approbation,) and some of us knew the person, others did not. I was one that did know him, and did think him a very fit man to send.

L. C. J. Pray, my Lord, who was the person? Be pleased to tell the jury so as they may know it.

Ld. Howard. Aaron Smith.

Just. Withins. Had you any discourse with Colonel Sidney, my Lord, afterwards that he was sent?

Ld. Howard. Yes, my Lord.

L. C. J. Pray give an account of that.

Ld. Howard. About three or four days after this meeting at my Lord Russel's, I went to visit Colonel Sidney at his house, and while I was there in the room, he went to his cabinet, and out of a drawer where there were five or six hundred pounds in gold, as I could guess, he took a good many pieces; I do not know directly how many; but he took out so many as he said were three-score guineas, that he was going to carry to Aaron Smith; I went not in my own coach, and therefore went away with him in his coach, and he set me down at Southampton-street, at my own lodging. I went no further, but he did, and he told me afterwards it was conveyed to him, and that he did go.

L. C. J. How long was that after your meeting at my Lord Russel's, where, you say, you entrusted Colonel Sidney to send one into Scotland?

Ld. Howard. I think it may be less than a week, four or five days, that I saw him carry the money. After this, he said, he had given him this money, and was gone: and when he was dispatched, in a week after I was making enquiries after him, and Colonel Sidney said, he had not heard of him since he went away; but, in a fortnight or three weeks, Colonel Sidney said he had heard of him, that he was at Newcastle, and staid there; but he wondered he could hear no more of him. I then went into Essex, and when I came back from thence, he told me he was come, but I have never seen him, not to this day; indeed, I had once appointed a meeting with him at Mr. West's chamber; but something or other happened, we did not meet.

Att. Gen. My Lord Howard, pray were the names of any of the Scotchmen mentioned at your meeting that were to be sent for?

Ld. Howard. Yes; there was my Lord Melvin, Sir John Cockram, and one Campbell.

Att. Gen. Now, my Lord, we will give you an account, that as Smith went into Scotland, so these persons soon after came into England.

Juryman. My Lord, we desire that my Lord Howard would name those Scotchmen that were to come.

Ld. Howard. There was my Lord Melvin, Sir John Cockram,

and one Campbell, one that was of my Lord Argyle's name and family; and there was another name, but I cannot remember what that name was.

Att. Gen. Mr. Atterbury, what do you know of these Scotchmen coming to town, and what became of them afterwards?

Atterbury. My Lord, about the beginning of July, 4th, 5th, or 6th, or thereabouts, I had some information, that there were some Scotch gentlemen that had been shifting up and down, and at that time were about Blackfriars, lodged there secretly. I immediately went with the King's proclamation, and some warrants that I had, to apprehend some traitors that were fled; and, when I came, I found that Mr. Common Serjeant having notice of them, had beat up their quarters, and they were endeavouring to escape by water; but they were caught. There was Sir Hugh Campbell, and Bayley, and Sir George Campbell, and some others, I know not the names of them all; truly I cannot tell whether Monroe was not another, but Sir Hugh Campbell I had in my custody, and Bayley was immediately committed to the Gate-house; and the rest of the gentlemen I afterwards took in a cunning hole by Moorfields, in a back house. And when I came there, I found them lying on the bed in the middle of the day; and had them prisoners in my custody two or three months; and then they were all sent out of my hands into Scotland prisoners. Six of them there were, my Lord, that I saw.

Williams. May it please your Lordship, and you gentlemen of the jury, I am of the counsel for Mr. Hambden, the defendant, upon this indictment here before you. This indictment is a severe indictment: it is a very high crime of which my client is accused. By the evidence of my Lord Howard he tells us there were six persons in this council, as he pleased to call them. By his evidence, three of the six are dead, my Lord Russel, Colonel Sidney, and the Earl of Essex; he himself is the fourth, the defendant is the fifth, who cannot give evidence for himself; and the Duke of Monmouth who is the sixth, being away, there is not any person in being, that should contradict my Lord Howard's affirmative in this part of his evidence, but the Duke of Monmouth, who we cannot have here, since it appears, by the evidence, Mr. Attorney General could not prevail to have him at this trial; and therefore proof of that nature cannot be reasonably expected from my client, to acquit himself by a positive contradiction of what my Lord Howard has sworn.

In the first place, we shall observe upon the testimony of my Lord Howard, that as to some things he is very positive and particular: he has an incomparable memory, and speaks particularly to persons, particularly to places, particularly to times. But, gentlemen, as to that which is the principal part of his evidence, and which most affects the defendant, and wherein it concerns us to contradict or disprove him, he is wanting as to that circumstance of time. He that is so exact in his memory as to other circumstances, is not positive, nor any thing like positive, as to the times of the meeting. For they would imagine, that the first meeting the defendant was concerned in, was at his own house. He describes the house and the place very exactly, but, as for the time, he only says it was about the middle of January.

Gentlemen, he would imagine, that there should be men raised, men armed, a discourse of money, and this done, as he would have it, about the middle of January; and yet nothing at all done, though there appears no manner of discovery of this very evil contrivance, till about July. Neither is there any thing done in order to the raising of men, the arming of men, or the levying of money all this while. So that there is no one fact, of any kind whatsoever, that goes along with what my Lord Howard has said.

In the first place, it appears by the evidence of my Lord Howard, that he was very deep in a conspiracy against the Government, and to make a disturbance in the kingdom long before this, that he now speaks of against the defendant, that is plain enough; for he tells you, that my Lord Shaftsbury and he, at Michaelmas, were contriving projects to overturn the Government, and raise a rebellion. It appears plainly by his evidence, that my Lord Shaftsbury, when he left his house, was resolved upon it, and my Lord Howard was very solicitous to carry on the same design; nay, he was so active in it, that he tells you, that he did create messages between my Lord of Shaftsbury, and the Duke of Monmouth, and would needs go by a false insinuation of his own, to draw in the Duke of Monmouth, by telling his Grace, he had his information from Walcot, and not saying he came from my Lord Shaftsbury, with whom he said he had been discoursing; but he would put it under some sort of disguise, the better to prevail. So it appears, my Lord was very criminal and guilty in this case. Why, then, my Lord being so highly criminal, and there being a discovery of this by Keeling, Rumsey, and West, having made a more manifest discovery, and this happening in July, then it was high time my Lord Howard might conceive for him to secure himself, and save one, he being thus guilty, as he declares; it is but reasonable to conjecture, he then began to place his security in a pardon; and that there was no other means to save his life, and the way to it must be by some further discovery of a conspiracy against his Majesty and the Government; and, having since obtained a pardon, it is agreeable, that whatsoever my Lord Howard has done in this case, he has done for his own sake, to purchase his own pardon for a treason he was so deep in, and to outdo all the witnesses that went before him, by fresh testimony against the defendant and others; this might incline him to go an inch or two, or more, beyond the discovery of Keeling, West, and Rumsey: to have but said the same thing that was proved by three or four witnesses before him, might not perhaps have availed him; may not the indifferent believe it, in this case, to be the interest and security of my Lord Howard, by these means, to merit his pardon? May it not be credible, that what he hath said, he hath said only for his own sake, and that he has, by exposing this gentleman, and the blood of others, procured himself a pardon?

L. C. J. What do you mean by that, Mr. Williams?—*Williams.* By being a witness against the defendant and others, he has procured his own pardon.—*L. C. J.* That is a very harsh expression.—*Williams.* My Lord, I explain myself thus — *L. C. J.* It is an harsh word, and too roundly expressed; you had need to explain yourself; it is a little too rank, as though the King's pardon were to be procured by blood.

Williams. I will express myself as well as I can, that my Lord Howard being a witness against men in a case of this high nature; and there being other witnesses before, and besides himself, to the discovery of the late conspiracy against the Government, it concerned him to give a home evidence in the case, or else he could not have any expectation of his pardon; for, if he had done no more than what others had done before him, when there were three witnesses besides, and they had got the start in the discovery, his discovery had been made in vain; and therefore he was concerned perhaps to strain, that he might make such a discovery as might answer his end; and this will arise naturally, I suppose, out of what has happened in this case: for it seems, though it was something long, before he got his pardon, now he has it.

My Lord, another matter that we have to urge, is, that, since the trial of my Lord Russel, and since the trial of Colonel Sidney, my Lord Howard has in discourse owned, that my Lord Russel died innocent. If that be true, it will have a great weight sure with you, gentlemen, to discredit my Lord's testimony: for then he hath contradicted what he hath sworn. For if my Lord swore, that my Lord Russel was guilty, as all the world knows he did; and afterwards, soberly and publicly, shall have said he died innocent, he has contradicted his own evidence, and his own oath, and sure is not to be believed as to what he swears now against the defendant. My Lord, it did not rest there; but, since the trial of Colonel Sidney, it will be proved by witnesses, that my Lord Howard did declare, that Colonel Sidney had hard measure. Now, how this person of great honour can solve this, and how it can stand with his oath and his honour, I will leave it to you, gentlemen, to judge of it. My Lord, I have another matter to say, that with me seems to have very great weight: my Lord Howard upon some occasions has said, being in discourse with a very great intimate of his, and the man speaking of the world to come, speaking of eternity, speaking of the immortality of the soul, speaking of the rewards and punishments of another life; my Lord Howard should say to him, "How long wilt thou persist in this folly? How long wilt thou be so foolishly prevailed upon, as to believe the world was ever made, or will ever have an end?" My Lord, if a

person be of that opinion, and a man's judgment in such things will discover itself in his words, how far the testimony of a man of that persuasion shall influence a jury when he stands single, when there is no fact to justify him, in point of probable circumstance, will be easily observable, and I must leave it to the gentlemen of the jury to consider. We have another saying of my Lord Howard's, which we shall give you an account of in the proofs, and that was in relation to his pardon. Being free in discourse, as my Lord is a man very liberal that way; and his friend enquiring whether he had his pardon: "no, says he; nor I cannot have it till the drudgery of swearing is over." Truly, it is a very odd thing, that a man should call that drudgery, that is his duty. Mr. Hambden had no hand in the undertaking, or sending him into Scotland; that was altogether the part of Mr. Sidney; save this, that he says my Lord Russel writ the letter that was to go by him. It does not appear Mr. Hambden was at all concerned in it, but only was there.

L. C. J. And consented to it.—*Mr. Williams.* I would not strain any thing, my Lord, further than the evidence is.—*L. C. J.* And do not misrepeat it either.—*Williams.* I design not any such thing, my Lord.—*L. C. J.* But you do, though; for he swears it, every one of them consented.—*Williams.* By silence it must be then. For he does not say, that he said any thing. He swears, only Colonel Sidney undertook to manage it, to send a person; and my Lord Russel to write the letter.—*L. C. J.* And all the rest consented to it.

Williams. What is meant by consent, when nothing was said, I must leave to the Jury. I must agree, the Lord Howard did swear, that my client was in their company, but how far he did, or did not consent, does not at all appear; and how far this will charge my client, I must leave to you, gentlemen.

My Lord, we shall add one thing more to disprove that part of the indictment, that lays the imputation of turbulency and sedition to the charge of Mr. Hambden; and which also will shew the improbability of his being concerned in any thing of this nature. We shall prove him to be a person of a sober conversation, of a retired life and studious disposition; and, as an evidence for the defendant, we shall prove that he, in October 1680, left England for his health-sake, and went into France for the recovery of his health. He continued there till about Michaelmas was twelvemonth, then he returned. It is true he continued in England from Michaelmas to the time they speak of; but we shall make it plain, that in February, my client, and my Lord Montague had adjusted matters between themselves, to go the beginning of summer again into France, there to continue and abide some time for their healths, My Lord, he was a par-

liament-man in both the last parliaments, but appeared in neither of them, being all the while in France for the recovery of his health. We shall prove him to be one studiously inclined, that he lived a retired life, and kept very little or no company; and you will hear from persons of very great honour and quality, what he is, as to his person and as to his opinion.

Williams. Mr. DUCAS, pray what did you hear my Lord Howard say at any time concerning this conspiracy, and who were concerned in it, and who were not?

Mr. Ducas. My Lord Howard came once to the house of Colonel Sidney, I believe it was about eight days after the imprisonment of Colonel Sidney; and, when he was in the house, I asked him What is the matter, my Lord? He did answer me, he was told there was a plot against the King and the Duke, and one general insurrection to be made, and that Colonel Sidney sent a man into Scotland, to which thing my Lord Howard swore, laying his hand on his breast, saying, "God knows all things, and God knows I know nothing of that; and I am sure if Colonel Sidney had known any thing, he would tell me;" and I said, "What is the matter, my Lord? Are you afraid?" And he made answer to me, "No honest man is safe in his own house, I pray you lend me a bed to lie in." And he asked me about the goods of Colonel Sidney, because of the plot and such things, and he desired to have them removed to his house; and he said, rather than go to the Tower he would do any thing.

Williams. Speak again to the Jury, who did not hear you, what said my Lord Howard to you?—*Ducas.* He said, rather than be a prisoner again, he would do any thing.—*Williams.* What did he say, Sir?—*Ducas.* He said to me, and swore, he knew nothing of it, and called God to witness.—*Williams.* Pray did he then say he would do any thing rather than go to the Tower, when you were talking of the plot and conspiracy?—*Ducas.* Yes, he would do any thing rather than be a prisoner again.

Att. Gen. Pray what else did he say?—*Ducas.* He raised up his hands on high, and said, he knew nothing of the plot, or of the insurrection, or that Colonel Sidney had sent any man into Scotland.—*Williams.* When was this?

Ducas. I believe it was eight or nine days after the imprisonment of Colonel Sidney.

Ld. Howard. My Lord, it would be necessary that I should make an answer to this, and I know not whether I should make a particular answer to every one; for here is a whole set of witnesses, I see.—*L. C. J.* No, let them alone. You must not interrupt them, they must go on with their evidence; and, when it is a fit time for you to answer them, the counsel for the King will call you.

Mr. Howard. My Lord, I had little acquaintance with my Lord Howard; but meeting him often at my brother's house, (and seeing he was extraordinary pleasant company, I must needs say that he was so, and a man of great wit,) and I coming from Whitehall, he asked me what news of the plot? I told him there were some people that were in the proclamation, or would be, and I named their names. Said he, I know none of them except Rumbald, I think; and by chance I met him passing

through the Old-Exchange, and he saluted me very kindly. After this my Lord Russel was taken, and when my Lord Howard heard that, says he, then we are all undone. And I very much fear it is a sham plot, since they have seized upon my Lord, and I doubt he is a lost man. After that, I think, as near as I can remember—The next thing was this—If you look upon the book, you will see what I said there.

L. C. J. We are not to look upon the book, man. You must give your evidence yourself. Mr. Howard, I hope you do not swear by book? Let the truth come out, in God's name, whatever it be.

Howard. Then, my Lord, Colonel Sidney was taken, and my Lord said, I am extremely troubled for Colonel Sidney, for he is my very good friend; said I, why are not you concerned for my Lord Russel? He is of your blood, said he, he is a man without exceptions. There is no man of such honour as he, but I am concerned for Colonel Sidney, as that particular man that has obliged me above all the world; but I never heard my Lord Howard name Mr. Hambden in all my life.

Ld. Howard. I will give you a reason for it, my Lord, if you please, why I said so.—*L. C. J.* My Lord, this is evidence for the defendant. If the King's counsel will call you afterwards to make answer to any of these things, then is your time to speak. We will not let them interrupt you when you come to speak, nor must you interrupt them now. We are bound to hear both sides, and so by the grace of God we will do.—

Ld. Howard. My Lord, I desire both he and his brother may stay in court, for I have something to say to them.

Williams. Pray what did you hear my Lord Howard say concerning the plot?—*Mr. Howard.* He did deny it positively, and said, they acted nothing but what was legal, and he said it five hundred times over.—*Williams.* Did he deny it?—*Howard.* Yes, he did.—*L. C. J.* But when he said they acted nothing but legally, what did he mean? Was this plot legal?

Howard. I had former discourses with my Lord Howard at other times, and I asked him, My Lord, what tends all this to? Your going up into the city, and making these meetings? Said he, we intend nothing but what is legal. There is not one man in the company, that I know of, intends any thing else.

Williams. What was my Lord's opinion of the plot in June, or July, or August?

Howard. He said he knew nothing of it, nor could he believe there was any such thing. When those persons were named that were to kill the King, "Lord bless me (said he), can there be such a thing in nature, that any men should be so wicked; but that there is one man of honour or estate, or conscience, that ever had any such thought, is inconceivable; I can never believe it."

Williams. When was this?

Howard. When Rumbald and those other people were put into the proclamation.

Att. Gen. Mr. Howard, then I will ask you your opinion, whether, in your judgment, every man that was in the plot could not have said so much?

Howard. I suppose every man in the plot would have defended himself as well as he could, but I cannot tell what way.

Williams. Then swear my LORD OF CLARE and my LORD PAGET.

L. C. J. Well, what do you ask my Lord of Clare?

E. of Clare. Some time after Mr. Sidney was taken, my Lord Howard came to see me, and complaining of the times, said, that all things were very sad and dangerous, and, if ever he was questioned again, he would not plead, but desire them only to count noses, for the quickest dispatch he thought was best. I replied, sure his Lordship was in jest. He said, no, he was in earnest, for he was confident if he came to trial, they would have his life, let him appear ever so innocent. I said, I hoped not so, it was only his Lordship's fear, and because of that, I thought it might be presumed he would venture much, rather than be tried. And discoursing of the late Primate of Armagh's prophecy, he said, for his part, he thought the persecution was already begun, and he did believe it would be very sharp; but, withal, he hoped it would be but short; and then he began to wish himself beyond sea till the troubles were over; and in compliance with his Lordship I did wish so too. But, as to Sidney, he did with great asseverations very much assert his innocency. He said, he thought he was not guilty of any of the things laid to his charge; and spoke with large encomiums in his praise, as he had obligation to do, and seemed to bemoan his misfortunes; which I said I had then reason to believe he was real in, for I believe never any man was more engaged to another than he to Colonel Sidney. I told him there was a discourse of some writings of Mr. Sidney's that were taken. He said, he was confident they could make nothing of any writing of his. I told him, I supposed he meant, legally they could not do it. This was the most he said; as to Mr. Hambden, he mentioned nothing that I know of.

Williams. My Lord Paget, pray what have you heard my Lord Howard say concerning the plot, and when?

Ld. Paget. My Lord sits there, and I believe he may remember it was about the 7th of July, the Saturday before my Lord went into the country, to the best of my memory, which was, I take it, the 9th of July. Upon Saturday the 7th, at night my Lord came to see me; I told him I was glad to see him abroad, and not concerned in the disorders that were then so general; my Lord told me he had been wished joy by several, and he took it ill, because it looked as if he were guilty. It is true, my Lord was a man of great fineness and readiness in discourse, and came easily into all company; my Lord said that was true, but he had so carefully behaved himself, that he was sure they could not touch him with any thing, nor did he know any thing of any body else that he could charge them withal.

Williams. Swear Dr. BURNET. Pray will you, Doctor, acquaint the Court, what you have heard my Lord Howard say concerning the late plot, and when?

Dr. Burnet. My Lord Howard came to see me the day after the discourse of the plot broke out; Thursday I think it was; on Wednesday it began to be talked of. The thing was little un-

derstood then, but in general a plot was discovered; and my Lord, with a great many protestations, lifting up his hands and eyes to heaven, protested he knew of none, and believed there was none, and spoke of the whole thing as a contrivance. I had not seen my Lord before for some months; and then he spoke a great deal to me. He told me he had been in Essex, and after that he went to the Bath, and went so early and came away before the company came, because he would avoid all danger; and he expressed great apprehensions of fear of sham plots, and spoke of false witnesses and former designs of that nature. The truth of it was, one had possessed me much with a belief of the thing, it being then but a secret, but he strove to dispossess me of that belief, and his whole discourse ran upon that for a whole hour, and expressed, as I said, great fear of some sham contrivance, and spoke much of false witnesses, wishing that he were beyond sea.

Att. Gen. Dr. Burnet, pray let me ask you one question: you spoke of solemn declarations and protestations made by my Lord Howard, what gave the occasion to such a solemnity?

Dr. Burnet. I will tell you the occasion truly, though it was never asked me before. It was thus: I being possessed with the belief of the thing by one that assured me it was true, and would soon appear to be so, I argued upon that belief to convince my Lord Howard that it was true, and he argued a great deal to dispossess me of that belief. And I said if there be any such thing, I pray God forgive them that are concerned, but certainly it is one of the most monstrous things that ever was done; for hereby they have done all that could be done to ruin the Protestant religion. He was smoking a pipe of tobacco, and he laid down his pipe, and lifted up his hands and eyes to heaven, and protested to me, he neither knew of any such thing, nor believed it, but it was all a contrivance.

Att. Gen. By this discourse you possibly might understand what he meant: did he mean being privy to the murder of the King, or the raising a rebellion?

Dr. Burnet. There was not a word then of the assassination, but it was all of the plot in general.

Att. Gen. Did he make no distinction?

Dr. Burnet. We talked of nothing but plot in general. For the particulars were not then known. It was only about the general notion of a plot.

Att. Gen. Pray, what was the reason you had to believe it?

Dr. Burnet. There was a gentleman from Whitehall that came to see me, and he did assure me it was true, as being one that had it from a Privy-counsellor. This was on the Wednesday, when the council sat long about it; and nothing of particulars was then let out, but only a discourse in general of such a thing, and he said it would be found to be a certain truth.

Att. Gen. But, Doctor, did not you a little wonder at the carriage of my Lord Howard? That a man that was not accused, that you heard of, should make such solemn protestations?

Dr. Burnet. My Lord, he said just in the manner as I have told you. When I said, "Pray God forgive them, if any have been concerned in such a thing," he laid down his pipe, and lifted up

his hands and eyes. Whether he thought I suspected him or no, I cannot tell; he best knows his own thoughts.

Mr. Recorder. Doctor, he would not make you his confessor.

Dr. Burnet. His whole hour's discourse was to dispossess me of the opinion and belief I had entertained of the plot.

Recorder. Pray, do you believe it now?

Dr. Burnet. I make no doubt of it, Sir, as to the assassination.

Williams. Swear Mr. BLAKE. Pray acquaint my Lord and the Jury, what discourse you had with my Lord Howard.—*Mr. Blake.* My Lord, about the month of October last, my Lord Howard sent to me to know how I did, and desired me to come and make him a visit. The next day I went and waited upon my Lord at his lodgings at Whitehall, and after the compliments passed, my Lord began a discourse of the plot, and I told him, that I heard none of the witnesses had their pardons, but only Keeling, the first discoverer. My Lord, told me no, but he had a warrant for his pardon, and with that he looked it out and shewed it me, and I read it; and then I told him I thought it was of no avail without he had his pardon actually under seal. He said, no, but he had their word and honour; but, said he, when I first received the warrant, they said I should not meddle in it till I heard from them again; which I have not yet, and I ascribe it to no other reason but only this, that I must not have it till the drudgery of swearing is over.

Williams. We call Dr. NEEDHAM for this purpose, my Lord, to prove that these gentlemen that are accused, Mr. Hambden and my Lord of Essex, and the others, had very little esteem, and mean opinion of my Lord Howard. And how one, they so little esteemed, should be let into so great a secret, will be very strange to imagine. Dr. Needham, pray, what can you say of any of these gentlemen's opinions of my Lord Howard? What opinion had my Lord of Essex of him?

L. C. J. Is my Lord of Essex now before us? What is that to this case, Mr. Williams? Let my Lord of Essex have what opinion he would of him; how does that concern the defendant?

Williams. I tell you why, I offer it to my Lord —

L. C. J. But pray, offer what is evidence, and keep to the business before you.

Williams. *Falsus in uno, falsus in omnibus.* If we can prove that what he hath said of my Lord of Essex is false, he is not to be believed against the defendant.

Att. Gen. Aye, but upon the evidence of my Lord Howard all the rest were convicted.

Williams. I offer it only upon what is here to-day before you. He says, my client, and my Lord of Essex were confederate with him upon such a design. Now, if my Lord of Essex was not there, then he is false in that; and that he was not, we offer this as evidence —

L. C. J. But it is not a proper evidence in this case.

Williams. It is a sort of evidence.—

L. C. J. Aye, it is a sort of evidence, but it is not to be al-

lowed. If you will prove Mr. Hambden's opinion, you may, but you must not for him bring proof of what my Lord of Essex, a third person, thought of my Lord Howard.

Williams. My Lord, I humbly apprehend this may be evidence, and I lay it before you. My Lord Howard has proved that my Lord of Essex, and five more, of which Mr. Hambden was one, met and consulted about such matters. We may, I hope, be admitted to prove, that my Lord of Essex was not there; for if we can take off his positive proof, as to any one of the circumstances, we take off from the truth of the fact. If all the persons were not there, then my Lord Howard is mistaken in that, and accordingly must not be believed in the rest; therefore, my Lord, I press it not otherwise: he hath proved the six persons were there. I offer this as some evidence, that it is unlikely it should be so, because my Lord of Essex had so little opinion of my Lord Howard, that he would never consult with him about any matter.

L. C. J. Then, certainly, my Lord Howard is to be believed, to all intents and purposes; for here is a record of the conviction of my Lord Russel, and of Colonel Sidney, and all upon the testimony of this gentleman, my Lord Howard; and is not that more to support his credit, than a sly report of a third person's opinion of him? And yet, after all, we say, it is no evidence against Mr. Hambden, and has been waived by Mr. Attorney.

Williams. Then I will not press it, my Lord.

Just. Withins. It is no evidence, certainly, Mr. Williams.

L. C. J. It seems my Lord Essex had such an opinion of my Lord Howard's evidence, that he thought fit to cut his own throat, rather than abide the trial.

Williams. Call Mr. Murray.

L. C. J. Suppose my Lord of Essex had said, that he was out of the plot, and Mr. Hambden was in, would that have been good evidence against Mr. Hambden, do you think? Pray mind what is the business before you?

Williams. Swear Mr. MURRAY.—*L. C. J.* Well, what do you ask this man?—*Williams.* My Lord, we call him as to what I opened of my Lord Howard's opinion of the world to come, and rewards and punishments there.—*L. C. J.* Mr. Williams, pray take notice of this, private discourses that people cannot come to make answer unto, because they cannot imagine to have them objected, are a very odd sort of evidence.

Ld. Howard. My Lord, this presses hard upon my reputation. I profess before God I do not know this fellow, I never saw him in my life before, as I know; but a company of impudent fellows take the liberty of saying what they please.

L. C. J. To rake into the whole course of a man's life is very hard.

Ld. Howard. I would fain have these fellows dare to say this any where else of me.

Williams. Well, my Lord, we will waive it.

L. C. J. They do not think it a fit thing to press it.

Ld. Howard. But, my Lord, it concerns me in my reputation; who is this rascal they bring here? God's life, who is he?

L. C. J. Pray compose yourself, my Lord ; there is nothing of this pressed.

Ld. Howard. To say I am an Atheist, my Lord ! what can be a greater reflection ?

L. C. J. He has not told us any such thing as yet ; and we will take care that nothing shall be offered but what is fitting.

Ld. Howard. I vow to God, my Lord, I do not know the man.

J. C. J. My Lord, do you think that every thing that a man speaks at the bar for his client and his fee, is therefore to be believed, because he said it ?

Ld. Howard. Does that fellow look like a man of that figure, that I should say any thing, or have any conversation with him ?

L. C. J. My Lord, I do not know what he is. Go on, gentlemen.

Hambden. My Lord, I desire to speak a word myself, if you please.

L. C. J. Ay, in God's name ! You, or your counsel, I will hear all you say ; provided you speak within the bounds of decency.

Williams. My Lord, I think it best to leave it to the Court : we hope we have made it clear that our client is innocent.

L. C. J. Would to God you were innocent ; that is the worst I wish you ; but we will either hear him or you, speak as long as you will.

Att. Gen. Then, my Lord, I expect to be heard too. If Mr. Hambden makes a speech, I will reply ; or, if his counsel do it, I expect the last word ; for I will have neither the party nor the counsel to speak, after I have summed up the evidence for the King. Mr. Hambden and his counsel are all one.

L. C. J. I will sit still ; make speeches every one of you as long as you please.

Williams. My Lord, we leave it to the Court.

L. C. J. Gentlemen of the Jury, the evidence has been something long, and the counsel both for the King, and for Mr. Hambden, against whom this indictment has already been found by the Grand Jury, having left it to the Court, to sum up, I shall do it as well I can. [*He then recapitulated the evidence at great length, pleading as he proceeded.*]

I do not know, truly, gentlemen, that I have omitted any one thing that is material, on the one side or on the other, of which there has been any proof ; but I must only repeat to you this—here is a matter of great concern and consequence—a matter wherein the peace of the government and the kingdom is concerned, in a very high degree—a matter, that if there were another witness as positive against the defendant as my Lord Howard, would amount to no less than high treason. But, as there is but one witness, backed with these circumstances, to

corroborate his testimony, it is only a trespass; but I tell you, it treads very nigh upon high treason, and the tendency of it was to bring us all into confusion; and what would be the consequence of that, but to lay us open to the same mischiefs that we were under in the times of the late rebellion? For though men pretend never so fair, and veil it under the names of the "Security of the Government and the Protestant religion;" yet, they would have done well to have tarried till they had a legal authority to call them to consult of these high matters that they pretend to secure; that had been well. What had these gentlemen to do, to take upon themselves this power, without authority? Gentlemen, you have heard the evidence, and you see what it is; and I must say, in the late evidences you have had concerning another business of this nature, I wish that might be said to preserve and support the credit of some persons, upon whose testimonies lives have been taken away, as has been said, and is evident, for the advantage of my Lord Howard. I do not find that he has been guilty of perjury, as being concerned in taking oaths one way, and then giving evidence another. I mean, first taking oaths of secrecy, and then revealing; not but that, notwithstanding all this, they may be believed; and God forbid, but they should be believed according to truth. But, I say, if objections of this nature are to prevail, we must never expect any great crime to be punished, because we must stay till persons that are strangers to the guilt of the fact come to give evidence of it, which is impossible to be done.

Therefore, gentlemen, I must resolve it all into one head; you have the case of a gentleman of quality on the one side, and the peace and preservation of the government on the other side. You hear what is proved against him, the evidence given on his behalf, the objections that have been made by the counsel; which, all of them, as near as I can remember, I have repeated to you, and I ask your pardon and theirs, if I have omitted any thing, and I desire to be minded of it. You hear the answers that have been given; and, because the counsel were unwilling to give the Court trouble or themselves, to make long speeches and observations, therefore I have been necessitated to do it as well as I can.

Upon the whole matter, my Lord Howard has thus

positively sworn the matter of fact charged in the indictment against the defendant; he has been supported by the witnesses that confirm the circumstances of Smith's going into Scotland; the Scotchmen being here in June, and the sham and cant of Carolina: all which you have heard, and I make no question observed, and is not contradicted by any thing I hear that carries any probability of an answer. Therefore, gentlemen, I leave it to you, whether upon this evidence you will take it upon your consciences and oaths, that my Lord Howard is guilty of wilful and corrupt perjury, then you must find the defendant *not guilty*; but, if you think he has proved the matter fully, and his testimony is supported by the other witnesses, then, gentlemen, you must find the defendant *guilty*.

[Then the Jury withdrew from the bar, and within half an hour they returned; and, being called over, answered to their names, and gave in their verdict, GUILTY.]

On the 12th of February, Judgment was passed, as follows, by Just. Within:—

Mr. Hambden, you know, you are convicted of a very great offence, as great an offence as can be, I think, committed, unless it were high treason. For the matter of it would have made you guilty, if there had been two witnesses. It was for conspiring to levy war against his Majesty, and for conspiring to raise an insurrection and rebellion within the kingdom; a conspiracy of which some other persons being lawfully convicted, they have suffered death for it. You are a person of an extraordinary good family, and I am sorry one of your family that has flourished so long, and through so many generations, in great honour and reputation, and great prosperity, under the monarchy of England, should come to conspire to deprive that King of his government, whose ancestors have protected and defended your family, and to spoil that monarchy that has been the fountain of so much prosperity and honour to it. I am sorry it comes to my turn to pronounce the sentence of the Court upon you, Mr. Hambden. I have not any personal knowledge of you, but I have heard of you, and heard heretofore very well of you: you have had a good education, and the report of a learned and ingenious person, which makes me yet wonder the more that you should

engage in such a horrid design as this was. Indeed Mr. Hambden, I am satisfied no fine can be too great; if any can be great enough for such an offence. We cannot take cognizance what your estate is; it is reported there is a great estate in your family; it has been always represented to be so.

Hambden. I have nothing but for life, and that is but little.

Just. Withins. I know not what it is truly, Sir, but it was always reported to me to be a very great estate; but, whatsoever it is, we are to look after the proportioning the punishment as near as we can to the offence. My Lord, and the Court have considered of the matter, and they think fit to give this judgment upon you:—*They set the fine of forty thousand pounds upon you, to be paid to the King, and you must be committed till you pay it.*

L. C. J. And that you find sureties for your good behaviour during your life.

[Then Mr. Hambden was carried by the Marshal away prisoner.]

TITUS OATES, FOR PERJURY,

IN THE KING'S-BENCH, 8th of MAY, 1685.

THE defendant was permitted to sit within the bar, that he might the more conveniently order his papers, and manage his defence. The jurors being called, he challenged some of them, because they had been upon the grand jury, and found the bill against him; which was allowed to be a good cause of challenge.

The indictment, which was in Latin, charged the defendant with artful and corrupt perjury, in that he had, on the seventeenth day of December, 1678, sworn, there was a treasonable consult of jesuits held at the White-horse Tavern in the Strand, in the county of Middlesex, the twenty-fourth day of April, in the said year 1678, at which the jesuits Whitebread, Fenwick, and Ireland, the said Titus Oates, and forty or fifty more jesuits, were present; and that they separated themselves into several companies, or clubs, and came to a resolution to murder the King: and that he, the said Titus Oates, carried the said resolution from chamber to chamber to be signed by the said jesuits; whereas, in truth and fact, he, the said Titus Oates,

was not present at any such consult on the 24th of April, 1678, nor carried any such resolution from chamber to chamber, to be signed: and so the said Titus Oates, on the said 17th of December, 1678, did commit wilful and corrupt perjury.

The King's counsel, having opened the indictment, proceeded to produce their evidence: and first the record of Ireland's conviction was read.

Then Mr. FOSTER was sworn, and gave the following testimony, (*viz.*)

I was so unhappy as to be on that jury by whom Mr. Ireland, Pickering, and Grove, were tried in December 1678. I saw Mr. Oates sworn as an evidence for the King; and he deposed, that there was a meeting of several jesuits at the White-horse Tavern in the Strand, upon the 24th of April, 1678; and that Messrs. Ireland, Whitebread, and Fenwick, were present at the meeting, and there they did consult the death of the King, and the altering of religion; and some went, and others came. At last they reduced themselves into several smaller companies or clubs, and came to a resolution, that Pickering and Grove should assassinate the King; for which one was to have 1500 pounds, and the other 30,000 masses said for him; and that this resolution was drawn up by one Mico, and he (Oates) himself, went with it to several of their chambers: he went to Whitebread's chamber, and saw Whitebread sign it; he went to Fenwick's chamber, and saw Fenwick sign it; and went to Ireland's chamber, and saw Ireland sign it, upon the 24th of April, 1678. I am positive in this, because I took notes at the trial, being a jurymen; and afterwards compared them with the trial, and found they agreed; and I have kept these notes by me ever since.

Oates demanded, if he swore they resolved to kill the King, at the White-horse Tavern, or that resolution was made after they separated into lesser clubs. *Mr. Foster answered*, "You said they came to a resolution, at the White-horse Tavern; and it was there drawn up by one Mico, I think; and it was carried by you for every one to sign it from chamber to chamber; for I remember, you were asked the question, whether you saw them sign it? And you answered, that you did carry it, and saw them sign it.

Oates demanded, how he came to remember all this after so long time. *Mr. Foster answered*, "Truly it is so long ago, that had I not taken these notes at the trial, I had not been able to give so good an account.

Then about twenty gentlemen, who were students at the English college at St. Omers, when Mr. Oates was a student there, deposed, that they were sure he was at the said college from Christmas to June, 1678, and was not absent from the college during that time, unless a

day or two in January, when he went to a town in that neighbourhood: and these witnesses mentioned such circumstances to confirm their testimony, as shewed they could not easily be mistaken; as that Mr. Oates always dined at a table by himself in the college-hall; for, being a man in years, he pretended he could not eat as the young students did, and therefore sat at a little table by himself, next to the table of the fathers, to which all the students made their reverence before they sat down.—Others deposed, he was appointed reader in the Sodality, and that he read there at the same time he had sworn he was in London, except a few days he was in the infirmary.—Others remembered he was at St. Omers at that time, by his being with them at certain sports and recreations they used then; and several more by other circumstances. And when the printed trial of the jesuits was brought over to St. Omers, they were amazed to find Oates swear he was at a consultation at London the 24th of April, *when the whole college knew he was at St. Omers.*

Haggerstone deposed, that there was, indeed, a congregation of the jesuits held in London in April 78, as was usual, once in three years, to chuse a procurator, and other business relating to the society: and that he saw two of the fathers go from St. Omers to that congregation; but he remembered very well that Oates remained there then, for he frequented his company all that time; and when the fathers, viz. Williams and Marsh, returned to St. Omers, the defendant, Oates, asked this witness, if they had been at the consults?—Others deposed, that Oates was so remarkable for his stories and ridiculous actions, and quarrelling with every body in the college, that, if he had been out of the college so long as to go to London, and back again, every body must have missed him.

LORD GERRARD, who was a student at St. Omers when the defendant was there, deposed, that Oates came to St. Omers in December, 1677, and he never heard he was absent till June, 1678, and that he remembered him particularly the 25th of March, 1678, when Mr. Oates desired to be appointed reader to the Sodality, and that he was constant in his reading on Sundays and holidays for five or six weeks: that he remembered his being confirmed by a Catholic Bishop, who was there, on St. Austin's day, the 26th of May, N..S. That when the news of the plot's being discovered, came to St. Omers, it was wondered at by all the scholars, how Oates could be so impudent to pretend he was at such a consult the

24th of April, 1678, when all the college saw him every day in April and May at St. Omers, as much as a man could be seen in a family; and that no scholar came or went away, but it was the common news of the house.

Mr. SAMUEL MORGAN, a beneficed clergyman of the Church of England, deposed, that he was a student at St. Omers in the year 1678, and had been five years reconciled to the Church of England; that he remembered Oates came to St. Omers about a fortnight before Christmas 1677, and went away in June 1678, and did not remember he was absent during that time, except one night; that Ireland's trial being brought to the college, wherein it was said, Mr. Oates had sworn the 24th of April, 1678, he was at a consult of the jesuits at the White-horse tavern, where they resolved to kill the King; having it then fresh in his memory, *he found Oates was at St. Omers that very day*, by a particular circumstance; for he was playing at ball that day, and striking the ball over into a court, he borrowed Mr. Oates's key to fetch it.

On the Court directing Oates to enter upon his defence, he objected to the indictment, that the assignment of the perjury did not pursue the oath, as it was set forth; for, in the one place, the word was *signand'*, and in the other *signat'*; and if it were *signat'* in the evidence, it ought to be *signat* in the perjury assigned.

The Court told him that they were then upon the fact, and that this objection would be saved to him if he were convicted; but it was not proper now. Besides, he should remember, there were two perjuries assigned; the one upon the first part of his oath, viz. that he was present at a consult the 24th of April, 1678, *ubi re verà*, he was not there; and if he were forsworn in that point, it would easily be believed he was forsworn in the other point, viz. that he did not carry the resolution from chamber to chamber, &c.

In the next place, he desired the opinion of the Court, whether the evidence did prove the words he was said to swear, as they were laid in the indictment?

The Court answered, they thought them fully proved; but that was a point of fact which the jury were to try.

Then the defendant produced a copy of the record of Ireland's conviction; which was proved to be a true copy by Mr. Percival: and he desired to have counsel assigned him to argue this point of law, viz. whether the convictions and attainders of Ireland and Whitebread, of a treasonable consult the 24th of April, 1678, ought not to be taken as a legal proof of the fact, so long as those

attainders remained in force? And whether the averment of their being false, ought to be received against those records?

The Court answered, that though that remained a good record, and unimpeachable still; yet it was lawful to say, the verdict was obtained upon the testimony of such a one, who forswore himself; and for that particular perjury the offender might be prosecuted.

Oates. If your Lordship rules that for law, I will go on; and, first, I shall submit it to your consideration, why the presentment, and the finding this bill for perjury, has been so long delayed; since it appears, that the same witnesses were at the trial of the five jesuits, or might have been produced then? and, I must observe, that my case is very hard, seeing the substance of my testimony received such credit, that the jury were told, upon bringing in their verdict, that all the objections against the evidence, were then fully answered; that there was nothing that the prisoners had been wanting in to object, which could be objected; and that the thing is as clear as the sun: and yet, after six years, I am called in question for perjury, in my testimony of that part of the Popish plot with which the King and Kingdom, four successive Parliaments, all the Judges of England, and three Juries, were so well satisfied.

The evidence I gave, they industriously endeavoured to falsify six years ago, by sixteen St. Omers' youths, who were examined at Whitebread's and Langhorn's trials; in neither of which were they believed, because of their religion and education, and because their instructors were men of known artifice; and, if my evidence were true then, it must needs be so still; for truth is always the same: and I desire your Lordship and the jury would observe, that though the King's counsel are against me now, yet they are also against themselves.

Mr. Solicitor was counsel for the King at Langhorn's trial; and Sir Robert Sawyer, at Sir George Wakeman's: and can it be supposed, that it is the love of public justice, that is the cause of this attempt, to falsify my evidence, after so many trials, in which it has been credited and confirmed? Can any thing tend more to subvert the methods of justice, and frighten witnesses from discovering conspiracies? Had the King, his Peers, his Commons, and Judges, no honour, no justice,

or understanding? Shall those juries be said to have drawn the innocent blood of those men upon their own heads, and the nation? Now, if I am perjured, it must be innocent blood that was shed upon it.

Court. Neither Judges or Jury have any share in that blood; that is your own concern, most certainly.

Oates. My Lord, if you please to give me leave to proceed in my evidence, I desire these records of conviction may be read, which are my first proof of the consult; and I shall then bring witnesses *viva voce*, to prove what I did swear at those trials was true.

L. C. J. [Jeffries.] The question now is, not whether there was a consult; but whether you can prove yourself to be here on the 24th of April, 1678? At which time it is agreed on all hands, there was a consult, as is usual, once in three years.

Oates. I shall not go about to prove, that I was not then at St. Omers; but that I was actually in London: and, to introduce this, it will be necessary for me to read the records of conviction of Whitebread and Ireland.

[Then the record of Ireland's conviction was read in English.]

Oates. Now read Whitebread's attainder; I will not trouble the Court with the whole record.

Cl. of Cr. Thomas White, alias Whitebread, William Harcourt, alias Harrison, John Fenwick, John Gavan, and Anthony Turner, were found guilty of high treason, and attainted; and execution awarded against them upon that attainder.

Oates. Now I shall prove, that, at the trial of Ireland, I gave so satisfactory an evidence against Whitebread and Fenwick, that my Lord Chief Justice Scroggs said, "It might be sufficient to satisfy a private conscience, though it was not a legal proof, there being but one witness.

L. C. J. Deceive not yourself; all that you have insisted on hitherto has not been to the purpose, or is any sort of evidence in this case. What my Lord Chief Justice Scroggs said at any of those trials, or what I said, or any other person who was Counsel or Judge upon the Bench, it was but our opinion on the fact, as it occurred to our present apprehensions, and is no evidence or binding to this jury: and there is no doubt, but those juries did believe the evidence you gave then, or

they would not have convicted the prisoners. I do not discommend you for insinuating these things, as introductory and preparative to your defence; but it is no evidence one way or other. We have many times, in Westminster-Hall, verdict against verdict: and in these cases, we give our opinions according to the present testimony that is before us.

Oates. If then I prove, my Lord, that Ireland was engaged in a design against the late King's life, and was a priest and a jesuit; will not this be a collateral evidence to render my credit sufficient, and support my testimony?

L. C. J. It may give some credit to your testimony; but it is not, of itself, sufficient upon this indictment. Nay, I will suppose there was a consult of jesuits in the Strand, the 24th of April, 1678, where these, you say, were all present, and did come to the resolution you mention; and yet you will not be innocent if you were not there too, as you swear. Therefore, give us some testimony, to satisfy us you were there, if you would set all right again. Call two or three witnesses, to prove you were in town the 22d, 23d, or 24th of April; it would be the best defence you could make.

Oates. I will follow your directions, my Lord.

Then Cecilia Mayo was sworn.

Oates. Pray give the Court an account, if you did not see me in London the latter end of April, or the beginning of May, 1678?

Mayo. My Lord, I saw him the latter end of April, at my master, Sir Richard Barker's, where I then lived; and he came thither again in a few days: I remember it by this circumstance; Sir Richard was sick all the month of April, and in the country, and came to town but now and then; and Mr. Oates came when he was absent: and a young man that lived in the house, came and told me, there was Mr. Oates in a strange disguise, and he believed he was turned quaker. I had never seen Mr. Oates before then.

L. C. J. How do you know that to be Mr. Oates then?

Mayo. The family knew him, and they told me it was he. My Lord, he came three or four days afterwards to the house, and then the young man came and told me, Parson Oates was turned jesuit: and coming to Sir Richard's lady's sister, she said to him, I hear you are turned jesuit, and we can have no society with you now; but he staid dinner with them, and most part of the day. Then he came the latter end of May: Whitsuntide was in May that year, and I know he came the second time before Whitsuntide; for we used to wash and scour before

that time; and I was sending to a woman to help me to wash and scour, when the young man told me he was there.

L. C. J. What was the name of that young man you speak of?

Mayo. His name was Benjamin; but he is dead.

L. C. J. Is Sir Richard Barker living?

Mayo. He is, my Lord; but he is not well, or he would have been here.

L. C. J. Who dined with him when he dined there?

Mayo. There was my Lady's sister, Madam Thurrel, and her two sons: she is in Wales, but her sons are dead. There was one Dr. Cocket too, who is in Wales at present. And there were two of my Lady's daughters, that are living in Lincolnshire, I think.

L. C. J. It is a great misfortune to have so many dead, or so far remote.

Oates. My Lord, six years make a great alteration in a family.

Att. Gen. Mr. Oates has had time enough to send for his witnesses, for he has had notice of his trial this half year. Pray, Mrs. Mayo, what coloured clothes had Mr. Oates when you saw him first?

Mayo. He had a whitish hat and coloured clothes.

JOHN BUTLER, coachman to Sir Richard Barker, deposed, that, as he remembered, the first time he saw Mr. Oates was in May, 1678, before the plot was discovered, that he came to his master's in a disguise, having a white hat flapping over his eyes, his hair cut close to his ears, and a grey short coat on; and the next time he saw him at his master's, he had a cinnamon-coloured coat, a long black peruke, a black hat with a green ribbon, and green cuff-strings at his wrists; and that he dined at his master's about seven times.

The Chief Justice then demanding of Mrs. Mayo, Butler's fellow-servant, how often Oates dined at her master's, Sir Richard Barker's, she affirmed he had dined there but once, and that he had on a grey coat, a grey hat, and a short brown wig; and that he afterwards came in black clothes and a long brown peruke.

The Chief Justice observing there were several contradictions in their evidence,—Oates said, these things were very lean stuff to perjure a witness upon: that his Lordship was not so strict with the St. Omers' witnesses, and what did it signify, whether the wig were long or short, black or brown?—The Chief Justice replied, there was no other way to detect perjury, but by such circumstances. In Susanna's case, the perjury was discovered by circumstances.

Mr. WALKER deposed, he met Oates between St. Martin's-lane and Leicester-fields, in a disguise, between Lady-day and the latter end of April, 1678.

The Chief Justice demanded, where he lodged or dieted all that while he pretended to be in town? Oates answered, that was not now the question. If he proved he was not at St. Omers in the months of April and May, but here in London, he proved the St. Omers' evidence to be false; and it was not to be expected, as he was engaged among papists, and afterwards at

evidence to discover their treasons, they would come to testify any thing in his behalf now.

Then he called the EARL OF HUNTINGDON as a witness for him, and desired his Lordship would give an account, what credit he had in the house of Lords upon his discovery.—The Earl answered, he believed Mr. Oates found a good reception in the house of Lords, which was founded upon an opinion, that he was an honest man; but since that time it appearing there were so many and great contradictions, falsities, and perjuries in his evidence, upon which so much innocent blood had been shed, he believed a great many that were concerned in the trials of those unfortunate persons were heartily afflicted and sorry for their share in it: and he believed, most of the House of Peers had altered their opinion of this man's credit, and looked upon his evidence to be very false.

Mr. Oates called the Lord Chief Baron, of whom Oates desired, that his Lordship would declare the satisfaction he received concerning the fairness and fullness of the evidence given at the trials of Whitebread and Langhorne.—To which the Chief Baron answered, there were a great many persons, and gentlemen of good families, who came from St. Omers, and gave evidence of Mr. Oates's being there when he said he was in London. Oates demanding further, if the jury believed them at that time? The Chief Baron answered, he could not tell what the jury did, but he never had any great faith in Mr. Oates himself.

Whereupon Oates replied, he was not at all concerned at this. He valued himself more upon his innocency and integrity, than any man's good opinion whatever: he would stand to what he had sworn with his last breath, and seal it, if occasion was, with his blood. The Chief Justice answering, It were pity but that it were to be done by his blood; Oates replied, Ah, my Lord, I know why all this is, and so may the world very easily too; but this will not do to make the plot disbelieved.

The King's counsel then called Mr. SMITH to depose, that Oates suborned him to perjure himself: but the Chief Justice refused to hear the testimony of a man who came to swear he had perjured himself at a former trial.

Then they produced witnesses, who proved that Oates would have suborned Clay at the trial of the five jesuits.

Mr. Howard deposed, that Clay was not at dinner at his house in May, 1678, as Clay had deposed.

And a paragraph of Oates's narrative was read,

wherein he had sworn, "that he returned to St. Omers, three or four days after the consult at the White-horse." Whereupon Mr. Attorney observed, that Oates's witnesses swore he was in London the latter end of May; which could not be true, if Oates himself swore true in his narrative.

Then a resolution of the House of Lords was read, at Oates's desire, importing, that they believed the Popish plot; and another resolution, for taking up Capt. Berkley, for vilifying Oates's evidence.

Being directed to go on with his defence, he objected, that the Papists were not legal witnesses, because they were parties in the cause; and desired counsel to argue that point of law. To which the Chief Justice answered, that was no point of law. "Oates appealed to all his hearers, if he had justice done him."

The Lord Chief Justice then replied, he was an impudent fellow; he must appeal to none but the Court and the jury: they should stop his mouth if he did not behave himself as he ought: he would suffer none of his commonwealth appeals to the mob.

Oates then objected, that the witnesses were bred up in seminaries, against law: the Chief Justice replied, every man that was bred a dissenter was bred up against law.

He insisted, that a witness for the King could not be indicted of perjury, or the plot called in question now.

The Chief Justice answered, this was nothing to the purpose.

Mr. Oates proceeded to sum up the evidence for himself, and observed, that Mrs. Mayo came and gave her evidence voluntarily, without any hopes of a reward, but out of a love to justice; and therefore insinuated, that her testimony was not to be suspected; for people seldom perjured themselves, but where there was malice or interest in the case. Then he repeated the evidence of Butler and Page, and said, he had subpœnaed Sir Richard Barker, to confirm the evidence of these people: and he did expect that Mr. Smith would have been examined; but he perceived the Court were tender of that point, as knowing it would then easily have been seen upon which side he was suborned.

Court. It was to do you right, we refused to have him sworn; but, if you consent to it, he shall be examined still.

Oates. My Lord, the evidence on which I am indicted for perjury, is the same that was given six years ago. There were then sixteen witnesses produced against me; but what credit did they receive? Now, if the evidence I gave then was to be believed, though opposed by so many witnesses, what new ob-

jection does arise, which was not then urged, and received an answer? And I hope those passages in heat that have fallen from me, shall not make me fare the worse in your judgment. I called some noble Lords to testify for me; but either the distance of time has wrought upon their memories, or the difference of the season has changed their opinion, so that they now disbelieve what they believed before; and, perhaps, for as little reason as —

L. C. J. As they believed you at first.

Oates. Yes, truly, my Lord; for I cannot expect, that a man who believes without a principle, should not recant that belief without a reason.—I name nobody.

L. C. J. But the nobility, that are present, and have been witnesses in this cause, are all persons of such honour, that the court are bound to vindicate them from these scandalous reflections; but only I think a slander from your mouth is very little scandal.

Oates. Nor from somebody's else either: I find, my Lord, I am not to be heard with patience.

L. C. J. You do not deserve to be heard at all: cannot you speak without reflections?

Oates. Was ever man dealt with as I am? or had such evidence offered against him? here are the youths of St. Omers' seminary, Sir George Wakeman and my Lord Castlemain, known Papists; and perhaps Popish recusants convict too: and the record of my Lord's acquittal is brought as an evidence of my being perjured; when all the world knows he came off, because there was but one witness against him: and Wakeman's acquittal too is brought, and he swears, that what I deposed against him was false; but had it not been for two dishonest persons, (one of them is now in my sight,) we could at that time have proved five thousand pounds paid him, and that he gave a receipt for it. This, I am sure, had I been a witness for the fanatic plot, I had never been questioned, though my evidence had been false: but the Papists have now a turn to serve, and come to bear this testimony on purpose to falsify my evidence, and bring off the Popish Lords, who now stand impeached of high-treason. But, I hope, as the Court would never admit indictments of perjury against the witnesses in my Lord Shaftsbury's case, so you will not admit it here. My Lord, it is not me they prosecute, but the whole Protestant interest. Do they not, hereby, arraign the proceedings of several Parliaments? of all the courts of justice, and the verdicts of those juries, that convicted the traitors? For my part, I care not what becomes of me; but the truth will one time or other appear: and, since I have not the liberty to argue what is most material for my defence, I appeal to the great God of heaven and earth, and once more in his presence, and before this auditory do avow, that my evidence of the Popish plot is true in every part of it, and will expect from Almighty God the vindication of my integrity and innocence.

Having concluded his defence, he said he was troubled with the gout and stone, and desired that he might not be put in irons again, he being only a debtor to the King upon a civil

account; and if he were convicted on these indictments, he could be but in execution for a trespass; and, therefore, thought he ought not to be so handled. The Marshal informed the Court, that it was but the last night ropes were brought into his chamber to favour his escape. Then the Court directed he should be kept *in salva & arcta custodia*.

Then Mr. Solicitor summed up the evidence for the King; but, before he had made any great progress, Mr. Oates said he was ill, and desired leave of the Court to withdraw.

The Lord Chief Justice summed up the evidence, and gave his directions to the jury: and, to the observations Mr. Solicitor had already made, he added, that the dreadful apprehensions people were under of their religion, the subversion of the Government, of the King's being murdered, and of their throats being to be cut by the Papists, at the time of Ireland's trial, was arrived to that height, and Oates's discovery of those impending dangers so much credited, that all other people appeared below him; and greater respect was shown him, than to the branches of the Royal Family: and in public societies, sometimes, this profligate villain was caressed and drank to, and saluted by the name of "The Saviour of the Nation!"—And that it was no wonder, if under such a consternation, or rather infatuation, of all sorts of people, all of the Romish persuasion were looked on with an evil eye; and the conviction of those who were accused, rendered too easy. He observed, that the principal part of Oates's defence consisted in this,—that, because he was believed formerly, before his villany was detected, they therefore should believe him now, notwithstanding his perjury had been discovered; and that, to the positive testimony of twenty-two witnesses, who had sworn he was at St. Omers, he had not made the least shadow of an objection, but only that they were Papists, and he was a Protestant. But his Lordship observed, there were rascals of all persuasions; and he thought it not much for the honour of the church, that Oates called himself a Protestant: that they knew Dr. Oates had been very liberal to himself; he had given himself baptism, and given himself the Doctor's degree, and now he gave himself the title of the Reforming Protestant, Mr. Oates: that we had Protestant shoemakers, and Protestant joiners, and all sorts of true Protestant rascals; but it would become the jury to assert the honour of their religion, by disowning any fellowship with such villains, or their actions.

That, besides the evidence against him, they should consider the improbability of his testimony: that fifty persons should meet together at a tavern, and come to a resolution to kill the King, and subvert the Government, and alter the religion; and that this resolution being drawn up at the tavern, they should separate themselves into lesser clubs and companies, and none of them sign it when they were all together, and among themselves; but should afterwards have it carried up and down from one house to another, and find nobody to trust with it but Mr. Oates, who was not one of their order, and did not appear to have any credit amongst them; when the affair was of that importance, that, if discovered, it must subject them to present destruction, and ruin their whole party. Could it be believed, that any man

should be so void of sense and reason, and that of fifty together, and those reputed the subtlest of mankind, there should not be one man that should take care of a more rational management of so great and hazardous an undertaking? When they were met together; and might have dispatched the business in a quarter of an hour, that they should separate themselves into several parts of the town, and trust a resolution of that nature in Mr. Oates's pocket; in whom, if they had more confidence than they seemed to have, yet it was folly and madness to give him that opportunity of destroying them all, and making his own fortune: and that, if there were no other evidence than the testimony of the thing, his Lordship said, it would have gone a great way with him; but that there being the superadded testimony of twenty-two witnesses, there was no room left to doubt of the falsity of his evidence.

That, as to the business of Smith, though the Court, in their private judgments, did believe the thing, yet they thought it not fit to permit, that persons should, upon their oaths, confess themselves guilty of perjury, and afterwards give evidence against others; yet by the records of Parliament, and other evidence, there was enough to make that matter clear. For by Oates's narrative, it appears, that his first evidence tended to bring Smith into the displeasure of the people; for his way was to frighten those he designed to deal with, and thereby force them to comply with his designs: and there could not be a more plausible accusation at that time, than to charge a man with saying something against the Parliament, or with being in a combination to subvert the Protestant religion: but when he has a turn to serve by him, then this man, on whom he had fixed such an odious character, he tells us is really no Papist, but is engaged in service for his King and Country; and has Mr. Oates's passport, which was a thing of no small advantage to him at that season. This was, with great reason, made use of by the King's counsel, as an evidence of his tampering: for the man suddenly alters his opinion of one he had before accused, and produces him as an honest man to give evidence for him; and this, they urge, must be intended to be done by practice and threatenings: and the rather, for that it had been proved, that he did actually practise upon Clay in like manner; and my Lord Chief Justice concluded, that if the witnesses for the King swore true, as he saw no colour of an objection against their testimony, then Oates was the most perjured villain upon the face of the earth.

Then the Court told the jury, they might drink before they went from the bar, but they did not desire it; and, having withdrawn a quarter of an hour, they returned with this verdict:—

That the defendant was Guilty of the perjury whereof he was indicted.

The Chief Justice told them, he was satisfied in his conscience, they had given a just verdict, to which the rest of the Judges assented; and then the Court arose.

Second Trial of TITUS OATES, for Perjury, in the Court of King's-Bench, on the 9th of May, 1685.

The indictment set forth, that the defendant, Titus Oates, at the trials of Ireland, Pickering, and Grove, on the 17th day of December, in the 30th year of the late King Charles II. did falsely swear, and give evidence to the jury who tried that cause, that the said William Ireland was in town upon the 1st or 2d day of September, 1678: Whereas, in truth, the said William Ireland was not in town on the 1st or 2d day of September, 1678: and so the said Titus Oates did commit wilful and corrupt perjury.

The indictment further sets forth, that the said Titus Oates, at the trials of Whitebread, Fenwick, and other jesuits, on the 13th of June, in the 31st year of the late King, did falsely swear, and give evidence to the jury who tried that cause, that William Ireland took his leave of him, the said Titus Oates, and others, at the chamber of the said Ireland, then being in Russel-street, Westminster, between the 8th and 12th days of August, 1678. Whereas, in truth, the said William Ireland did not take his leave of the said Titus Oates, or any other person, at his chamber in Russel-street, between the said 8th and 12th days of August: and so the said Titus Oates did commit wilful and corrupt perjury.

Mr. Harriot deposed, that, at the trial of the five jesuits, Oates did positively swear, that Mr. Ireland, the jesuit, did take leave of him and others, at the same chamber in Russel-street, betwixt the 8th and 12th of August, 1678.—“He was foreman of that jury.”

Waterhouse. I was of that jury too.—Oates deposed, that Mr. Ireland took his leave of him the 12th of August.—My Lord Chief Justice Scroggs then asked him, are you sure it was the 12th? And then he said, he would not be positive it was the 12th; but between the 8th and 12th it was, I am positive, upon my oath.

Oates. Mr. Harriot, did I swear that he took his leave of me, or I took my leave of him?

Mr. Harriot. You swore that Ireland took his leave of you and others.

Oates. Did Mr. Harriot take notes at the trial?

Mr. Harriot. Yes, I did; and it was my manner, in all trials I was concerned as a jurymen, to read the trials strictly over when they were printed, and compare them with my notes: and this I found to be in the printed trial, according to my notes.

Oates. Mr. Waterhouse, you did not take notes: pray, how come you to remember that I was so positive, as to the time betwixt the 8th and 12th of August?

Mr. Waterhouse. Because my Lord Chief Justice made a stop, when you said it was the 12th of August, and bid you consider; and you considered it, and did affirm positively, that it was between the 8th and 12th of August.

Mr. Foster. I was one of the jury at the trial of Mr. Ireland, Pickering, and Grove; and Mr. Oates and Mr. Bedloe were sworn as witnesses for the King: and Mr. Bedloe deposed, that there was a meeting at Harcourt's chamber, and Ireland

Pickering, and Grove, were there; and that this was the latter end of August. Mr. Ireland made his defence, and endeavoured to prove, that he was not in town from the beginning of August to the middle of September; and brought several witnesses. But upon his denying to be here the latter end of August, Mr. Oates did come and swear; I am certain (says he) that the 1st or 2d of September he was in town; for then I had of him twenty shillings.

Oates. Was I positive that he was here in town the 1st or 2d of September?

Mr. Foster. You were positive to the 1st or 2d; I have it in my notes.

Mr. Byfield, another of Ireland's jury, was sworn.—*L. C. J.* What did Oates swear?—*Mr. Byfield.* Mr. Oates did positively assert, that Ireland was here in town the 1st or 2d of September; and, to confirm it, he said he received of him twenty shillings.

Then *Mrs. Ireland*, the mother of him that was executed, his sister Anne Ireland, and two more women, deposed; that the said Mr. Ireland went out of town on Saturday the 3d of August, 1678, and that he returned to his lodgings in town again, being in the same house where his said mother and sister lodged, on the 14th of December following. The Lord Aston deposed, that Mr. Ireland came to his house, at Standen in Hertfordshire, on the 3d of August: that, on Monday the 5th of August, Mr. Ireland, accompanied him to St. Albans, where he met his brother and sister Southcoat, and that they all travelled together to Tixhall, his Lordship's house in Staffordshire, where they arrived the 8th of August.

Sir Edward Southcote deposed, that on Monday the 5th of August, he lay with the Lord Aston and Mr. Ireland, at the Bull at St. Albans; and that they set out together the next day, and travelled to Tixhall, the Lord Aston's seat, in Staffordshire, where they arrived on Thursday following: that they remained there till Tuesday after, and then went to St. Winifred's Well in Wales, returning to Tixhall again the 16th of August; and Sir Edward named every house they lay at on the road in this journey. He also deposed, that he set out with Mr. Ireland, from Tixhall, on Monday the 9th or 10th of September; and the fourth day they reached his father's house, at Kingston in Surry; and, on Saturday following, Mr. Ireland went from his father's house to London.

Mr. John Southcoat, gave the same account of the journey with the Lord Aston and Mr. Ireland, from St. Albans to Tixhall, and St. Winifred's Well; and of Mr. Ireland's returning to London in the middle of September; which he remembered the better, having bought Mr. Ireland's horse at the time he returned to town: and this circumstance Sir Edward also remembered.

Oates demanding if Mr. Southcoat was sure that Ireland was in his company from the 5th of August to the 16th? Mr. Southcoat answered, Yes, every day; he remembered it very well; but where Mr. Ireland was from the 16th of August to the time he returned to London, these witnesses could not say; only that they saw him several times in Staffordshire during that interval.

Harrison, Sir John Southcoat's coachman deposed, that he

drove his master from St. Albans to Tixhall, and from thence to Holywell in Wales, in August 1678; and that Mr. Ireland was in their company all the time.

The latter witness deposed, that in September he returned, with Mr. Ireland, to his master's house, near Kingston in Surry; and that Mr. Ireland having sold his horse to Mr. John Southcoat, his master's son, he went with Mr. Ireland to his lodgings in Russel-street, in town, on Saturday the 14th of September, and brought the horse back to his master's.

This account, the Chief Justice observed, agreed with what the woman deposed, that Ireland returned to his lodgings, in town, a fortnight before Michaelmas; and, directing his speech to the defendant Oates, said: thus far it is as clear as the sun at noon-day. I must tell you, *prima facie*, it is so strong an evidence, that, if you have any sense, you must be concerned at it.— Upon my faith, I have so much charity for you, as my fellow-creature, as to be concerned for you.

Oates answered, "it is not two straws matter whether you are or no; I know my own innocence."

The Chief Justice replied, "thou art the most impudently hardened wretch that ever I saw."

Oates. "You may think what you will, my Lord; but these Popish traitors will swear any thing, and suborn witnesses upon witnesses against me, to discredit the Popish plot."

Mr. Fallas deposed, that on Saturday, the 1st of August, 1678, he was hunting with Mr. Ireland in Mr. Gerrard's park, and they killed a buck.

Other witnesses deposed, they saw Mr. Ireland at dinner at Mr. Gerrard's, on the 1st of September, 1678.

Other witnesses deposed, they saw Ireland at dinner, at Mrs. Crompton's house, at Millage, in Staffordshire, on Monday the 2d of September, 1678.

Mr. Pendrel and Mrs. Pendrel deposed, that Mr. Ireland came to their house, at Boscobel, in Staffordshire, the 2d of September, 1678, and went from thence the 4th of September.

The King's evidence being finished, Mr. Oates proceeded in his defence, and said,

"I am not the only evidence of Mr. Ireland's being in town in the month of August; nor the only witness that he was in town about the time I mentioned in September. My Lord, the first thing I shall offer to your consideration is, the hardship I lie under, of being put to disprove what the King's counsel now charge me with, after six years' time. Now, why has the prosecution of this pretended perjury been delayed so long? When it

appears, the witnesses to prove it were known six years since; and there has been no new fact discovered that was not there known: there is no reason can be assigned for this delay, but to render it the more difficult for me to maintain the evidence I then gave, so many persons being since dead, or gone beyond the seas; and many things that were then fresh, now grown out of memory: and if such practice is to be admitted, no witness is safe in giving his testimony against a conspirator. And here, my Lord, is only a bare point of time upon which this perjury is assigned; the substance of the evidence I gave at the trial of Mr. Ireland, and the rest, about the Popish plot, is not pretended to be disproved: let it be remembered, that Ireland was convicted of a treasonable resolution to murder the late King, and not for being in town in August or September, 1678; which is the perjury now assigned: and, my Lord, it is unreasonable to tie up witnesses, who come to discover conspiracies, to speak positively to every little circumstance of time and place, and such niceties; it is usual to speak with latitude in those cases; and, I believe, I did not confine myself either to the 1st, or 2d, 5th, 6th, 7th, or 8th; but, my Lord, that he was, in September, there, I am positive; therefore, I must beg the opinion of the Court, whether Mr. Foster did prove I was positive to the 1st and 2d days of September, 1678.” [Mr. Oates then called Mr. Percival, Mr. Vaughan, Sir Michael Wharton, and several others; but they did not appear.] “My Lord, both Bedloe and Sarah Pain have sworn, that Ireland was in town in August, as well as myself; and, I think, I am hardly used, that, after witnesses are dead, or gone out of the way, I should have such a part of my testimony called in question. Jennison’s evidence has formerly been made use of, and approved, as is well known to those who sat judges upon my Lord Viscount Stafford; and, my Lord, as I hope for salvation, all that I have sworn about Mr. Ireland’s being in town, between the 8th and 12th of August, 1678, and the beginning of September, is true; and, though there are a great many witnesses produced against me this day, a great part of them do not come up to the 8th or 12th of August: and, I desire your Lordship will remark to the jury, what little credit these witnesses had at the trials of Ireland and the five jesuits:

and, I believe, I am the first precedent of a person's being indicted for perjury, for being a witness for the King, in such a case as this, after six years elapsed, and verdict upon verdict, and judgment and execution upon those verdicts; and when no new objection is offered, but what was then urged; and no circumstance occurs now, but what was as conclusive then, unless the change of the season: and at those trials all the judges of England were commissioners of Oyer and Terminer; and fully debated and discussed these matters, and saw all these objections fully answered and confuted. Had I been witness in any cause but a Popish conspiracy, I had met with fairer quarter: but, at this rate, it is safer for a Papist to be a traitor, than for a Protestant to discover a Popish plot. I hope you will consider my witnesses are either in places unknown, or are such as, considering the times, dare not appear; yet, I hope, you that are sworn to do justice, will not suffer me to be ruined, by the false testimony of the Papists, who are parties; for they have a turn to serve, and are resolved to wreak their vengeance upon me: now they have hopes of bringing in their religion, and would welcome it with my ruin: their eyes now see what their hearts so long have wished, the death of a great man, who died lately, and against whose life they so often and so long conspired. Had this been their first conspiracy, the truth of it might have been disputed; but if you cast your eyes upon the reigns of Queen Elizabeth, King James, and King Charles, what can be averred against those numerous records of their conspiracies? and then, surely, my discovery will not be deemed so improbable a thing: and I hope the jury will consider, that the very religion of the men who are witnesses against me, is rebellion; and their principles and practices pernicious to our Government.

The Chief Justice proceeded to direct the jury, and observed, that every person that had been executed for the Popish plot, truly called Oates's plot, had to a man denied it at their deaths; and took it upon their salvations they were innocent: whereas, there was not a man concerned in the Rye-House Plot, who had the confidence to deny it at his execution: and, as to Mr. Oates's insinuation, that it was hard he should be brought to trial, after so much time elapsed; such were the misfortunes of those times, when these perjuries were

committed, that even the fountain of mercy itself was stopped; and even that compassionate Prince, King Charles II. was compelled to permit the execution of Ireland, against his inclinations, rather than give disturbance to his people; there having been a verdict and judgment in the case: but it was well known by those who were near his person, how often he expressed his concern for having consented to this execution; and that he reflected on it with regret to his dying day, as his Royal Father did on the business of my Lord Strafford: nor ought these things to be remembered as a reflection on the memory of those Princes, but with infamy to those who were the causes of them. Unhappy was it for the Prince, when the times were so tumultuous, that he was compelled to restrain his mercy, where he thought it due, rather than seem to stop the current of justice: and as to Oates's objection, that the witnesses were Papists, it happened that seven or eight of them were Protestants: not but he thought Roman Catholics good witnesses in point of law; and he was satisfied, lying was as much the talent of a Presbyterian, as it could be of a Papist. Nay, it was as inseparably incident to a Presbyterian, and such sniveling, canting, whining knaves, to lie, as it was to speak: that Oates mightily insisted, that, because he was believed before, it would cast a reflection on former juries to disbelieve him now: but if that opinion was to prevail, it was impossible perjury could ever be detected. The nation was then in a hurry and surprize; and it was not then supposed there could be such villains upon earth, as impudently to swear high treason against their fellow-subjects, when there was no truth in the accusation. But the eyes of all honest men were now opened: they had seen the effects of their credulity; and it concerned them to shew their resentment to the world. It is incumbent on you, gentlemen, to try these facts according to your evidence; and it is incumbent on us, who sit here as Judges, to see the law executed: and God forbid, but we should use our utmost endeavours to inflict the greatest vengeance, that the justice of the nation can permit us to inflict upon such villains, who have brought so much mischief and reproach on us, and so much guilt upon themselves.

The jury withdrawing, returned in half an hour, and gave a verdict, that the prisoner was GUILTY.

Mr. Oates's counsel afterwards moving in arrest of judgment, was allowed a considerable time to prepare his exceptions to the indictment; and being brought into court on the 26th of May,

The exceptions were these:—

1. That a witness sworn on behalf of the King in a process of high treason, cannot be punished for perjury by the King.

2. That it does not appear, that the indictments of Ireland, &c. found in Middlesex, were legally transmitted into London; and, consequently, all the proceedings thereupon, were *coram non Judice*.

3. That the perjuries assigned, are foreign to the issue.

4. It is *Resolutio Signat'* in that part of the indictment, that mentions what the defendant swore; and in the perjury assigned, it is *Resolutio signand'*; which is no good assignment of the perjury.

To these exceptions it was answered by Mr. Attorney and the Court.

1. That the first exception was a plain mistake of the indictment; for the defendant was not indicted upon the statute: and, at common law, he might be prosecuted for the King, though he was a witness for the King before: and that, if witnesses, who came and forswore themselves to take away men's lives, could not be called in question criminally for the King, (at whose suit only, a man could be prosecuted for his life, unless in case of appeals,) it would be an encouragement to villany, and make the process of law to become an instrument of the greatest cruelty in the world.

2. As to the second exception, that it did not appear, Ireland's indictment, &c. was well transmitted from Middlesex to London, that was well enough; for it being recited they were so, and so indicted, it sets forth, that the trials were had upon records there depending, before the Commissioners of Oyer and Terminer, and gaol-delivery: and it shall be intended, that they were well brought before them.

3. That as to the third exception, that the perjuries assigned were foreign to the matters in issue: it was apparent, that one of the indictments were in the express points of the great treason charged against them, viz. The consult on the 24th of April; and that for the other the time was very material: because it was impossible that Ireland could be guilty of the treason sworn against him at his chamber in Russel-street, between the 8th and 12th of August, if he were not then in town; nor could he be privy to the treason sworn by Bedloe, the latter end of August, or the beginning of September, in Harcourt's chamber, if he were out of town from the 3d of August to the 14th of September.

4. To the fourth exception, that he swore he saw them sign it, and the perjury assigned is, that he did not carry it to be signed; they answered, that it was alledged that he falsely and corruptly

swore that he was present; and that he carried the resolution to be signed, and saw them sign the resolution. Now, 1. It is said, he was not there. 2. He carried no such resolution to be signed; and that there was no occasion to say he did not see it signed; for if he was not there, nor did carry it, he could not see them sign it: besides that, if any one part of the oath he swore proved false, that was sufficient to the verdict; but here it was notoriously plain, that it was false throughout.

The Lord Chief Justice said, that all the Judges of England had been consulted, that if the law would admit of it, he might receive such a judgment for this offence, as might be adequate to the crime, and deter others from committing the like again. That, by the ancient laws of England, perjury was punished with death: that, afterwards, it was punished by cutting out the tongue: and now, by the unanimous opinion of all the twelve Judges, it was resolved, that, by the law, crimes of this nature were left to be punished according to the discretion of this Court, provided such judgment extend not to life or member.

Then, the Judges having consulted together, Mr. Justice Withins pronounced the sentence, viz.

That the defendant should pay one thousand marks upon each indictment: that he should be stripped of all his canonical habits: that he should stand in the pillory before Westminster-hall Gate, on the Monday following, for an hour, with a paper over his head, declaring his crime; but that, first, he should walk with it round all the courts in the hall.

On the second indictment, the judgment was, that he should stand in the pillory, the Tuesday following, at the Royal-Exchange: that the next Wednesday, he should be whipped from Aldgate to Newgate; and on the Friday following, he should be whipped from Newgate to Tyburn, by the hands of the common hangman: that the 9th of August, every year of his life, he should stand in the pillory before Westminster-hall Gate; the 10th of August at Charing-Cross; and the 11th, over against the Temple; and the 2d of September, at the Royal Exchange; and on the 24th of April, every year, at Tyburn.

This disgrace to human nature was three times severely whipped, and then imprisoned; but, after the Revolution, he insinuated himself into the favour of the Prince of Orange, who allowed him a considerable pension. When and where he died, is uncertain.

DAME ALICE LISLE,
FOR HIGH TREASON;

BEFORE THE LORD CHIEF JUSTICE JEFFERIES, &c. AT THE CITY OF
WINCHESTER, THE 27TH AUGUST, 1685, 1 JAC. II.

The indictment set forth, “that Alice Lisle, of the parish of Ellingham, in the county of Southampton, widow, the 28th day of July, in the first year of King James II. knowing John Hicks, of Keinsham, in the county of Somerset, clerk, to be a false traitor, and to have conspired the death and destruction of the King, and to have levied war against him, did, in her dwelling-house, at Ellingham aforesaid, traiterously entertain, conceal, and comfort the said John Hicks, and cause meat and drink to be delivered to him, against the duty of her allegiance, the King’s peace, &c.”

To which indictment she pleaded *Not Guilty*.

The prisoner being old and infirm, and hard of hearing, one Matthew Brown, at her request, was permitted by the Court to stand by her, to inform her what passed in Court, and to give her his assistance. The cause having excited much interest, the Lord Chief Justice ordered the Sheriff to return a Jury of good quality. The Jurors were then called over, and after the prisoner had challenged several, were at length sworn.

The Jury being charged with the prisoner, Mr. *Mundy* opened the indictment, and Mr. *Polexfen* opened the nature and course of the evidence; and first the King’s Council proceeded to prove that Hicks was in the rebellion; for which purpose,

Mr. Pope was sworn.

Mr. Polexfen. Pray tell the Court, What you know concerning Mr. Hicks?

Pope. I had the misfortune to be taken prisoner by Monmouth’s army, and was brought to Keinsham, and put into Sir Thomas Bridges’s stables, and kept under a guard there; and Mr. Hicks (whom I saw yesterday in Salisbury gaol,) came, and asked for the prisoners, who were four or five in number, and demanded, if we were kindly used? We said, No; we had but a piece of bread in two days. Hicks replied, he was sorry for it, it was otherwise intended; and, he said, he would speak to the King (meaning the Duke of Monmouth,) for us: and there was a gentleman with him, they called the King’s Chaplain. Mr. Hicks also told us, the King (meaning the Duke of Monmouth, I suppose,) was a good Protestant; and he wondered what we could say for ourselves, being Protestants, in serving a Popish

Prince, and not obeying a Protestant King; and used several other expressions reflecting on the King and Government.

Mr. Rumsey. Did you see Hicks in the army, about the time of the fight?

Pope. I think I saw him about a day or two before.

L. C. J. Had he any weapon?

Pope. I think not, my Lord.

Mr. Fitzherbert deposed, that while he was prisoner at Keinsham, with Mr. Pope, he saw John Hicks hold a discourse with Mr. Pope almost an hour; wherein he disparaged the Government and his Majesty, and extolled the Duke of Monmouth, as a brave Prince and a good Protestant.

L. C. J. Is that the same man you saw in Monmouth's army?

Fitzherbert. Yes, I saw him yesterday at Salisbury; and he owns he is the same man.

Mr. Taylor deposed, that he was prisoner also with Mr. Pope and Mr. Fitzherbert; and Hicks came to them, into Sir Thomas Bridges's stables, and said, he wondered they would take arms against so good a prince as the Duke of Monmouth, who was a protestant, and hold with popery, for York was a papist; and added, that he saw Hicks afterwards, up and down Monmouth's army; and it was the same man he saw at Salisbury.

James Dunne.—*Mr. Polaxfen* acquainted the Court, that he was an unwilling witness, and desired he might be examined strictly. Whereupon the Chief Justice shewed him the danger of swearing falsely, as well in regard to his temporal as spiritual concerns: and insinuated, that his Lordship was already pretty well apprized of the truth of the fact; and assured him, that, as none of his saints could save his soul, so neither should they save his body, if he caught him prevaricating. He would punish every variation from truth, he found him guilty of. After which, he commanded Dunne to give him an account of the message he carried to the prisoner.

Dunne deposed, that he lived in Warminster parish, in Wiltshire, and that a short black man, of a swarthy complexion, came to his house, on Friday night, after the battle of Weston, and desired him to go to the Lady Lisle's, with a message from one Mr. Hicks, to know, if my Lady Lisle would entertain Mr. Hicks; and said, he should be well rewarded for going. That, accordingly, the deponent went to the Lady Lisle's, being about twenty-six miles, on the Saturday; and he met with one Carpenter, who was the Lady's bailiff; and the deponent asked him, if his Lady would entertain Mr. Hicks? but Carpenter said, he would have nothing to do with it, and sent him to the Lady; and upon delivering his message, she told the deponent she would entertain him, and he might come on Tuesday in the evening; and he returned home on the Sunday, and brought that answer.

Mr. Polaxfen. Did not the Lady ask you, if you knew Mr. Hicks?

Dunne. Not that I remember.

Mr. Coriton. Do you believe that she knew him before?

Dunne. I cannot tell truly.

L. C. J. Would she entertain one she had no knowledge of, merely upon thy message?

Dunne. My Lord, I tell you the truth; and on the Tuesday morning, about seven o'clock, they came to my house, three of them; one was the little black man, who was there before, and another of them was a full black man, and the other was a thin black man; but I knew none of their names. About eleven o'clock we set out, and we went through Deverel, Chilmark, and Sutton, and so to the Plain; and then one Barter met us, to shew us the way, for I knew the way no farther.

L. C. J. How didst thou find the way, when thou first went on thy message?

Dunne. My Lord, when I came to Fovant, I got this Barter to shew me the way to my Lady Lisle's, at Moyle's Court, and appointed him to meet me on Tuesday.

L. C. J. Did you go the same way on Tuesday, that you went on the Saturday?

Dunne. No, my Lord: I would have went the same way, but they would not. It was not above fourteen miles, from Fovant to my Lady Lisle's, the way I went on Saturday, but we made it about twenty, the way we went on Tuesday.

L. C. J. Who were the two men that went with you?

Dunne. The two men were Hicks and Nelthorp; the little black man did not go with us, and Nelthorp gave Barter five shillings, and discharged him about eight miles before we came to the house.

L. C. J. How did you find the way without him?

Dunne. They sent me down to Marton, to one Fane, and bade me tell him, that Mr. Hicks desired to speak with him; and when Fane came; Hicks asked Fane to shew him the way to Mrs. Lisle's; so he went with us part of the way, and then left us.

L. C. J. What entertainment had you at my Lady Lisle's?

Dunne. We came there between nine and ten o'clock at night, and Mr. Hicks and Mr. Nelthorp went in, and I never saw them again till they were taken: they left their horses at the gate, but I put mine into the stable. What became of their horses I can't tell, for it was very dark.

L. C. J. Was the stable-door locked, or open?

Dunne. It was only latched, and I pulled up the latch, and put my horse in; and Mr. Carpenter came afterwards with a candle, and gave my horse some hay.

L. C. J. Did you see nobody but Carpenter? Did not you eat and drink in the house?

Dunne. My Lord, I ate only some cake and cheese that I brought in my pocket; and a girl shewed me the way to my chamber: I saw nobody else.

L. C. J. Where did Carpenter first meet you? and who was with you then?

Dunne. Carpenter met us in the court, after we came in at the gate; and there was only Hicks and Nelthorp with me then, I am sure.

Mr. Polexfen. Pray, Mr. Dunne, at the time you were desired to go on this message, was there not a search made about the country for rebels that were fled from the battle?

Dunne. I did not hear of any near me, but there was in other places.

L. C. J. It being a suspicious time, when the little man with

the black beard came to you, did not you ask him, who this Mr. Hicks was? And when Hicks and Nelthorp came to your house, did not you ask their names?

Dunne. Hicks, the fat man, told me they were in debt.

L. C. J. Now, upon your oath, tell me truly, who was it opened the stable-door? was it Carpenter or you?

Dunne. It was Carpenter, my Lord.

L. C. J. Why, thou vile wretch! didst thou not tell me, that thou didst pull up the latch? But, it seems, the Saints have a charter for lying; they may lie, and cant, and deceive, and rebel, and think God Almighty takes no notice of it. A Turk has a better title to an eternity of bliss, than these pretenders to Christianity; for he has more morality and honesty in him. Sirrah! I charge you, in the presence of God, tell me true, What other persons did you see that night?

Dunne. I did not see any body, but what I have told you already.

L. C. J. Did not Carpenter light you into the house with his lanthorn?

Dunne. I went into the house.

L. C. J. Nobody thinks they thrust thee in: did he light thee in, I ask thee?

Dunne. I went in along with Carpenter.

L. C. J. What room did he carry you into?

Dunne. He carried me into no room; but a young woman shewed me into a chamber.

L. C. J. Wast thou not in the hall or kitchen? Did nobody ask thee to drink one drop to thy cake and cheese?

Dunne. No, my Lord, I was neither in the hall or kitchen; or had one drop of drink.

L. C. J. When was the first time you heard Nelthorp's name?

Dunne. Not till he was taken; and then I heard Mr. Hicks say, he had gone by the name of Crofts too.

L. C. J. Did not you hear him called by the name of Crofts in the journey?

Dunne. I cannot recollect that I did.

Mr. Jennings. You say, Carpenter met you very civilly, and took care of your horse; did he make no provision for Hicks and Nelthorp's horses? Did not you tell him they were tied at the gate?

Dunne. They were not tied at all; I know not what became of them.

L. C. J. Thou art a strange prevaricating, shuffling, sniveling, lying rascal. Will the prisoner ask him any questions?

Mrs. Lisle. No.

L. C. J. Perhaps her questions might endanger the truth coming out.

Barter sworn.

He deposed, that Dunne came to his house upon the Saturday, and desired him to ride along with him to Moyles Court, where the Lady Lisle lived; that the deponent went with him, and saw Dunne produce a letter, and offer it to Mr. Carpenter, my Lady's bailiff, but he refused to meddle with it; but sent Dunne to my Lady: and, while the deponent was in the kitchen, the Lady came thither, and asked him, what countryman he was,

and some other ordinary questions: then she went to Dunne, and talked with him; and they looked upon the deponent, and laughed: and that as Dunne and the deponent were returning home, the deponent asked, what they laughed at? and Dunne answered, my Lady asked him, if the deponent knew any thing of the concern? and, upon his telling her he did not, she laughed.

He deposed farther, that after this journey, he was so troubled, that he could not rest, till he went, and discovered the matter to Colonel Penruddock; and that he told the Colonel where he had been on the Saturday, and where he was to meet them again, on Salisbury Plain, on the Tuesday; and the Colonel then agreed to come and take them on the Plain, but something prevented him. However, the deponent met them, and they rode together about ten miles; and they would have had the deponent lead them a private way over the Fording Bridge; but he told them, if they would have him for their guide, they must go the way that he knew. Then the fat man sent Dunne to Marton for one Fane, to shew them the private way; and the deponent, finding they had no farther occasion for him, rode away to Colonel Penruddock's, and let him know they were gone to the house; but that before he left them, Nelthorp gave him five shillings.

Mr. Polexfen. What discourse had you with Dunne, the first time you went with him?

Barter. He said, that they had half a score thousand pounds a-year a-piece, and that they were to come such a way to my Lady Lisle's, on Tuesday in the evening; and that it would be a very fine booty; he should never want money again: and that he gave the deponent half-a-crown then, and told him he should be very well paid.

L. C. J. Then let honest Mr. Dunne stand forth a little.— You talked of carrying a message from Hicks to my Lady Lisle; did not you carry a letter?

Dunne. No, my Lord, I did not.

L. C. J. What say you, Barter, to that?

Barter. My Lord, I saw him produce the letter to the bailiff.

L. C. J. Did you not tell Barter, you should be at Salisbury Plain, with two people, on the Tuesday?

Dunne. No, my Lord, I said between Compton and Fovant.

L. C. J. Did you not tell him they were brave fellows, and had several thousands a-year?

Dunne. No, my Lord, I did not.

L. C. J. But did not you tell Barter, that you told my Lady, (when she asked, whether he was acquainted with the concern,) that he knew nothing of the business?

Dunne. My Lord, I did tell him so.

L. C. J. Then tell us what that business was?

[*He stood musing a great while*]

Dunne. I cannot remember it, my Lord, what it was.

L. C. J. How hard the truth is to come out of a lying Presbyterian knave! Prythee, friend, consider the oath thou hast taken; that thou art in the presence of a God that cannot endure a lie; and thou hast called him to witness, that thou dost testify the truth, the whole truth, and nothing but the truth. I charge

thee, therefore, as thou wilt answer it to the God of Truth, what was the business you and the Lady spoke of?

[*Having paused about ten minutes*], he said, I cannot give an account of it.

Then the Chief Justice conjured him several times, in the most solemn manner, to tell the truth; but could get no answer from him.

L. C. J. O blessed Jesu! What an age do we live in? What a generation of vipers do we live among? Sirs, is this that you call the Protestant religion? Shall so glorious a name be applied to such villany and hypocrisy? Thou wicked wretch, I charge you once more, as you will answer it at the bar of the Great Judge, tell me what that business was, you and the prisoner talked about?

Still he would make no answer.

L. C. J. Prythee, dost think that thou doest the prisoner any kindness by this behaviour? Sure it were enough to convert her, if it were nothing else.

Dunne. I do not think to do her any kindness at all. Pray, my Lord, ask me the question over again, once more, and I will tell you.

L. C. J. I will so, and will do it with all the calmness and seriousness I can. I would have thee have some regard to thy precious and immortal soul, which is more valuable than the whole world. Therefore, I ask you, with a great desire that thou mayest free thyself from so great a load of falsehood and perjury, *What was the business you told the prisoner, the other man, Barter, did not know?*

Dunne. My Lord, I told her he knew nothing of our coming there.

L. C. J. He must needs know of your coming there; but what was the business thou toldest her he did not know?

L. C. J. She asked me, if I did not know that Hicks was a Nonconformist? and I told her, I did not.

L. C. J. But, what was that business which *he* did not know.

Dunne. It was the same thing, whether Mr. Hicks was a Nonconformist.

L. C. J. Dost thou think, after all the pains that I have been at to get an answer to my question, that thou canst banter me with such sham stuff as this is? Hold the candle to him, that we may see his brazen face.

Dunne. I am so confounded, I know not what I say myself: tell me what you would have me to say, for I am nearly out of my senses.

L. C. J. Harkee, man, here is nobody confounds thee; it is thy own depraved heart that confounds both thy honesty and understanding: it is thy studying how to prevaricate, that puzzles and confounds thy intellect.

Mr. Poleyfen. Because he pretends ignorance what Hicks was, I desire Barter may tell, what his carriage was towards those people?

Barter. He told me he had concealed them in his house ten days before.

Dunne. That I never did in my life.

Barter. I don't know whether you did so or no, but you told

me so; and, when I wondered how you were able to keep them without being discovered, you answered, you kept them in a chamber all day, and they walked out at night; for the houses were usually searched at night.

L. C. J. Didst not thou tell Barter, that it was the best job thou ever hadst in thy life; or to that purpose?

Dunne. No, my Lord, I did not.

L. C. J. What say you, Barter, did not he tell you so?

Barter. Yes, my Lord, he did; and said he should never lack money again.

L. C. J. I expect it from all you, gentlemen, of the King's Council, that you take notice what has passed, that an information of perjury may be preferred against this fellow.

Col. Penruddock sworn.

He deposed, that Barter came to his house on a Monday morning, and told him he had been with one Dunne, at my Lady Lisle's, to get entertainment for some people; and that he was to meet Dunne again, between nine and eleven o'clock on Tuesday, upon Salisbury Plain, where the deponent might take them. Whereupon, the deponent directed Barter to meet them according to his appointment, and sent a servant to watch when they came by; but they taking another way, his servant missed them: that Barter having told the deponent, that Dunne said the men were rebels; and if he did not find them on the plain, he might conclude they were gone to my Lady Lisle's house. The deponent took some soldiers early next morning, and beset the house; that it was a pretty while before any body would hear; but at length Carpenter came, whom the deponent desired to tell him ingenuously, who were in the house? and Carpenter confessed there were strangers, and pointed to that part of the house where they lay; but desired the deponent would not let his Lady know he told him. That thereupon the deponent, and those that were with him, went in, and found Hicks and Dunne in the malt-house; Dunne having covered himself with some stuff: that afterwards, the Lady appearing, the deponent told her she had done ill in harbouring rebels; she answered, she knew nothing of it, she was a stranger to it: then the deponent said, he was sure there was somebody else; and desired her to deliver him up, and she should come to no further trouble; but she denied it; and said she knew nothing of it; and thereupon they searched further, and found Nelthorp hid in a hole by the chimney.

L. C. J. How came you, Dunne, to hide yourself in the malt-house? for you say, you neither knew Hicks or Nelthorp; and that my Lady only asked you, if Hicks were a nonconformist parson? surely, if you were innocent you had no occasion to be afraid.

Dunne. My Lord, I heard a great noise in the house, and I did not know what it meant, and I went and hid myself.

L. C. J. Did not you say to Barter, that you took them to be rebels?

Dunne. I took them to be rebels? I told Barter so?

L. C. J. Ay, you blockhead; is not that a plain question?

Dunne. I am frightened out of my senses; I do not know what I say.

[*A candle being held near his nose.*]

L. C. J. To tell the truth would rob thee of none of thy senses ; but one would think, that neither you nor your mistress, the prisoner, ever had any ; for she knew nothing of it neither, though she had sent for them thither.

Mrs. Lisle. I hope I shall not be condemned without being heard.

L. C. J. No, God forbid ; that was the practice in your husband's time, but God be thanked, it is not so now ; the King's courts of law never condemn without hearing.

Mr. Dowding sworn.

He deposed, that he was with Col. Penruddock, when he beset my lady Lisle's house ; that it was half an hour before they got in ; and that my lady said she knew nothing of any body being in the house.

Mrs. Lisle. This fellow broke open my trunk, and stole great part of my best linen : and, sure, a person who robs me, is not a fit evidence against me ; because he prevents his being indicted for felony, by convicting me.

L. C. J. Did you find any body in the house ?

Dowding. I found this same Dunne in a little hole in the malt-house ; he had taken some stuff to cover him : and we found one, who said his name was Hicks, whom I saw yesterday at Salisbury, when he had that discourse with the other witnesses. Hicks acknowledged before me, that he was at Keinsham, in the Duke of Monmouth's army.

Mrs. Carpenter sworn.

Mr. Pollexfen. Did you know when these men came to your lady's house ?

Mrs. Carpenter. Yes, they came at night, and I dressed a supper for them, by my Lady's order, and they ate in the chamber where they lay. I carried it within the room, and my husband set it upon the table. My Lady was there present.

L. C. J. Did your Lady use to sup above ?

Mrs. Carpenter. She used to sup below.

Mr. Carpenter called.

Mr. Pollexfen. Did you meet with Dunne when he came to your Lady's house ?

Carpenter. Yes, I saw him there on Saturday, and he asked me, if my Lady would give entertainment to one Hicks, and another person ? but he could not tell me who that other person was.

L. C. J. Did not he offer you a letter to be delivered to your Lady ?

Carpenter. No, my Lord.

Barter. I saw Dunne produce a letter to Mr. Carpenter, but he refused to meddle with it.

L. C. J. Did not you bring the men into your Lady's house, on Tuesday night ?

Carpenter. No, my Lord, I saw them first in the room where they supped and lay.

L. C. J. Was not my Lady there ?

Carpenter. She was in the room, but I did not see her eat any thing.

L. C. J. Did you hear Nelthorp named there? What sort of a man is he?

Carpenter. I did not hear him named until he was taken: he is a tall thin black man.

L. C. J. Did you carry any beer up? Did you not make Dunne drink?

Carpenter. I did not see him drink; my Lady ordered the provisions.

Mr. Rumsey. My Lord, Dunne says he will tell all now, whether it make for him or against him.

L. C. J. Let him but tell the truth, and I am satisfied.

Dunne. Sure, my Lord, I never entertained these men a night in my house, in my life; but it is true, Hicks did send that man to me, to go to my Lady Lisle's, to know if she would entertain him? And my Lady asked me, if he had been in the army? and I said, I could not tell: and she asked me, if he had any body with him? and I said, I believed he had. So when we came to my Lady's on Tuesday night, somebody took both their horses, and they went in: and after I had set up my horse, I went in with Carpenter, up to the chamber, to my Lady, where Hicks and Nelthorp were; and I heard my Lady bid them welcome to her house: and Mr. Carpenter, or the maid, brought in the supper, and set it on the table; and, I confess, I did both eat and drink there in the room.

L. C. J. Was there nothing mentioned of a person's coming from beyond sea? Did you not hear Nelthorp's name mentioned in discourse?

Dunne. He was either called Nelthorp or Crofts; and there was some discourse about him.

L. C. J. I will assure you, Nelthorp told me all the story before I came out of town; and that made me press upon you the danger of forswearing yourself. I do not mention this as evidence to influence the case; but I could not but tremble to think, after what I knew, that one should dare to prevaricate so with God and man, in the face of the Court.

Dunne. My Lady asked Hicks who that gentleman was? and he said it was Nelthorp, as I remember.

L. C. J. Was there no discourse there about the battle? or their being in the army?

Dunne. My Lord, they did talk of fighting; but I cannot tell exactly what the discourse was.

L. C. J. And why didst thou tell so many lies? Is not this a reproach to the Protestant religion, so much boasted of? We have had much clamour against Popery and dispensations; but what dispensations, pray, does the Protestant religion give for such practices as these?

Mr. Jennings. My Lord, we have done with our witnesses.

L. C. J. Then you that are for the prisoner, this is the time to make your defence.

Mrs. Lisle. My Lord, I knew of nobody coming to my house, but Mr. Hicks; I heard there were warrants out against him, for preaching in private meetings; but I never heard that he was in the army, or that Nelthorp was to come with him; nor did I hear Nelthorp named, till they came to my house: and, my

Lord, I abhorred both the principles and practices of the late rebellion: besides, my Lord, I should have been the most ungrateful person living, if I acted any thing against the King, to whom I was so much obliged for my estate.

L. C. J. Ingratitude adds to the load, and is the basest crime one can be guilty of.

Mrs. Lisle. My Lord, had I been tried in London, I could have had my Lady Abergavenny, and several other persons of quality, who could have testified, with what detestation I have spoken of the late rebellion; for I was all that time at London, and staid there till the Duke of Monmouth was beheaded: and had I certainly known the time of my trial in the country, I could have had their testimony here. But, my Lord, I am told that I ought not to be tried for harbouring a traitor, till that traitor is convicted: besides, I will take my death upon it, I never knew of Nelthorp's coming until he came; had I heard his name, I should have remembered his being in the proclamation. As to what they say, of my denying Nelthorp to be in my house, I was in a great consternation and dread of the soldiers, who were very rude; and could not be restrained by their officers from plundering my house: and I beg your Lordship would not harbour an ill opinion of me, from those false reports that go about me, concerning my consenting to the death of King Charles the First; for I was not out of my chamber the day he was beheaded; and believe I shed more tears for him, than any woman then living did; as the Countess of Monmouth, my Lady Marlborough, my Lord Chancellor Hyde, and twenty other persons of quality, could have witnessed: and as I hope to attain salvation, I never did know Nelthorp before in my life. I was, indeed, willing to shelter Hicks, knowing him to be a dissenting preacher; and that there were warrants out against him on that account: and I came into the country, but that week, the man came to me from Hicks, to know if he might be entertained in my house; and I beseech your Lordship to believe I had no design to harbour him, but as a nonconformist; which I knew was no treason: nor can it be supposed, I would venture the ruin of myself and children, to harbour Nelthorp, whom I never knew, but had heard he was in the proclamation.

Mrs. Lisle then called George Creed as her witness.

He deposed, that he heard Nelthorp say, that my Lady Lisle knew nothing of his coming; nor knew his name until he told it to Colonel Penruddock when he was taken.

L. C. J. That is nothing; she is not indicted for harbouring Nelthorp, but Hicks.

Mrs. Lisle. My Lord, I know the King is my Sovereign; and if I would have ventured my life for any thing, it should have been to serve him; I owe all that I have in the world to him; and though I could not fight for him myself, my son did; he was actually in arms, on the King's side, in this business; I instructed him always in loyalty, and sent him thither; it was I that bred him up to fight for the King.

The Lord Chief Justice then charged the Jury.

He told them their oath sufficiently directed them in their duty, viz. That they should find according to their evidence, &c.

and that as on one side they were not to be moved by compassion to the prisoner, or any allegations or protestations of her innocence; so neither, on the other hand, were they to be influenced by any thing that came from the Court, or that was insinuated by the King's council. Then he showed them what destruction would have been brought upon the nation, if the late rebellion had succeeded: how we were delivered from infinite confusion and misery, by the happy restoration; and the blessings the nation enjoyed under the Government of the late and present King; and thought it strange, that some people, instead of making returns of respect and duty to their Sovereign, should be so blinded and bewitched by faction and sedition, that a rebellion should begin this reign; and all the poisonous arts of disobedience be used to incite the King's subjects against him; especially when we had so lately felt the miseries of a civil war: and stranger still he thought it was, that those miscreants who were concerned in the rebellion, when they came to die, should invoke the Great God to testify they died for the sake of religion; and call themselves martyrs for the cause of God, when they suffered for treason. He observed, that, that arch-rebel Monmouth was arrived to that height of impudence and villany, as to bless God, that he could with satisfaction reflect, that the last two years of his life had been regularly spent; when they had been spent in manifest adultery, and in rebellion against his lawful Sovereign.—Then he proceeded to sum up the evidence; and took notice of the ingratitude of the prisoner, who confessed she owed all she had to the late and present King, and yet entertained and harboured rebels; he remembered also, what share her husband had in the death of King Charles I.; but said, it was enough to answer for her own guilt; and confessed, that ought not to be of any weight now, any more than the reports of her rejoicing at the death of King Charles: but he laid the greatest stress upon that part of the evidence which says, she denied their being in the house when Colonel Penruddock came to search for them. This he looked upon as a strong circumstance, that she was conscious to their having been in the rebellion.

He said, it was worth considering, that Colonel Penruddock, whose father died for his fidelity to King Charles, should be made an instrument in this matter; who was his judge, every body knew. [*Lisle, the prisoner's late husband, sat upon him.*]

Upon the whole, he told the Jury, that the proof that had been given of the fact she was charged with, was as plain as the sun at noon-day, and laid it to their consciences; telling them the preservation of the Government, the life of the King, the safety and honour of their religion, were at stake; and they were not to be moved by the prisoner's age or sex, but go according to their evidence, as they would answer it at God's tribunal.

Juryman. My Lord, we desire to know, whether it be equally treason to receive a rebel before he is convicted of treason, as it is after.

L. C. J. It is all the same: if he had been wounded and died of his wounds, so as he could never have been convicted, it had been all one.

Then the Jury withdrew, and in about half an hour returned.

Foreman. My Lord, we have some doubt whether she knew Hicks had been in the army.

L. C. J. Did she not enquire of Dunne, if Hicks was in the army? And when he told her he did not know, she did not say she would refuse him, but ordered him to come by night; by which it is evident she suspected it: and did not he and Nelthorp discourse of the battle and the army, when they were at supper? Come, come, gentlemen, it is a plain proof. But if there were no such proof, the circumstances and management of the thing is as full proof as can be; I wonder what it is you doubt of.

The Jury having consulted together about a quarter of an hour, found the prisoner *Guilty*.

The Lord Chief Justice told them, he thought in his conscience the evidence was as full and plain as could be; and if he had been one of them, if she had been his own mother, he should have found her Guilty.

The 28th of August, 1685, the Lady Lisle, and some other common malefactors, were brought to the bar to receive sentence.

The Chief Justice, in his speech before he passed sentence, reminded the Lady of those solemn protestations and asseverations she had made of her innocence; and told her, that since the last night they had received other proof of her being conscious of the guilt of those she harboured, and advised her to be penitent, and that she would make some recompence to the justice of the nation, by discovering the whole truth of this matter; for he told her, that without making satisfaction for public and private injuries, she could never hope for the mercy of God.

Then he pronounced sentence upon the Lady Lisle, that she should be burnt, &c. as usual, where a woman is convicted of treason; and having passed sentence upon the felons, he gave orders to the sheriff to see the Lady Lisle executed that afternoon; but intimated to the Lady, if she would confess the whole matter, her execution might be respited. However, upon the intercession of some divines of the church of Winchester, she was respited till Wednesday, the 2d of September.

In the mean time a letter was dispatched to the Lord Clarendon, by some persons of honour, to intercede with the King for a reprieve, and Lord Clarendon read the letter to his Majesty; who answered, he would do nothing in it, having left all to the Lord Chief Justice. A petition was also preferred by the Lady Lisle to his Majesty, to alter the manner of the execution from burning to beheading: and several precedents were produced

to his Majesty, where the execution had varied from the judgment: as in the case of the Duke of Somerset, condemned for felony in the reign of Edward VI.—The Lord Audley, 7 Car. I.—Queen Catherine Howard for treason, in the reign of Hen. VIII.—Jane Grey, 1 Mary—and the Countess of Salisbury, who was attainted of treason, anno 1641, was beheaded. Whereupon the King signed a warrant for her being beheaded, and directed therein, that her head and body should be delivered to her relations, to be interred as they saw fit: Accordingly she was executed on Wednesday, the 2d of September, in the afternoon, in the market-place of the city of Winchester.

MONSIEUR D'ANGLADE,
UNJUSTLY ACCUSED OF THEFT.—1687.

THE Count of Montgomery rented part of an hotel in the Rue Royale, at Paris. The ground floor and first floor were occupied by him; the second and third by the Sieur d'Anglade. The Count and Countess de Montgomery had an establishment suitable to their rank; they kept an almoner, and several male and female servants, and their horses and equipage were numerous in proportion. Monsieur d'Anglade (who was a gentleman, though of an inferior rank to the Count,) and his wife lived with less splendour, yet with elegance and decency suitable to their situation in life. They had a carriage, and were admitted into the best company, where, probably, M. d'Anglade increased his income by play; but, on the strictest enquiry, it did not appear that any dishonourable actions could be imputed to him. The Count and Countess de Montgomery lived on a footing of neighbourly civility with Monsieur and Madame d'Anglade, and, without being very intimate, were always on friendly terms. Some time in September, 1687, the Count and Countess proposed passing a few days at Villebousin, one of their country houses: they informed Monsieur and Madame d'Anglade of their design, and invited them to be of the party. They accepted it; but the evening before they were to go, they for some reason or other begged leave to decline the honour, and the Count and Countess set out without them, leaving in their lodgings one of the Countess's women, four girls, whom she employed to

work for her in embroidery, and a boy who was kept to help the footmen. They took with them the priest, Francis Gagnard, who was their almoner, and all their other servants.

The Count pretended that a strange presentiment of impending evil hung over him, and determined him to return to Paris a day sooner than he intended. Certain it is, that instead of staying till Thursday, as they proposed, they returned on Wednesday evening. On their coming to their hotel a few moments before their servants (who followed them on horseback), they observed that the door of a room on the ground-floor, where their men-servants slept, was ajar, though the almoner, who had always kept the key, had double-locked it when he went away. Monsieur d'Anglade, who was out when they came home, returned to his lodgings about eleven o'clock, bringing with him two friends, with whom he had supped at the President Roberts's. On entering, he was told that the Count and Countess were returned, at which, it is said, he appeared much surprised.—However, he went into the apartment where they were, to pay his compliments. They desired him to sit down, and sent to beg Madame d'Anglade would join them; she did so, and they passed some time in conversation; after which they parted. The next morning the Count de Montgomery discovered that the lock of his strong box had been opened by a false key, from whence had been taken thirteen small sacks, each containing a thousand livres in silver; eleven thousand five hundred livres in gold, besides double pistoles; and an hundred louis d'ors, of a new coinage, called *au cordon*; together with a pearl necklace, worth four thousand livres.

The Count, as soon as he made this discovery, went to the Police and preferred his complaint, describing the sums taken from him, and the specie in which those sums were. The Lieutenant of the Police went directly to the hotel, where, from circumstances, it clearly appeared that the robbery must have been committed by some one who belonged to the house. Monsieur and Madame d'Anglade earnestly desired to have their apartments and their servants examined; and, from some observations he then made, or some prejudice he had before entertained against Monsieur and Madame d'Anglade, the Lieutenant of the Police seems to have

conceived the most disadvantageous opinion of them, and to have been so far prepossessed with an idea of their guilt, that he did not sufficiently investigate the conduct of others. In pursuance, however, of their desire to have their rooms searched, he followed them thither, and looked narrowly into their drawers, closets, and boxes; unmade the beds, and searched the mattresses and the straw paliasses. On the floor they themselves inhabited, nothing was found: he then proposed ascending into the attic story, to which Monsieur d'Anglade readily assented. Madamed'Anglade excused herself from attending, saying she was ill and weak; however, her husband went up with the officer of justice, and all was readily submitted to his inspection. In looking into an old trunk, filled with clothes, remnants, and parchments, he found a rouleau of seventy louis d'ors au cordon, wrapt in a printed paper; which printed paper was a genealogical table, which the Count said was his.

This seems to have been the circumstance which so far confirmed the before groundless and slight suspicions of the Lieutenant of the Police, that it occasioned the ruin of these unfortunate people.

As soon as these seventy louis were brought to light, the Count de Montgomery insisted upon it they belonged to him; though, as they were in common circulation, it was as impossible for him to swear to *them* as to any other coin. He declared, however, that he had no doubt but that Monsieur and Madame d'Anglade had robbed him; and said that he would answer for the honesty of all his own people; and that on this occasion he could not but recollect, that the Sieur Grimaudet, who had before occupied this hotel, which Monsieur d'Anglade had inhabited at the same time, had lost a valuable piece of plate. It was, therefore, the Count said, very probable that d'Anglade had been guilty of both the robberies, which had happened in the same place while he inhabited it.

The Lieutenant of the Police accordingly seized this rouleau of seventy louis d'ors. He bade Monsieur d'Anglade count them; terrified at the imputation of guilt, and of the fatal consequence which in France often follows the imputation only, his hand trembled as he counted the money; he was sensible of it, and said, "I tremble."

This emotion, so natural even to innocence, appeared, in the eyes of the Count and Lieutenant, a corroboration of his guilt. After this examination they descended to the ground floor, where the almoner, the page, and valet-de-chambre were accustomed to sleep together, in a small room. Madame d'Anglade desired the officer of the Police to remark, that the door of this apartment had been left open, and that the valet-de-chambre probably knew why, of whom therefore enquiry should be made. Nothing was more natural than this observation, yet to minds already prepossessed with an opinion of the guilt of Anglade and his wife, this remark seemed to confirm it; when in a corner of this room, where the wall formed a little recess, five of the sacks were discovered, which the Count had lost, in each of which was a thousand livres; and a sixth, from which upwards of two hundred had been taken. After this, no farther enquiry was made, nor any of the servants examined. The guilt of Monsieur and Madame d'Anglade was ascertained, in the opinion of the Lieutenant of the Police and the Count de Montgomery; and, on no stronger grounds than the circumstance of finding the seventy louis d'ors, the emotion shewn by d'Anglade while he counted them, and the remark made by his wife, were these unfortunate people committed to prison. Their effects were seized. Monsieur d'Anglade was thrown into a dungeon in the Châtelet; and his wife, who was with child, and her little girl, about four years old, were sent to fort l'Eveque; while the strictest orders were given that no person whatever should be admitted to speak to them. The prosecution now commenced, and the Lieutenant of the Police, who had committed the unhappy man, was to be his judge. D'Anglade appealed, and attempted to institute a suit against him, and make him a party, in order to prevent his being competent to give judgment; but this attempt failed, and served only to add personal animosity to the prejudice which the officer had before taken against Anglade. Witnesses were examined; but, so far from their being heard with impartiality, their evidence was twisted to the purposes of those who desired to prove guilty the man they were determined to believe so. The almoner, Francis Gagnard, who was the really guilty person, was among those whose evidence was now admitted against

Anglade; and this wretch had effrontery enough to conceal the emotion of his soul, and to perform a mass, which the Count ordered to be said at St. Esprit, for the discovery of the culprits.

The Lieutenant of the Police, elate with his triumph over the miserable prisoner, pushed on the prosecution with all the avidity which malice and revenge could inspire in a vindictive spirit. In spite, however, of all he could do, the proofs against d'Anglade were still insufficient; therefore he determined to have him put to the tortures, in hopes of bringing him to confess the crime. Anglade appealed, but the Parliament confirmed the order, and the poor man underwent the question ordinary and extraordinary; when, notwithstanding his acute sufferings, he continued firmly to protest his innocence, till, covered with wounds, his body dislocated, and his mind enduring yet more than his frame, he was carried back to his dungeon. Disgrace and ruin overwhelmed him; his fortune and effects were sold for less than a tenth of their value, as is always the case where law presses with its iron hand; his character was blasted, his health was ruined. Not naturally robust, and always accustomed, both to the comforts and the elegancies of life, a long confinement in a noisome and unwholesome dungeon had reduced him to the lowest state of weakness. In such a situation he was dragged forth to torture, and then plunged again into the damp and dark cavern from whence he came—without food, medicine, or assistance of any kind, though it is usual for those who suffer the torture to have medicinal help and refreshment after it. This excess of severity could be imputed only to the malignant influence of the officer of justice, in whose power he now was.

From the same influence it happened, that, though the Sieur d'Anglade, amidst the most dreadful pains, had steadily protested his innocence, and though the evidence against him was extremely defective, sentence was given to this effect:—That Anglade should be condemned to serve in the galleys for nine years; that his wife should, for the like term, be banished from Paris, and its jurisdiction; that they should pay three thousand livres reparation to the Count d'Montgomery as damages, and make restitution of twenty-five

thousand six hundred and seventy-three livres, and either return the pearl necklace or pay four thousand livres more. From this sum the five thousand seven hundred and eighty livres, found in the sacks in the servants' room, were to be deducted, together with the seventy louis d'ors found in the box, of which the officer of justice had taken possession, and also a double Spanish pistole, and seventeen louis d'ors found on the person of Anglade, which was his own money.

Severe as this sentence was, and founded on such slight presumption, it was put immediately into execution. Anglade, whose constitution was already sinking under the heavy pressure of his misfortunes, whose limbs were contracted by the dampness of his prison, and who had undergone the most excruciating tortures, was sent to the tower of Montgomery, there to remain, without assistance or consolation, till the convicts condemned to the galleys were ready to go. He was then chained with them—a situation, how dreadful!—for a gentleman, whose sensibility of mind was extreme, and who had never suffered the least hardship or difficulty till then; when he was plunged at once into the lowest abyss of misery, chained among felons, and condemned to the most hopeless confinement and the severest labour, without any support but what he could procure from the pity of those who saw him; for of his own he knew nothing! Yet, dreadful as these evils were, he supported them with that patient firmness which nothing but conscious innocence could have produced. Reduced to the extreme of human wretchedness, he felt not for himself; but when he reflected on the situation of his wife, and his infant daughter, his fortitude forsook him.

A fever had, from his first confinement, preyed on his frame; its progress grew more rapid, and he felt his death inevitable; when the galley-slaves being collected to depart, he besought leave to see his wife, and to give his last blessing to his child—but it was denied him! He submitted, and prepared to go; but being too weak to stand, he was put into a waggon, whence he was lifted at night, when they stopped, and laid on straw in a barn or out-house, and the next morning carried again between two men to the waggon to continue his journey. In this manner, and believing every hour would be his last, the unhappy man arrived at Marseilles.

It was asserted, but for the honour of human nature should not be believed, that the Count de Montgomery pressed his departure, notwithstanding the deplorable condition he was in, and even waited on the road to see him pass, and enjoy the horrid spectacle of his sufferings.—The unhappy wife of this injured man had been treated with the same inhumanity. She had been dragged to prison, separate from that of her husband, and confined in a dungeon. She was with child, and the terror she had undergone occasioned her to miscarry. Long fainting fits succeeded; and she had no help but that of her little girl, who, young as she was, endeavoured to recal her dying mother by bathing her temples, and by making her smell to bread dipt in wine. As she believed every fainting fit would be her last, she implored the jailor to allow her a confessor: after much delay he sent one, and by his means the poor woman received succour and sustenance; but while she slowly gathered strength her little girl grew ill. The noisome damps, the want of proper food and of fresh air, overcame the tender frame of the poor child; and then it was that the distraction and despair of the mother was at its height. In the middle of a severe winter, they were in a cavern, where no air could enter, and where the damps only lined the wall; a little charcoal, in an earthen pot, was all the fire they had, and the smoke was so offensive and dangerous, that it increased rather than diminished their sufferings. In this dismal place the mother saw her child sinking under a disease, for which she had no remedies. Cold sweats accompanied it, and she had neither clean linen for her, nor fire to warm her; and, as even their food depended on charity, and they were not allowed to see any body, they had no relief but what the priest from time to time procured them. At length, and as a great favour, they were removed to a place less damp, to which there was a little window; but the window was stopped, and the fumes of the charcoal were as noxious here as in the cavern they had left. Here they remained for four or five months.—Monsieur d'Anglade, not being in a condition to be chained to the oar, was sent to the hospital of the convicts at Marseilles; his disease still preyed on the poor remains of a ruined constitution, but his

sufferings were lengthened out beyond what his weakness seemed to promise. It was near four months after his arrival at Marseilles, that, being totally exhausted, he felt his last moments approach, and desired to receive the sacrament: before it was administered to him, he solemnly declared, as he hoped to be received into the presence of the Searcher of hearts, that he was innocent of the crime laid to his charge; that he forgave his inexorable prosecutor and his partial judge, and felt no other regret in quitting the world, than that of leaving his wife and child exposed to the miseries of poverty, and the disgrace of his imputed crime: but he trusted his vindication to God, who had, he said, lent him fortitude to endure the sufferings he had not deserved: and then, after having received the Eucharist with piety and composure, he expired—a martyr to unjust suspicion, and hasty or malicious judgment.

He had been dead only a few weeks, when several persons, who had known him, received anonymous letters: the letters signified, that the person who wrote them, was on the point of hiding himself in a convent for the rest of his life; but before he did so, his conscience obliged him to inform whom it might concern, that the *Sieur d'Anglade* was innocent of the robbery committed in the apartments of the *Count de Montgomery*; that the perpetrators were one *Vincent Belestre*, the son of a tanner of *Mans*; and a priest named *Gagnard*, a native also of *Mans*, who had been the *Count's* almoner. The letters added, that a woman of the name of *De la Comble* could give light into the whole affair. One of these letters was sent to the *Countess de Montgomery*, who however had not generosity enough to shew it; but the *Sieur Loysillon*, and some others who had received at the same time the same kind of letters, determined to enquire into the affair: while the friends of the *Count de Montgomery*, who began to apprehend that he would be disagreeably situated, if his prosecution of *d'Anglade* should be found unjust, pretended to discover that these letters were dictated by *Madame d'Anglade*; who hoped by this artifice to deliver her husband's memory from the odium which rested on it, and herself and her child from the dungeon in which they were still confined. An enquiry was set on foot after *Belestre* and *Gagnard*,

who had some time before quitted the Count's service. It was found that Belestre was a consummate villain, who had in the early part of his life been engaged in an assassination, for which he was obliged to fly from his native place; that he had been a soldier, had killed his serjeant in a quarrel, and deserted; then returning to his own country, had been a wandering vagabond, going by different names, and practising every species of roguery; that he had sometimes been a beggar, and sometimes a bully, about the street of Paris, but always much acquainted and connected with Gagnard, his countryman: and that suddenly, from the lowest indigence, he had appeared to be in affluence; had bought himself rich clothes, had shewn various sums of money, and had purchased an estate near Mans, for which he had paid between nine and ten thousand livres.

Gagnard, who was the son of the gaoler of Mans, had come to Paris without either clothes or money, and had subsisted on charity, or by saying masses at St. Esprit, by which he hardly gained enough to keep him alive; when the Count de Montgomery took him. It was impossible what he got in his service, as wages, could enrich him: yet, immediately after quitting it, he was seen clothed neatly in his clerical habit; his expences for his entertainments were excessive; he had plenty of money in his pocket; and had taken a woman out of the street, whom he had established in handsome lodgings, and clothed with the greatest profusion of finery. --- These observations alone, had they been made in time, were sufficient to have opened the way to a discovery, which might have saved the life, and redeemed the honour, of the unfortunate d'Anglade. Late as it was, justice was now ready to overtake them. Gagnard, being in a tavern in the street St. André des Arcs, was present at a quarrel wherein a man was killed; he was sent to prison, with the rest of the people in the house; and about the same time, a man who had been robbed and cheated by Belestre, near three years before, met him, watched him to his lodgings, and put him into the hands of the Marechaussée. These two wretches being thus in the hands of justice, for other crimes, underwent an examination relative to the robbery of the Count de Montgomery: they betrayed themselves by inconsistent answers. Their accomplices were appre-

hended; and the whole affair now appeared so clear, that it was only astonishing how the criminals could ever have been mistaken. The guardians of Constantia Guillemont, the daughter of d'Anglade, now desired to be admitted parties in the suit, on behalf of their ward; that the guilt of Belestre and Gagnard might be proved, and the memory of Monsieur d'Anglade, and the character of his widow, justified; as well as that she might, by fixing the guilt on those who were really culpable, obtain restitution of her father's effects, and amends from the Count de Montgomery. She became, through her guardian, prosecutrix of the two villains; the principal witness against whom, was a man called the Abbé de Fontpierre, who had belonged to the association of thieves, of which Belestre was a member. This man said, that he had written the anonymous letters which led to the discovery; for that, after the death of d'Anglade, his conscience reproached him with being privy to so enormous a crime. He swore that Belestre had obtained from Gagnard the impressions of the Count's keys in wax, by which means he had others made that opened the locks. He said, that soon after the condemnation of d'Anglade to the galleys, he was in a room adjoining to one where Belestre and Gagnard were drinking and feasting; that he heard the former say to the latter, "Come, my friend, let us drink and enjoy ourselves, while this fine fellow, this Monsieur d'Anglade, is at the galleys." To which Gagnard replied, with a sigh, "Poor man, I cannot help being sorry for him; he was a good kind of man, and was always very civil and obliging to me." Belestre then exclaimed with a laugh, "Sorry! what, sorry for a man who has secured us from suspicion, and made our fortune!" Much other discourse of the same kind he repeated. And De la Comble deposed, that Belestre had shewn her great sums of money, and a beautiful pearl necklace; and when she asked him where he got all this? he answered, that he had won it at play. These, and many other circumstances related by this woman, confirmed his guilt beyond a doubt. In his pocket were found a Gazette of Holland, in which he had (it was supposed) caused it to be inserted, that the men who had been guilty of the robbery, for which the Sieur d'Anglade had been condemned, were executed for some other crime at Orleans;

hoping, by this means, to stop any farther inquiry. A letter was also found on him from Gagnard, which advised him of the rumours that were spread from the anonymous letters; and desiring him to find some means to quiet or get rid of the Abbé Fontpierre.

The proof of the criminality of these two men being fully established, they were condemned to death; and, being previously made to undergo the question ordinary and extraordinary, they confessed; Gagnard upon the rack, and Belestre at the place of execution, that they had committed the robbery. Gagnard declared, that if the Lieutenant of the Police had pressed him with questions the day that d'Anglade and his wife were taken up, he was in such confusion, he should have confessed all.

These infamous men having suffered the punishment of their crime, Constantia Guillemont d'Anglade continued to prosecute the suit against the Count de Montgomery, for the unjust accusation he had made; who endeavoured, by the chicane which his fortune gave him the power to command, to evade the restitution: at length, after a very long process, the Court decided—that the Count de Montgomery should restore to the widow and daughter of d'Anglade, the sum which their effects, and all the property that was seized, had produced—that he should farther pay them a certain sum, as amends for the damages and injuries they had sustained, and that their condemnation should be erased, and their honours restored;—which, though it was all the reparation that could now be made them, could not bind up the incurable wounds they had suffered in this unjust and cruel prosecution.

Mademoiselle d'Anglade, whose destiny excited universal commiseration, was taken into the protection of some generous persons about the Court, who raised for her a subscription, which at length amounted to an hundred thousand livres; which, together with the restitution of her father's effects, made a handsome provision for her; and she was married to Monsieur des Essarts, a Counsellor of Parliament.

DR. WM. SANCROFT, *Lord Archbishop of Canterbury*;—DR. WM. LLOYD, *Lord Bishop of St. Asaph*;—DR. FRANCIS TURNER, *Lord Bishop of Ely*;—DR. JOHN LAKE, *Lord Bishop of Chichester*;—DR. THOMAS KENN, *Lord Bishop of Bath and Wells*;—DR. THOMAS WHITE, *Lord Bishop of Peterborough*;—and SIR JONATHAN TRELAWNEY, *Bart. Lord Bishop of Bristol*,

FOR A LIBEL:

BEFORE THE COURT OF KING'S BENCH, JUNE 15, 1688.

JAMES II. published a declaration for Liberty of Conscience, on the 27th of April, 1688, (in which was recited a former declaration :) an order of council was made on the 4th of May following, commanding it to be read in the time of divine service in all churches and chapels in the cities of London and Westminster, and within ten miles thereof, on the 20th and 27th of May (being Sundays), and in all other churches and chapels in England on the 3d and 10th of June, which were likewise Sundays: and that the bishops should cause the said declaration to be sent to, and distributed in their respective dioceses, and order the same to be read by their clergy.

The bishops and clergy near town, accordingly assembled at the archbishop's palace at Lambeth, to advise what was proper to be done on this occasion: and after some debate, the archbishop, by the advice of his brethren that were present, wrote to all the bishops of his province to come to town, or send their opinions of the matter: and it being found that eighteen of the bishops, and the main body of the clergy, concurred in a resolution not to read the declaration, his grace the archbishop, with Dr. Lloyd, and the other five bishops, above-mentioned, drew up and signed the following petition:—

“ To the King's Most Excellent Majesty;

“ The humble Petition of William Archbishop of Canterbury, and of divers of the Suffragan Bishops of that province (now present with him) in the behalf of themselves, and others of their absent brethren, and of the inferior clergy of their respective dioceses, humbly sheweth,

“ That the great averseness they find in themselves to the distributing and publishing in all their churches your Majesty's late declaration for Liberty of Conscience, proceedeth neither from

any want of duty and obedience to your Majesty, our holy Mother the Church of England, being, both in her principles and in her constant practice, unquestionably loyal, and having (to her great honour) been more than once publicly acknowledged to be so by your Gracious Majesty ; nor yet from any want of due tenderness to Dissenters, in relation to whom they are willing to come to such a temper as shall be thought fit, when that matter shall be considered and settled in Parliament and Convocation : but amongst many other considerations, from this especially, because that declaration is founded upon such a dispensing power, as hath been often declared illegal in Parliament, and particularly in the years 1662 and 1672, and in the beginning of your Majesty's reign ; and is a matter of so great moment and consequence to the whole nation, both in church and state, that ' your petitioners cannot in prudence, honour, or conscience,' so far make themselves parties to it, as the distribution of it all over the nation, and the solemn publication of it once and again, even in God's house, and in the time of his divine service, must amount to, in common and reasonable construction.

" Your petitioners, therefore, most humbly and earnestly beseech your Majesty, that you will be graciously pleased, not to insist upon their distributing and reading your Majesty's said declaration.

" And your petitioners (as in duty bound) shall ever pray, &c."

On the 18th of May, two days before the declaration was to be read, the six bishops (the archbishop being indisposed) attended his Majesty at Whitehall with their petition ; at which he appeared highly incensed, and angrily told them, he had heard of it before, but did not believe it: he did not expect this from the Church of England, especially from some of them: if he changed his mind, they should hear from him: if not, he expected his commands should be obeyed. To which the bishops replied, they resigned themselves to the will of God, and then withdrew. The King, finding his declaration neglected, resolved to prosecute the seven bishops, whom he looked upon as the occasion of it: and they were accordingly summoned to appear before the council on the 8th of June, when these prelates attending the board, it was demanded of them, if they owned the petition? To which they answered, as they stood there as criminals, they hoped his Majesty would not take advantage against them: but, being pressed to own it by the Lord Chancellor Jefferies, the archbishop at length confessed that it was written with his own hand, and that the rest had signed it; and he hoped they had done nothing but what they could justify: whereupon the Lord Chancellor demanded, if they

would enter into recognizances to appear in the Court of King's Bench, to answer this misdemeanor? The bishops answered, as they were peers, they were not obliged to give security on being charged with a misdemeanor in the first instance, and looked upon themselves to be bound in duty to maintain the rights of the peerage, as well as the rights of the church. Then, Jefferies threatening to send them to the Tower, unless they withdrew their petition, and obeyed the King's declaration, they answered, "They were ready to go wherever his Majesty pleased: that they hoped the King of Kings would be their protector and judge: they had acted according to law and their own consciences; and no punishment should ever shake their resolutions." A warrant was therefore drawn up to commit them to the Tower, for framing and publishing a seditious libel against his Majesty and his Government, as the petition was called. This warrant was signed by the Lord Chancellor Jefferies, the Earl of Sunderland, president of the Council; the Lord Arundel, the Marquis of Powis, the Earls of Mulgrave, Huntingdon, Peterborough, Craven, Murray, Middleton, Melfort, and Castlemain; the Lords Dartmouth, Godolphin, and Dover; Sir John Ernle, Sir Edward Herbert, and Sir Nicholas Butler.

As a tumult was expected on the commitment of the bishops, they were ordered to be carried to the Tower by water: however, the people came in crowds to the Thames-side, applauding the courage of the bishops, and wishing them a happy deliverance: and they were no sooner landed at the Tower, but the officers and soldiers of that garrison fell upon their knees, and begged the blessing of those Right Reverend Fathers: whereupon the King commanded some other companies of soldiers to march into the Tower, in whom he had more confidence.

On the first day of Trinity Term, which fell on Friday the 15th of June, 1688, the Court of King's Bench being set, and all the four Judges upon the Bench, viz. the Lord Chief Justice (Sir Robert Wright), Mr. Justice Holloway, Mr. Justice Powell, and Mr. Justice Allybone; Mr. Attorney General, Sir Thomas Powis, moved the Court for an *Habeas Corpus*, returnable immediately, to bring up my Lords the Bishops; which being granted,

Sir Edward Hales, the lieutenant of the Tower, brought the Lord Archbishop, and the other six Bishops, into Court, about eleven o'clock the same day: and the return being read, it appeared that their Lordships were committed to the Tower by virtue of a warrant under the hands and seals of George Lord Jefferies, baron of Wem, Lord High Chancellor of England; Robert Earl of Sunderland, Lord President of the Council; and the rest of the Privy-council above-mentioned, "For contriving, making, and publishing a seditious libel in writing, against his Majesty and the Government."

The return being filed, Mr. Attorney moved, that the information he had preferred against his Grace, and the rest of my Lords the Bishops, might be read.

Whereupon Sir Robert Sawyer, as counsel for my Lords the Bishops, moved that they might be discharged before any thing was read, because they were not legally committed. Mr. Solicitor, Sir William Williams, said, in behalf of the King, that this was an *Habeas Corpus* brought by his Majesty, and not by the prisoners; and, therefore, they must see first what the King had to say to them.

But it was ruled by the Court,—1. That every commitment should be presumed to be pursuant to the power of the persons committing. And, 2. That the making a seditious libel was a breach of the peace; for which security of the peace might be required of them, notwithstanding their privilege of peerage; and thereupon the information was ordered to be read.

The information set forth, that the King, out of his signal clemency and gracious intention towards his subjects, by his royal prerogative on the 4th day of April, in the third year of his reign, did publish his royal declaration, entitled, "His Majesty's gracious Declaration to all his loving subjects for Liberty of Conscience." [Then the declaration itself is inserted, the purport whereof was] 'That it had always been his Majesty's opinion, that conscience ought not to be constrained, or people forced in matters of mere religion: that it was contrary to the interest of government, by spoiling trade, depopulating countries, and discouraging strangers; and that it never obtained the end: that his Majesty, therefore, had thought fit to issue forth this declaration of indulgence, making no doubt of the concurrence of the two Houses of Parliament, when they should meet.

And first, he declared, that he would protect and maintain the clergy, and other members of the Church of England, in the free exercise of their religion as by law established, and in the full enjoyment of all their possessions; but that the execution of

all manner of penal laws for nonconformity in religion, should be immediately suspended: Provided that such Nonconformists meet with their doors open, and preach nothing that should tend to the disturbance of the government; and signify their place of meeting to some neighbouring Justice of Peace: And that his Majesty might have the benefit of the service of all his subjects, he further declared, that neither the test nor the oaths of supremacy or allegiance, should be required to be taken or subscribed by any person, on their admission into offices, for the future; and did grant a free pardon to all those who had committed any thing contrary to the said penal laws: And he thought fit further to declare, that he would maintain all his subjects in their properties and possessions, as well of church and abbey lands, as in any other their lands and property whatsoever; and the information further sets forth, that on the 27th of April, in the fourth year of his Majesty's reign, he published another declaration, (which is recited in the information,) the purport whereof was, that ever since his Majesty had granted the aforesaid indulgence, he had made it his principal care to see it observed without distinction; which his Majesty was encouraged to do, by the number of addresses he daily received from his subjects of all persuasions. That in pursuance of this great work, he had been forced to make many changes, both of civil and military officers, throughout his dominions; not thinking any ought to be employed in his service, who would not contribute towards the peace and greatness of his country: And he conjured all his subjects, to lay aside all private animosities and groundless jealousies, and to choose such Members of Parliament as might do their part, to finish what he had begun, being resolved to call a Parliament, which should meet the following November at farthest.

And the information further sets forth, that on the 4th of May, 1688, it was ordered by his Majesty in Council, that the said last-mentioned declaration, bearing date the 27th of April last (in which the first is recited), should be read in the usual time of divine service, on the 20th and 27th of the said month of May, in all churches and chapels within the cities of London and Westminster, and ten miles thereof; and upon the 2d and 10th of June then next, in all other churches and chapels throughout the kingdom; and that the Right Reverend the Bishops should cause the said declaration to be sent and distributed throughout their several dioceses, to be read accordingly: And that the said Archbishop and Bishops, the 18th day of May, in the said fourth year of his Majesty's reign, having conspired and consulted among themselves to diminish the King's power and prerogative, did falsely, unlawfully, maliciously, and scandalously make, compose, and write, a false, scandalous, malicious, and seditious libel, under pretence of a petition, styled, 'The humble petition, &c'. (which was also recited in the information). Which said libel the said Archbishop and Bishops, having respectively subscribed, did, on the said 18th day of May, in the said fourth year of the King, cause to be published in the presence of our said Lord the King, in manifest contempt of his Majesty and of the laws of this kingdom, to the evil example of others, and against the King's peace, &c. Whereupon the said

Attorney-General, in behalf of the King, prays advice of the court and process of law, to be made out against the said Archbishop and Bishops, to answer the said Lord the King, concerning the premises, &c.

After reading the information, Mr. Attorney moved that my Lords the Bishops might plead to it immediately; which was opposed by the Bishop's counsel, and time desired to put in their plea till the next Michaelmas term. This point being ruled against the Bishops, his Grace the Archbishop stood up, and, offering a paper to the Court, he said,

“ *My Lords,*

“ *I tender here a short plea, in behalf of myself and my brethren, the other defendants; and I humbly desire the Court will admit of this plea.*”

And the Chief Justice saying, it should have been in Parliament, his Grace replied, We will stand by it, my Lord; it is subscribed by our counsel, and we pray it may be admitted by the Court.

Then a translation of the plea was read, which was as follows:—

“ And the aforesaid William Archbishop of Canterbury, William Bishop of St. Asaph, &c. being present in court in their own persons, pray *Oyer* of the information aforesaid; and it is read to them: which being read and heard by them, the said Archbishop and Bishops say, that they are Peers of this kingdom of England, and Lords of Parliament; and each of them is one of the Peers of this kingdom of England, and a Lord of the Parliament; and that they being (as before is manifest) Peers of this kingdom of England, and Lords of Parliament, ought not to be compelled to answer instantly for the misdemeanor aforesaid, mentioned in the said information exhibited here against them in this court; but they ought to be required to appear by due process in law, issuing out of this court here, upon the information aforesaid, and upon their appearance to have a copy of the said information exhibited against them, and reasonable time to imparl thereupon, and to advise with counsel learned in the law, concerning their defence in that behalf, before they be compelled to answer the said information. Whereupon, for that the said Archbishop and Bishops were imprisoned, and by writ of our Lord the King of *Habeas Corpus*, directed to the Lieutenant of the Tower of London, are now brought here in custody, without any process upon the information aforesaid issued against them, and without having any copy of the said information, or any time given them to imparl or be advised: They pray judgment, and the privilege of Peers of this kingdom, in this case, to be allowed them; and that they the said Archbishop and Bishops may not be compelled instantly to answer the information aforesaid, &c.

“ Rob. Sawyer, Hen. Finch, Hen. Pollexfen.”

The Chief Justice replied, the Bishops' counsel had not dealt ingenuously with the Court after four hours' debate, and the opinion of the Court delivered, to come and sum up all the arguments in such a plea as this; he then put them upon debating the matter over again: and he thought the Court was not bound to receive this plea, but might reject it, and oblige the Lords the Bishops to plead over. Mr. Justice Holloway and Allybone being of the same opinion, (and only Justice Powel for receiving the plea,) it was agreed: after which the Bishops severally pleaded, Not Guilty. The trial was ordered to be at the bar of the Court of King's-Bench that day fortnight. It was also ordered, that forty-eight gentlemen should be returned on the panel, and a jury struck in the presence of the attornies and solicitors on both sides: and the Bishops in the mean time were admitted to bail, his Grace of Canterbury entering into a recognizance of 200l. and the rest of the Bishops in 100l. a-piece, to appear in Court that day fortnight, and so from day to day, till they should be discharged. The King's counsel, however, did not insist on their giving any security but their own recognizances.

The Court sitting again on Friday the 29th of June, and the Bishops appearing, Mr. Attorney-General spoke, and proof was made of printing the two declarations for Liberty of Conscience, by the King's order; and the order of council for reading the last declaration, was proved. The petition, signed by the Bishops, also was produced in Court; and Sir John Nicholas deposed, that he had it from the King's own hand.

Mr. Finch. The evidence they have given of the Bishops writing this paper, they have said to be done in Middlesex; and this being local, they must prove it to be written in Middlesex, where they have laid it, or they fail in their proof. If they have given proof of the hand-writing, there is no proof where that hand was written; and, therefore, they are not yet got so far as to have read it against my Lords.

The Chief Justice and Mr. Justice Allybone were of opinion, that there was proof enough to have the petition read; but Mr. Justice Holloway and Mr. Justice Powel being of another opinion, the Chief Justice directed the King's counsel to go on to some other proof. Whereupon Mr. Solicitor said, they would prove the

confessions of the Bishops; which he hoped would be believed by all mankind.

Mr. Blathwayte was then sworn, and deposed, that on the 18th of this instant, June, my Lord Archbishop acknowledged his hand to the petition (before the council); and the rest of the Bishops, whose hands were subscribed to it, did then also respectively acknowledge, that it was subscribed by them.

Mr. Solicitor then desired the petition might be read; but the Bishop's counsel answered, that the writing and contriving must be proved to be in Middlesex, for all was local, and the party was to be acquitted, if it was not proved to be done in the county where it was laid.

The Chief Justice said, it was too soon to make these objections, and that the paper ought to be read.

The Bishops' counsel answered, if the objection was saved to them, they should not oppose the reading of it.

The petition was then read, and the jury viewed it themselves.

Attorney. We shall leave our evidence here, and hear what they can object to it.

L. C. J. What say you for the defendants?

Finch. My Lord, in short, we say, that hitherto they have totally failed; for they have not proved any fact done by us in Middlesex, nor have they proved any publication at all.

L. C. J. You hear that Mr. Blathwayte says, they owned it in Middlesex.

Finch. That is not a publication sure, or any evidence where it was done.

Serj. Pemberton. We will do it, for once; we will prove, that my Lord Archbishop was not out of Lambeth-house in two months before the petition was delivered.

Mr. Nicholls deposed, that his Grace of Canterbury did not stir out of Lambeth from Michaelmas last, till the time he was before the council.

L. C. J. It lies upon the King's counsel to prove that my Lords the Bishops did cause it to be published; for their owning their hands does not amount to a publication.

Then the clerks of the council were called in again; namely, Mr. Blathwayte, Mr. Bridgman, Sir John Nicholas, and Mr. Pepys; and it was demanded of them, whether the question put to the Bishops at the council board was, "Whether this was the paper they

delivered to the King? or whether those were their hands that were to it?

They all answered, that they owned their hand-writing; but they could none of them remember, that the Bishops said, that was the paper they delivered to the King: at which there was a great shout. Mr. Solicitor said, "Here's wonderful great rejoicing that truth cannot prevail."

The Chief Justice beginning to direct the Jury, Mr. Finch interrupted his Lordship, and demanded, whether this was evidence or not? For, if it was admitted to be evidence, they had other matter to offer in answer to that evidence, and in their own defence.

The Chief Justice answered, if they had more to offer, why did they conclude, and let him begin to direct the Jury? But, since they said they had other matter to offer, the Court would hear it.

Here Serjeant Levinz, perceiving that the King's counsel had sent away for other evidence, desired his Lordship would go on with his directions.

But Mr. Solicitor said, he was glad the Bishops' counsel had given this interruption, because they should now be able to clear this point. There was a fatality, he observed, in some causes, and particularly in this: they must beg the patience of the Court a little while; for they had notice a person of very great quality was coming, that would make it appear, the Bishops made their addresses to him, that they might deliver the petition to the King.

There being a considerable pause, which the Bishops' counsel were uneasy at, oath was made, that Mr. Graham went for my Lord Sunderland, and he was coming.

The Lord Sunderland appearing some time afterwards, was sworn, and deposed, that, before the Bishops appeared in council, the Bishop of St. Asaph and Chichester came to his office (the secretary's,) and told him, they came in the name of the Archbishop, and four more of their brethren, viz. the Bishops of Ely, Bath and Wells, Bristol, and Peterborough, with a petition to be delivered to the King, if he would give them leave; and desired to know which was the best way to do it; and he answered, he would know the King's pleasure, and bring them word. That they offered him their petition to read; but he would not read it, and went immediately to his Majesty, and acquainted him with it: that the King commanded him to let them know, they might come when they would; which he acquainted them with, and they went for their brethren, and attended his Majesty with their petition in about an hour's

time; but he was not in the room when it was delivered to the King.

L. C. J. Truly, there was a great presumption before, but there is a greater now, and I think I shall leave it with some effect to the jury. I cannot see but here is enough to put the proof upon you; I think this is sufficient evidence of the publication.

Polexfen. The Archbishop was not there; and so there is no evidence against him: and for the other six Lords, my Lord President (Sunderland) does not say, that this is the petition that they said they had to deliver to the King; nor did he see them deliver it.

Attorney. Then we leave it fairly to the jury on this fact.

Polexfen. If so, then we desire to be heard in our defence.

Sir Robert Sawyer. May it please your Lordship, and you gentlemen of the Jury, you have heard this charge, which Mr. Attorney has been pleased to make against my Lords the Bishops, and that is this:—That they conspire to diminish the royal authority, and regal prerogative, power and government, of the King, and to avoid the order of council; and in prosecution of this, they did falsely, maliciously, and seditiously, make a libel against the King, under pretence of a petition, and did publish the same in the King's presence. This, gentlemen, is a very heinous and heavy charge; but you see how short their evidence is: the evidence they bring forth is only, that my Lords the Bishops presented the paper to the King in the most private and humble manner they could; that which they have been so many hours in proving, and which they cry up to be as strong an evidence as ever was given, proves it to be the farthest from sedition in the doing of it, that can be; and you see what it is, it is a petition to be relieved against an order of council, which, they conceive, they were aggrieved by; they, indeed, do not deal fairly with the Court, nor with us, in that they do not set it forth that it was a petition.

L. C. J. That was over-ruled before.

Sir Rob. Sawyer. Gentlemen, you may observe it, that there is nothing in this petition that contains any thing of sedition in it, and it would be strange this petition should be *Felo de se*, and by one part of it destroy the other. It was laid, indeed, in the information, that it was with intent and purpose to diminish the King's royal authority; but I appeal to your Lordship, the Court, and the Jury, whether there be any one word in it that any way touches the King's prerogative; or any tittle of evidence that has been given to make good the charge: it is an excuse barely for their non-compliance with the King's order, and a begging of the King, with all humility and submission, that he would be pleased not to insist upon the reading of his Majesty's declaration upon these grounds; because the dispensing power upon which it was founded, had been several times in Parliament declared to be against law; and because it was a case of that consequence, that "they could not, in prudence, honour, or conscience, concur in it."

Then, my Lord, the next thing is, the reasons which my Lords the Bishops come to acquaint the King with, why in honour and conscience they cannot comply with, and give obedience to this order: and the reasons, my Lord, are two.

The first reason that is assigned, is, the several declarations that have been in Parliament, (several of which are mentioned,) that such a power to dispense with the law, is against law; and that it could not be done but by an Act of Parliament; for that is the meaning of the word *illegal*, that has no other meaning but unlawful; the same word in point of signification with the word *illicite*, which they have used in their information, a thing that cannot be done by law; and this they are pleased to tell the King, not as declaring their own judgments, but what has been declared in Parliament; though, if they had done the former, they being Peers of the realm, and Bishops of the church, are bound to understand the laws, especially when (as I shall come to shew you,) they are made guardians of these laws; and if any thing go amiss, and contrary to these laws, they ought to inform the King of it.

Now, my Lord, what the consequence of this would be, and what my Lords the Bishops meant by saying, it was a cause of great moment, will appear, by considering that which is the main clause in the declaration, at which my Lords the Bishops scrupled, which is the main stumbling-block to my Lords, and has been to many honest men besides, and that is this:—

“We do likewise declare, it is our royal will and pleasure, that from henceforth the execution of all and all manner of penal laws in matters ecclesiastical, for not coming to church, or not receiving the sacrament, or for any other non-conformity to the religion established; or for or by reason of the exercise of religion in any manner whatsoever, be immediately suspended, and the further execution of the said penal laws, and every of them, is hereby suspended.”

Now, my Lord, if this declaration does discharge the King's subjects from their obedience to, and the obligation from, those laws; then pray, my Lord, where are we? Then all the laws of the Reformation are suspended, and the laws of Christianity itself, by those latter words [or for or by reason of religion, in any manner whatsoever]; so that is not confined to the Christian religion, but all other religions are permitted under this clause; and thus all our laws for keeping the Sabbath, and which distinguish us from heathens, will be suspended too.

The Bishops were commanded to do an act, which they conceived to be against law, and they declined it, and told the King the reason; and they have done it in the most humble manner that could be, by way of petition. If they had done (as the civil law terms it) *rescribere* generally, that had been lawful; but here they have done it in a more respectful manner, by an humble petition; if they had said the law was otherwise, that sure had been no fault; but they do not so much as that, they only say, it was so declared in Parliament; and they declare it with all humility and dutifulness: so that, my Lord, if we consider the persons of the defendants, they have not acted as busy-

bodies; and, therefore, as this case is, when we have given our evidence, here will be an answer to all the implications of law that are contained in this information: for they would have this petition work by implication of law, to make a libel of it: but, by what I have said, it will appear, there was nothing of sedition, nothing of malice, nothing of scandal, in it.

Mr. Finch seconded Sir Robert Sawyer, and insisted, that the power of abrogating laws was as much a part of the legislature, as the power of making laws; that a power to lay the laws asleep and suspend laws, was equal to the power of abrogating them; for they were no longer in being as laws, while they are so laid asleep or suspended: then if this declaration was founded upon a part of the legislature, which must by all men be acknowledged not to reside in the King alone, but in the King, Lords, and Commons, it could not be a legal and true power and prerogative.

Mr. Serjeant Pemberton and Mr. Polexfen, two more of the Bishops' counsel, also maintained, that the Kings of England had no power to suspend or dispense with the laws; and that it was no crime to petition the King, or inform him if he was mistaken in law; that it was allowed daily in Westminster-hall to argue against the King's grants, and say he was deceived in his grants; that the laws of uniformity were made upon a foresight of the mischiefs that might come by false religions in this kingdom, and particularly to keep out the Romish religion (which was the very worst of all religions) from prevailing amongst us; that this was the very design of the Act for establishing the test, entitled, "An Act to prevent dangers that may happen from Popish Recusants;" and, if the King might suspend the laws of England which concerned religion, they knew no other laws but he might suspend; and then how precarious the lives, liberties, and properties of the subjects would be, ought to be considered.

Serjeant Levinz. Now, my Lord, if your Lordship pleases, the charge is a charge for a libel; and there are two things to be considered:—

First, whether the Bishops did deliver this paper to the King? But that we leave upon the evidence that has been given; only we say, there has been no direct proof of that.

In the next place, supposing they did deliver this petition to the King, whether this be a libel, upon the matter of it, the manner of delivering it, or the persons that did it?

And with submission, my Lord, this cannot be a libel, although it be true that they did so deliver it.

First, my Lord, there is a little disingenuity offered to my Lords the Bishops in only setting forth part, and not the whole; in only reciting the body, and not the prayer.

But, my Lord, with your Lordship's favour, taking the petitionary part, and adding it to the other, it quite alters the nature of the thing; for it may be, a complaint without seeking redress might be an ill matter; but here taking the whole together, it appears to be a complaint of a grievance, and a desire to be eased of it.

With your Lordship's favour, the subjects have a right to petition the King in all their grievances; so say all our books of

law; and so says the statute of the 13th of the late King: they may petition, and come and deliver their petition under the number of ten, as heretofore they might have done (says the statute): so that they at all times have had a right so to do; and, indeed, if they had not, it were the most lamentable thing in the world, that men must have grievances upon them, and yet they not to be admitted to seek relief in an humble way.

But, my Lord, if your Lordship pleases, these are not the beginnings of this matter; for we can shew you, from the 15th of Richard II. that there was a power granted by the Parliament to the King, to dispense with a particular Act of Parliament; which argues, that it could not be without an Act of Parliament: and in 1662 it is said expressly, that they cannot be dispensed but by an Act of Parliament. It is said so again in 1672, the King was then pleased to assume to himself such a power as is pretended to in this declaration: yet, upon information from his Houses of Parliament, the King declared himself satisfied that he had no such power, cancelled his declaration, and promised that it should not be drawn into consequence or example. And so the Commons, by their protestation, said, in Richard II.'s time, that it was a novelty, and should not be drawn into consequence or example.

My Lord, there is no law but is either an Act of Parliament, or the common law: for an Act of Parliament there is none for such a power; all that we have of it in Parliamentary proceedings is against it; and for the common law (so far as I have read it), I never did meet of any thing of such a nature, as a grant or dispensation that pretended to dispense with any one whole Act of Parliament. I have not so much as heard of any such thing mentioned by any of the King's counsel: but here, my Lord, is a dispensation that dispenses with a great many laws at once.

Therefore, my Lord, the Bishops lying under such a grievance as this, and under such a pressure, being ordered to distribute this declaration in all their churches, which was to tell the people they ought to be under no law in this case, which surely was a very great pressure both in point of law and conscience too, they lying under such obligations to the contrary, as they did; with submission to your Lordship, and you, Gentlemen of the Jury, if they did deliver this petition, (publishing of it I will not talk of, for there has been no proof of a publication, but a delivering of a petition to his Majesty in the most secret and decent manner that could be imagined,) my Lords, the Bishops are not guilty of the matter charged upon them in this information. It has been expressly proved that they did not go to disperse it abroad, but only delivered it to the King himself: and in short, my Lord, if this should be a libel, I know not how sad the condition of us all would be, if we may not petition when we suffer.

Finch. My Lord, I challenge them to shew us any one instance of such a declaration, such a general dispensation of laws, from the Conquest till 1672: the first umbrage of such a thing is that of Car. II. 1662; but your Lordship hears the declaration of the Parliament upon it. Before that, as there was no such thing, so your Lordship sees what the Parliament did to enable the King (not to do this thing, but something like it) in Richard the Se-

cond's time, where you see the Parliament did give the King a power to dispense with the statute of provisors for a time; but at the same time declared that very grant of their own to be a novelty, and that it should not be drawn into consequence or example.

My Lord, we shall leave it upon this point: to suspend laws is the same as to abrogate laws; for so long as a law is suspended, whether the suspension be temporary, or whether it be for ever; whether it be at once or at several times; the law is abrogated to all intents and purposes: but the abrogation of laws is part of the legislature, that legislative power is lodged (as I said before, and I could never find it otherwise in all our law) in King, Lords, and Commons,—

L. C. J. You did open that before, Mr. Finch.

Finch. With this, my Lord, that my Lords the Bishops, finding this order made upon them to publish this declaration, did what in duty they were bound to do; and unless the jury do find, that they have done that which is contrary to law and to the duty of their places, and that this petition is a libel, and a seditious libel, with an intent to stir up sedition among the people (we rely upon it), my Lords the Bishops can never be found guilty upon this information.

Sol. Gen. My Lord, it is one thing for a man to submit to his Prince, if the King lay a command upon him that he cannot obey, and another thing to affront him. If the King will impose upon a man what he cannot do, he must acquiesce; but shall he come and fly in the face of his Prince? Shall he say it is illegal? and that the Prince acts against prudence, honour, or conscience; and throw dirt in the King's face? Sure that is not to be permitted; that is libelling with a witness.

L. C. J. Truly, Mr. Solicitor, I am of opinion, that the Bishops might petition the King, but this is not the right way of bringing it; I am not of that mind, that they cannot petition the King out of Parliament; but if they may petition, yet they ought to have done it after another manner; for if they may in this reflective way petition the King, I am sure it will make the government very precarious.

Just. Powel. Mr. Solicitor, it would have been too late to stay for a Parliament, for it was to have been distributed by such a time.

Sol. Gen. They might have laid under it, and submitted.

Just. Powel. No, they would have run into contempt of the King's command, without petitioning the King not to insist upon it; and if they had petitioned, and not have shewn the reason why they could not obey, it would have been looked upon as a piece of sullenness; and that they would have been blamed for, as much on the other side.

L. C. J. Gentlemen, thus stands the case: it is an information against his Grace my Lord of Canterbury, and the other six noble Lords; and it is for preferring, composing, making, and publishing, and causing to be published, a seditious libel: the way that

the information goes is special, and it sets forth, that the King was graciously pleased, by his royal power and prerogative, to set forth a declaration of indulgence for Liberty of Conscience, in the third year of his reign; and afterwards, upon the 27th of April, in the fourth year, he comes and makes another declaration; and afterwards, in May, orders in council, that this declaration should be published by my Lords the Bishops in their several dioceses; and, after this was done, my Lords the Bishops come and present a petition to the King, in which were contained the words which you have seen.

Now, gentlemen, the proofs that have been upon this, you will see what they are; the two declarations are proved by the clerks of the council, and they are brought here under the Great Seal: a question did arise, whether the prints were the same with the original declarations? and that is proved by Hills, or his man, that they were examined, and are the same: then the order of council was produced by Sir John Nicholas, and has likewise been read to you; then they come to prove the fact against the Bishops, and first they fall to proving their hands; they begun indeed a great way off, and did not come so close to it as they afterwards did; for some of their hands they could hardly prove, but my Lord Archbishop's hand was only proved, and some others; but there might have been some question about that proof, but afterwards it came to be proved, that my Lords the Bishops owned their hands; which, if they had produced at first, would have made the cause something shorter than it was.

The next question that arose, was about the publishing of it, Whether my Lords the Bishops had published it? and it was insisted upon, that nobody could prove the delivery of it to the King: it was proved the King gave it to the council; and my Lords the Bishops were called in. There they acknowledged their hands, but nobody could prove how it came to the King's hands; upon which we were all of opinion, that it was not such a publishing as was within the information; and I was going to have directed you, to find my Lords the Bishops Not Guilty; but it happened, that, being interrupted by an honest, worthy, learned gentleman, the King's council took the advantage, and, informing the

Court that they had further evidence for the King, we staid till my Lord President came, who told us that the Bishops came to him to his office at Whitehall, and after they had told him their design—that they had a mind to petition the King, they asked him the method they were to take for it, and desired him to help them to the speech of the King: and he told them he would acquaint the King with their desire, which he did; and the King giving leave, he came down, and told the Bishops, that they might go and speak to the King when they would; and (said he) I have given direction that the door shall be opened for you as soon as you come. The two Bishops then went away, and said, they would go and fetch their other brethren; and then they brought the other four; but my Lord Archbishop was not there; and immediately when they came back, they went up into the chamber, and there a petition was delivered to the King. They have mentioned to you some records, one in Richard the Second's time,—a liberty given to the King to dispense with the statute of provisors. Then they shewed you some journals of Parliament, first in the year 1662, where the King had granted an indulgence; and the House of Commons declared it was not fit to be done, unless it were by Act of Parliament; and they read the King's speech, wherein he says, he wished he had such a power; and so likewise in 1672, which is all nothing but addresses and votes, or orders of the House, or discourses, either the King's speech, or the subjects' addresses; but these are not declarations in Parliament, that are insisted upon by the counsel for the King, that what is a declaration in Parliament, is a law, and that must be by the King, Lords, and Commons; the other is but common discourse, but a vote of the House, or a signification of their opinion, and cannot be said to be a declaration in Parliament. Sometimes the dispensing power has been allowed, as in Richard the Second's time; and sometimes it has been denied, and the King did once waive it. But those concessions which the King sometimes makes for the good of the people, and sometimes for the profit of the Prince himself, (but I would not be thought to distinguish between the profit of the Prince and the good of the people,

for they are both one; and what is the profit of the Prince, is always for the good of the people;) but I say, those concessions must not be made law, for that is reserved in the King's breast to do what he pleases in it at any time. The truth of it is, the dispensing power is out of the case, it is only a word used in the petition; but truly I will not take upon me to give my opinion in the question, to determine that now, for it is not before me; the only question before me is, and so it is before you, gentlemen, it being a question of fact, Whether here be a certain proof of a publication? and then the next question is a question of law, indeed; Whether, if there be a publication proved, it be a libel?

Gentlemen, upon the point of the publication, I have summed up all the evidence to you; and, if you believe that the petition which these Lords presented to the King, was this petition, truly, I think, that is a publication sufficient; if you do not believe it was this petition, then my Lords the Bishops are not guilty of what is laid to their charge in this information, and, consequently, there needs no enquiry, whether they are guilty of a libel: but, if you do believe that this was the petition they presented to the King, then we must come to enquire, whether this be a libel.

Now, gentlemen, any thing that shall disturb the government, or make mischief and a stir among the people, is certainly within the case of *Libellis Famosis*; and I must, in short, give you my opinion, I do take it to be a libel. Now, this being a point of law, if my brothers have any thing to say to it, I suppose they will deliver their opinions.

Then Mr. Justice Holloway delivered his opinion, and said, as it was the right of every subject to petition, it could not be a fault, unless it were done with an ill intent: indeed, if the jury were satisfied it was done with an ill intention, as to raise sedition or the like, they ought to find them Guilty; but, if they delivered the petition to save themselves harmless, and to free themselves from blame, by shewing the reason of their disobedience to the King's command, which they apprehended to be a grievance to them, and which they could not in conscience give obedience to, he could not think it was a libel.

The jury had leave to send for wine; and, desiring they might have the papers out with them, which had been given in evidence, the Chief Justice said, they might have a copy of the information, the libel and the declaration under seal, but not the votes of the House of Commons, or the journals; for they could have no paper that was not under seal.

The jury, then withdrawing, remained together all night, without fire or candle; and the Court sitting again next morning, (being Saturday the 30th of June,) the Bishops came into court, and the jury brought in their verdict, that the defendants were NOT GUILTY.

At which the people shouting, Mr. Solicitor moved they might be committed; and a gentleman of Gray's-Inn was apprehended, to whom the Chief Justice said, I am as glad, Sir, as you can be, that my Lords the Bishops are acquitted; but your manner of rejoicing in court is indecent: however, he was soon after discharged.

These right reverend Prelates were no sooner acquitted of the crime of libelling, with which they were charged, for preferring the said petition to the King, than the people appeared transported; and such shouts and rejoicings were never known, as upon this occasion. The very army at Hounslow-heath made the air ring with their shouts; at which his Majesty, who was that day in the camp, was perfectly confounded; and, having ordered mass to be said about the same time on-board the fleet, a mutiny was apprehended among the seamen, who were restrained with some difficulty from throwing the popish priests overboard.

The King, to shew his resentment against two Judges, Sir Richard Holloway and Sir John Powel, who had delivered their opinions in favour of the Bishops, displaced them; and still persisted in his resolution of compelling the clergy to read his declaration for liberty of conscience, commanding the ecclesiastical commissioners to issue their precepts to all Chancellors, Archdeacons, Commissaries, and Officials, to enquire in what churches and chapels the declaration was not read, and to transmit an account of the defaulters to the commissioners; but scarce any body appeared at the day appointed; and the Bishop of Rochester, one of the commissioners, refused to sit any longer amongst them; declaring, he would

rather suffer with his brethren, the Bishops, than concur in prosecuting those who refused to read the declaration.

The King, finding that little obedience was given to the ecclesiastical commission, and that several of the commissioners refused to act, made his court to the soldiery, to assist him in compelling his subjects to submit to a dispensing power; proposing it to the officers and soldiers to sign an instrument, engaging themselves to contribute, to the utmost of their power, to procure the penal laws and test to be repealed: and a writing of this tenor was ordered to be offered to every regiment, severally to be signed.

The first experiment was made of the Earl of Litchfield's regiment; which being drawn up under arms, the major made a short speech to the soldiers upon the occasion, and commanded all those who did not think fit to subscribe to it, to lay down their arms: when, to the great surprize of his Majesty, who was present, the whole regiment grounded their arms, except two captains and some private soldiers: whereupon the King, after some pause, ordered them to handle their arms again; telling them, he should not for the future do them the honour to ask their advice; and thereupon dropped his design, without making any further trial of the disposition of his forces, but proceeded with more haste in his project of new modelling his army, by discharging the English Protestants, and introducing Irish Catholics; which provoked his army still more: and, before he could make any great progress in this matter, advice was brought of the Prince of Orange's intended invasion.

Thus had this unhappy Prince worked himself out of the affections of the whole nation, by a series of mal-administration, and a succession of political blunders; such as were surely never committed till this weak reign, at least in so short a time. The universities, the bishops and clergy; the parliament, nobility, and commons; the army and the navy, all of them, appearing eminently loyal and affectionate to his person at his accession, were, within less than the space of four years, so highly exasperated by his arbitrary administration, and alarmed at his attempts to subvert the constitution, that, when

an invasion threatened him, he saw the nation ripe for a general revolt, and scarce knew a man he could rely upon.

In this distress he applied himself to those Bishops whom he had so unjustly and ungratefully prosecuted; offering to undo all he had been doing, to introduce popery and an arbitrary dominion: but these truly Christian fathers, far from any thoughts of revenge, gave him the best advice they could, to re-establish him in the good opinion of his subjects, and to restore and secure the constitution of the government at the same time.

1. They advised him, in the first place, to put the government of the several counties into the hands of such noblemen and gentlemen as were qualified by law for those posts.

2. To abolish the Ecclesiastical commission.

3. To grant no dispensations to any particular persons, to hold places or preferments, that were not legally qualified for them.

4. To revoke all licences and faculties given to Papists to teach public schools.

5. That he would relinquish the dispensing power.

6. That he would prohibit the four foreign Bishops, who styled themselves *Vicars Apostolical*, to invade the Ecclesiastical jurisdiction.

7. To fill up the vacant bishoprics, in England and Ireland, with men duly qualified for them; particularly that of York.

8. To supersede all prosecutions on *Quo Warrantos* against Corporations, and restore them their ancient charters.

9. That his Majesty would call a Parliament, wherein the Church of England might be secured according to the Acts of Uniformity; a provision made for a due liberty of conscience, and the liberties and properties of the subjects secured. And,

10. That his Majesty would permit his Bishops to offer such arguments, as they trusted, by God's grace, would induce his Majesty to return to the communion of the church of England, in which most holy Catholic church he had been baptized, in which he was educated, and to which it was their daily prayer he might be reunited.

With most of these propositions his Majesty immediately complied. The Lord Chancellor Jefferies, by the King's order, carried the City of London their antient charters: the Lord-lieutenants of the several counties were ordered to redress all abuses and innovations, that had been made in the rest of the corporations of the kingdom: the Bishop of Winchester, visitor of Magdalen-college, was ordered to restore all excluded fellows: a proclamation was published for restoring the antient

charters to the respective corporations : the popish lord-lieutenants, deputy-lieutenants, justices of peace, mayors, and other disqualified officers and magistrates, were displaced, and those of the church of England put in their room ; particularly the anabaptist Lord Mayor of London, Sir John Eyles, was displaced, and the chair supplied by Sir John Chapman, a member of the church of England : for the dissenters of all denominations, as well as the papists, had made great advantages of the King's declaration for liberty of conscience,

But all these concessions and regulations came too late ; the nation being sufficiently convinced they were all forced from the King, and, whenever he had an opportunity, he would renew his attempts upon the constitution. It was the general opinion, therefore, that he ought to be so restrained and limited in the exercise of the government, that it should be no more in his power to shake the foundations on which it was established : though, we are satisfied, neither the bishops, nor a majority of the nation, had then any prospect of that revolution which succeeded so soon after, or of deposing the King.

JOHN CHISLIE, OF DALRY,

FOR THE MURDER OF THE RIGHT HON. SIR GEORGE
LOCKHART, OF CARNWATH, LORD PRESIDENT OF
THE COURT OF SESSION, AND MEMBER OF HIS
MAJESTY'S PRIVY COUNCIL.—1st OF APRIL, 1689.

—◆—

THE prisoner was brought to trial before Sir Magnus Prince, Lord Provost of Edinburgh, as High Sheriff within the city, and James Graham, John Charteris, Thomas Young, and William Paton, baillies ; the murder having been committed within the city.

The prisoner was brought before the Lord Provost on the 1st of April, 1689, to be examined concerning the murder of Sir George Lockhart, committed on the day preceding. Sir John Lockhart of Castlehill, brother, and Cromwell Lockhart of Lee, nephew, of the deceased, appeared in court ; and, in their own name, and in that

of the children of the deceased, gave an Act of the meeting of Estates of Parliament, passed that day, of the following purport: that the estates having considered the supplication of the friends of the deceased Sir George Lockhart, for granting warrant to the magistrates of Edinburgh, to torture John Chislie, of Dalry, perpetrator of the murder, and William Calderwood, writer in Edinburgh, an accomplice; therefore, *in respect of the notoriety of the murder*, and of the extraordinary circumstances attending it, the estates appoint and authorise the Provost, and two of the Baillies of Edinburgh, and likewise the Earl of Errol, Lord High Constable, and his deputies, not only to judge of the murder, but to proceed to torture* Chislie, to discover if he had any accomplices in the crime: and they appointed two of each bench, † viz. the Earls of Glencairn and Eglinton; Sir Patrick Ogilvie, of Boyne; Sir Archibald Murray, of Blackbarony; Sir John Dalrymple, younger, of Stair; and Mr. William Hamilton, advocate, assessors to these judges. The Estates at the same time declare, that, this extraordinary case shall be no precedent to warrant torture in time coming, nor argument to ratify it as to the time past.

The Lord Provost then entered a protest, that this act of the Estates of Parliament should not infringe the ancient liberties of the city; and Mr. David Drummond, advocate, one of the Earl of Errol's deputies, protested, that the Lord High Constable's absence should not affect his right to judge in the like cases, the murder having been committed during the meeting of the Estates. Being desired to concur with the magistrates in sitting on this trial, he refused to sit, unless the Earl of Errol, or his deputies, were sole judges.

The prisoner was then put to the torture, and declared, that he was not advised to the assassination of Sir

* By the act and declaration which the Estates of Parliament passed, just ten days after this trial, declaring King James to have *forfaulted* the crown, by illegal assumption and exercise of power, they declared, 'That the use of torture, without evidence, and in ordinary crimes, is contrary to law.' Act of Estates, 11th April, 1684.

† The Scottish Parliament composed but *one house*. It consisted, after the Revolution, of three classes, the Temporal Peers, the Barons, i. e. knights of the shire, and the Burgesses, or representatives of the royal boroughs.

George Lockhart, by any person whatever: that when, at London, he told James Stewart, advocate, that, if he got no satisfaction from the President, he would assassinate him; and told the same to a person there of the name of Callender, and to Mr. William Chislie, his uncle. He confessed, that he charged his pistol on Sunday morning, and went to the new kirk, and, having seen the President coming from the church, he went to the close where the President lodged, followed him, and, when just behind his back, shot him: that he was satisfied when he heard of the President's being dead; and, on hearing it, he said, '*he was not used to do things by halves.*' He also confessed, that, when at London, he walked up and down Pall-Mall with a pistol beneath his coat, lying in wait for the President.

The indictment against the prisoner was raised at the instance of John Gibson, procurator-fiscal of the city of Edinburgh; of Sir John Lockhart, of Castlehill; and Cromwell Lockhart, of Lee. It set forth, that assassination, murder, and manslaughter, were contrary to the laws of God, nature, nations, and the laws and acts of Parliament of this kingdom; that, nevertheless, the prisoner had, of forethought felony, without the least provocation, murdered Sir George Lockhart in the manner already mentioned: that the prisoner was caught *red-hand*,* by a multitude of witnesses, before whom he boasted of what he had done, as if it had been some grand exploit: by all which he was guilty of murder, or at least was *art and part* accessory to the same; for which he ought to be punished with death, and his moveables confiscated.

The jury consisted of ten landed gentlemen, and five merchants of Edinburgh.

The prisoner judicially confessed the crime libelled, and declared that he committed the murder, because he thought the deceased had given an unjust sentence against him. Being asked, 'if it was not a sentence pronounced in favour of his wife and children for their

* *Red-hand* is a term in the Scottish law, signifying a criminal's being caught in the fact. *Art and part* is also a term in our law, denoting that the person to whom it is applied, is aiding and abetting in the case. *Art and part* is a translation of *ope et consilio*.

aliment? he declared he would not answer to that point, nor give any account thereof.'

Witnesses were then adduced, who deposed as follows :

James Stewart, advocate, deposed, that, in the month of September or October preceding, the prisoner discoursing with him concerning the injustice done to the prisoner, in a decret-arbitral, pronounced by Sir George Lockhart and Lord Kemney, in favour of his wife and children, for an aliment, said, he was resolved to go to Scotland before Candlemas, and kill the President; to which the witness answered, it was the suggestion of the devil, and the very imagination of it a sin before God. To this the prisoner replied, 'Let God and me alone; we have many things to reckon between us, and we will reckon this too.' The witness told this to many, and understood that the President was informed of the prisoner's menaces, but despised them.

Mr. William Chislie, writer to the signet, deposed, that he had not seen the prisoner since April, 1688, who then expressed his resentment against Sir George Lockhart; threatening to assassinate him for having decreed an aliment of 1700 merks* yearly to the prisoner's wife and ten children. The witness told the President of it, but he despised the threat.

Mr. Daniel Lockhart, advocate, and *Mr. Alexander Walker*, student of divinity, saw the prisoner shoot the deceased: they seized him; and the latter of these witnesses assisted in carrying him to the guard. When seized, the prisoner said, 'he had done the deed, and would not fly; and that was to learn the President to do justice.'

Sir David Hay, doctor of medicine, was going to visit the President's lady. As he entered the close,† he saw the President stagger and fall to the ground. He bled at the mouth; was carried into his house, laid upon some chairs, and immediately expired. He saw John Ballie, surgeon, probe the wound. The ball went in at the back, and out at the right breast.

The Jury all in one voice, by the mouth of Sir John Foulis, of Ravelstoun, their chancellor, (i. e. foreman,) found, by the prisoner's judicial confession, that he was Guilty of the murder of Sir George Lockhart, &c.; and by the deposition of witnesses, that he was Guilty of '*murder, out of forethought felony.*' The verdict was subscribed by the whole jury.

The Lord Provost and Baillies of Edinburgh sentenced the prisoner as follows:—

That he be carried on a hurdle from the tolbooth of Edinburgh, to the market-cross, on Wednesday,

* About £93 sterling.

† It was the close on the south side of the Lawnmarket, now called the *Bank Close*, from the Bank of Scotland being there.

the 3d of April, inst.; and there, between the hours of two and four of the afternoon, to have his right hand cut off alive, and then to be hanged upon a gibbet, with the pistol about his neck, with which he committed the murder. His body to be hung in chains between Leith and Edinburgh; his right hand fixed on the West Port; and his moveable goods to be confiscated.

JOHN, MASTER OF TARBETT, ENSIGN ANDREW MOWAT, AND JAMES SINCLAIR, WRITER IN EDINBURGH; FOR THE MURDER OF ELIAS POIRET SIEUR DE LA ROCHE.—18th AUGUST, 1691.

THE prisoners were indicted at the instance of George and Isaac Poirets, Sieur de la Roche, Frenchmen, Protestant refugees, and gentlemen of his Majesty's troop of guards, and of Sir William Lockhart, Solicitor-General. The indictment contained a charge against the prisoners, of entering, on the eighth of the preceding month of March, about twelve at night, into the bed-chamber of George Poiret, one of the pursuers, while he lay sleeping in bed, in the house of John Brown, vintner, Leith, in which house he was quartered; and giving him wounds to the effusion of his blood: that, upon their being removed out of the room, they returned, and endeavoured to break open the door. On this, George rapped on the ceiling of his room for his two brothers, who slept in the room above, to come to his assistance. They came accordingly, half clothed, and totally unarmed; and the prisoners, all of whom were armed, violently assaulted them, gave them many wounds, and ran the deceased, Elias Poiret, through the body with a sword, of which he instantly died.

The prisoners recriminated, by presenting an indictment, at their instance, charging the Sieurs de la Roche with assassination and murder. It set forth, that the master of Tarbett, Mowat, and Sinclair, on the night libelled, were obliged, by a heavy storm, to take shelter

in Brown the vintner's house. While they were sitting quietly at the fire-side in the hall, drinking ale, till their beds were ready for them, George, Isaac, and Elias Poirets, and James de la Massie, another Frenchman, having formed a conspiracy to murder them, entered the hall with cocked pistols in their hands, and swords under their arms; the Master of Tarbett, and his companions, being then totally unarmed. They fired two pistols loaded with ball, at the Master of Tarbett, and then, with drawn swords, attacked the company, who were much wounded, by parrying the thrusts with their hands; and, in the scuffle, there being but little light in the room, the Sieurs de la Roche murdered the deceased Elias Poiret, their own brother.

After long arguments, which it is unnecessary to transcribe or abridge, the Court sustained the libel against the Master of Tarbett, Mowat, and Sinclair; and found the defences offered for the Frenchmen relevant to set aside the indictment against the latter.

The prisoners objected to the receiving of James de la Massie as a witness, on account of intemperate expressions of malice and resentment; and the fact being proved, the witness was dismissed.

Christian Erskine, late servant to John Brown, vintner, Kirk-gate, Leith, deposed, that the Master of Tarbett went into George Poiret's chamber after twelve at night, and the deponent hearing a little noise in the chamber, went in with a candle, and saw the Master of Tarbett standing at George Poiret's bedside, and the said George sitting up naked in his bed, the bed-clothes at his feet, his night-cap off, and a little drop of blood on his cheek; they were speaking French together, angrily; the deponent called for Ensign Mowat, who was sitting at the fire-side in the hall, for she thought him the soberest of the company; at the same time, she could not pronounce any of them drunk: upon Mowat and another person's coming into the room, the Frenchman took down his sword, which these two and the Master of Tarbett forced out of his hand. She saw no blows at that time; but entreated Mowat to take the Master of Tarbett and the other person out of the room, which was done accordingly; and the other person, *who was none of the prisoners*, carried the Frenchman's sword with him out of the room into the hall: Mowat desired the witness to keep the door close, and none of them should come back again: none of them had arms when they were in the Frenchman's room, except the sword which they had wrested from him, as above-mentioned. Soon after, the Master of Tarbett, as the deponent supposed, came back, and rapped once or twice at the door, saying, he would be in, to which she made no answer: but, before the Master of Tarbett came again to the door and rapped, George Poiret got

out of his bed, and rapped with the tongs on the roof of the room; and, in as short a space as the Frenchman could put on a few clothes, they came to George Poiret's chamber-door, and spoke French to him, but did not enter his room, and then went to the hall; the deponent then heard a noise in the hall, and some persons speaking Scotch; and immediately after heard the shot of a pistol, and saw the smoke, but knew none of the people where the pistol was fired, save Isaac Poiret, whom she thereupon pulled back, and found him with a drawn sword in his hand; his hand streaming with blood, and his little finger almost cut off. As she was coming back with Isaac, in order to get him into his brother's chamber, she found a man under her feet on the floor, which turned out to be Elias Poiret lying dead: she saw a drawn sword or two in the company, but cannot specify who held them: she did not see the prisoners wound any of the Frenchmen, or kill the deceased; and the deceased's sword was not drawn; nor did she see the prisoners in the room after the deceased was killed. When Ensign Mowat was brought into the room where the dead body lay, he did not turn pale, as charged in the indictment, but looked very well; desired to see the body, and asked the deponent, if she knew who killed him? The deponent added, that the Master of Tarbett had seen a coach at the door, and asked her if it was to hire, and to whom it belonged? She answered, it was hired by the Laird of Mey, who was in the house; upon which the Master of Tarbett said he would see him; and she shewed him into the room accordingly: the witness farther added, that the occasion of the Master of Tarbett's leaving the fire-side where he sat, and going into George Poiret's room, was to follow Jean Thomson, whom he supposed to have gone into that room. The prisoners had laid aside their swords in the room where they were to lodge, as had the Master of Tarbett his periwig, before they entered Poiret's room; and Sinclair, the other prisoner, was asleep in Mey's room an hour before the disturbance happened.

Jean Thomson, late servant to John Brown, vintner, aged nineteen, deposed, that, on the night stated, between twelve and one o'clock, the Master of Tarbett being in her master's house, and calling for a drink of ale, desired the deponent to sit down by him, which she then refused, but afterwards sat down: being called to draw ale, she went to the cellar and drew the ale; when she came up, she did not go into the room where the Master was, but sat down on a chest at a bed-side, where the Master came and sat down beside her; upon which she rose, went into a room where she used to lie, and bolted the door; but hearing a noise in George Poiret's room, she came to the door of that chamber, where she found Ensign Mowat, the other servant having before that carried in a light on account of the noise: Mowat carried the Master of Tarbett and another person out of the room in his arms; and, when Mowat was thus taking them out, the Master of Tarbett said to him, *he would go back and crave the gentleman's pardon*. Soon after, the Frenchmen came down stairs, armed with swords and pistols; their swords not drawn at that time: they spoke to their brother George, and then went through the hall, Isaac Poiret having his sword drawn; the Master of Tarbett, and Mowat were then in the hall; she

did not see them have any arms, nor assault the Frenchmen: at the sight of a drawn sword, and the command of her master, who by this time was in the hall, she went out to call the guard; and, as she went down stairs, heard a shot. This witness concurred with the former in deposing, that, long before any disturbance happened, Sinclair, one of the prisoners, was asleep in another room; and that the Master of Tarbett and Mowat, on coming into the house, laid aside their swords in the room where they were to sleep.

John Brown, vintner, deposed, that, on the night stated, he was in bed, in a little room off the hall, and knew nothing of the disturbance in his house, until Jean Thomson rapped at his door. On this he rose hastily, and heard a great noise and crying in the hall; and, when he came there, he found Elias Poirer lying dead, and nobody in the room but Christian Erskine: he went instantly to call the guard; and, on his return, when they were removing the body, he found a pistol on the floor, snapped and charged, and a sword in the scabbard. As he returned from calling the guard, he raised several of the neighbours; one of them, Robert Aitcheson, told him he had seen one of the murderers pass; upon this the witness took a candle and lanthorn to a fore-stair, where Aitcheson said the murderer was; and there he found Ensign Mowat, standing behind a deal, on a knocking-stone under the fore-stair. He was desired to come out, but made no reply for some time; the company and constables then presented muskets to him, upon which he came out, and the company and constables took a sword from him, which they delivered to the deponent, who, however, did not see the sword taken from him, he being surrounded by the people; the sword was naked, much bent, and bloody both on the blade and hilt. The witness ordered the constables to carry Mowat straight to prison; and, next day, when he went with the magistrates to the prison, he saw Mowat's right hand with a wound on it; he was also present when the surgeon compared this sword with the hole in the deceased's coat, and the orifice of the wound; it corresponded with the hole in the coat, and the surgeon said it did the same with the wound. The witness added, that the Master of Tarbett came to his house, on hearing that the Laird of Mey and Mowat were there; that the coach being gone, and the night rainy, he resolved to stay and lie with Mey, the deponent having no other bed for him; the Master of Tarbett ordered his servant to go to his lodgings, and say that he should not be at home, and to bring him clean linen next morning.

Andrew Fairbairn deposed, that, he was with the constables when Mowat was seized; he came not out till the muskets were presented; he said he was an unarmed man; but on searching him they found a drawn sword under his coat; the sword was bloody from hilt to point, and was much bent, and there was blood on Mowat's sleeves. When Mowat heard that a man was killed, he desired to see the body, for what cause, the deponent knows not: on seeing it, Mowat said, 'God knows who has done it,' and there was no emotion of paleness visible in his countenance. When the Master of Tarbett was carried prisoner before the commandant, he was so apprehensive of bodily harm

from the Frenchmen, that a stronger guard was sent for, to protect him from their fury.

Robert Aitcheson saw the prisoner Mowat come out below the fore-stair when desired; did not hear him say he was an unarmed man, but saw the bloody sword taken from him: the witness supposed the blood to proceed from a wound in his hand. James Johnston saw the bloody sword taken from Mowat, and imputed the blood to the same cause.

Robert Brown, surgeon, deposed, he was called by the magistrates of Leith, on the morning after the murder, to inspect the wound: the hole in the coat corresponded with the sword produced; but, as for the wound, he could only say, that the dimension and figure of wounds alter and contract after ten or twelve hours.

The Jury, by the mouth of Sir William Ker, chancellor, *found none of the crimes proved.*

HENRY HARRISON, GENT.

AT THE OLD-BAILEY, LONDON, FOR THE MURDER OF
DR. ANDREW CLENCHE, 6th APRIL, 1692.

THE indictment sets forth, "That the said Henry Harrison, the 4th of January, in the 3d year of the said King and Queen, about eleven at night, at the Parish of St. Peter's, Cornhill, in the Ward of Lime-street, London, being in a coach with the said Andrew Clenche, together with another person, unknown, did then, and there, feloniously make an assault on the said Andrew Clenche, and, with the assistance of the said other person, unknown, did twist a pocket-handkerchief, (with a coal in it,) of the value of twopence, about the neck of the said A. Clenche, and therewith did feloniously, and of malice aforethought, choke and strangle the said A. Clenche, of which he instantly died. And the said Henry Harrison, with the assistance of the said other person, unknown, did, at the time and place aforesaid, feloniously, and of his malice aforethought, kill and murder the said Andrew Clenche, against the peace of the said King and Queen, &c."

To which indictment he pleaded *Not Guilty*, and a Jury was charged with him, the prisoner making no challenges to any of them.

Mr. Darnel having opened the evidence, called the witnesses; and first,

Mr. George Wigmore was sworn.

He deposed, that he ingrossed a mortgage from Mrs.

Vanwicke, to Dr. Clenche, for £120, and that on executing the mortgage, the deponent, by Dr. Clenche's order, paid Mrs. Vanwicke £60, the rest of the consideration money being paid before. That Mr. Harrison, and Mr. Rowe, were there with Mrs. Vanwicke and fell out about sharing the money, and gave each other very ill language. But, at length, Mr. Harrison and Mrs. Vanwicke paid Mr. Rowe £20 of the money, for business he pretended he had done for Mrs. Vanwicke; and Mr. Rowe went away.

L. C. J. Were there any reproaches cast upon the Doctor, at that time?

Wigmore. No, my Lord, only upon Rowe.

Mr. Thomas Johnson was sworn.

He deposed, that he was Attorney for Dr. Clenche, and sued Mr. Rowe, who was bound in the bond, for performance of covenants with Mrs. Vanwicke; but, finding Rowe was not able to pay the money, he delivered an ejectment to Mrs. Vanwicke's tenant of the house that was mortgaged. Whereupon, Mr. Harrison came to the deponent, and expressed himself strangely against the doctor; and laying his hand upon his sword, said, the doctor had cheated the widow, and he would be revenged of him. That Mr. Harrison preferred a petition in Chancery, for Mrs. Vanwicke, against the doctor; and finding she could have no relief there, without paying the mortgage-money, Mr. Harrison grew very troublesome; and the deponent offered him to abate Mrs. Vanwicke £20 of the money, if she would pay the rest. That the doctor directed the deponent to transact the matter with them, in his own name, for he did not care to have any thing to do with them. But whether it was because the doctor was afraid of his life, or no, the deponent could not say.

L. C. J. Was it before you offered to abate the £20, that he threatened the doctor?

Johnson. Yes; and, I think, it was about three weeks before the doctor was murdered.

L. C. J. How came Rowe to be intrusted, or concerned in the money?

Johnson. He was trustee for a legacy of 500*l.* that was left Mrs. Vanwicke and her children, and so came into the management of her affairs.

George Howard deposed, that being in company with Mr. Harrison and Mrs. Vanwicke, she being then just come from Dr. Clenche, Harrison used several virulent expressions against the doctor, and, among others, said, he was a rogue and a rascal, and deserved to have his throat cut.

Mrs. Mary Sheriff deposed, that Mrs. Vanwicke and Mr. Harrison came to her house; and Mrs. Vanwicke desired the deponent to go with her to Dr. Clenche, which she did; and Mrs. Vanwicke desiring the doctor to let her have 20*l.* more, he said, he would lend her no more, so long as she kept company with Harrison, for he would spend it; and told her, he would recommend her to be some gentleman's housekeeper: and that though she owed him 120*l.* he would take 100*l.* That when they returned to the deponent's house, Mrs. Vanwicke told Mr. Harrison what the doctor said; and Mr. Harrison answered, God d—n him, would he have a person of her quality go to ser-

vice? He deserved to have his throat cut: and added, let me alone, I'll manage him as never man was managed, and then Mrs. Vanwicke and Harrison went away together. That Mr. Harrison was always talking against the doctor, and said, he was an old rogue, and Mrs. Vanwicke was almost starved to death.

Mrs. Eliz. West, the tenant of the house mortgaged, deposed, that Mr. Harrison came to her two or three days before last St. Thomas', and desired rent for Mrs. Vanwicke; but she told him, she could not pay him, because Dr. Clenche had forbidden her: and thereupon Mr. Harrison replied, Dr. Clenche and Rowe are great rogues and villains; and the deponent saying she believed the doctor to be a very honest man, he answered again, he is a great villain, and will never die in his bed. That a little before this, Mrs. Vanwicke and Harrison having pressed the deponent for rent, and she telling them she dare pay no more, Mr. Johnson having forbid her: Harrison said, Johnson was a villain and a rogue, and they all combined to cheat the widow. That Mrs. Vanwicke fell upon Mr. Johnson once, and said, she would tear his throat out; but he got from her. And that the last time the deponent saw Dr. Clenche, she entreated him to let Mrs. Vanwicke have more money; but the doctor answered, she would never do any good with it, for she spent it all upon Harrison. And that he (the doctor) said, he offered to recommend her to a service, where she might have had 20*l.* per annum, and she abused him for it.

J. C. J. What clothes did the prisoner wear?

Mrs. West. He had an old threadbare black cloth suit on.

Ann Watson deposed, that, the day before Christmas eve, the prisoner came to her master, Mr. Garaway's house, in Threadneedle-street, and said he was newly come out of the country; and lodged there till the 1st of January, and then he went out, and did not return till Sunday the 3d of January, when he came and paid off his lodgings, and fetched away his things. That the deponent giving him a letter that was left for him, then, he said, it came out of the country where he had a friend sick, from whom he expected a legacy; and he intended to go down and see him; and, that on the 4th of January, he sent them a letter, signifying he was gone out of town; which letter being produced in Court, and shewn Mr. Johnson, he said he believed it to be Mr. Harrison's hand; and it was read.—The letter was directed to Mrs. Garaway, and signified, that the prisoner was gone out of town, and would return in a week or ten days; and was dated 4th of January, 1691.

Mrs. Garaway was also sworn, and deposed that she received the letter the 4th of January.

Mrs. Jackson deposed, that the prisoner came to lodge at her father's, Mr. Garaway's, the day before Christmas eve, and went away the 3d of January; but was absent some nights, during that time. That while he was at her father's, she observed him to have a coarse handkerchief, very like the maid's apron; which she thought strange, because he gave out he was a Parliament man.—Then the coroner produced the handkerchief with which the doctor was strangled; and Mrs. Jackson averred it was the same she had seen Mr. Harrison hold to the fire, or very

like it. Then a piece of the maid's apron was produced, and they were compared together, and appeared to be very like.

Mr. Harrison. Did you hear me say I was a Parliament man?

Mrs. Jackson. Your footboy said you were a Parliament man, and so you said yourself.

Another letter of the prisoner's, to Mrs. Garaway, since he was a prisoner, was produced, and read; viz. "I was informed, yesterday, that you are to appear against me at next sessions; I am sure you never heard me mention Dr. Clenche; and, if you do, it will look like malice. My Lord Chief Justice is sensible of the wrong done me.

L. C. J. Mr. Harrison, did I ever tell you I was sensible of it? [*To which he made no reply.*]

Mr. Cartwright deposed, that on the 3d of January last, in the evening, being Sunday, the prisoner came to the Compter, and the deponent let him in: and the prisoner asked for Mrs. Vanwicke, and said, she had been wronged of 500*l.* That about half an hour after the prisoner had been there, the deponent's master sent him to Mrs. Vanwicke's chamber, to demand chamber rent; and, as he came to the door, he heard the prisoner and Mrs. Vanwicke talking very loud. The prisoner swore he would be revenged of that rogue (and named either Clenche or Winche), and he would have his blood ere long.

Mrs. Mary Jones deposed, that the prisoner came to lodge at her house (the Golden-ball in St. Paul's Church Yard) the Monday before he was taken; and that he said he came out of the country.

James Houseman also deposed, that the prisoner came to lodge at Mrs. Jones's about eight at night, and a porter came with him, and brought a portmanteau; and that soon afterwards, the porter went out, and the prisoner followed him.

Mr. Humston deposed, that he met the prisoner the 4th of January (the day Dr. Clenche was murdered), and he said he was going to get a gentlewoman out of the Compter, who was oppressed, and wanted money to get her released; and the deponent gave him some. And about nine that evening, the prisoner brought the deponent his gown (that he had borrowed) to his lodgings at the Golden Key, over against Fetter-lane end, in Fleet-street; and the prisoner said, he had not got Mrs. Vanwicke released, having met with some people, with whom he had earnest business, which prevented him. And the deponent asking the prisoner to stay and sup with him, he refused, saying, he had some extraordinary business, which must be done that night; and a gentleman waited for him in the street, and they were going about it. That the prisoner had a cloak on when he was with him.

Hester King also deposed, that the prisoner was at Mr. Humston's lodgings, the 4th of January, about nine at night, and that he had a cloak on.

John Giles, the coachman, deposed, that on Monday the 4th of January, he set down a fare at the Green-Dragon in Fleet-street, about nine in the evening, and was driving from thence towards the Temple; and two men, who stood about Fetter-lane end, asked him if he knew Dr. Clenche, who lived in Brownlow-street, in Holborn? And the deponent saying he knew the street, they

came into his coach, and he drove them to the end of Brownlow-street; and one of them bid him go and tell the doctor, two gentlemen in a coach desired him to go with them, to see one who was not well. That the doctor asked the deponent if he knew them, but he said he did not; and the doctor dressed himself (being before in his gown and slippers), and when he came to the coach, one of the men removed, and gave him the hinder part of the coach, and bid the deponent drive to Leadenhall-market: and when he came about Holborn bars, one of them bid him drive faster, which he did; and came to Leadenhall. Then one of them bid him drive to the Pye Tavern without Aldgate, where they bid him ask for one Hunt, a surgeon, but no such person was there. Then one of them bid him drive back to Leadenhall, and Aldgate being shut, they gave the watch 6d. to open it; and when he stopped again at Leadenhall gate, one of them gave him 3s. 6d. and bid him buy a couple of fowls, of Hunt the poulterer; but, not being able to find such a man, he bought them of another: and coming back to his coach, he found Dr. Clenche (as he thought) sitting against the fore-seat, with his head against the cushion: that he pulled him, and called to him, but could not get a word from him: and, calling the watch, he found he was strangled with a handkerchief about his neck, and a coal in it, placed just upon his windpipe; but the other two men were gone.—That he could not tell what clothes the prisoner had on, but one of them had a light wig, and he verily believed it was the prisoner: and that the other person was taller, and in his own hair.

L. C. J. What time did they leave your coach?

J. Sykes. About half an hour past ten.

Mr. Darnel. Do you know that handkerchief? [*Then the handkerchief was shewn to him.*]

J. Sykes. I untied this handkerchief, and here is the coal that was lapped in the middle of it; and it lay just against the doctor's windpipe.

Mr. Rebone and Mr. Marriot were sworn.

Mr. Rebone deposed, that the coachman came to Mr. Marriot's house, and asked for a constable; and they came to the coach, and found the doctor strangled with the handkerchief, in the manner above described: and they carried him to the Bull Inn, and let him blood, but could get but little from him, or perceive any life in him; and they secured the silver inkhorn he had in his pocket, and the rest of his things.

Mrs. Ashbolt deposed, that being sent out of an errand, the night Dr. Clenche was murdered, she saw a coach stop at Brownlow-street end, between nine and ten o'clock: and one in the coach bid the coachman go and tell Dr. Clenche, that two gentlemen waited for him in a coach; and one of them leaned out of the coach, and swore at the coachman, as he was going, that he made no more haste. That the deponent went round the coach, and could discern Mr. Harrison's face: and she saw Dr. Clenche go into the coach, and one of them gave his place to the doctor.

Mr. Darnel. Tell us how you came to be so curious, and what you observed farther?

Mrs. Ashbolt. I thought they would give the coachman the

slip: and I clearly observed Mr. Harrison, there being a lamp burning on each side the coach, which lighted quite through; and when the men saw me look at them, they pulled themselves back. Afterwards, when Madam Clenche desired me to go see Mr. Harrison in Newgate, I knew the voice to be one of those that were in the coach, as he was talking very loud, before I came into the room; and told the company so that were with me. And I knew the prisoner to be one of those who were in the coach, as soon as I saw him.

Mr. Harrison. Why did she not make this discovery sooner?

Ashbolt. I would have told it Madam Clenche sooner, but my mother was loth I should be concerned in such a thing.

Then the examination of *Andrew Bowsell* before the coroner was read, upon oath made by his master, that he was enticed out of his service by some soldiers, and could not be found: another witness also deposing, that Bowsell told him a gentleman offered him money to be kind to Mr. Harrison before he went away.

The examination was to this effect, viz. that the informant being sent to the Bull-head alehouse, on Monday, the 4th of January, between ten and eleven at night, saw a coach standing against Leadenhall-market, and heard a person in the coach say "make haste;" and something about poulterers, as he thought: and that, as soon as the coachman was gone into the market, the informant saw two persons go out of the coach, and one of them he thought had a black coat on, who after he came out, threw a cloak over him; and then both the persons went through the west part of the market: but that, as the informant was going to look into the coach, the man who had the cloak on cried "D—n him;" whereupon the informant went away. And being further examined, he deposed, that he believed the said Harrison, then a prisoner in Newgate, was one of the persons who came out of the coach in Leadenhall-street, and thought he knew him by his voice.—That soon after the informant heard the doctor was murdered in a coach; and it was the same coach out of which the two men came.

Mr. Harrison then entered upon his defence and averred, that he had never any quarrel either with Dr. Clenche or Mr. Johnson, and that Rowe was the person who kept their money from them, and they had no manner of occasion to be angry with the doctor; and said he would call witnesses to prove he was in another place when the murder was committed: and he called Thomas Turner a porter, who deposed only, that he carried a trunk for Mr. Harrison from the Two Kings and Key in Fleet-street, to Mr. Jones's in Paul's Church-yard, on the 4th of January, about seven in the evening; and that he parted from him at Mr. Jones's about eight that night.

Harrison. My Lord, Mr. Turner mistakes an hour.

Turner. I cannot mistake an hour, because the shop is shut up about nine, and it was shut when you came.

Thomas Johnson deposed, that he lived at the Golden Key, where Mr. Humston lodged, and he let Mr. Harrison in that night; and it was about nine o'clock when he came, but he soon afterwards went out.

Mr. Maccaffee deposed, that he lived in Chancery-lane, over against Serjeants'-Inn; and on the 4th of January the prisoner was at his house from nine in the evening till past eleven, and played at cards there with one Mr. Baker and Mr. White, and his wife.

L. C. J. Did he tell you where he had been before?

Mr. Maccaffee. He said he had been towards the city, and was very cold: and they played at cards in the kitchen.

L. C. J. How came you to take notice of the day and hour?

Mr. Maccaffee. I heard Dr. Clenche was murdered, and Harrison was taxed with it; and that made me take notice of it.

Mrs. Maccaffee also was called, and confirmed what her husband had deposed; that Mr. Harrison came to their house at nine, and staid till eleven, and said she remembered it by their playing at cards; and a pickpocket being carried by to be pumped on that night.

L. C. J. Did any one come with the prisoner? In what humour was he?

Mr. Maccaffee. Nobody came with him: he did not seem at all disordered.

Mr. Darnel. How many were at your house?

Mr. Maccaffee. There were Mrs. Fairless, Mr. White, and Mr. Baker; and Mr. White came for his wife about ten o'clock.

Mr. Baker deposed, that he came into Mr. Maccaffee's house with two women, about half an hour after nine that night, and they would have him play at cards; and that Mr. Fairless and the deponent were together, and the woman of the house and Mr. Harrison; that they played for a penny a corner, and the deponent left them about ten o'clock.

Mr. Harrison. Were there not some accidents happened at that time?

Baker. Yes, there was a pickpocket carried up the lane to be pumped on; and a vintner's boy came in great haste for one Mrs. Francis.

Mr. Sutton deposed, that the night the doctor was murdered, he was drinking with one Mr. Russel, at the King's Head at Chancery-lane end, and about a quarter before eleven, Mr. Harrison came by, and the deponent believes he had a cloak on: that Harrison was going towards Fleet-bridge, and they called after him, and he came to them.

Mr. Russel also deposed, that Harrison went by them as they were drinking at the King's Head at Chancery-lane end, about eleven o'clock; and that Mr. Sutton called after him, and he came to them: that the deponent and Mr. Sutton were in a coach, and they stopt at the King's Head till Mr. Sutton sent for somebody.

John Allen, the drawer of the King's Head, deposed, that about eleven o'clock that night Dr. Clenche was murdered, Mr. Sutton and Mr. Russel came to the King's Head in a coach, and drank two pints of canary, and one of them sent him to Maccaffee's in Crown-court, to a servant-maid, to desire her to come to them.

Harrison. Did not one strike you with a muff?

Allen. Yes, but I cannot remember who it was.

Mr. Carden, the other drawer of the King's Head, deposed, that *Mr. Sutton* came to their house in a coach about eleven o'clock that night the doctor was murdered; that he saw a man stand by the coach side, who, to the best of his knowledge, was the prisoner at the bar.

Mr. Coroner. Were not your doors shut? and don't you usually keep them open till after eleven on Monday nights?

Carden. We generally shut them after eleven on Monday nights; and the doors were shut when they came.

L. C. J. It behoves you, *Mr. Harrison*, to give an account of these things; why you said you were a parliament man; why you left your lodgings, and what your extraordinary business was; and who that gentleman was, that waited for you in the street when *Mr. Humston* wished you to sup with him; and why you refused his invitation.

Harrison. I never said I was a parliament man; but I was going into the country to Basingstoke, to one *Mr. Bulling* who owed me money; but cannot prove it, except I could send to Basingstoke. I was unwilling to stay with *Mr. Humston*, because he had strangers with him that night.

Mr. Butler was then brought from Newgate to be a witness; but he only said, he could not tell what to make of *Mr. Harrison's* rambling speeches about the murder of the Doctor.

Mrs. Anwell was called and sworn for the King.

She deposed, that the night *Dr. Clenche* was murdered, she sent *Mrs. Ashbolt* on an errand, and blamed her for staying so long; she said, as she was coming home she saw a coach stop at Brownlow-street end, and two men with cloaks in it; and one of them sending the coachman for *Dr. Clenche*, the coachman looked back as if he suspected the men would leave the coach; and so she staid till the Doctor came to the coach, and one of the men gave him place.

Mr. Darnel. What discourse had you with her when you heard of the murder?

Mrs. Anwell. She told me that one of those men had a fair wig, and a sanguine complexion; a round face, and a big voice; and she thought she should know his voice again.

L. C. J. Pray, why did she not discover this sooner to *Mrs. Clenche*?

Mrs. Anwell. Because her mother was unwilling she should be concerned in the matter.

Mr. Jones was called again.

He deposed, that he went to Newgate with *Mrs. Ashbolt*, and that hearing *Mr. Harrison* speak before she came into the room where he was, she said, to the best of her memory, that was the man who put his head out of the coach, and swore at the coachman; and, when she saw him, she declared that he was the man.

L. C. J. Can you take your oath, *Mrs. Ashbolt*, that the prisoner is the same person?

Mrs. Ashbolt. Yes, my Lord; I can, both by his voice and face.

L. C. J. *Mrs. Jones*, what time did *Mr. Harrison* come to your house to his lodging that night *Dr. Clenche* was murdered?

Mrs. Jones. I think it was before eleven.

Then Mr. Darnel produced a record, to prove that Baker, one of the prisoner's witnesses, was convicted of cheating the parish of St. Giles's, when he was a scavenger, by altering the figures in the book, and then extorting greater sums of the parishioners than they ought to pay : Baker desiring to call witnesses to prove he was acquitted on that indictment, the Chief Justice gave him to understand, there was no averring against a record ; however, he permitted his witnesses to be examined ; who, contrary to Baker's expectations, deposed, that he was deservedly convicted on the said indictment ; and was a man of a very ill character.

Mr. Darnel called two other witnesses who lived over against Maccaffee's house in Chancery-lane, who deposed, that Maccaffee kept a very disorderly house, where thieves and house-breakers and lewd women resorted ; and his house had been searched by the constables for stolen goods, &c.

Mr. Charles Whitfield

Deposed, that being at Joe's coffee-house in Salisbury-court, the day after Dr. Clenche was murdered, he saw Mr. Harrison sitting by the fire ; and asked him where he had been, as he had not seen him a long time. Harrison answered, about twenty miles off in Kent. Then the deponent asking him if he had not heard of the murder of Dr. Clenche ; Harrison said, it was a just judgment of God upon the Doctor ; for he had been a barbarous rogue to a gentlewoman, a friend of his, in the Compter ; and presently Harrison wrote a letter to the gentlewoman to acquaint her with the Doctor's death, and directing her to apply herself to Mrs. Clenche for something, she then being a widow as well as herself.—That, after this, one Mr. Ravenscroft came into the coffee-house, and said, he heard that Dr. Clenche was murdered by a bully of the town, that belonged to a gentlewoman in the Compter ; at which Harrison was much startled, and said, there was no person familiar with that gentlewoman but himself, and perhaps he might be taken up for it.—That the deponent thought it strange Harrison should pretend he had been out of town a fortnight or three weeks, when he was at Joe's coffee-house but the night before.

One *Bishop* was called to prove the prisoner had used some unfair dealings ; but the Chief Justice said, they were not to arraign his whole life ; and Bishop was not admitted to give evidence.

The Lord Chief Justice then summed up the evidence very impartially, and the Jury withdrew to consider of their verdict ; and, after retiring half an hour, they brought the prisoner in GUILTY OF WILFUL MURDER ; and the last day of the Sessions, the prisoner received sentence of *Death*.

CHARLES LORD FRASER,*

FOR HIGH TREASON, IN PROCLAIMING THE LATE KING JAMES TO BE THE RIGHTEOUS AND LAWFUL SOVEREIGN OF THIS REALM.—29th MARCH, 1693.

IT was charged against the prisoner, that, contrary to his allegiance, he, in the month of June or July, 1692, went with his accomplices to the Market-cross of Fraserburgh, stepped upon the Cross, and, after three several *O Yes's*, † did three several times proclaim the late King James, and the pretended Prince of Wales, to be righteous and lawful King of this kingdom, and successor to the same, and they cursed all who would say the contrary: then they drank, and caused to be drank, King James's good health, and that of the Prince of Wales, and cursed King William and all his adherents; drank to his confusion; uttered reproachful speeches of him, calling him *Burgar*, and Burgar-master of the Hague, and saying that he was only Prince of Orange: that, for the greater solemnity, they fired guns and pistols from the Cross on the occasion, and forced some of his Majesty's subjects to drink treasonable healths: by all which, the prisoner testified his rebellion against his Majesty's person and authority, and his treasonable intentions to depose the King; and disowned the King's title to the crown, and did all that in him lay to incite the people to take arms; for which contempt and treason, he ought to be punished with death, and the forfeiture of his estate.

After a prolix argument, the Court found the indictment relevant to infer the alleged pains.

THE PROOF.

Thomas Pyper, weaver, saw Lord Fraser come from the house of John Hay, vintner, and go to the Cross, and step upon it: he heard one in the company cry three *O Yes's*, and proclaim the late King James and the Prince of Wales, and this was after some person bid him proclaim, 'to whom he answered, what shall I

* This family was raised to the peerage by Charles I. A. D. 1633. The title became extinct by the prisoner's dying without issue.—*Douglas's Peerage*, page 273.

† Records of Justiciary, March 29, 1693.

proclaim, my Lord?' After these proclamations, the witness heard King James's name mentioned; saw the people on the Cross drink with them, and heard the report of pistols. He also added, that Lord Fraser was on the Cross at the same time with the man who proclaimed King James.

John Wood saw Lord Fraser and others go to the Cross; saw his Lordship on the Cross, heard a servant, belonging to the company, cry three several O Yes's, and then proclaim the late King James and the Prince of Wales; and, after the proclamation he heard two shots of a pistol. The witness carried wine to the company at the Cross.

Henry Finlayson saw Lord Fraser and others on the Cross drinking healths; their servants told him it was the late King James and Prince of Wales's health: Lord Fraser and another gentleman held drawn swords to the deponent's breast, and forced him to drink some healths.

John Hay, vintner, deposed, that Lord Fraser went out of his house to the Cross, and the deponent went there also, and heard his Lordship drink King James's and the Prince of Wales's health. He heard also the firing of pistols.

Alexander Robertson heard a noise at the Cross, opened his window, and saw and heard a person, clothed in red, cry three O Yes's, and proclaim King James *as our righteous King*. The deponent, at the same time, saw the prisoner on the Cross, and heard the company drinking healths. He did not distinctly hear whose health, but heard the words, '*Burgar, the Hague, and Orange,*' come from the company.

James Hardie, servant to John Hay, vintner, saw Lord Fraser, and several others, go to the Cross, and the witness was employed to hold some of their horses. He heard and saw a footman make three O Yes's off the Cross, and begin a health to King James and the Prince of Wales, 'and bid the *ill man** take all 'that refused to pledge it.' He saw the prisoner and others drink the health, and heard some shots of a pistol.

James Scot saw Lord Fraser and others at the Cross; he saw and heard them drink King James's and the Prince of Wales's healths, and heard Lord Fraser curse those present who refused the toast. He heard four shots.

The Lord Advocate protested for an assize of wilful error, if the jury should acquit the prisoner. The prisoner protested on the contrary; because the committee of Estates which declared King James to have *forfaulted* the crown, and bestowed the same on William and Mary, solemnly enacted and declared, '*That assizes of error are a grievance.*'†

Seven Peers and eight gentlemen of distinction, who were summoned to be upon the jury, were fined a hundred marks each, for not obeying the citation. The

* A fanatical term for the devil.

† Act of Estates, No. 18. April 13th, 1689.

jury, of which Lord Bargeny was Chancellor, all in one voice found it not proved that the prisoner either actually proclaimed, or caused proclaim, the late King James, and the pretended Prince of Wales; but found it proved that he was present at the proclamation. He also found by a plurality of voices, that a proclamation was made at the Cross of Fraserburgh, of the late King James and the Prince of Wales; *but not in terms of the indictment, viz. as being righteous and lawful King of this kingdom, and lawful successor therein.* The assize, all in one voice, found it not proved, that the prisoner and his accomplices cursed all those who would say to the contrary. They found it proved, that the prisoner drank King James's health,* and that of the prince of Wales: but found his cursing King William, and drinking to his confusion, and uttering reproachful speeches of him, and forcing people to drink treasonable healths, not proved. They found that pistols were fired; but did not find that it was by the prisoner's order. The Master of Forbess, the Lairds of Craigmillar, Livingstone, and Southsyde, desired it to be marked in the record, that they found the proclamation proved in terms of the libel. On the 16th of May, the Court pronounced sentence on Lord Fraser, fining him in £200 sterling.

ROBERT CHARNOCK AND EDWARD KING,
GENTLEMEN, AND THOMAS KEYS, TRUMPETER,
FOR HIGH TREASON, AT THE OLD BAILEY, LONDON,
MARCH 11, 1695.

THE indictment charges the prisoners with high treason, in compassing the death of the King, and the subver-

* In the reign of George I. Alexander Crawford was fined 50*l.* sterling, for drinking the health of King James VIII. and to his happy restoration. Rec. of Just. 21st Feb. 1715. And a Highland Minister was turned out of his meeting-house for three years, for not praying for King George by name, but for the 'Supreme in authority who sits upon the royal throne;' and this at a time when there was no statute for praying for the King by name, except that which ordained the clergy to pray for *Queen Ann and the Princess Sophia*: nor any law for it, but a proclamation of the Lords of the Regency. Rec. of Just. 11th, 14th, 18th, 19th, 25th July, 1715.

sion of the Government; and the overt-acts laid to prove these treasons, were their meeting, consulting, and agreeing, on the 10th of February, then last past, at the parish of St. Clement Danes, in the County of Middlesex, with divers other false traitors, to assassinate the King as he rode in his coach, in the following manner, viz. that forty horsemen (of which number they were to be part) should lie in ambush, and set upon the King's coach, and the guards that were to attend him, in his return from hunting; and that they bought horses, arms, &c. for executing the said design.

On their arraignment, Mr. Charnock insisted on their having counsel, and a copy of their indictment, according to a late Act; and, being told that Act did not commence till Lady-day, he observed, that the preamble of that Act said, *that this was reasonable*; and, if it was so, it was as reasonable to-day as it would be a fortnight hence: but this was over-ruled by the Court, and they were allowed neither.

Then they moved for further time for their trial; but this also was denied: they were also denied a solicitor to stand by them and assist them: after which, the Attorney-General opened the evidence.

Mr. Attorney-General. My Lord, and you Gentlemen of the Jury, these Gentlemen at the bar stand indicted for a most horrid and barbarous conspiracy, to assassinate and murder his Majesty's royal person. Gentlemen, this assassination was to be seconded with an invasion from France, where troops lay ready at Calais, as soon as the dismal stroke was given, to have landed upon our coasts; which, if it had taken effect, we had not only suffered that most unspeakable loss of the King, but it would have made an end of all our liberties and laws at once.

Gentlemen, this offence, in its nature, is so horrid and barbarous, that, as it needs no aggravation, so it is incapable of having any, by any words that can be used: for the very idea of an assassination of a king, carries such horror and detestation in itself to all honest people, that it is impossible to aggravate it by any expressions that can be used about it. But there is this peculiar consideration to be had, by all Englishmen who love their country, that this designed assassination upon the person of his present Majesty, was to take away the life of a king who, every body knows, first ventured his own life to restore our religion, laws, and liberties, when they were just expiring under the oppression of popery and tyranny; and, as he ventured his life first to restore them, so he has since, upon all occasions, with the utmost hazard, exposed his royal person to the most imminent danger, for preserving and maintaining our religion, laws, and liberties, against the power and violence of the

common enemy. This consideration, to all true Englishmen, must have a very great weight, and create the greatest horror and detestation, both of the barbarous design, and of all those who had any concern or hand in it, to attempt upon the life, not only of a King, but of such a King.

Gentlemen, when you hear the evidence that we shall offer to you, to prove this bloody conspiracy against these prisoners, I doubt not, but that there will be enough, and more than enough, to satisfy all true-hearted English subjects, and all that have a desire to preserve our Constitution and Government, in what danger we and our posterity were of being utterly ruined, and involved in a common destruction. I shall not detain you longer with any discourse about the heinousness of this offence, because every man's own thoughts cannot but suggest to him how dismal the consequences must have been, if so fatal a stroke had been given.

But, gentlemen, I must crave leave to take up so much of your time as to open how this bloody execrable conspiracy was first framed, and afterwards carried on by the prisoners at the bar, together with others, until it was very near put in execution, had not the infinite mercy of God prevented it, by a timely discovery.

Gentlemen, this conspiracy was first framed and consulted upon the last year; there were several consultations and meetings, at several places about the town, for this purpose; then, and at those consultations and meetings, there were present Capt. Porter, the prisoners, and others, of whom you will have an account from the witnesses; and at that time they had an expectation of commissions from the late King, to authorize the design: that not coming, they yet resolved to put it in execution before the King went away: but, because the French troops were not then in readiness to come over here, to protect them after the execution of their bloody design, it was necessary for them to fly thither for shelter; and, therefore, they endeavoured to procure a vessel to be ready to carry them over to France. But they could not get a vessel time enough; and then the King's going over into Flanders quickly after, prevented the execution of the design for that time; and so matters rested till the King's return.

About two or three months ago, Sir George Barclay, who is an officer in the late King James's Guards in France, and some other officers, with sixteen or eighteen troopers in those Guards, privately came over from France, to put this design in execution; and he did acquaint Mr. Porter and Mr. Charnock with the design, knowing that they had been engaged in the matter before, and so could not but expect that they would readily assist. This design was treated of and consulted between them, at several times, and in several places; at Capt. Porter's and Mr. Charnock's lodgings in Norfolk-street; at the Globe Tavern in Hatton-garden, the Nag's head Tavern at St. James's, and several other places: several consultations and meetings were had between the prisoners at the bar and others, whom you will hear named at these meetings; several ways and methods were proposed how it should be best effected. It was proposed by some, that

it should be done by ambuscade; that it should be laid near the King's house at Richmond; such a number on foot were to lie in the wood there, ready to attack the King as he came by, and the rest of the conspirators, at the same time, to fall on the guards. But this method was not so well approved of, as that which was afterwards proposed and agreed to; that is, there were to be three parties of them, and the place was the lane lying between Brentford and Turnham-green, at the end next Turnham-green, which the King used to pass through upon his return from Richmond. The order and method of this design was this: Sir George Barclay, with eight or ten more, was to attack the coach, and by firing into it, to have killed the King, and all in it; and the rest were to attack the guards in two parties, on each side of the lane, whereof Mr. Charnock and Mr. Porter were to command one, and Brigadier Rookwood, the other. In order to see how feasible this design might be, the prisoner King, Capt. Porter, and Knightly, were to go and survey the place; and the next day after that consultation, they went to view the ground, and did very carefully do it, both on this side the water, and on the other side the water; and they came back, and met the rest of the company at the Nag's-head Tavern, late at night, to give an account of what they had done, in order to this enterprize. It was agreed, the number should be about forty: Sir George Barclay was to make up about twenty, Mr. Charnock was to furnish eight, Captain Porter seven; and so in other proportions, in all to make up the number of forty; which they thought were enough to effect and accomplish their design.

In order to make this matter the more sure, they did appoint two to lodge and wait at Kensington, near the guards; who were to give notice when the King went abroad; and they had their several persons assigned, to whom they should give notice, who thereupon were to send orders to the several parties; one of which was Chambers, who was to give notice to the prisoner at the bar, Mr. Charnock; and there was one Durance, who was to give notice to Sir George Barclay; and when such notice was given, then they were to send orders to the several persons who were concerned in this bloody business, to come at the time appointed, to be disposed of into their several posts.

Gentlemen, in order to further this design, they likewise sent Durance to go and view, and give them an account of, the most convenient inns at Brentford and Turnham-green, and the places adjacent; which were least liable to observation, where the men might be the most conveniently disposed of, to lie ready against the time when they were to execute this barbarous assassination: accordingly he went, and took an account of the several inns within that compass, and they were to be billeted by two or three in an inn, so as not to be observed; Sir George Barclay and his party at Turnham-green, and the rest at Brentford.

Gentlemen, after they had thus laid the design, Saturday the 15th of February was the first time pitched upon for the putting it in execution, if the King went abroad, as he used to do upon Saturdays, to Richmond to hunt; and if they had notice from

Durance and Chambers, that he was so to do, which notice they had ; and every thing was prepared, in order to have perpetrated this villainous design : but it happened that the King did not go abroad that day, of which they had notice about noon, from Chambers to Charnock, and Charnock sent word so to Porter's lodgings ; and then the order for their getting together was countermanded, and the note by which Charnock sent word, was subscribed with the name of Robinson ; which you will hear is a name he goes by, as well as by that of Charnock.

Thus they were disappointed at that time : but they were not discouraged from pursuing this inhuman enterprise ; but resolved to go on, the next opportunity that should be given : and, to omit several things that intervened, which the witnesses will give you an account of ; on the Friday following they met again, to have every thing ready against the next day, which was Saturday the 22nd of February, when they expected the King would go abroad, as he usually did on that day of the week ; and that meeting was at the Sun Tavern in the Strand ; and there were present, Captain Porter, Sir William Perkins, Sir George Barclay, and Mr. Charnock ; and at that time there was a discourse amongst them about the disappointment, which they had had the week before, and some of them had a jealousy, that a discovery had been made of their design : but then, upon further consideration, they concluded, if it had been so, they should not have met there, but have been taken up ; and, therefore, they concluded, the King's staying at home that day, was but accidental ; and so resolved to put their conspiracy in execution the next day. While they were there, several persons for whom Capt. Porter had undertaken, that is, one Cranborne, Kenrick, and Keys, the prisoner at the bar, came to Porter ; these were carried into another room, and commanded all to be ready the next day, when it was resolved to put the assassination in execution ; and then Capt. Porter asked Kenrick for Sherborne, who, it seems, had been engaged ; but it was answered, that he asked so many questions about the matter, that he did not think fit to trust him.

The next morning they met again at Capt. Porter's lodgings ; and there met, as the witnesses will tell you, amongst others, Mr. Pendergrass, Mr. Keys, and Mr. King ; King brought a message to Capt. Porter from Sir George Barclay, to know the names of those that were concerned ; and upon that message, Capt. Porter wrote down the names of the men, who were for his *quota*, and sent the list by Cranborne to Mr. Charnock, to add his list to it, of the men he was to have under him ; Cranborne afterwards came back, and brought the list that Capt. Porter sent, with the additional list sent by Mr. Charnock, written with his own hand, and subscribed R. C. ; and Cranborne told them that Chambers had sent word, that the King would go out that morning ; at the hearing of which, there was much joy amongst them ; for they hoped then their wicked design would be put in execution that day. There was a discourse then, likewise, that Porter had a piece which carried six bullets ; and this, it was ordered, should be put into the hands of Pendergrass, who

was to be one of Sir George Barclay's men, to attack and fire into the King's coach.

This was upon Saturday the 22nd of February, when they had news that the King was to go abroad, and every thing was to be put in execution at his return from Richmond. From Capt. Porter's lodgings they went to the Blue Posts in Spring Garden; but, about twelve o'clock, there came news from Chambers, one of the orderly men at Kensington, that the King would not go abroad that day: this put them into very great confusion; they then thought some discovery must needs be made, because of the disappointment two Saturdays together; and Keys, the prisoner at the bar, came up and told them, that the guards were come back in a foam, and the King's coaches were brought back to the Mews: and this confirmed them in their former jealousy, that the matter was discovered; upon which Capt. Porter, Mr. Pendergrass, and Mr. Keys, went to lie hid some time, but they said, they would send Keys to Mr. Charnock, to let him know where they might be heard of; and if the matter was not discovered, they would still go on, and put it in execution: but they could not part without drinking some traiterous healths, which the witnesses will tell you of; to the restoration of the late King and his Queen, and the Prince of Wales; and after all, one of the company taking an orange, proposed a health to the squeezing of the rotten orange; and in this manner it was drank by all of them, before they parted, though they were under the apprehension at that time of being already discovered.

This is the beginning and progress of the several consultations that were had, for the carrying on this execrable traiterous conspiracy. I have opened it shortly to you; but you will hear it much fuller, in its several parts, by the witnesses. By what I have opened, you cannot but observe, that it was very near being executed, if there had not been a discovery of it time enough, through the Providence of Almighty God, to prevent it. They had agreed, after the intended assassination, to keep together till they came near the town, and then they were to lie hid till the French troops landed; which, they were assured of, were ready upon the least intimation of the success of this conspiracy.

The King's witnesses being called, Capt. Porter was sworn, and testified, that Mr. Charnock and he lodged in the same house, and that Sir William Perkins, who lodged there also when he came to town, informed them that some friends were come from France, and something was doing that would be for the King's service: and a little after, Mr. Charnock acquainted this witness, that Sir George Barclay, and those that came from France, had brought a commission to levy war upon the person of King William, and asked him (the witness) how many he could bring to join them, if the King landed. That afterwards Sir George Barclay and Major Holmes came and talked with him and Mr. Charnock, at their lodgings, of the design; and they had several meetings after this, particularly at the Globe in Hatton-garden, the Nag's head in St. James's-street, and the Sun Tavern in the Strand; and in all these places they consulted which was the

best way to assassinate the Prince of Orange, his Majesty: Sir George Barclay said, he had as much money as would furnish out about forty horse; Captain Charnock said, he would bring six or seven; Sir William Perkins said, he would lend five horses; he (the witness) said, he would bring seven men and horse: that some proposed to set upon the King as he came from Richmond; others at Kew, or in Richmond Park; but Mr. Knightley, Mr. King, and the witness going to view the ground, Sir George Barclay, on their report, was of opinion, that the lane leading from Brentford to Turnham-green was the fittest place; in which the rest concurred: and it was agreed to divide themselves into three parties, one to attack the coach, and the other two, the guards; and they were to put their design into execution on Saturday the 15th of February last, the King usually going to Richmond on Saturdays to hunt: and, to prevent suspicion, they were to lie dispersed in several inns about Brentford the night before; and when the matter was over, Sir George Barclay directed them to start for London and lie concealed, assuring them, there would soon come over a sufficient number to their assistance from abroad, and four or five thousand French would commence operations at the same time in Scotland.

That they were preparing to put the design in execution on Saturday, the 15th of February; but Mr. Charnock wrote the witness a note, that the King did not go out that day. That, on the Friday following, the conspirators met at the Sun Tavern in the Strand, and discoursed of their disappointment, and several were afraid the design was discovered: however, it was resolved to endeavour to execute it the next day, being Saturday the 22nd of February; when Mr. Charnock desired a list of his (the witnesses's) men, and sent him a list of his own: and they were preparing all things to put the design in execution, when they received news that the King did not go out that day neither: whereupon they agreed to disperse themselves, and on Thursday he (the witness) and Mr. Pendergrass were apprehended.

It being demanded, which of the prisoners were present at their consultations? Porter answered, Mr. Charnock and Mr. King were at all of them; that Keys was his servant a year and a half, and present at most of their consultations, and hired horses to be employed in the business, and agreed to be an actor in it. Mr. Porter testified further, that the winter before this, there were several meetings and consultations between Capt. Charnock, Sir William Perkins, and himself, of the like nature; and they were of opinion, that the quietest way of restoring King James was, to knock the Prince of Orange on the head; and the reason they did not attempt it then, was, because they wanted a commission from France, which they thought was necessary to authorize them to do it.

Mr. De la Rue being sworn, testified, that this conspiracy had been carrying on several years; and that the last year there were several conferences about it, between Sir William Perkins, Capt. Porter, Capt. Charnock, and others; that Charnock told him, they had sent to King James for a commission to authorize them to carry the Prince of Orange to France, if they could take him alive; and if they could not, they agreed to excuse

themselves, by pretending he was killed by a random shot: that the commission being delayed a long time, they once agreed to do it without a commission; and a few days before the King went to Flanders last year, he was told all was ready; they only wanted a ship to carry off the Prince of Orange, which occasioned the deferring the design till the present winter.

That, in November or December last, King, the prisoner, told this witness, that a Major-General would come from France, and that there was a man of quality in town, who would disburse two or three thousand pounds to buy horses (as he understood), if King James would give orders for it. That King also told him, on the 9th of February, there was the finest place to put their design in execution that was possible, within a quarter of a mile of the King's house at Richmond: but afterwards it was resolved to assassinate his Majesty in the lane coming from Brentford to Turnham-green; because Sir George Barclay was not sure of horse enough to carry him off: that Sir George was to command the eight persons who were to assault the King, and those that were in the coach; Charnock was to attack the guards in the rear, and Rookwood, who came with a party from France, and Capt. Porter, were to attack the guards on each flank: that after the first disappointment, viz. on the 18th February, he met Mr. Charnock, who observed, that people who were forward and sanguine, were now grown cold, and believed the King had notice of their design; however, he might depend upon it, that the main business, the invasion, would go on. That on Saturday morning, the 22nd, they were assembled at Capt. Porter's lodgings in Maiden-lane, and preparing to make another attempt: and Capt. Porter told this witness, that Capt. Pendergrass was to be one of the eight under Sir George Barclay, that were to assassinate the King; and he was to lend him a gun that would carry six or seven bullets; whereupon King said to Capt. Pendergrass, he hoped he would not be afraid of breaking the glass windows: that Capt. Porter at the same time sent a list of his men to Capt. Charnock, and the messenger brought back a list of Mr. Charnock's men, under his hand, subscribed R. C. And while they were continuing their preparations, news was brought that the King did not go abroad that day; and that the guards who were sent to Richmond, were returned back in great haste; and the King's coach was returned from Kensington to the Mews-gate, whereupon they all looked very blank; and Porter asked Pendergrass to go out of town with him, and sent Keys to apprize the rest of the conspirators that there was no occasion for them; and thus they dispersed; but, before the company parted, there were several healths drank, as to the late King's restoration; a health to the Prince of Wales, the late Queen, and the French King; and Capt. Porter, taking an orange in his hand, and squeezing it, began a health *to the squeezing of the rotten Orange*; and said, though they were disappointed one day, he hoped to have another; and that Keys dined with them, and drank these healths with the rest of the company.

Captain Pendergrass was then sworn, and confirmed the testimony of Porter and De la Rue; adding, that upon their disap-

pointment, he went out of town to Epsom with Capt. Porter, and from thence to Leatherhead, where Keys and the others were taken and brought back to London.

Beutham deposed, that Mr. Charnock proposed to him to be one of the party to cut off the King, as the readiest way to facilitate an invasion that was intended from France, to restore King James.—That on the 22nd of February, after their disappointment, he met Mr. Charnock at Lincoln's-Inn gate, who told him, warrants were out against them; and it would be better to go to Kensington, do the work at once, take off the Spark, and then they should be quiet, and have the King peaceable here.

Mr. Boyse deposed, that he came from France the beginning of June last, and that on the 14th of February, going to visit King the prisoner, he told them there was a great undertaking in hand; and asked him if he would make one, and he would provide him a horse, and give him (the witness) twenty shillings to buy boots; he never told him the design was to take off the King, but only ordered him to be ready, and not to be out of the way; and said that Sir George Barclay was to command the party; and there were about forty, or five and forty, concerned in the design.

Capt. Charnock in his defence, said, he supposed the evidence of what was done last year, was nothing to the purpose, there being nothing mentioned in the indictment, of the last year.

But the Court observed, that it was said in the indictment, *divers days and times, as well before as after*; and, therefore, the indictment comprehended what was done last year as well as this: nor were the witnesses, or the King's counsel, tied up either to the particular time or place mentioned in the indictment, so it was within the county, and before the indictment preferred. All that was to be regarded was, that no evidence was admitted of any other species of treason, than was contained in the indictment.

Mr. Charnock then objected, that Porter was not a legal witness, having made himself a criminal, and forfeited his life by his own confession; and now hoped, by swearing against others, and taking away their lives, to save his own, which must affect the credibility of his testimony. If he was allowed to be a legal witness, he could not be a good one.

The Court answered, that not only in treason, but in robbery and felony, the parties were ever allowed to be good witnesses against their accomplices.

Mr. Charnock continued his defence, and observed, as to Captain Porter's evidence, that he acknowledged he (the prisoner) had never seen the commission from King James; and that, though he testified they were to command a party, he did not say which men were to be of it; and it was not to be supposed, when the design was so near being put in execution, it should not be known who were to engage in it: and though Porter said he sent him a list of names written with his own hand, he did not say he saw him write it; and similitude of hands was never thought to be good proof in criminal cases: nor was there any proof of their providing arms or horses, or any other overt act of

this bloody assassination, which he confessed he contrived and carried on himself.

That the evidence of Mr. De la Rue was but hearsay; and even that very improbable; particularly the scheme of carrying the Prince of Orange alive into France. How was it possible they should carry him off to sea? They must have been madmen to have entertained such a chimera. That Captain Porter and De la Rue contradicted one another also in their evidence. Captain Porter said, they were to attack the Guards together; and the other said, that he (the prisoner) was to attack the King with Sir George Barclay. That De la Rue did not say he talked to him about killing the King, but in general of the affair; and, indeed, that it appeared De la Rue was set to trepan him, which shews he bore him malice; and cited Sir *Robert Athyns*, who held, that he that acknowledged himself to be a partaker of the crime, must be a bad man, especially if it appeared the witness had trepanned the prisoner. *Shall such a one (says Sir Robert,) be a credible witness, and believed against the prisoner? God forbid.*

That the evidence of Pendergrass against him consisted of hearsay also. And as to Bentham's evidence, it was very improbable that this matter, which was so great a secret, he should communicate to a private trooper: nor could any body tell what to make of those words, *Take off the Spark*. He did not say he talked to him of killing the King, but only that he might ride out and take the air; and there he should meet with his acquaintance.

He hoped, therefore, that the Court would be of opinion, that the evidence produced against him was frivolous and weak; and that, if it were all true, it was only discourse. They were forced to supply in words what was wanting in fact. He did insist upon it, there was not plain and manifest proof, but only presumptions, and desired the Judges would tell the Jury plainly, what was legal evidence and what was not; and then what was sufficient proof of any one overt act or species of treason: that they would not leave it to the apprehension of the Jury, but inform them truly, what was legal evidence, and what of that sort had been given at this trial. He added, that this was a strange sort of conspiracy: forty men only to commit this fact on the King in his coach, and to attack the Guards. Could it be supposed that any man, in his senses, would attempt such a thing, without any regard to his own security? The Guards were at least treble the number, and much better appointed and provided: and that forty should attack treble their number, in divided bodies, were to mix fancy and madness with resolution; especially when they had no castle or fortress to fly to, and none to support and assist them: they ought to be confined to Bedlam rather than Newgate, if they were capable of such rashness and folly.

Mr. King then entered upon his defence, and demanded of Capt. Porter, if there was any thing mentioned of killing the King, when they rode out to view the ground? To which Porter answered, that the day before they went to view the ground, they dined together at the Nag's-Head, and King asked if he (the witness) was to meet Knightley, and view the ground, in order to settle the design which was then talked of, and consulted

about; and Capt. King desired to go with them; and they lay at Knightsbridge: and while they were viewing the ground, they conversed on the situation of the place; and King did not approve of the place on this side the water, but preferred the ambuscade, which was to have been on the other side the water.

King replied, he certainly went abroad with Capt. Porter and Mr. Knightly, but it was merely to take the air; and observed, as to Mr. De la Rue's testimony, that he did not say he ever told him of a design to destroy the King: and Mr. Pendergrass said, they discoursed of the matter, but did not explain what that matter was; nor did Boyse charge him with a design of killing the King: and as to what was treason, and what was evidence of it, he left it to the Court to inform the Jury.

Keys, the trumpeter, being ordered to enter upon his defence, said, he was servant to Mr. Porter, who was now become a witness against him; and that he did nothing but by his orders and persuasion.

The Chief Justice told him, the commands of his master could not excuse his having committed high treason: it was proved he had bought horses, and was acquainted with the design, and engaged in it.

Keys replied, he knew nothing of it; his master was pleased to jest with him sometimes, and he might say things he did not regard.

The Chief Justice then charged the Jury, and said, it was very true, as Mr. Charnock had observed, that bare words were not treason in some cases: loose words, spoken without any relation to any act or design, were not treason, or an overt-act of it; but arguments and words of persuasion, to engage another in such a design or resolution, and directing or proposing means to effect it, were overt-acts of high treason: it was the imagination, the compassing and designing the death of the King, that was the treason. There was no way of discovering those compassings and imaginations, but by some external act that manifested such intention or purpose; and any thing that was a manifestation of such a design was an overt-act: and here had been proved several meetings and consultations, and proposals at those meetings, about the ways and methods for bringing about the design of assassination: and it was never yet doubted, but to meet and consult to kill the King, was an overt-act of high treason; and Mr. Charnock's endeavouring to engage Bertham in the enterprize, was an overt-act.

As to that objection to the credibility of the witnesses, that they had acknowledged themselves involved in the

same crimes; they were, however, legal witnesses; but their credit in this, as in all other cases, was left to the jury: that such evidence had been always allowed; and, unless the accomplices were admitted to be witnesses, Governments could never be secure against such villainous enterprizes.

The Jury, withdrawing for half an hour to consider the evidence, brought in all the three prisoners *Guilty*; and the Court then adjourned.

In the afternoon the prisoners were brought into Court again, and, it being demanded of them severally, what they could say, why judgment should not be pronounced against them? Mr. Charnock again testified, they ought to have had counsel and a copy of the indictment, &c. according to the late Act: he also made some trivial objections to the *Latin* of the indictment, which being overruled, the usual sentence in cases of high treason was pronounced, and they were all executed at Tyburn, on Wednesday the 18th of March, 1695-6; when they left the following papers with the sheriffs.

Mr. Charnock's Paper.

That I might avoid distractions, and be composed as much as is possible at the time of my execution, I thought it much more proper to communicate this to the sheriffs, than to give myself the uneasiness of speaking, leaving it to them to publish (if they should think convenient) for the satisfaction of the world; and in what I have to say, I have taken as much care as I could to be short, that I might not lose time in my greatest concern.

As concerning an invasion intended by King James upon England, that there was certain intelligence of it from abroad, I presume every body was satisfied; and to the facilitating of which, I own that myself and some others did agree upon the undertaking to attack the Prince of Orange and his Guards, for which I am now to suffer: but I think myself obliged, by all the ties imaginable, both of conscience and honour, to declare, that as for any order or commission of King James, for assassinating the Prince of Orange, I never saw nor knew of such; but have had frequent assurances of his having rejected such proposals when they have been offered.

I confess, I did hear that there was a commission arrived for levying war; and which was natural to believe, if the King was in such readiness to come over as was reported; but, if there was any such authority as that, I declare I never saw it.

As to what regards the body of the Roman Catholics, I must do them this justice, and which I dare be positive in, that they had no manner of knowledge of this design: nor do I believe it was communicated to any other party of such as are reputed the

King's friends; but carried on merely by a small number, without the advice, consent, or privity, of any parties whatsoever.

I ask forgiveness of all the world for what offences or injuries I have done to them; and I am (I bless Almighty God) in perfect charity with all mankind.

Robert Charnock.

Mr. King's Paper.

I am now within a few moments of eternity, brought to this place by the just hand of God, in punishment of all my crimes; but particularly of that of which I have been lately arraigned, and for which I stand here condemned; but I hope that goodness of God, which has given me a sense of my wickedness, will accept my repentance, and shew mercy on me; which I hope to obtain through the passion and merits of my Redeemer, upon whom I entirely cast myself.

And that I may find his mercy, I think myself obliged to do justice to my neighbour, that so none may suffer wrongfully on my account: and, therefore, as I am soon to answer the truth of what I say before the tribunal of God,

First, I declare, that I never saw any order or commission of King James, for promoting the assassination for which I am condemned, neither do I know of any such order or commission.

Secondly, That this design was not undertaken with any general knowledge or approbation of any body of men, either Catholic or Protestant.

Lastly, That I did not engage in it on presumption of any king-killing principles that could justify such an undertaking; but was drawn into it by my own rashness and passion; for which, and all other sins, I heartily beseech God to forgive me.

And I hope that such who think the misfortunes of their imprisonment or trouble is derived from my having been engaged in this enterprize; or such to whom it has any ways given scandal, that they will admit me to their pardon, as I freely and heartily forgive all mankind. In this disposition of a sincere repentance, and true charity, I commend my soul into the hands of God, and hope to find mercy from him: and for this I beg all your prayers.

Edward King.

Mr. Keys's Paper.

I am going to appear before the living God: I trust in his mercy that he will forgive all my sins committed to this last moment of my life. God is just in all his judgments, and I accept of this death as the punishment of my iniquities. I forgive all my enemies, and hope through a hearty repentance, and the merits of my Saviour, to obtain mercy.

Have mercy on me, O Father of mercy, and, through thy only Son, forgive me all my sins!

Thomas Keys.

Sir John Freind and Sir William Parkins were shortly afterwards executed, for being concerned in this plot; but the evidence on their trials was chiefly a recapitulation of what has already been given.

CAPT. THOMAS VAUGHAN,
FOR HIGH TREASON, 6TH NOV. 1696.

THE indictment charges the said Thomas Vaughan with High Treason.

For that on the 8th day of July, in the seventh year of his present Majesty, there being then war between our said Lord the King, and Louis the French King; and the said French King having fitted out a small ship of war, called the Loyal Clancarty, manned with fifteen of his own subjects, enemies of our Lord the King; he, the said Thomas Vaughan, a subject of this kingdom, entered himself a soldier on board the said ship, and took the command of it; and, as a rebel to his said King and Supreme Lord, did, in the service of the said Louis, the French King, on the high seas, within the jurisdiction of the Admiralty of England, (viz.) about fourteen leagues from Deal, by force of arms, traiterously adhere to the said enemies of our Lord the King, and cruised in several places within the jurisdiction aforesaid, to take and destroy the ships of our said Lord the King, and his subjects.

And the indictment further sets forth, that the said Thomas Vaughan, intending to stir up war and rebellion, and to depose and destroy his said sovereign, did, at the time aforesaid, on the high seas about fourteen leagues from Deal, assemble with other false traitors, to the number of fifteen persons, armed and provided in a warlike manner, and cruised near several maritime places, with an intent to take and spoil the ships and goods of our Lord the King, and his subjects: against the duty of his allegiance, &c.

The prisoner being brought to his trial, and complaining of his irons, the Chief Justice ordered them to be knocked off, that he might stand at ease while he made his defence; after which he pleaded Not Guilty: then his counsel, Mr. Phipps, being about to make some exceptions to the indictment, the Court told him, he ought to have excepted to the indictment before the prisoner had pleaded; for it was not the intent of the late Act to alter the method of proceeding: however, he might move in arrest of judgment, if he had any material exceptions to make.

The prisoner then desiring that the witnesses might be examined apart, out of the hearing of each other, the Court granted his request as a favour, but told him, he could not demand it as his right.

The King's witnesses being called, *Richard Crouch*, one of the seamen belonging to the Coventry man-of-war, was sworn, who

testified, that the Coventry coming to the buoy in the Nore, (at the 'Thames' mouth.) they spied a two-and twenty oar-berge, called the Loyal Clancarty, of which the prisoner was commander, and perceived he had a design upon two pinks that lay there; but the Coventry coming up, prevented it: that the Coventry chased the Loyal Clancarty; whereupon she ran aground upon the flats, and they pursued her with the boats belonging to the Coventry, and took her: that there were five-and twenty men on board the barge, commanded by the prisoner Vaughan, an Irishman; and that they came from France with a design to burn the ships in the Nore, as they understood.

Edmund Courtney, another witness, was then called, to prove that Vaughan, the prisoner, ran away to France with a custom-house boat: but his counsel objected to this evidence, because this fact was not mentioned in the indictment; for, by the late act for regulating trials of treason, no evidence was to be admitted of an overt-act not expressly laid in the indictment.

To which the King's counsel answered, that in an indictment for compassing the King's death, indeed, the overt-acts must be laid; because the compassing, or conspiring the King's death could not be discovered but by such overt-acts: but levying war, and adhering to the King's enemies, were overt-acts of themselves, and needed no other acts to manifest them.

Whereupon the Chief Justice Holt declared his opinion, that an indictment for levying war, or adhering to the King's enemies, generally was not good, unless it was alleged in what manner the party levied war, or adhered to the King's enemies: and, if they did express in what manner he levied war, or adhered to them, no evidence ought to be given of any other kind of war or adherence that was not specified in the indictment. If it did not tend to prove some fact that was specially laid in it, they could not give evidence of a distinct act which had no relation to the overt-act laid in the indictment.

The Court thereupon directed the counsel to prove what was done in the Loyal Clancarty; and, it being demanded of Crouch the witness, how he knew Vaughan was an Irishman? Crouch answered, he heard Vaughan tell the lieutenant so, as he passed by; and he thought the crew were all either English, Scotch, Irish, or Dutch; he did not know whether there were any French amongst them.

Thomas Noden, another seaman belonging to the Coventry man-of-war, was sworn, and testified, that, as they were sailing by the Nore and the Gunfleet, their Captain spied a small vessel sailing

by the sands, and supposing her to be a French privateer, fired a gun at her, but she would not come to; whereupon they manned out their boats, and came pretty near her, and she ran aground: that the long-boat belonging to the Coventry also struck upon the sands; and they waded after the enemy (who had quitted their vessel,) near half a league, and took all the men, as well as the vessel: that it was a twenty-two oared barge, called the *Clancarty*, and commanded by Capt. Vaughan, the prisoner: that they had three or four and twenty men on board, several of whom were French, and they found in the vessel a blunderbuss, some small arms, and a considerable quantity of hand-granadoes; and every man had his cartridge-box.

Samuel Oldham, another of the crew belonging to the Coventry, confirmed the testimony of the former witnesses; but said, there were a dozen foreigners taken on board the *Clancarty*, whether French or Dutch he could not tell, because he could not speak either.

Hereupon the Chief Justice observed, if they were all Dutchmen, and appeared in a hostile manner against the King of England's subjects, they were to be deemed enemies, though their state was in league with ours.

The prisoner's counsel replied, in the indictment they were called, *Subditi Gallici*, French subjects, which they could not be by any construction: but the Court said, the French King's commission prevented their being pirates; and, by virtue of that commission, they might be termed his subjects, with respect to any other state but their own: though they were not Frenchmen, they were *Gallici Subditi*, being in the French King's service.

Robert Bub, another of the Coventry's crew; testified, that the night before the *Clancarty* was taken, the Coventry was at anchor in the Nore: and, having taken down their pendant, the *Clancarty* rounded their ship two or three times, taking her for a merchant ship; and that in the morning the Coventry weighed and pursued her; and the *Clancarty* was taken by their boats, with all her crew, as the former witnesses testified: that the pilot on board them, who was an Englishman, declared their design was to burn the ships at Sheerness: and Vaughan himself acknowledged he was an Irishman, and came from Calais.

Cruttenden, the Marshal of Dover, also deposed, that Vaughan the prisoner directed him to enter his name in his book, by the name of Thomas Vaughan, an Irishman; but he was then intoxicated: but, when Vaughan was carried before a justice next morning, he denied, at his examination, that he was an Irishman, but said he was a Frenchman, born at Martinico in the West-Indies.

The prisoner's counsel, therefore, observed, that the indictment was not proved; for, there it was said, that the French king fitted out the Loyal *Clancarty*: that

Capt. Thomas Vaughan was commander, and that several Frenchmen, subjects of the French King, were put on board: but one witness said, there were one or two Frenchmen; another, that there were none; a third, that they were foreigners, but he could not tell of what nation: that there was no proof of the prisoner's being captain of the Clancarty, or that he had committed any act of hostility. All the witnesses testified, that the Clancarty made no attempt to attack the Coventry, but, on the contrary, ran away from her.

They observed also, that the words of the indictment were, that he came *ad prædandum super altum mare*: whereas Sheerness was not *super altum mare*, but *infra corpus comitatus*; and so not within the indictment.

To this the King's counsel answered, that the words "ships at Sheerness," did not imply, ships that lay within the town of Sheerness, but off Sheerness, which was *altum mare*.

The prisoner's counsel replied, they ought also to prove that he was captain of the Clancarty at that time; for the indictment said *Ad tunc fuit Capitaneus et Miles*.

The Court said, the witnesses proved he acted as captain: and, besides, one of the overt-acts laid of his adhering to the King's enemies, was, that he put himself a soldier on board the said ship.

Dr. Oldys, another of the prisoner's counsel, answered, this proof was built on the sayings of people who had no authority to examine them: but what he chiefly insisted on was, that they had failed in the foundation of the treason; for they had not proved the prisoner a subject of Britain: for as to his saying, over-night, when he was drunk, that he was an Irishman, the same witnesses attested, that, when he was examined next morning by the Justices of Peace, he affirmed that he was a Frenchman; so that the proof was rather against them: and, besides, they had witnesses to prove, he was a native of Martinico.

Then the prisoner called several witnesses, who testified, they knew him at Martinico; and one deposed, that he was at his father's, Thomas Vaughan's, in that island, when the prisoner was christened; but they did not agree in their evidence. The King's counsel then called other witnesses, who contradicted these, and swore positively, that the prisoner was a native of Galway, in Ireland: and one of them, an inhabitant of Galway, produced a letter from the prisoner, wherein he desired he would not appear against him.

The prisoner's counsel, on the other hand, produced witnesses, who testified, that the King's witnesses were men of bad character; and suggested, that there was another Thomas Vaughan, of Galway, who died ten or a dozen years ago; but affirmed, that the prisoner was a Frenchman.

The evidence being closed, the Chief Justice directed the jury; and, having finished, the jury withdrew, and after a short time returned into Court with their verdict, that the prisoner was *Guilty*.

And it being demanded, what he could say, why judgment should not be passed upon him? he answered, he referred himself to his counsel: upon which, Mr. Phipps objected, that the treason of adhering to the King's enemies was not well laid in the indictment; for it did not say, the prisoner adhered to the King's enemies against the King, and possibly he might join with the King's enemies against Holland and Spain. To which the Court answered, that the adhering to the King's enemies against his allies, was encouraging them, and enabled them to do mischief to the King:—That the 25 Edw. III. defined the treason to be in adhering to the King's enemies, and expressed the overt-act to be a giving them aid or comfort. It was sufficient to allege the treason in the words of the statute, adhering to the King's enemies; and, if the overt-act alleged shewed it to be against the King, and in pursuance of his adherence, that was sufficient. Mr. Phipps replied, that the indictment only said, he went a cruising; whereas, they ought to have alleged some act of hostility: but the Court overruled that objection, and said, that the cruising upon the coast with an armed vessel, was an hostile act, and that their going on board, and putting themselves in a posture to attack the King's ships, was an actual levying of war: and the Court having overruled some other less material exceptions to the indictment, sentence was passed on the said Thomas Vaughan as a traitor, and he was executed in pursuance of it.

MADAME TIQUET,

CONDEMNED FOR ATTEMPTING THE ASSASSINATION
OF HER HUSBAND, JUNE 1699.

MADAME TIQUET was the daughter of a rich bookseller at Metz, whose name was Carlier. She was born in the year 1657. To the beauty of her form she joined a certain air of dignity, and a noble mien; which, together with the tallness of her stature, somewhat above the middling size, distinguished her by a majestic presence, which commanded respect and veneration. With all these external accomplishments, nature had endued her with a sprightly acute turn of mind. Her father left her an orphan at the age of fifteen, with a million* of livres to be divided between her and a younger brother.

Had she only been possessed of so opulent a fortune, she would have had lovers in abundance; judge then what a circle of admirers she must have had, when she was both rich, handsome, and ingenious. Among the rest, M. Tiquet, counsellor of the Parliament of Paris, entered the lists, and had never got the better of his rivals, but by insinuating himself into the good graces of an aunt of his mistress, who had a powerful ascendancy over that young lady. He secured this aunt in his interest by a kind of eloquence, which of all others is the most persuasive, and produces effects quick as lightning; he made her a present of 4000 livres. Some, who had near access to observe Mademoiselle Carlier, report, that they remarked in her, even at that early time of life, certain indications of a depraved disposition, which were the sad forerunners of her future crimes. Be that as it may, M. Tiquet, who was entirely bent upon making himself happy in such a match, assiduously frequented her company, and used all means to gain her affections, especially by flattering her pride with rich and magnificent presents, whereof the aunt took great care to enhance the value: on her birth-day he made her a present of flowers intermingled with dia-

* Upwards of 40,000l. sterling.

monds, to the value of 15000 livres.* This effectually gained the lady, whose heart was already shaken by the officious eloquence of the aunt, and the high idea she had conceived of M. Tiquet's riches. It is little to be wondered, if this match proved unhappy, which was contracted upon such slight acquaintance, and such mercenary considerations; something even lower than charms of person was the determining motive with either party. M. Tiquet was so dazzled with the splendour of his mistress's fortune, that he seemed to overlook all the beauties of her person; and she again, intoxicated with the chimerical impressions her aunt had given her of this lover, dreamed of nothing but the high rank and showy equipage she was to enjoy, by wedding a man of so great quality and riches.

Thus they united their fortunes for life, equally blinded as to each other; he, with respect to his mistress's virtue, whose frailty he might easily have seen through, and her proneness to expense; and she, with respect to a certain oddity in M. Tiquet's temper, and an unhappy cast of mind, which rendered him unfit for society. They both believed each other to be rich; but the lover was in the right, and the mistress was mistaken. Such are the steps that lead to the most unhappy destinies. The marriage, however, was attended with promising beginnings, and seemed to have been solemnized under the influence of auspicious constellations; and a son and daughter, who were the fruits thereof, were given them by heaven, as pledges of their tenderness, and seals of their mutual felicity.

This happy season could not be of long duration; the exorbitant expenses of Madame Tiquet, obliged her husband, whom she had taken hitherto for a wealthy man, to acquaint her with the situation of his affairs: this, with the help of a spruce gallant, the Sieur Mongeorge, a captain of the guards, soon gave her a disgust of the man she had only set her heart upon for the sake of his money. These beginnings of dissatisfaction the officer so artfully improved to his own advantage, that in a little time he inspired her with that flame of love which she had at first kindled in him.

* About 625*l.* sterling.

The jealousy of the husband, which this passion awakened, served only to increase the aversion which Madame Tiquet had conceived to him, and rivetted it the stronger in her mind.

What seems most singular in the character of this lady, is, that, amidst the ardour which she felt for the Sieur de Mongeorge, she was so far enslaved by her amorous complexion, as to satisfy her desires with the vilest and most degrading objects; and yet, what is still more surprising, amidst all her disorders, she preserved such a decent outside deportment, and knew so well how to fashion her looks and actions, that she was received into the best company, of which she was the delight; and, in conversation, had a faculty of expressing sublime and elevated sentiments, with such an air of truth and sincerity, that none questioned but she felt what she spoke; her heart was a hideous composition of greatness and meanness, and of noble and base passions.

M. Tiquet, involved in a load of debt, which he had greatly increased by the expensive means he had used to compass this marriage, was persecuted by his creditors. This furnished his spouse with a pretence to obtain a separation of effects. She had two chief grounds of discontent against him: one, that he had imposed upon her as to his fortune; and the other, that she was restrained in her pleasures, and haunted by a jealous husband, who was a spy upon all her actions. Her hatred being thus wrought up to fury, against a man who was the continual plague of her life, she formed a design, for the sake of her own peace, to hire assassins to dispatch him. Neither the horror of such an action, the infamy that threatened her, nor the hazard of ruining herself, by satisfying such wicked revenge, were any check to her in this headlong career. She soon found out a tool fit for her purpose, a ruffian, named Augustus Cattelain, an abject wretch, whose business was to wait upon strangers when they arrived at Paris: to this fellow she gave a large sum of money, with a promise of more, provided he would be the minister of her revenge, by falling upon a way to rid her of her husband. By the same means she gained her porter, and associated him in this execrable plot with Cattelain. They concerted their measures so ill, that the villanous design, by some means or other, miscarried, though they had planted several per-

sons in M. Tiquet's passage, to waylay him one evening when he was abroad late. This first attempt having failed, the lady pretended to have altered her resolution, and that she had now contrived a much better plan. She enjoined the porter and Cattelain to inviolable secrecy as to what had passed, lest their indiscretion should cost them dearly; at the same time she gave them another sum of money. M. Tiquet, who suspected the porter of favouring the *Sieur de Mongeorge*, dismissed him his service, and took the keys into his own custody. As soon as night came on, he made fast the gates, that none might have access to his house without his knowledge. On going out in the evening, to return home late, he took the key in his pocket, and when he went to bed, he laid it under his pillow. Monsieur and Madame had separate apartments, and never saw each other but at table: they lived three years in the greatest coldness, without ever coming to an explanation, and kept a solemn silence in each other's presence; portending their future disasters by those dumb scenes, which are often more significant indications of deadly hate, than others which make the greatest noise. It was during those tedious intervals of mutual spleen and discontent, that the lady, who was still hatching new expedients against the object of her everlasting spite, bethought her of a more sure and silent method of taking him out of the way, namely, by poison; she mixed some baneful ingredients with a broth designed for her husband, and ordered a valet de chambre to carry it to his master. But the servant, who had discovered the crime, affected to make a false step, and let the broth fall to the ground; after which he demanded his discharge; and when he was gone, failed not to reveal the iniquitous mystery.

The lady, once more disappointed in her design, resumed her former project, however horrid it was, disclosing it only to her porter, who took upon him to find her proper agents for the execution. She entered one day, in fearful emotion, into the house of the Countess d'Aunoy, where a large company happened to be convened. They asked her what was the matter: "I come," said she, "from passing two hours with the devil." "You have had then but sorry company," replied the Countess. "When I say I have seen the devil," rejoined the other, "I mean a famous cunning woman who tells fortunes."

“And pray, Madam, what has she told you?” “Nothing,” says the other, “but what the baggage, I suppose, imagines will flatter my hopes. She has assured me, that in two months I shall get the better of all my enemies, be above the fear of their malice, and be perfectly happy: you see plainly, Madame,” added she, “how little reason I have to depend upon the lying gipsy, since it is impossible for me to have any enjoyment of myself while my husband lives, who is in too good health for me to look for such a quick revolution of fortune.”

As this was the very day of M. Tiquet's assassination, this discourse might have been brought as a presumptive evidence against her; for it is not very probable, that this story was any other but a mere fiction of her own, which her thoughts, being turned that way, had led her to invent, perhaps to give a specious reason for the confusion and disorder she was in, upon the point of executing a crime of so hideous a nature.

She returned home, where she found Madame de Senonville, one of her friends, waiting for her. At the approach of the hour of assassination, she appeared perfectly mistress of herself; whatever emotion or qualms of conscience she felt within, she concealed them from her friend with great care, and crushed them in the bud; her countenance shewed no signs that could betray her; she carried on the conversation with all the composure and tranquillity imaginable. The visitor had designed to stay with her pretty late, in order to rally the husband a little for keeping the key, and have the pleasure of making him rise out of bed to open the great gate to her when she was going away.

M. Tiquet, who was visiting a lady in the neighbourhood, happened to stay out very late; and, as he was coming home, several shots of pistols were overheard; upon which, his servants running up, found their master assassinated, and offered to convey him to his own house; but he ordered them to carry him back to Madame Villemur's, whence he had come. Madame Tiquet, informed of the disaster by her servants, hurried away to this lady's house; but her husband not allowing her to enter the chamber where he was, she was obliged to return. He had received three wounds, but none of them mortal; the most dangerous was near the heart,

which, according to the observation of the surgeon who dressed it, would have been pierced, had that part been then in its natural extension.

The commissary of the quarter, who repaired directly to M. Tiquet, to receive his complaint, interrogated him as to what enemies he had. "I have none," answered he, "but my own wife." This answer confirmed the suspicions that all the world had thrown upon her. She gave them no handle, however, against her, from any external indications of perplexity and disturbance; whatever agitation reigned within her soul, nothing of it was perceived without. This was somewhat strange; but we shall see her presently stand the test of much greater trials.

The next day she went to visit the Countess d'Aunoy: in the midst of the company, who had all their eyes upon her, where she behaved with as much ease and presence of mind as if nothing had happened. The Countess asked her, whether M. Tiquet knew any of the ruffians who had assassinated him? "Ah! Madame," cried the suspected lady, "though he knew them, he would not declare it; it is I who am assassinated to-day." The Countess said to her, she was of opinion that the porter who had been sent away ought to be secured, for that he was strongly suspected. Madame Tiquet, who could read in the eyes of all the company, that she was charged with the odium and reproach of the crime, was not in the least disconcerted, but seemed to outbrave them with an imposing air of innocence. As soon as she had returned home, she had notice given her to make her escape; these warnings were renewed every day more and more till the eighth, when one of the Theatins* came into her chamber, and told her she had no time to lose; that she would instantly be arrested, unless she would quickly take on the robe of his order, which he brought her, and get into a chair which was waiting for her in the court; that the porters had an order to carry her to a certain place, where she would find a post-chaise, with people ready to convey her safe

* A religious order at Paris, so called from the name of the founder, Theatus, Archbishop of Chieti, in the kingdom of Naples.

to Calais, whence she might cross over to England. She answered, it was for those who were conscious of guilt to fly, and not the innocent; that her husband was the author of all those reports, so injurious to her honour, having a design, by such false alarms, to engage her to fly the kingdom, that so he might be left in the quiet possession of her estate. She thanked the Theatin, and told him she was prepared to meet the worst, having no mind to seek resource but from her defence in a court of justice. Thus presuming, from the measures she had taken, that there was no possibility of discovering that she was guilty of the second assassination, she gave herself no trouble about the first, which had not come to light.

The next day, Madame de Senonville came to see her; and, as she was going away, the other said to her, "Madame, I beg the favour of you to stay a little; they are just coming to apprehend me, and I would not chuse to be alone on such an emergency. Scarce had she done speaking, when the Sieur Deffita, Lieutenant-Criminal, entered. She said to him, without any emotion, Sir, you might have saved yourself the trouble of bringing with you so great a retinue; I was resolved to stand my ground; and, so far from having any mind to fly, I would have followed you, though you had been all alone." Then she begged him to seal up her house, for the security of her effects; and, turning to her son, a boy of about eight or nine years, who was greatly terrified, cheered him up, by giving him money to divert him, and looked upon him with her usual air of cheerfulness and serenity. This done, she took leave of Madame de Senonville, and stepped into the coach with the Judge. As she passed into the little market-place, she observed a lady of her acquaintance, and courteously saluted her. Amidst the archers who guarded her, she preserved the same mien and air which she used to have in the ordinary affairs of life; so that she looked more like one going upon a party of pleasure than to a prison. However, as she approached the Petit Chatelet, where she was to be confined, she changed colour; but, in a moment after, she recovered all the command of herself she had before. From thence she was brought before the Grand Chatelet, or Provost's Court, where Augustus

Cattelain came voluntarily, moved by the instigation of his conscience, to declare, in the face of justice, that three years before she had given him money to assassinate her husband, and that the porter was in the plot. Both he and Cattelain were arrested. There was not sufficient evidence to convict Madame Tiquet of the last assassination; but there was enough to prove her guilty of contriving the first, and to condemn her to capital punishment, according to the laws of the land. Upon this foundation, the Judges condemned this unfortunate woman, on the 3d of June, 1699, to be beheaded, and the porter to be hanged.

The Court confirmed the sentence, which in substance was as follows:—

Whereas Dame Angelica Carlier, spouse to the Sieur Tiquet, and James Moura, porter to the said lady, have been duly attainted and convicted of having plotted, meditated, and concerted together, the assassination of the said Sieur Tiquet; and, for that effect, furnished Augustus Cattelain, a servant to strangers, with sums of money at different times; the said Carlier is hereby condemned to have her head chopped off, upon a scaffold to be erected for the purpose in the Place de Greve; and the said Moura to be hanged and strangled, upon a gallows, &c. Their goods, all and every one, to be confiscated to the King, or to whom the right shall belong; and in case the confiscation does not take place, the sum of one thousand livres to be appropriated out of the said effects to the King's use; and one hundred thousand livres to be given, by way of civil reparations and damages, to the said Sieur Tiquet, whereof he shall have the use during his natural life, and the reversion shall belong to the two children of the marriage. And, before the execution, the said Carlier and Moura shall be put to the torture ordinary and extraordinary, for discovery of the accomplices. Given the 17th of June 1699.

Augustus Cattelain was afterwards condemned to the galleys for life.

M. Tiquet, being cured of his wounds, went to Versailles, accompanied by his two children, and threw himself at the King's feet: "Sire," says he to him, "I implore your clemency towards Madame Tiquet; be not more severe than God himself, who is disposed to pardon her. Is the offence done to your justice greater than to me? I her husband forgive her, my children lift up to you their pure and innocent hands in behalf of their mother. The crime is expiated by the qualms and horrors which that unfortunate lady, as a victim ready to be sacrificed to justice, has already felt. In

punishing guilt, let not innocence be punished." The King was inflexible. Then M. Tiquet confined himself to ask his wife's confiscated fortune, which he obtained, and thereby destroyed the whole merit of his intercession, because he preferred this last petition in the same breath with the first.

Madame Tiquet's brother, who was a captain in the guards, as well as the *Sieur de Mongeorge*, did all that lay in their power to procure her pardon: the former employed people of the first rank to solicit for his sister; and the King would have yielded to their entreaties, had not the Archbishop of Paris, M. de Noaille, who was afterwards Cardinal, represented to him, "That the security of husbands' lives depended upon the punishment of this offender; for that the pardoning of her, would embolden others to commit a crime, which was already but too common, the Grand Penitentiary having his ears continually shocked with the confessions of women, who accused themselves of having attempted the lives of their husbands." This remonstrance determined the King to suffer justice to take its course on so notorious an offender.

The altars set up in the streets for the solemnity of the *Corpus Christi* procession, on the eve of which festival Madame Tiquet had been condemned, occasioned the execution to be deferred till Friday. She was conducted on that day to the torture-room. While she was going thither, she asked if her cause was not yet determined. They answered, it would be determined very soon: for they had not hitherto given her notice of the sentence. The *Sieur de la Chetardie*, the curate of *S. Sulpitius*, had come to see her, and endeavoured to inspire her with sentiments of religion the most suitable to the state she was in. But she resisted all these impressions, and seemed to be hardened against every sentiment of sincere penitence.

When she was before the Lieutenant-Criminal, the sentence was read to her; during which time she was narrowly observed, to see what impression such a terrible judgment would make upon her. She heard it without once moving an eyebrow or changing colour. The judge then addressing her, said: "Madame, you have been hearing a sentence which puts you into a state very

different from what you have been in; you were in an honourable station, the pleasures to which you abandoned yourself made life very charming to you and agreeable; lo, you are now in the bosom of ignominy, and on the brink of suffering extreme punishment; what a vast difference then, is between those days of mirth and jollity, and this cruel, this doleful day, this day of horror you now see! You will need, Madame, to summon all your resolution to swallow down this bitter, but salutary cup, and to be able to say, with the Royal Prophet, 'I will take this cup of salvation.' You ought to throw yourself upon the mercy of God, calling upon his name who alone can enable you to bear the weight of your cross, and mingle sweets with the baleful ingredients of your cup: if so, you may be reconciled to the thoughts of that death you are condemned to suffer, since you may consider it only as a passage that leads into a better life."

Madame Tiquet answered the judge, that one mortifying circumstance made her perceive the difference between those happy days she had passed, and the present: "I am," said she to him, "before you in the posture of a supplicant; you, sir, may well remember the time, when I made quite another figure in your presence;" alluding to his having been one of her admirers. "For what remains," continued she, "I am not much dismayed at my suffering; the day that terminates my life will terminate my misfortunes; without daring death, I will support it with firmness of mind. I answered at the bar, without giving myself any trouble; I have heard my sentence without shrinking: I will still endeavour to be consistent with myself upon the scaffold, and to my last expiring groan."

The Lieutenant-Criminal advised her to acknowledge her crime, which she had hitherto denied, and to reveal her accomplices, that she might avoid the punishment of the rack. She declared at first that she would make no confession; but, when she had the first pot of water given her, she reflected that her obstinacy would be of no avail to her; whereupon she confessed all. She was asked, whether the Sieur de Mongeorge had any participation in her crime. She answered with some warmth, "Ah! I took care not to let him into the secret, else I had lost his esteem for ever!"

The curate of S. Sulpitius then approached, and put her in a disposition for meeting death. After he had answered some scruples which she proposed to him, she prayed him very earnestly to ask pardon for her of her husband, and to assure him that she died with the return of that tender affection which she had for him at the beginning of their marriage.

There never was perhaps a greater concourse of people than that which crowded all the streets through which Madame Tiquet was to pass to the place of execution. Several persons, who were stifled to death, paid dear for their curiosity. She was dressed in white, which colour heightened the lustre of her beauty. She was drawn in a cart, accompanied with the porter, and their two confessors. When she saw that prodigious multitude of people, whose eyes were all fixed upon her, as if they would have penetrated into the inmost recesses of her soul, she figured to herself a most terrible idea of her ignominy, and was ready to sink under the thought of being thus set up for a spectacle of horror and reproach to all the world. Then her confessor said to her—“Madame, turn your thoughts on Heaven, where you hope to find admittance; drink this cup with the same courage as Jesus Christ drank his, who was as innocent as you are criminal. So great a model, and so glorious a reward of resignation to the will of God, should enable you to support all this load of ignominy; let the objects which are visible to the eye of faith, hide from you those which you see with your bodily eyes. Consider these temporary sufferings as a resource which God had reserved in the treasures of his providence, to save you from eternal death. Admire the riches of his goodness through the severity of his justice; and acknowledge him most merciful, even in this his fatherly correction.” These words, pronounced with a masterly tone, recalled her former courage; she lifted up her hood, which she had let down to cover her face, and viewed the spectators with a modest eye, but firm and resolute.

She entered into a very moving conversation with her porter, who asked her pardon for having contributed to her death by acknowledging his crime. She answered, that his asking pardon was preposterous, since it was she who was guilty towards him, by engaging him in so

horrid a crime, and consequently procuring him so sad a recompence for his services. They exhorted each other to die like Christians, with an eloquence that flowed from the heart, and that was not the less strong in the porter, being the production of pure nature, without the aid of education.

There were round the place of execution several scaffolds, ranged in the form of an amphitheatre. The whole court and city were convened to this mournful spectacle; and the windows, the balconies, the battlements and tops of houses, all were extremely crowded.

When she arrived at the place, there fell such a deluge of rain, that they were obliged to put a stop to the execution till the storm was blown over. All this time she had before her eyes the implements of her execution; and a mourning coach, in which her horses were yoked, waiting to receive her body: yet all these ghastly images of death did not stagger her resolution. She saw the porter executed before her, and bitterly lamented his destiny, without appearing to make any earthly reflexion upon her own. When she was going to mount the scaffold, she reached forth her hand to the executioner; that he might lend her his assistance; first putting it to her mouth, and accompanying it with a civil inclination of the head, which shewed that she was very far from having any abhorrence towards him. When she was upon the scaffold she kissed the block, and acted with as much presence of mind, as if she had been a player trained to act that part in a tragedy: she adjusted her hair, her head-dress, and in a moment put herself in the most proper attitude for receiving the stroke of death. The executioner was in such disorder, that he missed his aim thrice; and her head was no sooner severed from the body, than an universal shriek was raised on all sides. Thus died Madame Tiquet, more like a Christian heroine than a notorious criminal; according to the testimony which her confessor gives of her. Her head was suffered to lie for some time upon the scaffold, doubtless, that this affecting spectacle might strike a deeper impression into the minds of all, especially of the married women witnessing the execution, who might possibly be tempted to commit the same horrid crime.

Though this unfortunate criminal was then forty-two

years old, she had preserved all the lustre of her charms ; and, as she died in her full strength and vigour, death, in those first moments, seemed to have extinguished none of the beauties of her face.

During the time of the execution, the *Sieur de Mon-george* was at *Versailles*, walking in a pensive mood along the park. The King told him, in the evening, he was overjoyed to hear that *Madame Tiquet* had justified him in public, and assured him, that he never suspected him. The *Sieur* thanked his Majesty, and begged a licence for eight months to travel out of the kingdom, to remove from all such objects as might recal his grief.

SPENCER COWPER, ESQ.; JOHN MARSON,
ELLIS STEVENS, AND WILLIAM ROGERS,
GENT. FOR MURDER, AT HERTFORD ASSIZES.—
16TH OF JULY, 1699.

THE prisoners being severally arraigned, and pleading Not Guilty, it was demanded, if they would join in their challenges, or challenge separately? To which Mr. Cowper answered, if they should challenge separately, there must be so many separate trials ; and, therefore, to prevent the trouble of the Court, they were content there should be but one challenge for all.

Then the panel was called over, and there being so many challenged for the King and the prisoners, that there was not a full jury on the principal panel, Mr. Cowper moved, that the counsel for the King might shew their cause of challenge, now the panel was gone through: to which Mr. Jones, counsel for the King, answered, that it never was put upon the King's counsel to shew cause ; and insisting upon it, though the judge was of another opinion, Mr. Cowper gave it up, and others were added to the principal panel, till twelve were sworn.

Then the Clerk of the Arraigns read the indictment to the prisoners, which set forth,—

That Spencer Cowper, late of the parish of St. John's, in the town of Hertford, in the county of Hertford, esq.; John Marson, late of the parish and county aforesaid, gent.; Ellis Stevens and Wm Rogers, of the said parish and county, gent. not having the fear of God before their eyes, &c. did, on the 13th day of March, in the 11th year of the King, at the parish of St. John's aforesaid, make an assault upon Sarah Stout, spinster, and a certain rope about the neck of the said Sarah Stout did fix and bind, and the neck and throat of the said Sarah did hold, squeeze, and gripe, and thereby the said Sarah Stout did choke and strangle, of which choking and strangling she instantly died; and so the said Spencer Cowper, John Marson, Ellis Stevens, and William Rogers, did kill and murder her; and the said Sarah Stout being so choked and strangled, they the said Spencer Cowper, &c. in order to conceal the said murder, did afterwards throw her into a certain river called the Priority River, against the King's peace, &c.

Mr. Jones afterwards opened the indictment and the evidence, in the following manner:—

May it please your Lordship, and you gentlemen that are sworn, I am of counsel for the King in this cause, and it is upon an indictment, by which the gentlemen at the bar stand accused for one of the foulest and most wicked crimes almost that any age can remember; I believe in your county you never knew a fact of this nature: for here is a young gentlewoman of this county, murdered and strangled in the night-time. The thing was done in the dark, therefore the evidence cannot be so plain as otherwise might be.

After she was strangled and murdered, she was carried and thrown into a river, to stifle the fact, and to make it supposed she had murdered herself; so that it may indeed be called a double murder; a murder accompanied with all the circumstances of wickedness and villany that I can remember in all my practice, or ever read of.

This fact being committed in the night-time, it was carried on very secretly. We have here in a manner two trials, one to acquit the party that is dead, and to satisfy the world, and vindicate her reputation that she did not murder herself, but was murdered by other hands. For my part, I shall never, as counsel in the case of blood, aggravate; I will not improve or enlarge the evidence at all: it shall be only my business to set the fact as it is, and to give the evidence, and state it as it stands here in my instructions.

My Lord, in order to lead to the fact, it will be necessary to inform you, that upon Monday the 13th of March, the first day of the last assizes here, Mr. Cowper, one of the gentlemen at the bar, came to this town, and alighted at Mr. Barefoot's house, and staid there some time, I suppose, to dry himself, the weather being dirty; but sent his horse to Mrs. Stout's, the mother of this gentlewoman. Some time after, he came thither himself, and

dined there, and staid till four in the afternoon; and at four, when he went away, he told them he would come and lodge there that night, and sup.

According to his word he came there, and had the supper he desired: after supper, Mrs. Stout, the young gentlewoman, and he, sat together till near eleven o'clock. At eleven o'clock there were orders given to warm his bed, openly, in his hearing. The maid of the house, gentlemen, upon this, went up stairs to warm his bed, expecting the gentleman would have come up and followed her before she had done; but, it seems, while she was warming the bed, she heard the door clap together; and the nature of that door is such, that it makes a great noise at the clapping of it to, that any person in the house may be sensible of another's going out. The maid, upon this, was concerned, and wondered at the meaning of it, as he promised to sleep there that night. She came down, but there was neither Mr. Cowper nor Mrs. Stout; so that we suppose, and for all that we can find and learn, they must have gone out together. After this, the maid and mother came into the room, and neither the young gentlewoman nor Mr. Cowper not returning, they sat up all night in the house, expecting the young gentlewoman would return. The next morning, the first news of this lady was, that she lay floating and swimming in the water by the mill-dam: upon that, there were several persons called; for it was a wonder how this should come to pass. There she lay floating with her petticoats and apron, but her night-rail and morning-gown were off, and one of them not found till some time after; and the maid will give you an account how it came to be found.

This made a great noise in the county, for it was very extraordinary, it happening that, from the time the maid left Mr. Cowper and this young gentlewoman together, she was not seen or heard of till next morning, when she was found in this condition, with her eyes broad open, floating upon the water.

When her body came to be viewed, it was very much wondered at; for, in the first place, it is contrary to nature, that any persons that drown themselves should float upon the water. We have sufficient evidence, that it is a thing that never was: if persons go alive into the water, then they sink; if dead, then they swim; that made some more curious to look into this matter. At first it was thought that such an accident might happen, though they could not imagine any cause for this woman to do so, who had so great prosperity, had so good an estate, and had no occasion to do an action upon herself so wicked and so barbarous; nor cannot learn what reason she had to induce her to such a thing. Upon viewing the body, it did appear, there had been violence used to the woman; there was a crease round her neck, she was bruised about her ear; so that it did seem as if she had been strangled, either by hands or a rope.

Gentlemen, upon the examination it was wondered how this matter [came about; it was dark and obscure: the coroner at that time, nor these people, had no evidence given but the ordinary evidence, and it passed in a day.

We must call our witnesses to this fact, that of necessity you must conclude she was strangled, and did not drown herself: if

we give you as strong a proof as can be upon the nature of the fact, that she was strangled, then the second matter under your enquiry will be, to know who, or what persons should be the men that did the fact. I told you before, it was, as all wicked actions are, a matter of darkness, and done in secret, to be kept as much from the knowledge of men as was possible.

Truly, gentlemen, as to the persons at the bar, the evidence of the fact will be very short, and will be to this purpose.

Mr. Cowper was the last man, unfortunately, in her company; I could wish he had not been so with all my heart: it is a very unfortunate thing that his name should, upon this occasion, be brought upon the stage: but then, my Lord, it was a strange thing. Here happens to be three gentlemen, Mr. Marson, Mr. Rogers, and Mr. Stevens: as to these three men, my Lord, I do not hear of any business they had here, unless it was to do this matter, to serve some interest or friend that sent them upon this message: for, my Lord, they came to town (and in things of this nature, it is well we have this evidence; these things come out slowly,) these persons, Mr. Stevens, Mr. Rogers, and Mr. Marson, came to town here, on the 13th of March last, the Assize-day. My Lord, when they came to town, they went to a house, and took lodging at one Gurrey's; they took a bed for two, and went out of their lodging, having hired a room with a large bed in it; and afterwards they went to the Glove and Dolphin, and then, about eight o'clock, one Marson came to them there; in what company they came, your Lordship, and the jury, will know by and-bye: they staid there, my Lord, at the Glove, from eight o'clock till eleven, as they say. At eleven these three gentlemen came all in to their lodging together at this Gurrey's. My Lord, when they came in, it was very remarkable, just as if there had been a sort of fate in it; first, that they should happen to be in the condition they were; and, secondly, fall upon the discourse they did at that time: for, my Lord, they called for fire, and the fire was made them; and, while the people of the house were going about, they observed and heard these gentlemen talk of Mrs. Sarah Stout; that happened to be their discourse: one said to the other, "Marson, she was an old sweetheart of yours:" "Ay," said he, "but she cast me off; but I reckon, by this time, a friend of mine has done her business.—" Another piece of discourse was, "I believe a friend of mine is even with her by this time." They had a bundle of linen with them; but what it was is not known; and one takes the bundle and throws it upon the bed: "Well," said he, "her business is done: Mrs. Sarah Stout's courting days are over; and they sent for wine, my Lord: so, after they had drunk of the wine, they talked, and one pulled out a great deal of money: said one to the other, "What money have you spent to-day?" Said the other, "Thou hast had 40 or 50*l.* for thy share:" said the other, "I will spend all the money I have, for joy the business is done.

My Lord, this discourse happened to be among them, which made people of the house consider and bethink themselves; when the next day they heard of his Mrs. Stout's being found in

the water, this made them recollect and call to mind all these discourses.

My Lord, after these gentlemen had staid there all night, next morning, truly, it was observed, (and I suppose some account will be given of it,) that Mr. Cowper and they did meet together, and had several discourses; and that very day went out of town; and, I think, as soon as they came to Hoddesdon, made it all their discourse and business to talk of Mrs. Stout.

My Lord, we will call our witnesses, and prove all these facts that I have opened to your Lordship; and then, I hope, they will be made to give you some account how all these matters came about.

Then *Sarah Walker*, servant to the deceased Mrs. Stout, being called as a witness for the King,

Testified, that, on Friday before the last Assizes, Mr. Cowper's wife sent her mistress a letter, acquainting her, she might expect her husband at the assizes, and he came in with the judge accordingly the Monday following; and her mistress asking him, as he rode by, if he would alight, he said, no; he would go and shew himself, but would send his horse presently, and let her know at what time he would come; but her mistress thinking he had forgot, sent her, the witness, to know if he designed to come? He answered, he had business; but came, however, in less than a quarter of an hour, and dined there: and going away about four o'clock, her mistress asked him, if he would lie there? He said, yes; and came at nine o'clock; and having sat about half an hour, he asked for a pen and ink, and wrote a letter to his wife; after which, he desired he might have some milk for his supper, which the witness brought him; and, when he had supped, her mistress bade her make a fire in his chamber; and, when she came and told Mr. Cowper she had made one, he looked at her, but said nothing; and her mistress, in his hearing, bade her warm his bed, which she went up to do as the clock struck eleven; and, about a quarter of an hour after, she heard the house door shut, and thought he was gone to carry his letter; but, coming down into the parlour a quarter of an hour after she heard the door shut, she found nobody there; both Mr. Cowper and her mistress were gone, and she never saw her more alive.

Mr. Cowper desiring she would be particular as to the time he went away; she answered, it was a quarter after eleven by their clock; but that went half an hour faster than the town clock.

Mr. Cowper demanding, why she did not enquire after her mistress that night? the maid answered, she thought her mistress was with him, and could come to no harm. Old Mrs. Stout, her mother, was against her making any enquiry, because if they did not find her, she said, it would alarm the town, and there might be no occasion; however, they sat up all night in expectation of their return.

Mr. Cowper demanding, if her mistress did not use to stay out all night; or, if she had not said so? The maid answered, no. Then he asked her, if her mistress

was not melancholy? She answered, She could not say but she was melancholy; but she imputed it to a fit of illness; she knew no other cause.

Mr. Cowper asking, if she did not buy poison within this twelvemonth, and by whose order? She answered, that she (the witness) had bought poison twice, to poison a dog that broke some things; but had no order for it.

Mr. Jones demanded, if she ever found her mistress inclined to do herself a mischief? She answered, she never did.

Mr. Jones asking, if *Mr. Cowper's* horse stood at her mistress's house, and if *Mr. Cowper* ever returned to *Mrs. Stout's* again? She answered, his horse stood there, but *Mr. Cowper* never returned after that night he went away, in the manner she related.

Mr. Jones asking, if *Mr. Cowper* told them he would lie there? The maid answered, when he went from dinner he said so.

Then *Berry*, the miller, was sworn, and testified, that going out at six in the morning, to shoot a flush of water, he saw something floating, which proved to be the clothes of the deceased, her body being five or six inches under water; that she lay on her right side, her right arm being driven between the stakes, which stood about a foot asunder; that the water was then about five foot deep: she did not appear at all swelled, and her eyes were open

John Venables testified, that he saw the corpse in the river; that she lay on her right side, rather above the water than under, insomuch that one of her ruffles appeared above the water; and both this witness and the last agreed, that her eyes were open; and that there were no weeds, or any thing under the corpse, to hinder it from sinking.

Leonard Dell deposed, that he saw the corpse floating, and that part of her clothes were above the water; that her face might also be seen, it was so near the surface, and her eyes were open; and agreed with the former witnesses, that she lay on her right side, with her head and right arm between the stakes or piles, that were fixed in the river; he believed there might be about five foot of water, and there was nothing under her to prevent the sinking of the corpse: that he and another took the corpse out of the water, and laid it on the bank, where it remained an hour: she was laced, and he did not perceive her to be at all swelled, or that any water came out of the corpse on moving it; only a froth came out of her mouth and nostrils, about as much as he could hold in his hand.

John Ulse also testified, that he helped to take her out of the water, and she lay on one side between the stakes; and that upon taking her out, no water came from her, only some froth at

her nostrils; that the stakes did not bear up the corpse, and there was nothing under it to keep it from sinking.

Catherine Dew deposed, that she saw the corpse taken out of the water; that she lay on one side in the river, her teeth clenched, the water flowing a little over her face, and some part of her coats above the water, her right arm lying against a stake; that she was laced, and not at all swelled, and she saw a purging froth issue out of her nose and one of her eyes.

Thomas Dew deposed, that she lay on her side in the water, her right arm within the stakes, and her left arm without; that her shoes and stockings were clean, without any mud or dirt on them; and he did not think the corpse had ever sunk to the bottom; and, when she was taken out, no water came from her, only some froth out of her nose; and she was not at all swelled.

Edward Blackno confirmed the testimony of the former witnesses, as to the posture of the corpse in the water; as did also *William Edmunds*, and *William Page*.

Anne Ulfe also confirmed the testimony of the former witnesses, and said, one of her arms was about a stake, and the other down in the water; that her shoes and stockings were clean; her stockings were rolled down, and she had no garters on.

William How gave the like evidence, observing, that one of her arms and her head were in the grate (or stakes).

John Meagher also testified, that the corpse floated in the water, her right arm in the grate, and her left arm with the stream; but that it was not borne up by any thing but the water.

Then *Mr. John Dimsdale*, jun. the surgeon, was sworn: whereupon *Mr. Cowper* said, there were some eminent London physicians attending, and desired they might be called into court, and hear the surgeons evidence: and the Court agreeing to it, *Dr. Sloane*, *Dr. Garth*, *Dr. Morley*, *Dr. Gilstrop*, *Dr. Harriot*, *Dr. Wollaston*, *Dr. Crull*, *Mr. William Cooper*, the great Anatomist, *Mr. Bartlett*, and *Mr. Camlin*, were brought in.

Mr. Dimsdale then gave his evidence, testifying, that he went at the request of old *Mrs. Stout* to view the corpse, together with *Mr. Camlin*, the same day it was found; and he observed a little swelling on the side of the neck, and she was black on both sides, particularly the left side, and between her breasts up towards the collar-bone.

It being demanded how her ears were, he said, there was a blackness on both ears, and a settling of blood.

Mr. Cowper then asked him, if he did not say that the settling of blood was no more than a common stagnation before the Coroner's inquest? He answered, he did not remember a word of that; but he confessed, there was no mark or circle about her neck.

Sarah Kimpson testified, that she helped to strip the corpse, and there was a settlement of blood behind the ear, bigger than her hand would cover, and another settlement of blood under her collar-bone: but she saw no mark about the neck: that the body was flat and lank; no water in it, as she could perceive: that she (the witness) had a child drowned, not long before in the same place; and they found her sunk to the bottom of the river the next morning, swelled to a great degree, being very full of water, as appeared when the child was opened. And *Mr. Cowper* demanding of *Mrs. Kimpson*, if there was no settlement of blood about the child? She answered, she saw none.

Mrs. Peppercorn, the midwife, testified, that she was present at the stripping the body, and, at old *Mrs. Stout's* request, examined it, and found the deceased was not with child; that she had a black place on the side of her head, and another about her ear; that no water came from her, but a froth purged from her mouth and nostrils, as was usual.

Elizabeth Huster also deposed, she helped to strip the deceased, found the body lank and thin, and no appearance of water in it; that there was a settling of blood at the top of the collar-bone, and a settling of blood under each ear; but most under her left ear.

Anne Pilkington gave much the same evidence; and *Mr. Cowper* asking her, if she did not make oath, that the deceased had a circle round her neck? She answered, she never did, nor durst not do it; whereupon, *Mr. Jones* looking upon her examination, said, it was *cross her neck* there.

Mr. Coatsworth the surgeon deposed, that the body, having been buried six weeks, was taken up by her friends; and he went to Hertford, at the request of old *Mrs. Stout*, to see it opened: that her face and neck, to her shoulders, appeared black, and so much corrupted, that they were unwilling to proceed; but the mother insisting to have it done, they opened her, and found the stomach and guts as full of wind, as if they had been blown with a pair of bellows: that, putting the guts aside, they came to the uterus, which they viewed very nicely, and saw it perfectly empty: that upon opening the stomach, they let out a great deal of wind, but no water; neither was there any in the lobes of the lungs, or diaphragm; but all was dry: whereupon he, the witness, observed, that this woman could not be drowned; for, if she had taken in any water, it would have rotted all the guts; and, as for any marks about her head and neck, it was im-

possible to discover them, they were so rotten; but all the rest was sound to a miracle: he did not imagine they should have found them so.

Mr. Cowper here objected against this kind of evidence: for that the body had been taken up again by the relations, without any legal authority, after the Coroner's inquest had been held upon it: thus they might have broken the skull in a hundred pieces, after the coroner had viewed it, and then have prosecuted him for it. He apprehended they ought to have had a writ of *melius inquirendum*, to authorise them to make another inspection, and to have given him notice, that he might have had surgeons there to superintend their proceedings.

The Judge answered, if they had done an ill thing in taking up the body without orders, (though he did not know there was any more hurt in taking up that body than another,) that could be no reason why they should not hear that evidence.

Mr. Coatsworth also observed, that *Mr. Camlin*, Sir *William Cooper's* surgeon, was present when they inspected the body.

Then *John Dimsdale*, the elder, testified that, being sent for by *Mrs. Stout* to view the body of her daughter, on the 28th of April, they found the head and neck so mortified, that they were in doubt whether they should proceed; but *Mrs. Stout* insisting her daughter should be opened, to clear her of the scandal of being with child, they opened the body, and found it was as sound as any flesh could be; no manner of putrefaction in her lungs, or any other part, but very full of wind: that they searched the stomach and thorax, but found not one drop of water about them; nor was the coffin or shroud in the least wet or soiled: and, examining the uterus, they saw no sign of conception. Then they consulted together, whether she was drowned or not; and were all of opinion, she was not drowned; only *Mr. Camlin* desired to be excused from giving his opinion. It being demanded of the elder *Dimsdale*, why he believed she was not drowned? He answered, because they found no water in her; and if there had been any, that would have caused a fermentation, and rotted the lungs and guts; whereas her intestines were not putrified, as they would have been in a week's time, if there had been but a pint of water there.

Then *John Dimsdale*, the younger, and his brother, *Robert Dimsdale*, the physician, were sworn and testified, they viewed the body after it was opened, and did not find a drop of water in the thorax or abdomen. *Mr. Cowper* demanding of *Mr. Robert Dimsdale*, if it was possible there should be water in the thorax? He answered, they should have expected water, or a putrefaction; but they found no putrefaction either in the bowels or intestines, but only in her head and shoulders, and one arm.

Mr. Cowper demanding, how any water should pass into the thorax? *Dr. Dimsdale* answered, by the lymphæ duct, if any way: and being asked, if any water could pass into a body after death? He answered, no.

John Dimsdale, the younger, added, that he opened the child above mentioned to be drowned; and that it was extremely swelled in the belly and stomach, and had abundance of water in it. His brother, the physician, also observed, that on opening the abdomen of the child that was drowned, they found abundance of water in the several cavities.

Mr. Cowper demanding, if he was not angry *Mr. Camlin* would not join with them in their opinion? He answered, no: but being asked again, if he did not tell *Camlin* he was a graduate physician? He said, they had some words about it.

Dr. Coatsworth being sworn, it was demanded of him, what was his opinion of bodies found floating without any water in them?

He answered, every one that was drowned was suffocated, by water passing down the wind pipe into the lungs upon respiration; and, at the same time, the water pressing upon the gullet, there would be a necessity of swallowing great part of it into the stomach: he had been in danger of drowning himself, and was forced to swallow a great quantity of water. If a person was drowned, and taken out immediately, as soon as the suffocation was effected, he should not wonder if there was but little water in the stomach and guts; but if it lay in the water several hours, it must be strange if the belly should not be full of water; but he would not say it was impossible to be otherwise.

Mr. Cowper demanding, whether he attempted to drown himself, or was in danger of drowning by accident? He answered, by accident: whereupon *Mr. Cowper* observed, there was a difference where a person drowned himself on purpose, and was drowned by accident; for when he was drowned by accident, he struggled a great while, and took in much water before he died; but when a person threw herself into the water on purpose to be drowned, she died immediately, receiving but little water before she expired.

Dr. Naylor being sworn, declared he was of opinion, that a drowned body would have a quantity of water in

it; and, if there was no water in the body, he should believe the person was dead before he was put into the water.

Then *Mr. Cowper* demanded, if the Doctor did not constantly vote against the interest of his family in that corporation? and said, he should have asked the *Dimsdale's* the same question: but the Court told him, that was not material.

Mr. Babington, a surgeon, also declared, upon his oath, he was of opinion, that all bodies that went into the water alive, and were drowned, had water in them, and sunk as soon as drowned; nor did they rise so soon as this woman did; and this, he found, was the opinion of the physicians.

Whereupon the Judge, *Mr. Baron Hatsel*, said, he had heard so too; and that was the reason they tied bullets to dead bodies to sink them at sea. *Mr. Cowper* answered, the reason of that was, that the bodies should not rise again, for they would sink without.

Mr. Babington proceeded, and said, he had once a patient that was half an hour under water, and lived several hours afterwards; and, during that time, discharged great quantities of water: and though he fell into the water by accident, he did not believe that made any difference.

Dr. Burnet also declared upon oath, he was of opinion, whether one fell into the water by accident, or threw himself in, the body would receive water as long as it was alive, and there were endeavours for respiration; and, after those endeavours were over, no water would come in, for all the parts were closed; and, consequently, there must have been water found within this woman, if she was drowned; and he believed drowned bodies always sunk.

Dr. Woodhouse was of opinion, that every body suffocated with water, must have a great deal of water in the stomach, and some in the lungs. And *Mr. Cowper* demanding which way it should pass into the thorax? The *Dr.* answered, the thorax was the vessel where the lungs lay, in the cavity of the breast; the wind pipe was the conveyance to the lungs: that, while a person was struggling for respiration, there might be a relaxation of the parts, and a person must suck in some water as well as air; consequently, some water would

get into the wind pipe, and so enter the lungs; but the greater quantity, no doubt, would be in the stomach.

The Court demanding, what was his opinion as to the putrifying of the inward parts? The Dr. answered, No doubt, where water gets into the stomach, or wherever it was, it would putrify soon.

Then *Mr. Jones*, the King's counsel, said, he hoped they had given the Jury satisfaction, that the deceased did not drown herself, but was carried into the water after she was killed: for, if it was true that all dead bodies, thrown into the water, swam; and bodies, that fell into the water alive, and were drowned, sunk, that was sufficient evidence she was not drowned, but came by her death some other way. They had shewn, that *Mr. Cowper* was the last man in her company; and what became of her afterwards, nobody could tell: and they should now proceed to give evidence, that, notwithstanding all the civilities and kindness that passed between this family and him, when the noise of the fact was spread abroad, *Mr. Cowper* did not come to consult with old *Mrs. Stout*, what was proper to be done; but rode out of town next day, without taking any notice of the accident.

John Archer deposed, that he saw *Mr. Cowper* take horse at the Glove, on Wednesday morning after the assizes, and ride out the back way; which *Mr. Cowper* observed, was the usual way he went the circuit into Essex.

George Aldridge, the hostler of the Glove, also testified, that he saw *Mr. Cowper* take horse on the Wednesday, and go the way that led to Chelmsford.—He deposed also, that *Mr. Cowper* sent him for his horse to *Mrs. Stout* on the Tuesday night, telling him he should have occasion for the horse to go out with the Judge next morning; and he went three times before they would deliver the horse.

Mr. Cowper thereupon said, he sent for his horse, because he heard she had drowned herself; and he thought it was prudent to do so, for fear the Lord of the Manor should seize every thing that was there, as forfeited.

Mr. Jones observed, he did not think fit to take his horse himself, though he put him up there: and now they should proceed to give evidence against the other three prisoners.

John Gurrey testified,

That, at the last assizes, Mr. Stevens, and Mr. Rogers came and hired a lodging of his wife, in the afternoon, when he was at church; that they came again to his house about eleven at night, and brought Mr. Marson with them: they all went up stairs, had a fire lighted, and asked for the landlord, whereupon he (Gurrey) came up to them, and fetched them wine, and at their desire, sat down and drank with them: then they asked, if Mrs. Sarah Stout lived in town, and if she was a fortune? And he promised to shew them Mrs. Stout the next day: and Mr. Rogers and Stevens telling Marson he was her old sweetheart; Marson answered, she had thrown him off, but a friend of his was even with her by that time: that Mr. Marson putting by his wig, he saw his head was wet; and Marson said he was just come from London, and that made him in such a heat: that the next morning he (the witness) hearing of the accident, went down to Mrs. Stout's, and saw them laying her out in the barn, and meeting Mr. Marson and Mr. Stevens, and Mr. Rogers as he came back, he told them the news, and they desired him to go with them to the barn again, which he did; and while he was viewing of the corpse, they went away: and about eleven the same morning, he saw Mr. Marson and Mr. Stevens with Mr. Cowper in the market-place.

Here *Mr. Cowper* demanded of Gurrey, if he did not say to his wife, they must not meddle with Sarah Walker, the maid of the deceased; because she was a witness against the Cowpers? Gurrey thereupon acknowledged that, upon his wife's saying she suspected Sarah Walker, he bid her not concern herself with her, for fear of taking off her evidence.

And here the evidence for the King being closed, and Mr. Cowper directed to enter upon his defence, he said,

Now they have done on the part of the King, my Lord, and you Gentlemen of the Jury, I must beg your patience for my defence: I confess it was an unfortunate accident for me, (as Mr. Jones calls it,) that I happened to be the last person (for ought appears) in the company of a melancholy woman. The discourse occasioned by this accident, had been a sufficient misfortune to me, without any thing else to aggravate it; but I did not in the least imagine that so little, so trivial an evidence as here is, could possibly have affected me to so great degree, as to bring me to this place, to answer for the worst fact that the worst of men can be guilty of.

My Lord, your Lordship is well aware, that I have appeared at the bar for my clients; but I must say too, that I never appeared for myself under this or the like circumstances, as a criminal for any offence whatsoever.

Mr. Jones very well said, when he spoke on the part of the King, that, if this gentlewoman was murdered, the crime was villainous, base, barbarous, and cruel; and, for my part, I think so too: the crime would be so great, that it never could be sufficiently condemned: but at the same time I may aver, that to suppose a murder without good grounds for it, and afterwards

to charge innocent men with it knowingly and maliciously, is to a trifle as base and barbarous as the murder itself could be.

My Lord, I speak for my own part; I know not at what price other men may value their lives; but I had much rather myself was murdered, than my reputation; which yet, I am sensible, has suffered greatly hitherto, by the malice and artifice of some men, who have gone pretty far in making this fact, as barbarous as it is, to be credited of me; and, therefore, I must beg your Lordships and the Jury's patience, while I not only defend my life, but justify myself also, from these things that have unjustly aspersed me, by the conspiracy and artifice of my accusers.

My Lord, in all the evidence that has been given, I must observe, there is no positive evidence (with submission) to induce the jury, or any one, to believe that this gentlewoman was murdered; but they go upon suppositions and inferences, which are contradicted by other circumstances, in the very evidence of the prosecutor, that make full as strong to prove that she was not murdered, as that she was; so that, as it stands, it can amount only to a bare supposition, that she was murdered by any body.

Then, as to the evidence that particularly relates to myself or the gentlemen who stand with me at the bar, that they, or I were concerned in it (if she was murdered), there is not one syllable of proof; at most, it amounts but to make us only suspected of a murder, not proved, but only suspected: this, I observe, upon the evidence, as it now stands without answer, as it has been given on the King's part; and how far, in the case of life, men shall be affected with evidence of this nature, which neither proves the murder in general, nor that they did it in particular, though no defence was made, or any further answer given, I submit to your Lordship's and the jury's judgment.

But, my Lord, I do not doubt but I shall be able to wipe away, even that remote suspicion, by my defence: they have been long in their evidence for the King; and, therefore, I must beg your patience while I give a particular answer to every part of it, in as good a method as I am able; and I will waste as little time as may consist with the justifying of my reputation; for which I know your Lordship will have as tender a regard, to see it doth not suffer unjustly, as for my life itself.

And, I promise your Lordship, I shall trouble you with no evidence, which is not clear and plain, no inuendoes or suspicious; but I shall prove fully and clearly, in the first place, that there was no ground at all in this case, to suppose she was murdered by any one but herself.

The first fact that they insisted upon, to infer a murder from it, was, that the body was found floating: now, my Lord, that fact I am able, by the evidence I have, as well as from that of the prosecutor, to deny: for the fact was directly otherwise, that is, she was not found floating.

And whereas, the prosecutor's witnesses, who have been produced to this point, are obscure and poor men, and your Lordship observes, have been taught to say generally that she floated, which, when they are required to explain, and describe how

she lay, they contradict themselves in, by shewing she lay sideways between the stakes, and almost all under water. Now I shall give your Lordship and the jury, a full and particular account and description from the parish officers, men employed by the coroner to take the body out of the water, of the very manner and posture in which it was first found; which they are much better able to do than the prosecutor's witnesses, having seen her before all or most of those people; and these officers clearly agree, that her body was under water, when found, except some small appearance of her petticoats, near or on the surface of the water, which may be very easily accounted for; because the stakes, the witnesses mention, and which are driven into the ground across the river, to prevent weeds and rubbish from running into the mill-stand, as the witnesses have already said, about a foot distance from one another, and are set with their feet from the mill, and their heads inclining towards the mill with the stream. Now, my Lord, every body knows, that though a drowned body will at first sink, yet it is buoyant, and does not go downright, and rest in one place like lead; for a human body is seldom or never in a stream found to lie where it was drowned: a body drowned at Chelsea, has been often found by fishermen at London, and that before it came to float above water. Now if a body is so buoyant, as that it is driven down by the impellent force of the current, though it do not float above water, it seems a consequence, that when it comes to be stopped and resisted by the stakes which lie with their heads downwards, inclining with the stream, the stream bearing the body against the stakes, must needs raise it upwards, to find another passage, if possible, when the ordinary and natural is obstructed. I have seen, I remember, that where weeds have been driven down a river, and have been rolled along at the bottom, when they have come down to a board or stakes of a wier or turapike, they have been by the force of the water, raised up against those boards or stakes, and forced over them; though, without such obstruction, they had undoubtedly continued to roll under the water. I do not know of any one symptom they pretend to, of her not being drowned, from any thing observed of her in the water. Then, as to the flatness of her belly, when she was laid in her coffin, I shall shew it is a common and natural accident; sometimes drowned bodies are swelled more, sometimes less, sometimes not at all: I think it hardly requires a physician to prove, that a body may be drowned with very little water; that a man may be drowned by strangling, or suffocation caused by a little water in the lungs, without any great quantity of water received in the body, is a certain and established truth; for I am told that when respiration ceases, the party dies, and can receive no water after that; so that nothing is to be inferred from a body's having more or less water found in it, especially if your Lordship will give me leave to observe this distinction, where a body is voluntarily drowned, and where it is drowned by accident; for people that fall in by accident do struggle and strive as long as they can; every time they rise they drink some water into the stomach, to prevent its passing into the lungs, and are drowned no sooner than needs must; but

persons that voluntary drown themselves, to be sure, desperately plunge into the water, to dispatch a miserable life as soon as they can; and so that little quantity in the lungs which causes death, may be the sooner taken in, after which no more is received; and I hope, by physicians, it will appear, there is good ground for this difference.

The next is the evidence that the surgeons have given on the other part, relating to the taking this gentlewoman out of her grave, after she had been buried six weeks; whether this ought to have been given in evidence, for the reasons I hinted at, in a criminal case, I submit to your Lordship: but as it is, I have no reason to apprehend it, being able to make appear, that the gentlemen who spoke to this point, have delivered themselves in that manner, either out of extreme malice, or a most profound ignorance: this will be so very plain upon my evidence, that I must take the liberty to impute one, or both of those causes, to the gentlemen that have argued from their observations upon that matter.

And now, if your Lordship will but please to consider the circumstances under which they would accuse me of this horrid action, I do not think they will pretend to say, that in the whole course of my life, I have been guilty of any mean or indirect action; and I will put it to the worst enemy I have in the world to say it. Now, for a man in the condition I was in, of some fortune in possession, related to a better, in a good employment, thriving in my profession, living within my income, never in debt, (I may truly say, not five pounds at any one time, these eight years past,) having no possibility of making any advantage by her death, void of all malice; and, as appears by her own evidence, in perfect amity and friendship with this gentlewoman, to be guilty of the murdering her, to begin at the top of all baseness and wickedness, certainly is incredible.

My Lord, in this prosecution, my enemies seeing the necessity of assigning some cause, have been so malicious to suggest before, though not now, when I have this opportunity of vindicating myself publicly, that I have been concerned in the receipt of money for this gentlewoman, had her securities by me, and sometimes that I had been her guardian, or her trustee, and I know not what I now see the contrivers and promoters of that scandal, and they know it to be base, false, and malicious: I never was concerned in interest with her directly or indirectly; and so I told them when I was before my Lord Chief Justice: it is true, it was then just suggested by the prosecutors, I then denied it, and I deny it still,—I thank God, I have not been used, nor have I needed, to deny the truth.

My Lord, you find the prosecutors have nothing to say to me upon this head, after all the slanders and stories they have published against me, of my having money in my hands which belonged to the deceased: but though they do not stir it, I will, and give your Lordship a full account of all that ever was in that matter. When I lodged at Hertford, some time since she desired me to recommend to her a security for £200 if it came in my way: my Lord, when I came to town, I understood that one Mrs. Puller, a client of mine, had a mortgage formerly made

to her by one Mr. Loftus of Lambeth, in Surry, for the like sum; and that she was willing to have in her money: I wrote to this gentlewoman, the deceased, to acquaint her of the security; she thereupon did send up £200 and some odd pounds for interest; the account of which I produced to my Lord Chief Justice: this money was sent to me by Mr. Cramfield, as I have been informed, and by him given to Mr. Toller's clerk, and by him brought publicly to me.

My Lord, this mortgage I immediately transferred by assignment indorsed on the back of it, and Mrs. Habberfield, a trustee for Mrs. Puller, signed and sealed it; and that very 200*l.* and interest due was at one and the same time paid to Mrs. Puller, and by her the principal was paid to her daughter, in part of her portion: all this was transacted the beginning of December last, and she was not drowned till the 13th of March following: and, my Lord, these people that are now the prosecutors, did own before my Lord Chief Justice, that they had found this mortgage amongst the deceased's writings in her cabinet at the time of her death. Now, my Lord, I say, that, saving this one service I did her, as I said, in December last, I never was otherwise concerned with her in the receiving or disposing of any of her money; nor had I ever any of her securities for money in my keeping; and I defy any adversary I have, to shew the contrary.

My Lord, as there appears no malice, no interest, so they have proved for me, that there was no concealment of shame to induce me to commit so barbarous an action; otherwise, perhaps, now they find they can assign no other cause, they would content themselves to give that reason, and fling that scandal at me: and though I take it, by the experience I have had of them, they did not design to do me any favour, yet, I thank them, in endeavouring to vindicate her honour, they have secured my reputation against that calumny; and though I am satisfied, as I said, they did not intend me kindness, yet I thank God, they have given me a just opportunity to take advantage of their cunning, for the clearing my innocence in that particular.

I shall shew your Lordship in the next place, that it is utterly impossible I could be concerned in this fact, if I had had all the motives and provocations in the world to have done it: I shall shew your Lordship, in point of time, it could not be.

The maid, *Sarah Walker*, who is the single witness, I take it, that says any thing in the least relating to me, said but now, the clock had struck eleven before she carried up the coals, and about a quarter of an hour after, while she was warming the bed above stairs, she heard the door clap, and sometime after she came down, and found that I and her mistress were gone: now, in point of time, I shall prove it utterly impossible I could be guilty of the fact I am accused of, being seen to come into the *Glove Inn* as the town clock struck eleven, and staying there more than a quarter of an hour, was, after several things done at my lodging, in bed before twelve o'clock, and went no more out that night, as I shall prove. As for that little circumstance of sending for my horse, which they have made use of all along to back this prosecution, their very telling me of that matter, shews how they are put to their shifts to justify their accusing me; I

say, in prudence, I ought to have done what I did: I sent for him on the Tuesday, but as their witness said I told him at the time I bid him fetch my horse, not to use then, nor till by the course of the circuit I was to go into Essex with the judges the next morning; and till then the prosecutor's witness, who is the hostler at the Glove Inn, was ordered to set him up there, to litter him down, and to take care of him, and feed him; and that he should be ready for me to go to Chelmsford on the morrow, whither I went with the other counsel the next morning, being Wednesday: and this, my Lord, is the whole of that matter.

My Lord, this business slept near two months after the coroner's inquest, before I heard of it, or imagined myself to be concerned in it, and was never stirred, till two parties, differing on all other occasions, had laid their heads together: I beg leave to let your Lordship a little into that matter, to shew you how this prosecution came to be managed with so much noise and violence as it has been. I can make it appear, that one of the greatest of the quakers, Mr. Mead by name, has very much, and indirectly too, concerned himself in this matter: it seems, they fancy the reputation of their sect is concerned in it; for they think it a wonderful thing, nay, absolutely impossible, (however other people may be liable to such resolutions,) that one, who was by her education entitled to the light within her, should run headlong into the water, as if she had been possessed with the devil; of this they think their sect is to be cleared, though by spilling the blood of four innocent men. The other sort of people that concur with the quakers in this prosecution, I shall mention, now I come to observe what the witnesses are that have been produced against me: some of them I have nothing to object to, but that they are extremely indigent and poor, and have been helped by the prosecutor; those that are so, say nothing as to me; others who live in this town, and give their opinions of the manner of her death, are possest with much prejudice against me, upon feuds that have risen at the elections of my father and brother in this town; and these, with the quakers who have wholly drest up this matter for several ends; the quakers to maintain the reputation of their sect, and the others to destroy, or break at least, the interest of my family in this place. But, however effectual these designs may have been, to have made a great noise in the world out of nothing; I am satisfied now, that I am in a court of justice, where no person's reputation, much less his life, will be sacrificed to the policy or malice of a party without proof; and, therefore, I have taken up so much of your time, to set the true rise of this prosecution before you in a clear light.

My Lord, as to my coming to this town on Monday, it was the first day of the assizes, and that was the reason that brought me hither: before I came out of town, I confess, I had a design of taking a lodging at this gentlewoman's house, having been invited, by letter, so to do: and the reason why I did not, was this; my brother, when he went the circuit, always favoured me with the offer of a part of his lodging, which, out of good husbandry, I always accepted: the last circuit was in Parliament time, and my brother being in the money-chair, could not attend

the circuit as he used to do: he had very good lodgings, I think one of the best in this town, where I used to be with him: these were always kept for him, unless notice was given to the contrary. The Friday before I came down to the assizes, I happened to be in company with my brother and another gentleman, and then I shewed them the letter, by which I was earnestly invited down to lie at the house of this gentlewoman during the assizes (it is dated the 9th of March last); and, designing to comply with the invitation, I thereupon desired my brother to write to Mr. Barefoot, our landlord, and get him, if he could, to dispose of the lodgings; for, said I, if he keeps them, they must be paid for, and then I cannot well avoid lying there: my brother did say, he would write, if he could think on it. And thus, if Mr. Barefoot disposed of the lodgings, I own I intended to lie at the deceased's house; but, if not, I looked on myself as obliged to lie at Mr. Barefoot's. Accordingly I shall prove, as soon as ever I came to this town, in the morning of the first day of the assizes, I went directly to Mr. Barefoot's (the maid and all agree in this) and the reason was, I had not seen my brother after he said he would write, before I went out of London; and, therefore, it was proper for me to go first to Mr. Barefoot's, to know whether my brother had wrote to him, and whether he had disposed of the lodgings or not. As soon as I came to Mr. Barefoot's, there was one Mr. Taylor, of this town, came to me, and I, in his hearing, asked Mr. Barefoot, his wife, and maid-servant, one after another, if they had received a letter from my brother, to unbespeak the lodgings? They told me, no; that the room was kept for us; and, I think, that they had made a fire, and that the sheets were airing. I was a little concerned he had not written; but, being satisfied that no letter had been received, I said immediately, as I shall prove by several witnesses, if it be so, I must stay with you; I will take up my lodging here: thereupon I alighted, and sent for my bag from the coffee-house, and lodged all my things at Barefoot's: and thus I took up my lodging there as usual. I had no sooner done this, but Sarah Walker came to me from her mistress to invite me to dinner, and accordingly I went and dined there; and when I went away, it may be true, that, being asked, I said I would come again at night; but that I did say I would lie there, I do positively deny; and, knowing I could not lie there, it is unlikely I should say so. My Lord, at night I did come again, and paid her some money, which I received from Mr. Loftus, who is the mortgager for interest of the 200*l*. I before mentioned (it was six pounds odd money, in guineas and half-guineas,) I wrote a receipt, but she declined the signing of it, pressing me to stay there that night; which I refused, as engaged to lie at Mr. Barefoot's, and took my leave of her; and that very money, which I paid her, was found in her pocket, as I have heard, after she was drowned.

Now, my Lord, the reason that I went to her house at night, was, first, as I said, to pay her the interest-money; in the next place, it was but fitting, when I owned myself under a necessity of disappointing her, and lying at Barefoot's, to go to excuse my not lying there; which I had not an opportunity at dinner-time to do. My Lord, I open my defence shortly, referring the par-

ticulars to the witnesses themselves, in calling those who will fully refute the suppositions and inferences made by the prosecutors, whom first, my Lord, I shall begin with, to shew there is no evidence of any murder at all committed: and this, I say again, ought to be indisputably made manifest and proved, before any man can be so much as suspected for it.

Judge Hatsel bade Mr. Cowper not flourish too much, but call his witnesses, and then make his observations.

Then *Robert Dew* appeared as a witness for the prisoner, and testified, that he saw Sarah Stout taken up; that she lay in the river, covered with the water about half a foot, and had a striped petticoat on, but nothing could be seen above water; and that when he heaved her up, he found several sticks and flags under her; that she lay on her right side in the water, her head leaning down, and her arm between the stakes, which stood sloping, leaning down the stream a little: that when she was taken out, he perceived a white froth come from her mouth and nose, and, as they wiped it away, more came out.

Young, the constable, confirmed the evidence of the last witness, differing only in this, that he saw part of her coat lie on the top of the water, and that they found six guineas, ten shillings, and threepence-halfpenny in her pockets.

Wall, one of the coroner's inquest, deposed, that there were no marks upon the body when they viewed it, only a little mark about her ear, and something near her collar-bone; and that Mr. John Dimsdale told them, these marks were no more than usual in such cases: it was only a stagnation of the blood.—Other witnesses testified, that she frothed pretty much at the mouth.

Then *Mr. Cowper* proceeded to examine Dr. Sloane, and the rest of the physicians he had brought from London, as to their opinion concerning the body's having no water in it.

Dr. Sloane said, a small quantity of water, in the windpipe, would suffocate a person; and he believed, whether a person came alive or dead into the water, some quantity would get into the windpipe, but none into the stomach, after the person was dead.

The Court demanding if there had been water in the body, if it would not have putrified the parts? He answered, it would have putrified the stomach less than the lungs: that, no doubt, there would be a fermenta-

tion more or less, as the air came more or less to the body: it might be otherwise where the air was wholly shut out, which was supposed to be the modern way of embalming or preserving dead bodies without spices, which was in a great measure brought about by the closeness of the coffin.

Mr. Cowper asking, if any water could pass into the thorax, or there could be any water in the body after six weeks?—He said, he thought it scarce possible that any should go from the windpipe into the cavity of the thorax, without great violence; for there was a membrane that covered the lungs, that would hinder the water from passing through: that if there was any quantity of water in the lungs, the sponginess of the part would suck up some part of it; and, in the stomach, it was probable there was a great fermentation, and a great deal would rise in vapours or steams, and go off that way.

Dr. Garth said, it was impossible the body should have floated unless it had rested or been entangled with the stakes, because all dead bodies fall to the bottom: and, as all the witnesses agreed she was found upon her side, it was as hard to conceive how she should float in this posture, as that a deal board should float edgeways: therefore it was plain she was entangled, or the posture would have been otherwise. As to the quantity of water in her, it need not be very great; but, he must own, the water would force itself into all cavities where there was no resistance. He believed, when she threw herself in, she might not struggle to save her life, and so not sup up much water: however, he doubted not but some water fell into her lungs, because the weight of it would force itself down; but this might imperceptibly work or fall out: nor did he think water in the body would promote putrefaction: for, in some places, they kept flesh meat from corruption by preserving it in water: and, it was well known, it would putrify less in water than when exposed to air. And, being asked again as to the sinking of dead bodies, he persisted in his opinion, that all dead bodies would sink, unless prevented by some extraordinary accident; as, if a strangled body be thrown into the water, and the lungs being filled with air, the cord be left about the neck, in that case it might float, because of the included air, as a bladder does; but here was no cord, or any mark of it, only a common stagnation: that seamen were mistaken, when they thought they swam: he had made the experiment on other animals, and they all sunk. Being asked, if any quantity of water could pass into the cavity of the thorax? he answered, it was impossible there should be any, till the lungs were quite rotten; there was no way but by the lungs, which were invested with so strong a membrane, that they could not force breath through it without their blow-pipes.

Dr. Morley said, there was no necessity she should have a

great quantity of water in her: if she drew into her lungs two ounces of water, it was the same thing as to drowning her, as if there had been two tons. They drowned a dog the last night, and dissected him, and found not a spoonful of water in his stomach, and about two ounces in his lungs; and the like quantity in another they drowned: that they both frothed at the mouth and nose: and if bodies swam that had been lately killed, he thought it was by accident: and he was of opinion, there could be no water in the thorax, unless by an imposthume, or some violence to nature.

Dr. Wollaston was of opinion, it was impossible to discover if a person was drowned, six weeks afterwards; and that if there had been never so much water in the body, it must have forced its way out before that time: that he knew two people drowned, and taken up next day; one was ready to burst with water, and the other had not the least sign of water in him, except a watery froth at his mouth and nostrils.

Mr. Cooper, the anatomist, deposed, that three ounces of water, in the windpipe, was enough to drown a person; and admitted, that bodies necessarily sink in water if no distention of their parts buoy them up: that there could be no water remain in the body after six weeks time; and it was ridiculous to expect any in the thorax, unless the lungs had suffered some aposthumation: and as to the rest, he concurred with the physicians produced by the prisoner.

Then *Mr. Cowper* proceeded to call witnesses to shew that the deceased was a melancholy woman.

Mr. Bowd, a tradesman of Hertford, deposed, that observing the deceased to be melancholy, he asked her, if she was in love; and she confessed she was; but said, the world should not say she changed her religion for a husband: and that, having lately bought a gown of this witness, she said, she believed she should never live to wear it.

Mr. Firmin also testified, that the deceased was melancholy.

Mrs. Bandy deposed, that she acknowledged herself extremely melancholy, insomuch that her mind was disordered by it.

Mrs. Low testified, that the deceased often complained she was melancholy, and confessed she was in love: that she said, she would take her full swing of melancholy, when her mother was abroad, and lay a-bed a week: that at another time she said, her melancholy had occasioned an intermitting fever; and being advised to send for a physician, she said, her distemper lay in her mind, and not in her body: she would take nothing, and the sooner it killed her, the better; and that now she delighted neither in reading or any thing else.

Then *Mrs. Cowper*, wife of the prisoner's brother,

Mr. William Cowper, (afterwards Lord Chancellor,) being called as a witness, testified,

That she was frequently in the company of the deceased, both at London and in the country, and she was extremely melancholy; and the witness suspecting it was upon Mr. Marson's account, asked, why she did not marry him, and make herself easy? but she said, she could not: that she appeared disturbed also at the preaching of a Quaker waterman, who gathered a rabble of people about him before her mother's door; and, preaching to them, arraigned her conduct: that the deceased once having a fever, said, she was in great hopes it would carry her off, and neglected herself with that view, often wishing she were dead: that, at another time, being very melancholy, the prisoner's wife said, for God's sake keep such thoughts out of your head as you have had: talk no more of throwing yourself out of a window. To which the deceased answered, I may thank God that ever I saw your face, otherwise I had done it: but I cannot promise I shall not do it.

Here *Mr. Cowper* proceeded to open another part of his evidence: he said, that being at Hertford in the long vacation, and Mr. Marshall of Lyon's-Inn coming down to visit him there, he introduced him into the company of the deceased, and he made his addresses to her, and was well received as a lover: but walking out one evening with Mr. Marshall, Mrs. Croke, and the deceased, and Mr. Marshall and Mrs. Croke being a little before them, Mrs. Stout (the deceased) said to him, the prisoner, she did not think he had been so dull; and, he being inquisitive to know in what his dullness consisted? She answered, What! Do you imagine I intend to marry Mr. Marshall? And he replying, if she did not, she was to blame in what she had done. Mrs. Stout said, No, I thought it might serve to divert the censure of the world, and favour our acquaintance: and that he would produce some letters to confirm this, after he had called Mr. Marshall.

Then *Mr. Marshall* deposed, that he came down to Hertford in the long vacation, to visit Mr. Cowper, and met with Mrs. Sarah Stout first at his lodgings: that she gave him frequent opportunities of improving his acquaintance; and, by the manner of his reception, he had no reason to suspect the use he was designed for: but, upon applying himself to her afterwards, in a way of courtship, he received a very fair denial; and there his suit ended. Mr. Cowper had been so friendly to give him notice of some things, that convinced him he

ought to be thankful he had no more to do with her — : that he took her at her word, when she refused him, having partly, by his own observation, but more by Mr. Cowper's friendship, been pretty well able to guess at her meaning.

Then two letters from the deceased, to Mr. Marshall, (the first dated the 26th of December, 1697, the other without date,) were read, which shewed there was a friendly correspondence carried on between them, but nothing more.

After which, Mr. Cowper produced a letter from the deceased to himself, but directed to Mrs. Jane Ellen at Hargrave's coffee-house, to prevent suspicion; which letter was in the following words:—

“ Sir,

March the 5th.

I am glad you have not quite forgot that there is such a person as I in being; but I am willing to shut my eyes, and not see any thing that looks like unkindness in you, and rather content myself with what excuses you are pleased to make, than be inquisitive into what I must not know. I should very readily comply with your proposition of changing the season, if it were in my power to do it; but, you know, that lies altogether in your own breast. I am sure the winter has been too unpleasant for me to desire the continuance of it: and I wish you were to endure the sharpness of it, but for one hour, as I have done for many long nights and days, and then, I believe, it would move that rocky heart of yours, that can be so thoughtless of me as you are; but if it were designed for that end, to make the summer the more delightful, I wish it may have the effect so far, as to continue it to be so too, that the weather may never overcast again; the which, if I could be assured of, it would recompence me for all that I ever suffered, and make me as easy a creature as I was the first moment I received breath; when you come to H — pray let your steed guide you, and do not do as you did the last time; and be sure order your affairs to be here as soon as you can, which cannot be sooner, than you will be heartily welcome to your

Very sincere Friend.”

For Mrs. Jane Ellen, at Mr. Hargrave's, near Temple-Bar, London.

Then another letter from the deceased to the prisoner, dated the 9th of March, was read, and is as follows:—

“ Sir,

I wrote to you by Sunday's post, which I hope you have received; however, as a confirmation, I will assure you, I know of no inconvenience that can attend your cohabiting with me, unless the Grand Jury should thereupon find a bill against us; but I will not fly for it; for come life, come death, I am resolved never to desert you; therefore, according to your appointment, I will expect you, and then I shall only tell you that I am

Yours, &c.”

Then *Mr. William Cowper*, the prisoner's brother, was called to give evidence for him: he said, he would bear his brother witness, that it was with great unwillingness he produced those letters; nothing but the lives of those gentlemen who were tried with him, could have inclined him to that.

He deposed further, that *Mrs. Stout* being in London, sent his brother word she would give him a visit at his chamber: to prevent which, it was contrived between him and his brother, that he (the witness) being to dine with *Mrs. Stout* at his father *Cowper's* in *Hatton-Garden* that day, should take an opportunity to say that he (the prisoner) was gone to *Deptford*; and that the witness did mention it accordingly: whereupon *Mrs. Stout*, the deceased, rose up from dinner in confusion, and going into the yard, there swooned away; and they gave her such assistance as was usual in such cases.

He also testified, that his brother communicated the last letter to him on Friday before the last assizes, and thinking, as the case stood, it was better his brother should lie at his lodgings at *Mr. Barefoot's* at the assizes, than at *Mrs. Stout's*; he did not write to *Mr. Barefoot* to dispose of the lodgings to another.

Then *Mrs. Barefoot* testified, the prisoner lay at her house the night the accident happened, and came in a little after eleven by the town clock, and did not go out again that night: the maid of the house also, that put him to bed, confirmed her mistress's evidence, and affirmed, that the clock struck twelve after the prisoner was in bed.

Then *Mr. Cowper* proceeded in his defence, and said, he would explain that part of the evidence that was given by *Sarah Walker*, *Mrs. Stout's* maid, where she said, her mistress ordered her to warm the bed, and he never contradicted it; and desired the Court would observe those words in the last letter, viz. "No inconvenience can attend your cohabiting with me;" and afterwards, "I will not fly for it; for come life, come death, I am resolved;" from whence might be conjectured, what the dispute was between them at the time the maid mentioned: he thought it was not necessary she should be present at this debate, and therefore might not interrupt her mistress in the orders she gave; but as soon as the maid was gone, he offered these objections: he informed her by what accident he was obliged to lodge at *Mr. Barefoot's*, and that the family were sitting up for him: that his staying at her house under these circumstances, would provoke the censure of town and country, and therefore he could not stay, whatever his inclinations were;

but his reasons not prevailing, he was forced to decide the controversy, by going to his lodging : so that the maid might swear true, when she said, he did not contradict her mistress's orders.

Then he called witnesses, to shew it was impossible he could be at the drowning of Mary Stout ; because he went away from her house a quarter before eleven, and was at his inn, the Glove and Dolphin, before the clock struck eleven, and it would take up above half an hour to go from Mrs. Stout's to the place where she was drowned, and return to the Glove Inn.——And, calling Elizabeth Spurr as a witness, she testified, that he came into the Glove Inn just as the clock struck eleven, and staid there a quarter of an hour before he went to his lodgings : this evidence was confirmed by two other servants of the Glove Inn.

Sir Thomas Lane and *Sir William Ashurst* testified, that they had walked over the ground above mentioned, and it took them up above half an hour, a usual walking pace.

Mrs. Mince was then called as a witness, to disprove what Sarah Walker had deposed, namely, that her mistress did not use to go out at nights.

Mrs. Mince testified, that Sarah Walker told her, her mistress used to entertain company in the summer-house in the night-time, unknown to her mother : that she used to go out at nights, and take the key with her, and make her mother believe she was gone to-bed ; and that one time she went out at the garden-window when the garden-door was locked, and bade her not sit up for her, she would come in at her own time ; and what time she came, she (the maid) said she did not know, for she was gone to bed.

Then the prisoner called *Sir William Ashurst*, *Sir Thomas Lane*, *Mr. Cox*, and *Mr. Thompson*, to his reputation, who all gave him a good character ; and *Mr. Cox* said, he had lived by him in Southwark eight or nine years, and knew him to be a person of integrity and worth, and all the neighbourhood coveted his company ; that he took him to have as much honour and honesty as any gentleman whatever, and of all men he knew, he would be the last man that he should suspect of such an act as this : he believed nothing in the world could move him to entertain the least thought of any thing so foul.

Here *Mr. Marson* entered upon his defence, and said,

Their business at Hertford was this: Mr. Ellis Stevens being Clerk of the Papers, and Mr. Rogers Steward, of the King's Bench, were obliged to wait upon the Lord Chief Justice out of town, with the Marshal of the King's-Bench; and on the Monday he went with them to the Lord Chief Justice's house in Lincoln's-Inn-Fields, from whence they all set out for Hertford; but he (Marson) being an attorney of the Borough Court, and having business there that day, when they came as far as Kingsland, returned back to Southwark, where he attended the Court as usual, and about four set out again for Hertford; and on the way, at Waltham-Cross, he met his acquaintance, Mr. Hanks, a clergyman, who had been to attend the Chief Justice returning to London; but he prevailed on him to go back with him to Hertford, and they galloped every step of the way, because night was coming on, and it was about eight o'clock when they came to Hertford, and he might be in a sweat with riding so hard; but not in such a sweat as the witness testified: that meeting with their friends Mr. Stevens, Mr. Rogers, Mr. Rudkin, and other acquaintance of the Marshal's at the coffee-house, they went from thence to the Glove and Dolphin, where they staid till about eleven; and from thence, he and Mr. Stevens, and Mr. Rogers, went to Gurrey's, where they lodged, and drank three bottles of wine before they went to bed, and had some jocular conversation with their landlord Gurrey: he believed Mr. Stevens might ask him if he knew Mrs. Sarah Stout, and what sort of woman she was; and he believed he might say, my friend may be in with her: that Mr. Rogers also asked him (Marson) what money he had got that day? meaning at the Borough Court, and he answered, 50s.; to which Rogers replied, we have been here spending our money, I think you ought to treat us? As to the bundle mentioned, he knew of none, except a pair of sleeves and a neckcloth.

Mr. Rogers, in his defence, said,—

They came down with the Marshal of the King's-Bench; and, not thinking Mr. Marson would have come that day, had not provided a lodging for him: that they went from the coffee house to the tavern, as Mr. Marson had related; and there they had some merry and open discourse of this gentlewoman, but he never saw her, or heard her name before she was mentioned there.

Mr. Stevens gave the same account of their going to Hertford.

Here one of the jurymen desired they might withdraw; but the judge told him, they must make an end first.

Then *Mr. Jones* said, the friends of the deceased would call some witnesses to her reputation; and he believed the whole town could attest, that she was a woman of a good reputation: indeed, the prisoners had produced some letters without a name; but, if they insisted on any thing against her reputation, they must call witnesses.

Judge Hatsel answered, he believed nobody disputed that she might be a virtuous woman, and her brains might be turned by her passion, or some distemper. He then directed the jury.

Then the jury withdrawing for about half an hour, returned with their verdict, that neither Mr. Cowper, nor any one of the other three prisoners, were *Guilty*: and thereupon they were all discharged.

MICHAEL VAN BERGHEN, KATHERINE VAN BERGHEN, AND GERRARD DROMELIUS, FOR THE MURDER OF OLIVER NORRIS.—*June 24, 1700.*

ON the 24th of June, 1700, were indicted, at the Sessions House, in the Old Bailey, Michael Van Berghen, Katherine Van Berghen, and Gerrard Dromelius, for the murder and robbery of Oliver Norris.

The first evidence sworn was a neighbour, who deposed, that the morning after Mr. Norris was murdered, he, having occasion to go to a ditch that runs out of the Thames into Saint Katherine's, by the back part of his house, looking at the water, perceived the toe of a boot above the surface; upon which, he got a pole with a hook at the end of it, took hold of it, and raising it a little higher, perceived, above the upper part of the boot, a scarlet stocking, and afterwards found it to be a man's body; upon which he immediately got assistance to take it out of the ditch: this done, they found that he had been murdered, his throat being cut in a most barbarous manner, and his coat and waistcoat taken off. Other neighbours said, that when they heard of the body's being found, they went to see it, and viewing the ground all about to see if they could find, by any signs of blood, &c. where the murder had been committed, found none; but remembered that, being up early that morning, they had seen, about two or three o'clock, Michael Van Berghen and Gerrard Dromelius coming from that part of the common shore, and had observed a light carried from place to place in Van Berghen's house. Other evidences deposed, that

the night before they heard a great noise in Van Berghen's house; upon which, having some suspicion, they procured an officer, and searched the house, but could find no symptoms of the murder, except a little blood behind one of the doors, the room seeming to have been lately mopped. They then asked what was become of Gerrard Dromelius? and could get no satisfactory account of him, but that he was gone. Upon this they secured Michael Van Berghen, his wife, and the servant-maid; and being informed by a waterman, that he had carried Gerrard Dromelius over the water not long before with a hamper to Rotherhithe, they sent persons in quest of him, who were not long before they found the place where he had taken shelter; and, on searching his lodgings, they found a hamper, and in it a hat, peruke, coat, waistcoat, &c. which were proved to be Mr. Norris's, in a very bloody condition.

Van Berghen's servant-maid likewise deposed, that Mr. Norris being in liquor the night before, came into her master's house, where he drank wine, and, staying there till about eleven, was for going home; but, being very solicitous to have a coach, her mistress at length sent her for one, (at the same time whispering to her not to bring any,) but when she returned back to say she could not get one,—which she did, Mr. Norris then insisted upon going without one, for which purpose he went out of doors, but, soon returning again, he went to her mistress, saying, he had lost his money there, and he would have satisfaction, talking very loud and in a very angry manner. This occasioned several persons that were passing by the door to take notice; whereupon her mistress desired him to walk into the room, telling him, he should have satisfaction. After this, her master, mistress, and the drawer, being with him, and high words passing, her mistress bid her go to bed, which she did accordingly; and when she was there, she heard a bustle below stairs, but knew not what was the matter. After she had been in bed some time, her mistress came into her room with a candle, and fetched a hamper; she would have gotten up, but she was desired by her mistress to lie still, which she did. She rose early in the morning, before the rest of the family, and found the room in which she had left Mr. Norris, her master, mistress, and Gerrard Dromelius,

had been newly washed, (which her mistress had never been used to do herself,) who set her with a pail and mop to wash a bench at the door, on which she saw some blood. This evidence affirmed, that she enquired what was become of Mr. Norris; but her mistress, instead of telling her, bid her hold her tongue, and say nothing of him, for their lives were all in her power; and that she also enquired for Dromelius, but was answered, he was gone.

All the prisoners denied the fact, alleging, in their defence, that Mr. Norris went away from their house by eleven o'clock, and that they knew nothing at all of what afterwards became of him; but, the jury having heard the evidence, and considered the whole affair, found them all three Guilty of wilful murder, and accordingly they received sentence of death. For some time after their condemnation, they persisted in denying the fact; till, at length, through the Ordinary's unwearyed diligence, who gave them almost constant attendance, they were brought to the following confession.

Gerrard Dromelius, who was a servant in the quality of a drawer to Van Berghen, when all his hopes of a reprieve were vanished, owned that he had committed the murder, taking the commission of the fact wholly upon himself; saying, that Mr. Norris, being resolutely bent to go to an inn where he lodged near Aldgate, his master ordered him to conduct him to the same, he being intoxicated: that they were no sooner out of the doors than Mr. Norris took an opportunity to step aside in an adjacent building; and that, whilst they were there, he gave him very angry words, and attempted to draw his sword upon him; upon which he closed with him, wrested the sword out of his hand, and gave him several stabs with it; that, while the gentleman was in this condition, and groaning for life, he heard a watchman coming along, and dreading the discovery, he drew his knife and cut his throat, in order to put an end to his groans and his own fears. The Ordinary told him, that his account of the matter was improbable, as it was a very rainy night when the murder was committed, and if they had tumbled down together, as he said they had, their cloaths would have been dirty, and there would have been blood seen had the gentleman been murdered near the place where the body was found; and that there

would have been holes in the gentleman's cloaths, had those wounds been given him while his cloaths were on; whereas, on the contrary, there were none to be seen. To this he replied, that there might be holes in the cloaths, and they might be dirty, though not observed, adding, that there was a great quantity of blood near the place where the body was found, though none was seen, and that there would have been more had he not torn the gentleman's shirt, and put it into the bleeding wounds. But these assertions were contrary to what was sworn upon his trial; yet, notwithstanding this, he insisted upon it, that he committed the murder with his own hands, and that both his master and mistress were wholly ignorant of the matter. The Ordinary told him, that there appeared in him an obstinacy peculiar to himself, for him to affirm that this murder was done by his own hands; which, according to circumstances, was hardly probable to be done without two or three assistants. He asked him what he could purpose to himself from such a statement, as it could be of no use either to his master or mistress, since the evidence had so fully proved, by their attestations, that they were identically concerned therein, and for which they were to die; he intimated to him, that perhaps the familiarity that there appeared to have been between him and his mistress might have some influence upon him, since he knew he must die for it himself to save her; but, in denying the truth, he ventured his own damnation upon it. The discourse had this effect upon him; that it brought tears from his eyes, and groans from his heart, but no alteration in his story. He acknowledged his intimate familiarity with his mistress, and seemed to bewail it, wishing he had longer time to reflect.

Being brought to the place of execution, his master and mistress seemed to behave with some decency, praying to God, and desiring the prayers of their own country ministers, and others that were attending them; but Gerrard Dromelius being again asked about the perpetration of the murder, would give no other account than such as he had given before; only desiring the people to take example by him, and to avoid all uncleanness, and wicked practices, especially violent passion, which, he said, had brought him to this untimely end.

Michael Van Berghen could not express himself intelligibly in English, but did in Latin. He absolutely denied that the murder was committed in his house, or that he knew any thing of it; though the Ordinary reminded him it had been sworn at his trial, that he and Dromelius were seen to come from the common sewer, where the dead body lay, between two and three o'clock that morning; yet he persisted in denying it; and could only be brought to own, that Dromelius informed him, as he lay in his bed, immediately after the fact was committed, that he had wounded the gentleman, and desired him to assist in making his escape, upon such a supposition; but that, when he came to understand he was really murdered, he confidently affirmed, that he then gave money to pursue the murderer, in order to have him brought to justice and made an example of, by paying blood for blood. But this, like the rest of his and Dromelius's narrations, seemed to be false; for, if he had done as he asserted he had, it would have been of great advantage to him; and, in all probability, saved his life, by producing such evidence on his trial. The Ordinary spared no pains in persuading him to be ingenuous and open in confessing his guilt, which had no other effect upon him than throwing him into a passion; when, with disdain, he replied, would he have him to confess more than he knew? and expressed great uneasiness at the dispensation he was under. In this humour he persisted, nor would he acknowledge any thing further.

His wife kept also in the same story, protesting, with all the solemnity imaginable, that the murder was not committed in their house, nor did she know any thing of it, till some time after it was done. She likewise confessed, that Dromelius came up stairs into the room where they lay, and declared that he had murdered the gentleman; upon which she ran for the hamper, to put the bloody cloaths in, and to help the drawer in his escape, in which she had done no more than what was customary in Holland. When she was brought to the place of execution, she seemed to be greatly concerned for her reputation; but persisted in declaring that she knew nothing more relative to the fact.

They were executed near the Hartshorn Brewhouse, in East Smithfield, being the nearest proper place to

where the murder was committed: the two men were hanged in chains between Mile End and Bow, but the woman was buried soon after her execution.

CAPTAIN WILLIAM KIDD,

FOR MURDER AND PIRACY, UPON SIX SEVERAL INDICTMENTS, AT THE ADMIRALTY SESSIONS, AT THE OLD BAILEY, ON THURSDAY THE 8th, AND FRIDAY THE 9th OF MAY, 1701.

THE King's commission for holding the court being first read, the Court proceeded to call the gentlemen summoned upon the grand jury, and seventeen persons were sworn.

Dr. Oxenden having given them the charge, and explained the nature of the commission and the crimes, inquirable by virtue of it; the grand jury withdrew, and after some time returned into court, and found the bill of indictment against Captain Kidd, for Murder, and another against him and Nicholas Churchill, James How, Robert Lamley, William Jenkins, Gabriel Loff, Hugh Parrot, Richard Barlicorn, Abel Owens, and Darby Mullins, for piracy.

Proclamation being then made, the prisoners were brought to the bar and arraigned. Captain Kidd for some time refused to plead, desiring to have *Dr. Oldish* and *Mr. Lemmon* for his council, and that his trial might be deferred for want of two French passes, that would vindicate him; but, being informed of the danger of not pleading, he at last pleaded with the rest Not Guilty.

His first indictment being read for murder, and his counsel assigned him, he pleaded that his trial for piracy might be put off, for want of his witnesses and papers: then, the rest being set aside, he was ordered to be tried for murder.

The indictment being briefly opened by *Mr. Knapp* and the Solicitor General,

Joseph Palmer, being sworn, said, that meeting with the Loyal Captain, of which Captain Hoar was commander, who came on board Captain Kidd's ship, and Kidd went on board of him,

and then Captain Kidd let that ship go; about a fortnight afterwards, William Moor, the gunner, was grinding his chisel on the deck, and Captain Kidd said to him, "Which way could you have put me in to take this ship, and been clear?" to which Moor replied, "I never said such a thing, nor thought such a thing." Whereupon Captain Kidd called him a lousy dog. "If I am lousy dog," said Moor, "you have made me so; you have brought me to ruin, and many more." Upon which the Captain said, "Have I brought you to ruin, you dog?" repeating it three or four times over; and, taking a turn or two upon the deck, took up a wooden bucket, hooped with iron, and struck him upon the right side of the head, near the right ear, which he saw; and then the gunner was carried down into the gun-room, and said, "Farewell, farewell, Captain Kidd has given me the last —" (the Captain being near enough to hear him). Of which bruise he died next day, who before was in good health; that he saw him when he was dead, and felt his head, and felt the skull give way, and that about the wound there was a bruise of a considerable breadth; and he believed he died of that blow; that, the surgeon being called to open his head, Captain Kidd said, "You are d — d busy without order."

Robert Bradinham, who was surgeon to the ship, the *Adventure Galley*, whereof Captain Kidd was master, deposed, that he was not by when the blow was given, but that, being sent for afterwards, the gunner told him, "he was a dead man, Captain Kidd had given him his last blow;" and that he heard Moor say, "farewell, farewell, Captain Kidd has given me my last blow:" and the Captain replied, "D—n him, he is a villain;" that the wound was but small, and the skull fractured, of which he died the next day; that he knew of no difference between them before; but that, two months afterwards, conversing with the Captain on the coast of Malabar, of this man's death; he said, he cared not so much for the death of his gunner, as for other passages of his voyage, for that he had good friends in England that would bring him off for that.

Captain Kidd, in his defence, said, that coming up within a league of the Dutchman, some of his men were making a mutiny about taking her; and his gunner told the people, he would put his Captain in a way to take the ship, and be safe; that, he asking how he would do that? the gunner answered, we will get the Captain and men on board, and will then go a board and plunder their ship, and will have it under their hands that we did not take her; that, he refusing, a mutiny arose, and then he threw the bucket at him.

The prisoner then called *Abel Owens*, who said, that the mutiny about taking the Dutch ship, was a month before that man's death, that he saw the blow given; that Captain Kidd did not throw, but took the bucket by the strap, and struck with it, and that there was no mutiny then.

Richard Barlicorn said, There was a mutiny about taking the Dutch ship, and that Moor was for taking her; but that there was no mutiny when Moor was killed; that he did not see the

blow given, which did but just touch him. He had been sick some time previous ; and the Doctor, when he visited him, said, he did not die of that blow ; and, though two witnesses had sworn that Moor died the next day, yet this witness said, he believed he lived a week after.

Here *Hugh Parrot* being asked the reason of Captain Kidd's striking Moor, said, it was about not taking the Loyal Captain, which Kidd refused ; but that this was a fortnight afterwards.

Here the prisoner said, he had no more to say, but that he had all the provocation in the world given him, and had no malice against or design to kill him ; which was in his passion, and he was sorry for it.

Lord Chief Baron Ward having summed up the evidence, and Captain Kidd then alleging he had witnesses to produce for his reputation, and the service he had done for the King ; he was told by the Court, that he should have done that before, and that that could not help him in this case of murder. Then the jury, withdrawing for about half an hour, found him GUILTY.

WILLIAM KIDD, NICHOLAS CHURCHIL, JAMES HOW, ROBERT LAMLEY, WILLIAM JENKINS, GABRIEL LOFF, HUGH PARROT, RICHARD BARLICORN, ALEXANDER OWENS, AND DARBY MULLINS, FOR PIRACY AND ROBBERY ON A SHIP CALLED THE QUEDAH MERCHANT.

THE indictment being read, Churchil, How, and Mullins, pleaded that they all came in on the King's proclamation on the same day, and surrendered themselves to Colonel Bass, Governor of East Jersey, in 1699. But the King's proclamation being read, and he being none of the four commissioners therein mentioned, they ought to have surrendered, and their trial could not be waved on that account.

Mr. Knap opened the indictment, and Dr. Newton, advocate of the Admiralty, briefly opened the evidence.

The King's counsel called *Robert Bradinham*, who deposed,

That, in May, 1696, he, with about seventy or eighty men, went from Plymouth, with Captain Kidd, in the Adventure

galley, carrying thirty guns, and, on their way to New York, they took a French ship; that, on their arrival at New York, Capt. Kidd put up articles, that if any men would enter his ship, they should have their several shares of what should be taken, and he himself was to have forty shares; whereupon, he carried thence, one hundred and fifty-five men, and sailed to the Madeiras, from thence to Bonavis, then to St. Jago, thence to Madagascar, thence to Joanna, thence to Mahala, thence to Joanna again, and from thence to the Red-sea to Bab's Key, where they waited two or three weeks for the Mocco fleet, Kidd saying he designed to make a voyage out of them: that he sent his boat three times to Mocco to get intelligence of them, which the last time brought word they were ready to sail; and accordingly they came and passed them in the night, but Captain Kidd pursued them; they designed to take what they could of them, but finding them too strong, they were fain to leave them; that they were fourteen or fifteen ships, and under a convoy. That Captain Kidd after this took a Moorish ship, whereof Captain Parker was master, between Carrawar and the Red-sea, that came from Bombay, out of which he took the said Parker, and a Portuguese, for an interpreter, a bale of coffee, and a bale of pepper, about twenty pieces of Arabian gold, and ordered some Moors to be taken and hoisted up by the arms, and drubbed with a cutlass, to confess what money they had: that the English factory sent for Parker, and the Portuguese, whom Kidd denied that he had any such persons on board, keeping them in a hole. That, going to sea that night, he met with a Portuguese man-of-war, which he came up with next morning, with whom he fought four or five hours, having ten men wounded; that the Portuguese had fired first. That then he went for one of the Malabar islands for wood and water, where Captain Kidd went ashore with several of his men, and plundered several boats, burnt several houses, and ordered one of the natives to be tied to a tree and shot, because his cooper's throat had been cut ashore by them: that in October, 1697, cruising thereabouts, it was then that Captain Kidd killed Moor his gunner. That, in November, Kidd chased a Moorish ship belonging to Suratt, to which two Dutchmen belonged, under French colours; which the Dutchmen observing, put out French colours too: that Captain Kidd, coming up to them, commanded them on board, ordering a Frenchman to come upon deck, and pretended himself Captain; that his name was Le Roy; to whom, when the commander came on board, he shewed a paper, and said it was a French pass: whereupon Captain Kidd said, "By God, have I catched you? You are free prize to England." That they took two horses, some quilts, &c. and the ship they carried to Madagascar. That in December they took a Moorish Ketch by the boat, and had one man wounded; and, taking the vessel ashore, Captain Kidd took out of her thirteen tubs of sugar-candy, a bale of coffee, &c. and then he ordered the vessel to be turned adrift. That, on the 30th January, Captain Kidd took a Portuguese ship that came from Bengal, and took out of her, two chests of opium, some East-India goods, butter, wax, &c. and kept her about seven days;

but then he left her, being chased by seven or eight sail of Dutch: That some time in January, Captain Kidd gave chase to the Quedah merchant, under French colours, came up with her, and commanded the master on board; that an old Frenchman came in the boat, who, after some time, told Captain Kidd that he was not the master, but the gunner; that Captain Kidd sent for the master, who was Captain Wright, an Englishman, and came on board him, when Captain Kidd told him he was his prisoner, ordering his men to take possession of the ship; and disposed of the goods on that coast, to the value of seven or eight thousand pounds, which belonged to some Armenians; that with two Dutchmen, a Frenchman, and the rest Moors, were on board, and who offered twenty thousand rupees for ransom, which was refused: that Kidd shared the proceed of the goods, whereof every prisoner at the bar had his part. That Kidd boarded several ships on that coast, and took out of them what was for his turn; that some of those he traded with, coming on board him, when he was going away, he plundered and took from them, about five hundred pieces of eight, and sent them ashore without any goods. That, going afterwards to Madagascar, they met with a Moorish ship, and took out of her several casks of butter, and other things. That, when they came to Madagascar, a canoe came off to them, with some Englishmen in her, belonging to the Mocco frigate, whereof Captain Culliford was commander, who were formerly acquainted with Captain Kidd, and told him, that he had heard he was come to take them, and hang them: that he assured them there was no such thing, for that he was as bad as they; that Kidd came a board with them, and, taking a cup of bambooe, swore to be true to them, and assist them; which he did, with guns and an anchor, to fit them out to sea again. That the Adventure galley being leaky, Kidd left her, and went on board the Quedah-merchant, designing to make a man of war of her: that, after the division of the money and goods here, Bradinham left Kidd, and so could give no further account of him.

Joseph Palmer deposed to the same purpose as Bradinham, only adding, that one of Captain Kidd's articles, published at New York, was, that his men were to allow him six pounds a man for their arms; that, when they were not far from the Cape of Good Hope, they met with Captain Warren, with three sail of men-of-war, besides himself, viz. the Tyger, the King's-Fisher, and another, with which they kept company three or four days, and thence went to Madagascar, &c.: that they had a great sickness in the ship, and some times lost four or five men in a day; that the Quedah-merchant was taken the last day of January, when he was not on board, being ordered to get water; but that he saw her three or four days after; and believed there were taken out of her, goods to the value of ten or twelve thousand pounds, which were sold, some before they were put ashore, and some after, and shared as before. That Captain Kidd said to Culliford, whom they took to be a pirate, that before he would do them any harm, he would have his soul fry in hell-fire; and wished d—
—n to himself, several times, if he did; and, taking the cup,

he wished it might be his last, if he did not do them all the good he could: that Captain Kidd presented Culliford with four guns, and that he heard Culliford say, he had presented Captain Kidd to the value of four or five hundred pounds. That Captain Kidd did never attempt to carry any of the ships he took, in order to condemn them, besides the French Banker; and that he heard Kidd talk of passes, but never saw any of them.

Captain Kidd said,

As to the Quedah-merchant, she was a ship under a French commission; and that the Master was a tavern-keeper at Surat, and appealed to Palmer for the truth of it: that he knew nothing of the sharing of the goods that were taken out of her: that that Frenchman was on board five or six days before he understood there was any Englishman on board; that asking the Englishman what he had to shew for being master? he answered, "Nothing; when they see a French pass, they will not let the ship go." The reason he gave why he did not take Culliford was, because a great number of the men were gone ashore: he denied his being a board Culliford; and, desiring Mr. Davis might be called about the French pass, what he said, was, that Kidd gave him the passes to read; Kidd saying they were French, and that he heard Captain Elms say, they were French passes: Kidd complained that Lord Bellamont kept his papers from him, so that he could not bring them before the Court. This was all that was materially offered by him to the Court at this time.

Colonel Bass then testified, as to Churchil and How's surrender of themselves to him, upon the proclamation; that he did not think himself allowed to take their surrender: Lamley only said, he was a servant to Mr. Owens, the cook; and Jenkins, that he was a servant to Mr. Bullen; Loff said, he went out under Captain Kidd from New York, after his publication of the articles, to serve his Majesty; and that he obeyed his command, and only took what was given him: Parrot said, he came under Captain Kidd's command at Madagascar, in 1697, was always obedient to him; and thought himself safe where the King's commission was; and might have gone a board a known pirate, but refused it: Barlicorn said, he was servant to Captain Kidd; and called some to testify to his reputation, who only could say what he was till he was thirteen or fourteen years old. Owens desired the benefit of the proclamation, having entered himself on board one of his Majesty's ships; to which the Lord Chief Baron Ward said, this may be fit to recommend you to the King's mercy, but is no defence against the accusation because you surrendered yourself only to a Justice of the Peace, who was not in the proclamation.

Molins said, that he left Captain Kidd because he used him hardly; that he took away from him the share given him, and came in upon the King's Act of Grace, and sent in his name to the Governor of New Jersey, whither he could not go, being ready to die of the bloody flux; but he was told, that when he quitted Kidd, he went on-board Culliford.

Captain Kidd then called one Mr. Say, who said, that being in the Marshalsea, he heard Mr. Bradinham then say, that he believed that Captain Kidd had done nothing but what he could justify, or that could do him any hurt. Captain Humphreys said he knew Captain Kidd in the West Indies in the beginning of the late war, and that he had the applause of the general, as he could shew by his letter, which was twelve years ago, and before he turned pirate.

Captain Bond testified the same. Kidd now complained of his want of the French passes which were in the Lord Bellamont's hands, and excused his not condemning his prizes, by reason of mutiny in his ship.

Lord Chief-Baron having summed up the evidence, and the jury, withdrawing, returned in about half an hour, and brought in Robert Lamley, William Jenkins, and Richard Barlicorn, not Guilty, and all the rest Guilty.

CAPTAIN KIDD, *and the OTHER NINE PERSONS, upon four other several Indictments; the first for taking the Moorish Ship, about Fifty Leagues from Carrawar; the second for taking another Moorish Ship, four Leagues from Callicut; the third for taking a Moorish Ketch, four leagues from Callicut; and the last for taking the Portuguese Ship, about Twelve Leagues from Callicut, in the East-Indies, to which they all pleaded Not Guilty. The Court then adjourned to the next Morning.*

FRIDAY, MAY 9, 1701.

The two first indictments being read by the Clerk of the Court, wherein all the same persons being concerned, the Court ordered to try them together.

Mr. Knapp having briefly opened the matter, Mr. Bradinham was sworn, and deposed the same evidence as on the preceding trial, as there was a new jury; particu-

larly as to the Moorish ship taken near Carrawar, where there were on-board about thirty persons, and every one of the prisoners were on-board Captain Kidd at the taking of her; that the other Moorish ship was taken on the coast of Malabar, whereof Skipper Mitchel, a Dutchman, was the commander: her burden about one hundred and fifty tuns; that they set the people on-shore, and carried the ship and goods to Madagascar; that the two horses taken out of her were worth about forty pounds, the cotton a hundred pounds, the ship about five hundred pounds, which belonged to the Moors of Surat, and which afterwards they sunk in the harbour, that she might be convenient for vessels to careen by, &c.

Captain Kidd, in answer to this evidence, said, he did not divide the goods; but his men did what they pleased; and the witness had his share, and would have robbed the surgeon's chest, when he left him, and saw the French passes; which Bradinham denied.

Joseph Palmer deposed also, throughout, as before; adding, that at Carrawar several of Kidd's men left him, and particularly Peter Lahair, and N. Churchil, who went to the English factory there, that were loath to entertain them, for fear Kidd should know of it, and do them an injury: that afterwards some more men were going off, having got a boat for that purpose, but were taken, and ordered by Kidd to be whipt at the gun; that in taking Skipper Mitchel's ship, he heard talk of a French pass, but never saw any; that they sold the horses and cattle to the Banzans, and shared the money, whereof the prisoners had every one his share, &c.

To this Captain Kidd made no defence, saying, it signified nothing. N. Churchil acknowledged all the crimes, and relied on his surrendering himself, and the King's mercy. Lamley denied he had a farthing of any share, and said, he was a servant. Jenkins spoke to the same purpose, as did also Barlicorn. Owens referred himself to the King's proclamation. Molins said he would stand to the mercy of the Court, and the King's gracious proclamation. How pleaded Guilty.

Here Captain Kidd complained he was threatened to be shot in his cabin by his men, if he would not go a

roguing with them; who also set fire to his boat to destroy his ship. He called Colonel Hewson, who said, that about nine years before, Kidd was a mighty man in the West-Indies, and he served under his command, being sent to him by Colonel Coddington, and fought with him in two engagements against the French, as well as ever any men could; that he heard him say, his men would have gone privateering, and he refusing it, they seized his ship: that Kidd told him when he went this voyage, that his business was to cruize and surprize pirates; and said, he would be shot to death before he would turn pirate himself.

Thomas Cooper also said, that he and Kidd, about ten years ago, fought Monsieur Du Cass, in the Indies, a whole day, and defeated him, Kidd behaving himself very well in the face of his enemies.

Mr. Davis said, he heard that Kidd had French passes, and saw papers which Kidd said were such, but he could not read them, nor did he know what ship the passes belonged to: the rest of the prisoners had nothing to say, but that they obeyed the orders of their commander.

Mr. Justice Turton summed up the evidence, and the jury, having withdrawn for about half an hour, brought in Kidd, Churchil, How, Loff, Parrot, Owens, and Molin's, Guilty; and Lamley, Jenkins, and Barlicorn, the three servants, Not Guilty, on these two indictments.

The prisoners were then again called to the bar, and the jury named, when Captain Kidd challenged those who tried him for the murder.

The Clerk having read the two other indictments, Churchil, How, and Owens, retracted their plea in Court, and confessing these, and all other indictments, submitted to the King's proclamation, upon which they had surrendered; they were thereupon set aside, and the jury not charged with them.

Mr. Knapp then briefly opened the indictment, and Mr. Solicitor-General the evidence; and then Mr. Bradinham repeated his evidence from the beginning, because it was a new jury; and particularly about the capture of the Moorish ketch and Portuguese ship, as at first.

Captain Kidd, frequently interrupted him, saying, he told nothing but lies, knew nothing of the matter, was

under deck five or six months together; was a rascal, and it was hard he should be suffered to take away so many of the King's subjects' lives; that it signified nothing to ask him questions; that he had perjured himself about the time of their going out, first saying in April, and now in May; and about the guns given to Culliford, first saying four, and now two.

The Court replied, the witness did not confine himself to a day, and that it was the other witness, and not he that named four guns.

Captain Kidd said, nineteen of his men mutinied: I was for taking Culliford; but they told me, where one would fire against the pirate, ten would fire against me: they took the goods and left me, and took anchors, cables, and what they would, and now they say I gave them.

Joseph Palmer also repeated his evidence, particularly as to the capture of the two vessels, in the indictment.

Captain Kidd hereupon said, it signifies nothing for me to ask him any questions, since a couple of rogues will swear any thing; and, because I would not turn pirate, these rogues would make me one: I will trouble the Court no more, it being a mere farce.

Judge Turton summed up the evidence, and the jury having withdrawn for a short time, returned and brought in Kidd, Loff, Parrot, and Molins, Guilty; but Lamley, Jenkins, and Barlicorn, the three servants, Not Guilty, on both these indictments.

Robert Culliford, Nicholas Churchil, Darby Molins, and John Eldridge, were next arraigned for taking the ship called the Great-Mahomet, and seizing the goods to a considerable value, to which they pleaded Not Guilty.

Robert Culliford and Robert Hickman were again arraigned, for piratically seizing another ship, called the Satisfaction, to which they pleaded Not Guilty.

The Court proceeding to the trials of these persons, Culliford retracted his plea, and pleaded Guilty, and relied on his coming in upon his Majesty's proclamation: his being a peculiar case, it was argued by his counsel, for the benefit of his Majesty's pardon.

Churchil, How, Molins, and Hickman, likewise pleaded Guilty; but Eldridge was tried separately, and found Guilty.

The trials being terminated, judgment against Culliford was respited, and he was set aside; the other prisoners were called to the bar, and sentence pronounced by Dr. Oxenden, upon Captain Kidd, Nicholas Churchil, J. How, Gabriel Loff, Hugh Parrot, Abel Owens, Darby Molins, Robert Hickman, and John Eldridge, to be hanged.

Captain Kidd said, it is a very hard sentence; for my part, I am the most innocent person of them all, only I have been sworn against by perjured persons.

On the 23d of May, Captain William Kidd, and three others of these pirates, were executed at Execution Dock in Wapping. Kidd's rope, after he was turned off, broke, but being tied up again, he hung till he was dead.

Kidd having in this manner justly suffered the law for his piracy, his expedition had nearly involved two very illustrious persons in danger; for Edward Earl of Orford, and John Lord Somers, falling under the displeasure of the House of Commons in 1701, there were articles of high-crimes and misdemeanours exhibited against them: of which, the fifth article against the Earl imported, "That complaints having been made to the commissioners for executing the office of Lord High-Admiral of England, where the said Earl at that time presided, by the Company trading to the East-Indies, of divers piracies committed in the South-Seas, to the destruction of their trade; desiring they might have letters of marque granted them, whereby to be empowered (though at their own charge) to suppress such piracies; that the Earl, preferring his own interest, discouraged and rejected their request and proposal, and in some short time after, jointly with others, procured a commission for William Kidd, as likewise a grant under the great seal to, and for his own use and others; of the ships and goods of certain persons therein named, and also of all goods found on-board the said ships; that the East-India Company having information of a commission granted to Captain Kidd, and being apprehensive of the ill consequences of the same, applied themselves to the Board of Admiralty, desiring to know what powers and instructions were given, but that such their reasonable request was denied; and that Kidd, who was known to be a person of ill fame and reputa-

tion, was ordered to pursue the intended voyage, in which he committed divers piracies and depredations, being thereunto encouraged, through the hopes of being protected by the high station and interest of the Earl, in violation of the law of nations, and of the trade of England."

To this charge they added, in the two following articles, "That the Earl, in a time of conspiracy and danger of an invasion from abroad, weakened the King's fleet by his own authority, in ordering Captain Steward, captain of the *Duchess*, to turn over a great number of able seamen to Kidd, to the prejudice of the public, as well as by procuring an order for the King's ship, the *Dolphin*, to be fitted out, and employed in a private voyage for his own and others' private gain and advantage."

The Earl, to vindicate himself from so heavy a charge, answered, that the East-India Company, about the beginning of March, 1696, applied to the Admiralty Board for power to take all pirates, infesting the limits of their charter, and to have a Court of Admiralty erected in those parts; but that the Board discouraged the Company in no other manner, than by telling them, that they could not grant the same by law: that the Company were never denied letters of marque in common form; that Kidd was gone upon his expedition about a twelvemonth before that time; that he conceived that his commission, and the grant in the article mentioned, were not contrary to law; but he was sure the expedition was intended for the public good; that he did not know Kidd to be of any ill fame or reputation, and that in case he had committed piracies, he was answerable for the same.

That as to the men taken from on-board the *Duchess*, they were but some of the very persons who were taken just before from on-board the *Captain*, and returned, being about twenty in number, by their own consent, when all fears of an invasion were over: that what was done by the *Dolphin*, was after the peace was made, and by the King's commission, not at the instance of the Earl, but other persons, and contrary to his opinion; but that, after the King's orders were given about the said ship, the adventurers desired the Earl to take

some shares; and he humbly insisted, that his proceedings therein were not contrary to law.

The charge against the Lord Somers, in this respect, not differing essentially from that of the Earl, except that he had passed the above-mentioned grant under the great seal of England, (which in his answer he could not conceive to be any breach of his duty:) the Commons interposing delays in making good their articles against their Lordships, the House of Peers appointed a day of trial; and, acquitted them of these, and all the other, misdemeanours laid to their charge.

RICHARD HATHAWAY,

AS A CHEAT AND IMPOSTOR, AT SURREY ASSIZES,
ON THE 24TH OF MARCH, 1703.

THE information stated,

That the defendant, Richard Hathaway, of Southwark, in the county of Surrey, labourer, being a person of evil fame, and an impostor, and maliciously contriving to take away the life of Sarah Morduck (the wife of Edward Morduck, of Southwark aforesaid, waterman), an honest pious woman, and not a witch, or using witchcraft, enchantment, charm, or sorcery; did, on the 11th day of February, in the 12th year of the late King William, at Southwark aforesaid, in the presence and hearing of divers persons, falsely, devilishly, and knowingly, and, as a false impostor, pretend and affirm, that he was bewitched by the said Sarah, and that by reason thereof he could not eat, but had fasted ten weeks successively; and pretended also that he was affected with divers diseases, and that by drawing blood from the said Sarah, by scratching, he should be freed from his said pretended bewitching: and that the defendant did thereupon scratch the said Sarah, and draw blood from her; and thereupon falsely affirm, that by drawing the said blood, he was freed from the said diseases: whereas, in truth and fact, he never was bewitched, nor had fasted as aforesaid, and knew himself not to be bewitched by the said Sarah; in contempt of the said late King and his laws, and against the peace, &c.

The King's witnesses were then called, Dr. Martin, the minister of the parish, was first sworn, and testified;

That on Sunday the 9th of February, 1701, there was such a tumult in the church, that his curate, who read prayers, could not be heard; and upon his enquiring into the matter, the sexton

informed him, there was a witch in the church, and brought one Sarah Morduck to him into the vestry. The woman cried, and said, she had given no occasion for this scandal; however, he advised her to remain in the vestry; because the congregation were so disturbed, that they would all go out of church if she remained in it: that, after sermon, he (the witness), returning to the vestry, found the sexton had let the woman out, for fear she should have been torn in pieces: that after church-time many of the parishioners applied to him (the doctor), to attend Richard Hathaway, whom they supposed to be bewitched; and going accordingly the next day, Hathaway's master (a blacksmith) told him his servant was blind and speechless, but was, however, sensible, and knew the voices of his friends: whereupon he (the doctor) went into the room, and desired Hathaway, if he knew him, to hold up his hand; and he did so, and took the doctor's hand and kissed it; asking him, if he should pray by him in the prayers of the church? He held up his hand again, and prayed with him, and Hathaway seemed much affected with it: then he (the doctor) went out, and discoursed his master concerning the occasion of his illness; and he said, he thought Sarah Morduck had bewitched him, for he scratched her and found good by it: whereupon he (the doctor) went thither again the next day, taking Sarah Morduck and Herne her brother, with him; and he told Hathaway he heard he had received benefit by scratching Sarah Morduck, and desired him to hold up his hand, if he thought he should be the better for scratching her again; and he held up his hand, whereupon he (the doctor) introduced another woman, named Johnson, and Hathaway scratched her, taking her for Sarah Morduck; and immediately his eyes were opened; but, being told of his mistake, Hathaway was much cast down, and several people present were satisfied he was an impostor. That he (the doctor) going to the house again some hours after, found a great mob there; and Hathaway's master and mistress met him, and said, "What have you done? you have ruined me and my family: you have given it out to be a cheat; and now he is in a worse condition than before." And he (the doctor) was informed, the next day, that Sarah Morduck had been dragged to the house after he went away, and Hathaway had scratched her; after which, he pretended he had recovered his sight perfectly, and ate and drank, and walked about: whereupon he (the doctor) sent for him to his house, and talking with him, Hathaway demanded, if he did not think he was bewitched? and he answering, he believed he was not, Hathaway replied, he might as well not believe what he said in the pulpit; and that he might say to the doctor, as our Saviour said to the Jews, "Though you see miracles, you will not believe." Whereupon, the doctor bid him go about his business.

That, last Easter, he (the doctor) was sent for to Sir Richard Lane's, where he found Hathaway eating very heartily, and was told, he had drawn blood of Sarah Morduck, before Sir Thomas Lane, which had brought him to himself: that going into the room, where Sir Thomas was, he found Sir Owen Buckingham and Dr. Hamilton, to whom he related what had happened on his

going to see Hathaway; but Hathaway pretended he did not remember he was with him: and when Welling, his master, acknowledged he was there, and that Hathaway was in his senses at that time, Sir Thomas Lane said, he had a violent fit afterwards, which made him forget the doctor's being there: and Sir Owen Buckingham seemed to be of opinion also, that Hathaway was really bewitched.

That soon afterwards he (the doctor) was subpoenaed to the assizes, to be a witness at the trial of Sarah Morduck, who was indicted for a witch; and, before the assizes, bills were put up in several churches of the following tenour,—“A poor man, being afflicted by an evil woman, desires the prayers of this congregation.” That the woman being acquitted, at Guildford assizes, he imagined all people had been satisfied with the justice done there; but when he came home, he was abused by many people, who told him, “The blood of that innocent man lay at his door: the woman had been hanged, if he had not saved her: the judgments of God would fall on him.”

Here the counsel for Hathaway objected, that what other people did was not evidence against him. The Chief Justice answered, if there was evidence that Hathaway had been guilty of deceit, and a design to deceive the people, would they not allow it to be given in evidence, that the people had been deceived?

Dr. Martin then proceeded to say, it was reported he had been bribed; that he had received several guineas; that the judge was bribed, and the jury bribed; and that the judge was so biassed, he would not suffer the woman to be searched.

Mrs. Johnson, being sworn, testified, that Hathaway scratched her instead of Sarah Morduck; and he pretended to have received his sight thereupon, as *Dr. Martin* testified.

Mr. William Bateman deposed, that he went to see Hathaway vomit pins: that they gave him something in a cup, which it was pretended would make him vomit: but the witness could not perceive he swallowed any thing: however, he retched to vomit fourteen or fifteen times, seeming to be in a great agony; and there were some hundreds of pins upon the ground; but the witness thought they were dropped by other people, for he took some of them up, and found they were dry, and some of them were in chains; whereupon he said, he believed they were the same that had been shewn at his house; but his master affirmed they were not the same, and endeavoured to satisfy him his man did vomit them: then the witness desired he might have a clean pot to vomit in, and, having searched his mouth, held the pot close to his head: that Hathaway often endeavoured to lift up his hands to the pot, but the witness would not suffer him; and though he vomited several times, there were no pins in the pot, but several

upon the ground ; and, the witness observing that the pins on the ground did not come out of his mouth, the people were very pressing he should believe that they did. Then the witness, with great difficulty, forced his hand into Hathaway's pocket, where he found several parcels of crooked pins, like those on the floor.

Richard Ball, a printer's journeyman, testified,

That Hathaway brought him a narrative, giving an account of his vomiting pins, and desired him to print it ; and, at the same time, shewed him a dish-full of crooked pins, which he said he had vomited, and declared he had eat nothing for several days : but his master, the printer, being present, said, Hathaway looked very well : he believed he was a cheat, and would have nothing to do with it : and thereupon Hathaway went away.

Mr. Hern deposed,

That he was present when Hathaway scratched Mrs. Johnson instead of Sarah Morduck, and pretended to recover his sight thereupon, as Dr. Martin had testified : and that they afterwards dragged Sarah Morduck to the house, and he scratched her, and the rabble assaulted and abused her, leaving the poor woman in a wretched condition : whereupon the witness procured Justice Rich's warrant, and apprehended one Osborn ; but the Justice discharged him for want of evidence : however, Sarah Morduck was so mobbed and insulted, that she was forced to remove from Southwark to St. Paul's wharf in the City ; and thither Hathaway, with one Jones and the rabble, followed her : whereupon the witness got Sir Thomas Lane's warrant, and took up Hathaway and Jones ; but Sir Thomas believing the story of Hathaway's vomiting pins, said, there was provocation enough for the insult, and compelled the woman to let Hathaway scratch her again, which he did ; and then he appeared very brisk, and calling for bread and cheese, ate it greedily, though he pretended he could not swallow any thing before. That Sir Thomas, afterwards, ordered the woman to be stripped and searched by Dr. Hamilton ; but the doctor could find nothing extraordinary about her : however, Sir Thomas Lane committed her to prison, and would not accept of an hundred pound bail at that time ; but afterwards, when Dr. Martin had been with him, he permitted her to be bailed.

Kensey, the surgeon, deposed, that Hathaway, being in the King's Bench prison, was committed to his care in November last ; and, going to that prison for him, the turnkeys told him, his tongue was swelled ; but, upon searching his mouth, he found nothing amiss, and brought him to his house, where he offered him meat and drink several times, and he refused it : that the next morning he was surly, and refused to rise, and they found the rug wet with his urine, which dropped from the tester of the bed, where he had endeavoured to conceal it in the lid of a box : that he entreated Hathaway to discover who set him to work, for he looked upon him as a poor innocent fellow ; but he would discover nothing, and still refused to eat. That, finding neither

persuasion nor threats could move him, (for he threatened to starve him, if he would not confess,) he (the witness) feigned a quarrel with his maid, saying, in Hathaway's hearing, he would be troubled no more with her: and when he was gone, the maid, by his directions, railed at him (Kensey) and bid Hathaway have a care how he took any thing from her master, or his brother, and she would bring him meat, and what he wanted: and she accordingly carried him victuals and drink from time to time, and she, and several of the neighbours, (through some crevices in the boards) saw him eat and drink plentifully two or three times a-day; that one day on being offered meat, he pretended he was so weak that he could not get off his chair, though they had seen him eat and drink several days before, dance about, and play upon the tongs. On the 8th day after he came to his house, he endeavoured to make his escape; and on the 10th in the morning, as he was putting on his cloaths, he seized on him (the surgeon); but, struggling with him, Hathaway pretended feebleness, and fell down upon the bed: being told afterwards, that his friends had betrayed the secret, he offered to go before the Lord Chief Justice and discover the whole truth; but his Lordship not being in the way, then he repeated the old story, and said he was bewitched.

That at his first coming to his house, he asked him how many weeks he had fasted, and he counted his ten fingers, for he pretended to be dumb.

Elizabeth Baker, Kensey's maid, testified, that after Hathaway was brought to their house, her master feigned a quarrel with her, and she supplied him with meat and drink by her master's directions; and that fetching him a glass of brandy, once, when a child was by, he refused to drink it, pointing to the child, whereupon she stood before the child, and then he drank it: that at another time she gave him so much strong beer, that he pointed to his head, intimating his head ached; and, about two hours after, he was very merry, danced about, and played upon the tongs: that, on the 11th of November, her master ordering her to carry him several slices of roast veal, some of the neighbours saw him eat it through the chinks of the walls.

To this his counsel objected, that such evidence ought not to be given, because this was done after the Record bore date: but the Chief Justice answered, it was evidence to prove, his pretended fasting before was a mere deceit; for, if his fasting the last two weeks appeared to be a fraud, it was strongly to be inferred, that his pretended fasting ten weeks before was so too.

Mr. Stanton deposed, that being desired by Mr. Kensey to come and see Hathaway eat and drink, he went thither, and saw the meat before it was carried to him, being five slices of veal, with bread and beer; and

that Hathaway looked about at first, to observe if any one could see him, and then began to eat as heartily as any man could; but, hearing a noise, he ran away with the meat, and set it on a dresser; and, the maid telling him there was nobody coming, he went to it again, and ate it up; after which he drank and sat down by the fire: that, afterwards, he (this witness) and the rest of the company, went into Hathaway's room, and carried a bottle of beer and drank his health, but he made signs that he could not drink, and shewed them that his belly clung to his back.

John Hunt deposed, that he pretended to vomit pins, but they were bright and clean, and, he thought, only came out of his mouth: that the company thought they heard strange noises the same night, but he found Hathaway made the noise with his feet; and that Welling, his mistress, sewed three little bags to his shirt, in which she said were charms; and he used to be much better for them.

Elizabeth Brand testified, that several sums of money were gathered for Hathaway, particularly against Guildford assizes; that she and others went about, and gathered between six and seven pounds, which they paid to Mrs. Welling towards his charges.

Matthew Shipps deposed, that Hathaway being brought from Guildford assizes to the Marshalsea, was in his custody four days; and that he ate and drank, and slept well during that time.

Then the prisoner's witnesses were called, and Anne Eaton deposed, that she looked after Hathaway nine weeks: that she was with him four or five days and nights together without stirring from him, and she did not see him eat or drink during that time: that he was sometimes dumb and blind, and lost his senses.

Gibson testified, that he had strange motions, foamed at the mouth, and his face was distorted, and he was blind and dumb.

Ann Pearse, a nurse of the hospital, deposed, that he lay seven or eight days in a very weak condition there, without eating or drinking.

Smith, an apothecary, deposed, that when he came first to his master, he was troubled with convulsion fits;

and that he sometimes lay like a dead man: but, on being asked, if this might not be counterfeited? he answered, No doubt, it might.

Some women deposed, they had heard him bark like a dog; and believed he was bewitched.

Keeling deposed, he watched with Hathaway nine nights, and he neither ate nor drank while he was with him: and Bridges deposed, he watched with him in the day-time, when Keeling watched with him in the night, and he never saw him eat or drink all that time, though he never left him till Keeling came to relieve him; and they both testified, that no company came to him, nor did he ever go out, except on Sunday to church.

Webb, one of the officers of the parish, testified, that they put him into an empty house, with the two former witnesses to watch him; and that he vomited rusty pins; and they could not discover he ate or drank any thing all the time he was there; and that he went out only once on a Sunday to church.

Dell deposed, that he watched with him one night, that he voided in his excrement a lump of hair, loose pins, a stump of a nail, and two or three pieces of stone; and he lay in a sad condition, as if he was dumb.

Two others confirmed the testimony of this witness. Mrs. Davenport testified, that Dr. Hamilton committed Hathaway to her care, to discover whether he fasted as he pretended; and he was in her house seventeen days: that she herself, her son, or some others appointed by her, watched him closely all the time, and he neither ate nor drank; and, to prevent any deceit, they searched his cloaths, and bought a bed on purpose for him to sleep on.

Then several of the witnesses employed by Mrs. Davenport to watch him, deposed, that he neither ate nor drank during the seventeen days while they were with him respectively: but the Chief Justice demanding, where her son was, that watched with him part of the time? she answered, he had been gone to sea about a-week.

Dr. Hamilton deposed, that, being at Sir Thomas Lane's when Hathaway was examined, he searched his mouth and throat, and found nothing amiss, and observed, there was nothing to be depended on but his fasting: as for vomiting pins, and the rest, it might be

performed by legerdemain; and he suspected him to be an impostor: that he told Hathaway's master, if he thought fit, he would lock him in a room a fortnight, and see if he counterfeited; that the master afterwards came to him, and desired him to make the experiment: whereupon, he committed him to the care of Mrs. Davenport, and desired her to strip him, and see he had no bread about him, and to send to Long-Lane and buy a new bed for him to lie on, &c. That he ordered her to let nobody come to him, and that one or two of the family should sit up with him every night; and she promised she would. They sent him word he had strange kind of motions; but he credited nothing but his fasting. That he had heard of many that had fasted several weeks, but they had taken water, or similar drink, which, though very weak, may keep a man alive; that he saw this man several times while he was at Mrs. Davenport's, and he could not believe but that he had ate, because his pulse was strong.

The Chief Justice now asked the doctor, if he thought it possible in nature, or if all the devils in hell could enable a man to fast a fortnight? The doctor answered, he thought not; and that made him suspect Hathaway; and being asked, if he thought the pulse of a man could be very strong who had fasted eight days? he said, he thought not.

Sir Thomas Lane, being sworn, deposed,

That Hathaway's master brought a woman before him about a twelvemonth ago, upon suspicion that she had bewitched his man, affirming, that he had fasted above eight weeks, and voided and vomited pins; and two witnesses swore to chains of a hundred pins each, that came from him in his excrement; and the people, imagining that scratching the woman might give relief, were very earnest with him, that he would command the woman to be scratched; he answered, that would be an assault; but, if she would consent, he might do it; and the woman said, if she might be secure from such insults for the future, she would let him, and consented to it; and Hathaway no sooner scratched her, but he grew better, had bread and cheese brought him, ate prodigiously, and drank up a quart of drink at one draught. That he (*Sir Thomas*) asked Mrs. Morduck and her friends, if ever they knew the fellow got money by these tricks? but they could not say he had. And, it appearing to him that there was neither profit or revenge in the case, he thought the man could not counterfeit all this for no end, and run the hazard of being whipped.

The Chief Justice said, the question was not whether he

should be punished for a fool, but whether he was a knave? And whatever punishment he was to suffer, did not belong to him to determine.

His Lordship then summed up the evidence, and observed as to Hathaway's being relieved by scratching the woman he pretended had bewitched him; there was no rule either in philosophy or divinity, that could induce a man to believe this would effect his cure if his distemper had been real, as to his having fasted so long a time. The fact of our Saviour's fasting forty days, is mentioned in Scripture as miraculous, and an effect of Divine Power, being one evidence of the truth of the Christian religion: and none could imagine, without such assistance, that a man could fast forty days or above, and yet continue in health: that all the witnesses in the world, or all the devils in hell, could not invert the order of nature, and enable a man to fast beyond the usual time that nature will allow; and that, if the thing be impossible, and this man had endeavoured to make the world believe he had fasted so long a time, it was most evident, he was a cheat, and must contrive to have victuals one way or other secretly conveyed to him, of which the impossibility of his being able to fast so long was a demonstration: that it was plain the man had counterfeited, during the time he was at Mr. Kensey's; and though that particular time be not laid in the information, yet it is a continuance of the time that is laid therein; and if he was an impostor, by pretending to have fasted while he was at Mr. Kensey's house, he left them to consider, whether he was not so all the time before: he remembered that his scratching and drawing the blood of a strange woman instead of Sarah Morduck, seemed to avail him as much as if he had scratched her, until he understood he was imposed upon: and upon the whole, if they did not believe he was *non compos mentis*, or under any delusion, but had endeavoured to impose upon the magistrate, and on the world, by counterfeiting these infirmities, then there was full and just reason to find him Guilty.

The Jury, without leaving the bar, found the defendant *Guilty*.

SIR JOHN JOHNSTON,
FOR STEALING AN HEIRESS.—1690.

SIR JOHN JOHNSTON was born at Skickaldy, in Fife-shire, and his father who had a good estate, having diminished it by extravagant living, Sir John went young into the army to improve his fortune. He went over to Ireland, where he thought to better his circumstances by marriage; and getting into the acquaintance of a Mr. Magrath, in the county of Clare, he, by his urbane conversation, so gained his good opinion, that he frequently invited him to dinner, and Mr. Magrath having a daughter, with £10,000 as her portion, Sir John took every opportunity to insinuate himself into her company, and so far gained upon her affections as to obtain her consent to elope with him; but the father, having some hints given him of their private courtship, kept a very watchful eye over their actions, and at last being confirmed in his suspicions, forbad Sir John his house, and kept his daughter close.

Miss Magrath being uneasy under her confinement, and deprived of the company of Sir John, whom she loved to distraction, made a kinswoman her confidante, and entrusted her with a letter to Sir John, to let him know how uneasy her life was, and that if he would come to such a place, at a stated time, she would endeavour to make her escape, and meet him; but the lady thinking she should gain most by obliging her uncle, delivered the letter to him, instead of Sir John: Mr. Magrath, having read it, sealed it up again, and sent it to Sir John, who received it with a great deal of satisfaction, and immediately wrote an answer, and returned it by the same messenger. But repairing to the place of rendezvous, instead of meeting the lady, he fell into an ambuscade of fellows with sticks and clubs, who beat him so unmercifully that he promised to relinquish his pursuit.

Having been in London some time, and spent his money, he was obliged to apply to some of his countrymen for support: and Captain James Campbell having a design to steal an heiress, one Miss Mary Wharton, he and Mr. Montgomery were assistants in the affair; which being done, and a reward of £100

offered for the apprehension of Capt. Campbell, and £50 a-piece for him and Mr. Montgomery,—Sir John, being betrayed by his landlord, was apprehended and indicted for it, the 11th of December, 1690. The evidence was in substance, that Miss Mary Wharton, being an heiress of considerable fortune, and under the care of her guardian, (Mr. Bierly,) was decoyed out on the 10th of November, and being met with by Sir John Johnston, Captain Campbell, and Mr. Montgomery, in Queen-street, was forced into a coach with six horses, (appointed to wait there by Captain Campbell,) and carried to the coachman's house, and there married to Captain Campbell, against the consent of herself, or knowledge of her guardian. The Jury having found the prisoner Guilty, he received sentence of death.

Miss Wharton was the daughter of Philip Wharton, esq. and at the age of thirteen, by his death, inherited £1,500 per annum, besides a personal property to the amount of £1,000. This young lady resided with her mother, in Great Queen-street; when Captain James Campbell, brother of the Earl of Argyle, wishing to possess so rich a prize, determined to marry her per force, and for that purpose prevailed upon Sir John Johnston and Archibald Montgomery to assist him in conveying Miss Wharton from her home. The enterprize succeeded but too well, to Johnston's cost; Campbell, who was the real culprit, escaped punishment, and married Margaret Leslie, daughter of David Lord Newark, after parliament had dissolved his first marriage; but every effort to save Johnston proved ineffectual. Miss Wharton afterwards married Colonel Bierly, who commanded a regiment of horse in the service of William III.

At the place of execution, Sir John addressed the spectators in a long speech, in which he not only endeavoured to make it appear he was blameless in the transaction for which he suffered, but that he had been greatly wronged by printed papers, in which he was charged with a rape at Chester, and a similar crime at Utrecht, in Holland. He was executed at Tyburn, the 23d of December, 1690.

THOMAS AIKENHEAD,

FOR DENYING THE TRINITY, AND THE AUTHORITY OF THE SCRIPTURES, AND FOR MAINTAINING THE ETERNITY OF THE WORLD.—1696.

THOMAS AIKENHEAD appears to have been about twenty years of age; his father, who had been a surgeon in Edinburgh, was dead. Sir James Stewart, his Majesty's Advocate, by special order of the Privy Council, served him with a criminal indictment, before the Court of Justiciary, for blasphemy.

The libel sets forth, that blasphemy against God, or any of the persons of the blessed Trinity, or against the holy scriptures, or our holy religion, is a crime of the highest nature, and severely punishable by the laws of God, by those of this and every well governed realm, and particularly by act of parliament. That, notwithstanding, the prisoner had repeatedly maintained, in conversation, that theology was a rhapsody of ill-invented nonsense, patched up partly of the moral doctrines of philosophers, and partly of poetical fictions, and extravagant chimeras: that he ridiculed the holy scriptures, calling the Old Testament Ezra's fables, in profane allusion to Æsop's fables: that he railed on Christ, saying, he had learned magic in Egypt, which enabled him to perform those *pranks* which were called miracles: that he called the New Testament the history of the impostor Christ: that he said Moses was the better artist, and the better politician; and he preferred Mahomet to Christ: *that the holy scriptures were stuffed with such madness, nonsense, and contradiction, that he admired the stupidity of the world in being so long deluded by them*: that he rejected the mystery of the Trinity, as unworthy of refutation; and scoffed at the incarnation of Christ, saying, that a *Theanthropos*, or God-man, was as great a contradiction as a *hirco-cervus*, or goat stag, or that a *quadratum* was a *rotundum*: that he laughed at the doctrine of redemption: that he said, the notion of a spirit was a contradiction: that he cursed Christ; and argued against the being of God, maintaining, that *God, the world, and nature, are all one thing*; and that the world existed from all eternity: that he said the inventors of the scriptural doctrines would be damned, if there was such a thing as rewards or punishments after this life; and that Christianity itself would soon be extirpated: that his impiety was so audacious, that, as he passed by the Tron church in a cold night, he said to a companion, he could wish to warm himself in a place Ezra called hell: and, lastly, that he often uttered these or the like speeches within the last twelvemonth, without provocation, and merely from malice against God and Christ.

The Court found the railing against, or cursing, any of the persons of the Trinity, relevant to infer the pains of

death; and the other crimes, relevant to infer an arbitrary punishment.

No counsel appeared for the prisoner; nor does it seem that one word was urged in his behalf, during the course of the trial. Four or five witnesses were examined; one of them a writer in Edinburgh, the rest students at the University, lads from eighteen to twenty, or twenty-one years of age. They proved most of the articles of the libel, with this addition, that the prisoner said, he was confident Christianity would be utterly extirpated by the year 1800. The article about the railing against God, and cursing our Saviour, was not proved at all; but was an inference drawn by the jury from the prisoner's cursing Ezra, and saying, that the inventors of the scriptural doctrines, would be damned, if there be such a thing as damnation.

The jury unanimously found the prisoner GUILTY of railing against God, railing at, and cursing Christ, and of all the other articles in the libel. The verdict was returned accordingly, and sentence pronounced against the prisoner on Christmas eve,—

To be taken to the gallow-lee on the eighth of January, between the hours of two and four in the afternoon, and to be hanged; his body to be buried at the foot of the gallows, and his moveable estate to be forfeited.

‘Mercy,’ says Mr. Arnot, ‘was asleep, as well as Justice and Science; so the dreadful sentence was executed.’

SIR JOHN FENWICK,
FOR HIGH TREASON.—1697.

SIR JOHN FENWICK, of Fenwick Castle, in the county of Northumberland, bart. a man of considerable abilities, but of a profligate and restless disposition, commanded a regiment in the service of William III. when Prince of Orange, in 1676.

He was apprehended in Kent, when on his way to France, upon suspicion of being engaged in a plot to assassinate the king. On his being taken into custody,

he wrote a letter to his lady, setting forth his misfortune, and giving himself for dead, unless powerful applications could be made for him, or that some of the jury could be hired to starve out the rest; and to that he added, *this or nothing can save my life*. This letter was taken from the person to whom he had given it: at his first examination, before the lords-justices, he denied every thing, till he was shewed this letter; and then he was confounded. In his private treaty with the Duke of Devonshire, he desired an assurance of life, upon his promise to tell all he knew; but the king refused that, and would have it left to himself to judge of the truth and the importance of the discoveries he should make.

He now resolving to cast himself on the king's mercy, sent him a paper, in which, after a bare account of the consultations among the Jacobites (in which he took care to charge none of his own party,) he said, that King James, and those who were employed by him, had assured them, that both the Earls of Shrewsbury and Marlborough, the Lord Godolphin, and Admiral Russell, were reconciled to him, and were now in his interests, and acting for him. This was a discovery that could signify nothing, but to give the king a jealousy of those persons; for he did not offer the least shadow or circumstance, either of proof, or of presumption, to support this accusation.

The king not being satisfied herewith, sent an order for bringing him to a trial, unless he made other discoveries. He desired to be further examined by the lords-justices, to whom he, being upon oath, told some more particulars, but he took care to name none of his own side, but those against whom evidence was already brought, or were safe and beyond sea; some few others he also named, in matters of less consequence, which did not amount to high-treason; he owned a thread of negotiations that had passed between them and King James, or the court of France; he said the Earl of Aylesbury had gone over to France, and had been admitted to a private audience with the French king, where he had proposed to send over an army of 30,000 men; and had undertaken that a great body of gentlemen and horses should be brought to join them; it appeared, by his discoveries, that the Jacobites in England were much divided. Some were called compounders, and others non-

compounders. The first party desired securities from King James, for the preservation of the religion and liberties of England; whereas, the second party were for trusting him upon discretion, without asking any terms, putting all in his power, and relying entirely on his honor and generosity.

By delays Fenwick gained time to practise upon the witnesses. His lady began with Porter; he was offered, that if he would go beyond sea, he should have a good sum in hand, and an annuity secured to him for his life; he listened so far to the proposition that he drew those who were in treaty with him, together with the lady herself, who carried the sum which he was to receive, to a meeting, where he had provided witnesses who should overhear all that passed, and should, upon a signal, come in and seize them with the money; which was done, and a prosecution was ordered upon it. The fact was fully proved, and the persons concerned in it were censured and punished.

Goodman was the other witness: first, they gathered matter to defame him, in which his wicked course of life furnished them very copiously; they did not trust to this method, but betook themselves to another, in which they prevailed more effectually; they persuaded him to go out of England; and by this means, when the last orders were given for Fenwick's trial, there were not two witnesses against him. By the course of law, he must have been acquitted; but the whole was upon this kept entire for the session of Parliament.

The king sent to the House of Commons the two papers which Fenwick had sent him; Fenwick was brought before the house; but he refused to give any farther account of the matter contained in them, and they were rejected as false and scandalous, made only to create jealousies; and ordered a bill of attainder to be brought against him, which met with great opposition in both houses, in every step that was made. In conclusion, the bill passed by a small majority of only seven in the House of Lords.

Fenwick, seeing no hope was left, prepared himself to die: he desired the assistance of one of the deprived bishops, which was not granted; but he was attended by Bishop Burnet. He was beheaded on Tower-hill,

January 23, 1697, aged 52; and was buried near the altar, in the church of St. Martin's in the Fields, London, with his three sons. Sir John was so tenderly beloved by his lady, that no stratagem was omitted by her to save him that love could invent, or duty practise. She even erected a monument, in York Cathedral, to perpetuate his memory. She was Lady Mary, eldest daughter of Charles Howard, Earl of Carlisle.

REV. THOMAS HUNTER,

FOR MURDER.—1700.

MR. HUNTER was born in the county of Fife, and was the son of a rich farmer, who sent him to the University of St. Andrew; after which he was admitted to the degree of Master of Arts. Hunter lived about two years, as a tutor, in the family of Mr. Gordon, merchant, in Edinburgh. Mr. Gordon's family consisted of his wife, two sons and a daughter, a young woman who attended Mrs. Gordon and her daughter, the prisoner, &c. To the care of Hunter was committed, the education of the two sons; and for a considerable time he discharged his duty in a manner highly satisfactory to the parents, who considered him as a man of superior genius.

Hunter now formed an unfortunate connexion with a female servant, in Mr. Gordon's establishment, which being accidentally detected by Mr. Gordon's children, by them was disclosed to their parents. The servant was directed to quit the house on the day after the discovery; but Hunter was continued in the family, after making a proper apology. From this period he entertained the most inveterate hatred of the children, on whom he determined in his own mind, to wreak the most diabolical vengeance. In fine weather he was accustomed to walk in the fields with his pupils for an hour before dinner; and in these excursions, the young lady generally attended her brothers. At the period immediately preceding the commission of the fatal act, Mr. Gordon and his family were at their villa, near Edinburgh; and, having received an invitation to dine in that city, he and his lady proposed to go thither about the

time that Hunter usually took his noon-tide walk with the children. Mrs. Gordon was very anxious for all the children to accompany them; but this was strenuously opposed by her husband, who would consent that only the little girl should attend them.

By this circumstance, Hunter's intention of murdering all the three children, was frustrated; but he held the resolution of destroying the boys, while they were yet in his power. One day in the month of August, 1700, he accordingly took them into the fields, and sat down as if to repose himself on the grass. Hunter was preparing his knife to put a period to the lives of the children, at the very moment they were busied in catching butterflies, and gathering wild flowers. Having sharpened his knife, he called the lads to him, and when he reprimanded them for acquainting their father and mother of his connexion with the servant, to which they had been witnesses, said that he would immediately put them to death. Terrified by this threat, the children ran from him; but he immediately followed and brought them back: he then placed his knee on the body of the one, while he cut the throat of the other with his pen-knife; and then treated the second in the same inhuman manner as the first.

These horrid murders were committed within half a mile of the castle of Edinburgh. The deed being perpetrated in the middle of the day, and in the open fields, the murderer was immediately taken into custody. At the very time, a gentleman was walking on the castle-hill of Edinburgh, who had a tolerably perfect view of what passed; alarmed by the incident, he called some people, who ran with him to the place where the children were lying dead.

Hunter had now advanced towards a river, with a view to drown himself. Those who pursued, came up with him just as he reached the brink of the river; and his person being instantly known to them, a messenger was instantly dispatched to Mr. and Mrs. Gordon, who were at that moment about to sit down to dinner with their friend, to inform them of the murder of their sons.

According to an old Scottish law, it is decreed, that, "if a murderer shall be taken with the blood of the murdered person on his clothes, he shall be prosecuted

in the sheriff's court, and executed within three days after the commission of the fact." It was not common to execute this sentence with rigor; but this offender's crime was of so aggravated a nature, that it was not thought proper to remit any thing of the utmost severity of the law. The prisoner was, therefore, committed to gaol, and chained down to the floor during the night; and on the following day, the sheriff issued his precept for the jury to meet: and, in consequence of their verdict, Hunter was brought to his trial, when he pleaded guilty; and added to the offence he had already committed, the horrid crime of declaring, that he lamented only that he had not murdered Mr. Gordon's daughter, as well as his sons.

The sheriff now passed sentence on the convict, which was to the following purpose:—

That, on the succeeding day, he should be executed on a gibbet, erected for that purpose, on the spot where he had committed the murders; but that, previous to his execution, his right hand should be cut off with a hatchet, near the wrist; that then he should be drawn up to the gibbet, by a rope, and when he was dead, hung in chains between Edinburgh and Leith, the knife with which he committed the murders being stuck through his hand, which should be advanced over his head, and fixed therewith to the top of the gibbet.

Mr. Hunter was executed in conformity to the above sentence, on the 22nd August, 1700: but his body was afterwards removed to the skirts of a small village near Edinburgh, named Broughton.

EDWARD JEFFERIS, AND ELIZ. FORSHELL,
FOR MURDER.—1705.

EDWARD JEFFERIS and Elizabeth Forshell, were indicted at the Old Bailey, the 30th of September, 1705, the first for the murder of Mr. Woodcock, of Clifford's Inn, on the 26th of July, by giving him a wound with a rapier, of the depth of six inches, of which he instantly

died ; and Elizabeth Forshell, for being present, aiding and abetting the said murder.

It appeared by the evidence, that Mr. Jefferis and Mr. Woodcock had dined together at the Blue-posts, at the lower end of Pall-Mall, on the day the deceased was killed, between one and two o'clock, and that then they parted, Jefferis going to Forshell's lodgings in St. Martin's-lane, and was seen to go out with her towards the park, and return home about six at night : that Mrs. Forshell being told that the gentleman that was with her lay dead in St. Martin's church-yard, she exclaimed, " Death and fury ! is it he ? " and having seen him, she cried out, " O Lord ! it is he, do not make any disturbance ; " and that when the officers came to her lodgings to apprehend her, she had locked herself in ; but the officer threatening to break open the door, she let him in, and on his searching he found a purse and three rings in one of the drawers, which were proved to be Mr. Woodcock's.

The next witness, a youth, declared that he and another boy were playing in the fields near Chelsea, about four in the afternoon there, that he saw Mr. Jefferis and Mr. Woodcock, and heard them grumbling together as they walked towards the road : that then Mr. Jefferis said to Mr. Woodcock, " G—d d—n you, you lie ; " to which Mr. Woodcock replied, " pray do not give me the lie too : " that presently Mr. Jefferis drew his sword, and before Mr. Woodcock could draw his (he being left-handed,) he received a wound, and fell down immediately ; that then Mr. Jefferis drew Mr. Woodcock's sword, and took some of his blood, and rubbed it upon it, but that not being enough, he squeezed the wound to get out more, and having blooded the sword, he put it under him, that the people might think he killed himself, and then put his hand into Mr. Woodcock's pocket, took something out, and ran towards Chelsea, and that he and his playfellow followed him ; that, as he ran along, he broke his own sword, and put it under his coat ; but they still following him, he turned about, and said, " he would knock their brains out, if they followed him any farther ; " which made them run back. The boys said likewise, that Mrs. Forshell was walking the mean time by the Park wall ; and that, after Mr. Jefferis had killed Mr. Woodcock, she came into the field and was going towards the dead body ; but, seeing them

there, she turned back. This was confirmed by the testimony of the other boy.

Other evidences deposed that, after the murder was committed, about half-an-hour past four, Mr. Jefferis and Mrs. Forshell met at the Cheshire-cheese at Chelsea, and staid there till near six.

Mr. Jefferis denied the fact, and said he was at another place when the murder was done, and called some witnesses to prove it; but none of them agreed as to the time. The jury thereupon brought him in guilty; but acquitted Mrs. Forshell.

On the 9th of September, as Jefferis was proceeding to Tyburn, he met by the way with a reprieve, by virtue of which his execution was deferred till the 21st of the same month, when he was carried in a cart to Tyburn. Before this he made the following confession, viz. that he was about forty-one years of age, born of good parents, near Devizes, in Wiltshire, and brought up to the law in London. He confessed that he had been unfaithful and unkind to his wife, and had led a very wicked and debauched life; and that, to support his lewd and extravagant expenses, he had been very unjust, especially in his practice as an attorney; in which he said he did not act for himself, but as an attorney for other persons, whose cause, let it be what it would, he then thought, in that capacity, he ought to serve.

At the place of execution he denied the fact. He said, he freely pardoned all that had injured him, and begged theirs whom he had injured, declaring he died in perfect charity with all mankind. He did not appear dejected at all, nor did he change his countenance; so far as could be perceived.

After the execution of Jefferis, Mrs. Forshell addressed the following letter to the Ordinary, containing an account of what she knew of the Murder of Mr. Woodcock.

Rev. Sir,—After a consideration of your good counsel, I think it my duty to give you an answer, to the utmost of my knowledge, in this murder of Mr. Woodcock. When Mr. Jefferis and I came through the Park, we went into the hither door of the Mulberry-garden, and walked up towards the house. Mr. Jefferis said, ‘we will go to Chelsea, and if you will go through the house, we will make an excuse at the bar.’ I went through first, and staid at the wall, and Mr. Jefferis came to me; then we walked towards Chelsea, and entering into the field that was the direct path, Mr. Jefferis said, ‘there is a friend of

mine, pray walk on, and I will overtake you immediately.' Accordingly I did, and got within two fields of Chelsea, when Mr. Jefferis overtook me, (which way he came I know not) for I walked very slow, and he was by me before I had any sight of him. I perceived something of a surprise in him: Said I, 'you are out of temper: have you and that gentleman had any words?' He answered me, 'we have had words, and I gave him a small prick.' 'Bat,' said I, 'I hope you have not hurt him?' 'No, no,' said Mr. Jefferis. And that was every word that was spoke concerning it. When we came into Chelsea, Mr. Jefferis said, 'we will go to the Cheshire cheese, for I know the man of that house.' We went in, for then we were by the door; and when we came into the room, Mr. Jefferis laid his sword, hat, and gloves on the table, and went out of the room. I took the sword in my hand, and drew it out of the scabbard, to see if it was bloody, as he said that he had pricked the gentleman; but the sword was neither bloody nor broke, as the boys said; but there is a good reason to be given, for the boys sayingso. One day, when Mr. Jefferis and I were in chapel, I asked him, if he did not give the wound with Mr. Woodeock's own sword, and if he did not draw it? He replied 'No.' Then said I, 'as he was drawing his sword, I suppose you snatched it from him; for the surgeon said, that it was not the sword you had, that gave the wound; and did you break his sword, as the boys said you did?' 'No,' said he, 'I broke no sword.' 'But then,' replied I, 'did not you go to break it?' He made me no answer to that question, only said, 'it happened so unfortunately for me to know the said Mr. Woodeock, and my having these rings made him suffer.' Said I, 'I knew not that you had killed him, when you were fetched by my order, neither did I know he was an acquaintance of yours; but, said I, I am told you have money of his, and that you changed one of his guineas, the night you came into gaol.' Said Mr. Jefferis, 'he gave me none.' 'Nay, Sir,' said I to him, 'I do not ask you if you took them, or if he gave you any; but by what the boys and I do know, there must be something more than I find you are willing I should know. I suppose he would not give you any, and that was the occasion that you quarrelled.' He fetched a very great sigh, and shook his head, but made me no answer, which makes me think it was so; for he never spoke many words after, which made me think he resented my putting those questions so close to him. All that ever he said to me after, was, that he wondered I was not out, and said, he would not have me come up to chapel; for what reason I cannot say, except it was for fear I should tell you how he left me; for, said he to me, 'Do not you mention that when we went to Chelsea, I was any time out of your company; for if you do, then I shall not be reprieved.' I humbly ask your pardon, Sir, for not letting you know as far as my knowledge reached; but knowing I could not do the deceased any good, and if I spoke this he would lose his life, made me leave it to the just God who knows the secrets of all hearts. This is all I can say; but I beg of you to pray to God for me, to keep me from all such wicked persons; and

that will add very much to the health and satisfaction of my poor soul. I am, Sir, your most obedient servant,

ELIZABETH FORSHELL.

Out of the Master's side in Newgate,

Oct. 15, 1705.

Sir, one thing more I forgot to mention, which is, that Mr. Jefferis all along said, he should have a reprieve, if I said nothing concerning his knowledge of Mr. Woodcock; for he said, he had petitioned his Grace the Duke of Ormond, and that he would get a friend to go to the Queen, which I believe was Mrs. Lambourn, one of the boys' mothers. Mr. Jefferis moreover said, that the father of Mr. Robert Woodcock should not have his life; for he did not question but he should be reprieved for all that.—I suppose, Sir, that you knew Mr. Jefferis's opinion was, that there was only a heaven, and no place of torment for bad livers, but to be put out of the presence of the Lord; which he said to me before he came into this place, and likewise since you and many more learned divines have taken pains to make him own the fact—for which he justly has suffered.

E. F.

JOHN SMITH,

FOR FELONY.

JOHN SMITH, commonly called half-hanged Smith, was born at Malton, within fifteen miles of York; he came up to London when young, served an apprenticeship with a packer, and afterwards worked journey-work for his master some time, and then went to sea; first in the Jeffery galley, a merchant ship, and afterwards in the *Triumph*, a second rate, commanded by Admiral Graydon, and was in the expedition against Vigo. Being discharged after the return of the ship, he enlisted himself a soldier in Lord Cutt's regiment of guards, under Captain Swan: but his pay not being sufficient to supply his extravagant expenses, he took to thieving and house-breaking, and committed many depredations.

In December 5, 1705, he was indicted at the Old Bailey, for stealing fifty pair of men's shoes, from William Cox, near Leadenhall-market.

The prosecutor deposed, that his shop was broken open. Another evidence swore, that he and Smith broke open the door about six in the morning, and stole the

goods; and that they had been confederates for six or seven years. He, however, denied the fact; but the jury found him guilty.

He was indicted a second time for breaking into the warehouse of Peter Hollander, in Mincing-lane, and stealing 900 yards of Gulix Holland, the 5th of November. It appeared, that he and two others committed the robbery, and shared the goods between them; as was deposed by the wife of one of his accomplices, and also by another who was with him in the robbery.

He was indicted a third time for breaking into the warehouse of Martha Leeton, the 28th of February, 1704, and stealing four hundred pounds' weight of China silk, value 350*l.* the goods of Joseph Billows; but, for want of sufficient evidence, he was acquitted.

He was a fourth time indicted for stealing 148 pair of gloves, and twenty-two pair of stockings, from Richard Highley, the 3rd of December. It appeared by the evidence, that the shop was broken open, and Smith taken in it; the goods being bundled up in readiness to be carried off. The jury found him guilty of this indictment.

While he lay under sentence of death, he made but little preparation for it, buoying himself up with the hopes of a reprieve; but when he found himself disappointed, he was very much incensed against the persons who had undertaken to procure him one.

When at the place of execution, he desired that all would take warning by his untimely death, which none but himself, by his sins, had brought about; and having performed the usual devotions at the tree, he was turned off, the 12th of December, 1705. After he had been hanging about a quarter of an hour, there was an outcry of a reprieve; upon which he was immediately cut down, and carried to a neighbouring house, where, being presently let blood, he recovered himself, and was taken back to Newgate.

Being questioned concerning the sensations he experienced while hanging, he gave the following account:— That, when he was turned off, he, for some time, was sensible of a very great pain, occasioned by the weight of his body, and felt his spirits in a strange commotion, violently pressing upwards; that, having forced their way to his head, he, as it were, saw a great blaze or

glaring light, which seemed to go out at his eyes with a flash, and then he lost all sense of pain; that, after he was cut down, and began to recover himself, the blood and spirits having been spent, forcing themselves into their former channels, put him, by a sort of pricking or shooting, into so an intolerable pain, that he could have wished those hanged, that had cut him down.

He pleaded his pardon the 20th of Feb. 1705. But as he had been but half-hanged, it appeared he was but half cured of his dishonest and thievish inclinations; for though at first he kept himself within the limits of private frauds and petty larcenies; at length, when the pain of hanging was worn out of his memory, he entered again upon his former practice of house-breaking, and was apprehended and indicted the 29th of April, 1715, for breaking into the house of John Cooper on the 28th of January, in the night-time, with intention to steal. He was likewise indicted for breaking into the warehouse of Benjamin Longuet and partners, (which warehouse was the lower room of Mr. Cooper's house). The evidence deposed, that the warehouse having been three times broken open, and the goods stolen; two watchmen were put in to lie in wait for the thieves if they came again; and that, about five in the morning, (April 29,) they heard a noise, and saw the stock of the warehouse door unlocked, and soon after the padlock was wrenched, and as John Smith entered, one of the watchmen struck at him; but missing him, he ran away as far as the end of Rood-lane, where he was taken: upon searching him, the padlock with several pick-lock keys, and a box, with tinder and matches in it, were found in his pocket.

The fact being thus plainly proved upon him, he was found guilty of breaking into the house or warehouse, as set forth in the indictment; but, whether it was burglary, or in which of the places, the jury left to be determined by the judges. He continued in Newgate till Monday, Nov. 10, when he was brought to the bar, and by the opinion of the judges, on the special verdict recorded against him for breaking into the house of John Longuet, was acquitted. Another verdict was recorded against him for the same offence, in the name of John Cooper; but the prosecutor being dead, and nobody ap-

pearing against him, he had the unmerited good fortune to be acquitted.

ROGER LOWEN,
FOR MURDER.—1706.

ROGER LOWEN was indicted for the murder of Mr. Richard Lloyd, of Acton, the 20th Sept. 1706; and being a foreigner, was allowed a party-jury, and to speak to the jury by an interpreter.

Mrs. Lloyd, the wife of the deceased, deposed, that Mrs. Lowen, the prisoner's wife, was her cousin, and had sent to her the night before the murder was committed, desiring to speak with her; that, accordingly, about seven o'clock the next morning she went, and about an hour after, her husband, (the deceased,) as he was riding to Acton about some business, called upon her at Mr. Lowen's house; upon which Mr. Lowen invited her husband to dine with him; her husband said he must first go to Acton, then home, put up his horse, and then walk back thither: that, in his absence, Mr. Lowen expressed himself with much uneasiness for fear her husband should not come; upon which she told him he would certainly come according to his promise, if it did not rain much. Accordingly, soon after twelve o'clock, her husband came, and was introduced in the parlour, by Mr. Lowen, with the greatest seeming civility, where her husband set down his sword and came in the corner of the room; and, dinner not being ready, gave them an invitation to walk into the garden, to see his plants: that, having walked about half an hour, they went back into the house, and Mr. Lowen spoke to his wife concerning dinner. When the prisoner, the deceased, and herself, went into the parlour, Mr. Lowen took her husband's sword, and drew it out a little way, and praised it, and asked who was his cutler, by which she imagined he wanted to buy a new one: that her husband, not suspecting any thing, there not being the least sign of anger in the prisoner, nor ever any difference between them, stood looking up the causey with his hands behind, when Mr. Lowen, on a sudden, drew the sword quite out of the scabbard, and stamping with his foot, ran the sword into her husband's body, just upon the right pap. She immediately cried out Murder, caught hold of the sword to disengage it from her husband's body, and, struggling with Mr. Lowen, got it out; but he drew it through her hands, cutting her finger to the bone, and gave her husband another stab in the arm: that her husband, casting up his eyes, went towards the door, to lean upon a rail; she following him, crying out Murder,—saying, speak to me, my dear; he only held up his hands, but could not speak; she, with some help, got him into the house, where, having fetched two groans, he immediately expired:

that, in the interim, Justice Hawlly accidentally coming by, she informed him of the fact, saying, that a villain had murdered her husband.

Justice Hawlly and other evidences deposed, that the prisoner being examined, owned the fact, and that he designed to have done it before, and that all the concern he then had was, that he was afraid he had not killed him. The reason he gave for it was, that the deceased had been too familiar with his wife, and had often trod upon his corns, giving him no other satisfaction than begging pardon for it; that he had been informed, that, in his absence, his wife lived in great splendor, kept a great equipage, coach, chariot, and footman, &c.; which was deposed to be all false.

The prisoner upon his trial, pleaded that, when he went from England, which was about nine years before, he had solicited his wife to go with him, which she refused, and that he came to fetch her; that Mr. Lloyd had called him several names, (but could not tell what they were,) had often trod upon his corns, &c.; and produced some persons who endeavoured to excuse the fact, by saying, that distraction had been incident to his family, and that they had often observed him to be much discontented, &c. But the jury disregarding those trifling allegations, found him **GUILTY OF WILFUL MURDER**; and he received sentence of death accordingly.

The prisoner was a German gentleman, of about forty years of age, born at Hanover, and brought up in the Lutheran church. He said he had been a gentleman of the equerry to the Duke of Zell; and that before he entered into that service, the Duke, in consideration of his father, who was his huntsman, sent him into France to learn his exercises, at his highness's charge. He readily confessed the fact, of which he was convicted, and had, for long time before, designed to kill Mr. Lloyd; but, for a great while before his trial, and even some time after it, he seemed to doubt very much of that gentleman's death, saying, it was impossible he should have died of the wounds he gave him. But when he was at last convinced that the gentleman was really dead, he then appeared sensible he had committed a very base and heinous crime, and expressed great sorrow for it.

After his condemnation, he seemed to apply himself earnestly to his devotion, in which he was principally directed by two clergymen.

At the place of execution, he delivered a paper to

a friend, containing his last speech to the world, in German; which translation, was as follows:—

“It is already known to the world for what reason I am now brought to this place, and am to suffer this shameful death, viz. for my having shed innocent blood. I acknowledge the fact, and confess my fault, and rest satisfied in the just sentence passed upon me, it being agreeable to the laws of the land, and the command of God, ‘That whoever sheddeth man’s blood, by man shall his blood be shed; for God made man after his own image.’ I was born of honest parents; my father was an Englishman, and my mother a native of Germany. I was educated from my youth in the Protestant religion. I declare before God and man, that I always had an aversion to actions of this kind, and have taken great care, in all the course of my life, to avoid them; and though I often had the opportunity of taking away the life of my adversaries in ungodly duels and quarrels, yet I take God to witness, as a dying man, I never was guilty of any murder before this, for which I justly suffer. I am therefore the more grieved now, that I have been moved to so great a passion, as to study revenge, by the instigation of the devil and sinful jealousy, which made me think (as I was persuaded by Mr. Crusas,) that my wife was married in my absence with the deceased. This is the unhappy thing that brought me to the commission of this horrid sin, which I heartily bewail with tears, and I do submit to my just punishment. I am deeply sensible how greatly I have offended Almighty God, and therefore humbly implore his pardon and forgiveness, and that my sinful soul may be washed from my sins in the blood of sprinkling, that precious blood shed by my Redeemer, which speaks better things than the blood of Abel: and, having the promises from the word of God, and his own oath, that, whenever a sinner truly repents, and turns to him, he is willing to receive and forgive him, herein is the only hope and comfort of my departing. I likewise beg the pardon of her most gracious Majesty, Queen Anne, (whom God bless;) and I publicly ask pardon of the widow of the deceased Mr. Lloyd, as I have done already, by a letter which I have left unsealed with Mr. Rup, minister of the Savoy, &c. to send it to her, hoping she will, as a Christian, forgive me, as we all hope for mercy and forgiveness from God, through the blood of Christ. In like manner, I ask pardon of my dear wife, who has been many ways injured by this sad occasion; and I sincerely declare, that I am fully satisfied of her innocence, and that I was jealous without a cause; and I do not in any respect ascribe to her the cause of my misfortune. I truly love her, and assure the world, that I have never been married to any other woman; and I pray heartily for her prosperity and happiness, both of soul and body. Lastly, I desire all good people, for God’s sake, earnestly to pray for the salvation of my poor soul; and I exhort all to take warning by my said misfortunes, that they would not give way to jealousy, anger, revenge, or such like passions; but resist the temptations of the devil, the world, and the flesh, with constant and devout prayers to God, and forgive their enemies, and pray for them. All which I heartily and sincerely do, as I hope God will forgive me for Christ’s sake.”

After Mr. Lowen had written this his last speech, he had the consolation to receive an answer to his letter therein mentioned, in which Mrs. Lloyd said 'That she forgave him, and prayed that God would forgive him also, and have mercy upon his soul.'

JOHN HERMAN BRIAN,

FOR ROBBING AND BURNING THE HOUSE OF PETER
PERSODE, ESQ.—1706.

JOHN HERMAN BRIAN, was indicted at the Sessions-house in the Old Bailey, Oct. 16, 1707, for burning and consuming the Mansion-house of Peter Persode, Esq. in St. James's-street, Westminster.

He was likewise indicted, a second time, for breaking open the said house about three o'clock, on the day above mentioned, and taking from thence a gold tweezer-case and chain, value £50, a gold watch, seventeen guineas, and valuables.

Mr. Persode deposed, that the prisoner had been his servant for the space of two months, and was discharged from his service the Monday before the fact was committed, and that the Wednesday following, about ten o'clock at night, he left all his doors and windows fast.

Mrs. Persode deposed, that when she went to bed, she locked up her tweezer-case, watch, and other articles; and that, about three o'clock in the morning, she awoke, and smelt a strong smell of smoke; and getting up, went out of her chamber, and found a lighted flambeau in the passage, which had burnt the boards; that she then opened the door of a parlour which was full of smoke, and immediately the room was all on fire, which rushed out of the stairs, and raged with such fury, that the house was consumed in a quarter of an hour, they not being able to save any of their goods.

A charwoman deposed, that going by early in the morning, she observed the house full of smoke, and knocked at the gate, but could make nobody in the house hear; that, at the same time she saw a man come over the wall, who said to her, 'D—n you, are you drunk? what do you here, knocking at people's doors at this time of the day?' and then went off; but she could not swear positively that the prisoner was the person.

Mr. Stevenson and *Mr. Acton*, goldsmiths, deposed, that the prisoner offered to sell the tweezer-case to them, and asked eight pounds for it, which gave them reason to suspect he had stolen it, and thereupon they stopped it, but the prisoner went away; and upon enquiry they found it to be Mr. Persode's property:

that, afterwards, he coming again to demand the goods, they seized him; and, on searching him, found two pistols and a dagger about him, with which they were informed he designed to shoot or stab them, if they refused to return the tweezer-case.

Other evidences deposed that the prisoner, when he went from the prosecutor's, took a lodging at a Frenchman's house, near St. Anne's, but was observed to be from his lodging the night the facts were committed, and that he left his lodging at 12 o'clock the next day, and took another in Spital-fields, at one Mr. de la Roche's; that he brought with him there, a box, a trunk, and a bundle sealed with three seals; and that, when they were searched, there were found in them, linen and other things belonging to Mr. Persode: that, when the prisoner was sent to Newgate, being narrowly searched, a purse with seventeen guineas was found tied up tight, and hid; and that the prisoner, on the 31st August, had sold his pistols and fowling-piece, which were proved to be the prosecutor's, as they were produced in court, and sworn to by him.

The prisoner denied the facts; and said he bought the goods of a strange man, but could give no proof of it, nor where he was the night the fact was committed; whereupon the jury found him **GUILTY** of both indictments.

He said he was about twenty-four years of age, born of honest parents at Dully, a village in the bailiwick of Morge, in the canton of Switzerland; that he was brought up in the Protestant religion, and ever continued in that profession: that, when he removed out of his native place, he went to Genoa, where he lived four or five years in the service of a gentleman, and afterwards travelled with another into Italy; from thence he came into England, where, in the space of three years, he was retained in the service of several honourable and good families, and last of all in Mr. Persode's, in which he continued two months, and was then dismissed for carelessness in his service, and peremptoriness in asking to be discharged. He said that, for the most part of his life, he had been a valet, or domestic: that he had once tried the art of lapidary, but, not liking it, he afterwards lived with a joiner for about a twelvemonth; but, that trade being too hard for him, he left that also, and went to service, and lived by buying and selling goods, but denied he ever meddled with any he could suppose were stolen, and would fain have persuaded the world, that he had bought the goods found in his possession, belonging to Mr. Persode, of two persons,—one a soldier, whom he met in Moorfields, who sold him the linen, gold watch, and tweezer-case; and the other a seaman, whom he accidentally met on Tower-hill, and bought of him the two pistols, and a fowling-piece. But, being asked who those persons were, he answered, that he never saw them before, nor knew where they were to be found.

Some worthy French divines, who had the charity to visit him in Newgate, found him and left him in unaccountable obstinacy, and uncharitable temper; protesting he was innocent of the crime he was condemned for; and, in this protestation of his innocence,

he continued to the very last. All the time he was under condemnation, he seemed only to meditate on making his escape, by unscrewing and filing off his irons at several times. And when he was told he should think of something else, and not spend, in vain contrivances, the few and precious moments he had to live here, but should carefully employ them in preparing for eternity, he only answered, 'That life was sweet, and that any other man as well as himself, would endeavour to save it if he could.'

At length, much time having been spent in endeavouring to prevail upon him to confess, but to no purpose, he was executed in St. James's-street, near St. James's house, Westminster; and hanged in chains at Acton Gravel-pits, Oct. 24, 1707.

WILLIAM GREGG,

FOR HIGH TREASON.

THE account of this criminal, and the treasonable affair of which he was convicted, are thus related by bishop Burnet:—

At this time, (says the Bishop,) two discoveries were made very unlucky for Mr. Harley: Tallard wrote often to Chamillard, but he sent the letters open to the secretary's office to be perused and sealed up, and so to be conveyed by the way of Holland. These were opened upon some suspicion in Holland, and it appeared that one in the secretary's office put letters in them, in which, as he offered his service to the church of France and St. Germans, so he gave an account of all transactions here. In one of these letters he sent a copy of the letter that the Queen was to write in her own hand to the Emperor; and he marked what parts were drawn by the secretary, and what additions were made to it by the lord treasurer. This was the letter by which the Queen pressed the sending of Prince Eugene into Spain; and this, if not interrupted, would have been at Versailles many days before it could reach Vienna.

He who sent this, wrote that by this they might see what service he could do them, if well encouraged. All this was sent over to the Duke of Marlborough; and, on search, it was found to be wrote by one William Gregg, a clerk, whom Harley had not only entertained, but had taken into a particular confidence, without enquiring into the former part of his life; for he was a vicious and necessitous person, who had been secretary to the Queen's envoy in Denmark, but was dismissed by him for those his ill qualities. Harley had made use of him to get him intelligence, and he came to trust him with the perusal and sealing up the letters, which the French prisoners here in England sent

over to France, and by that means he got into the method of sending intelligence thither. He, when seized on, either upon remorse, or hopes of pardon, confessed all, and signed his confession; upon that he was tried, and, pleading guilty, was condemned as a traitor, for corresponding with the Queen's enemies.

At the same time Valiere and Bara, whom Harley had employed as his spies to go over to Calais, under the pretence of bringing him intelligence, were informed against, as spies employed by France to get intelligence from England, who carried over many letters to Calais and Boulogne, and, as was believed, gave such information of our trade and convoys, that, by their means, we had made our great losses at sea. They were often complained of upon suspicion, but they were always protected by Harley; yet the presumptions against them were so violent, that they were at last seized, and brought up prisoners.

This affair was so well improved by the whigs, that Mr. Harley was obliged to resign, and his enemies, in their great charity, were resolved to find out evidence enough to search his life. With this view the House of Lords ordered a committee to examine Gregg, and the other prisoners, who were very assiduous in the discharge of their commission, as the reader will perceive from the following account, extracted from the same right reverend author.

The Lords who were appointed to examine Gregg, could not find out much by him; he had but newly begun his design of betraying secrets, and he had no associates with him in it. He told them, that all the papers of state lay so carelessly about the office, that every one belonging to it, even the door-keepers might have read them all.

Harley's custom was, to come to office late on post-night, and, after he had given his orders, and wrote his letters, he usually went away, and left all to be copied out when he was gone. By that means he came to see every thing; in particular, the Queen's letter to the Emperor. He said, he knew the design on Toulon in May last, but he did not discover it, for he had not entered on his ill practices till October. This was all he could say.

In the examination of Valiere and Bara, and of many others who lived about Dover, and were employed by them, a discovery was made of a constant intercourse they were in with Calais, under Harley's protection. They often went over with boats full of wool, and brought back brandy, though both the import and export were severely prohibited. They, and those belonging to the boats carried over by them, were well treated on the French side at the governor's house, or at the commissary's; they were kept there till their letters were sent to Paris, and till returns could be brought back, and were all the while upon free cost. The order that was constantly given them was that, if an English or Dutch ship came up with them, they should cast their letters into the sea, but that they should not do it when French ships came up with them; so they were looked on by all on that coast, as the spies of France. They used to get what information

they could, both of merchant-ships, and of ships of war that lay in the Downs, and upon that they usually went over; and it happened, soon after, that some of those ships were taken. These men, as they were papists, so they behaved themselves insolently, and boasted much of their power and credit.

Complaints had often been made of them, but they were always protected, nor did it appear that they ever brought any information of importance to Harley, but one, when, according to what they swore, they told him, that Fourbin was gone from Dunkirk to lie in wait for the Russia fleet; which proved to be true; he both went to watch for them, and took a great part of the fleet. Yet though this was the single piece of intelligence they ever brought, Harley took so little notice of it, that he gave no advertisement to the Admiralty concerning it. This particular excepted, they only brought over common news and the Paris Gazetteer. These examinations lasted for some weeks; when they were ended, a full report was made of them to the House of Lords, and they ordered the whole report, with all the examinations to be laid before the Queen, in an address, in which they represented the necessity of making Gregg a public example, upon which he was executed. He continued to clear other persons of any accession to his crimes, of which he seemed very sensible, and died much better than he had lived.

At the place of execution, Gregg delivered the following paper to the sheriffs of London and Middlesex.

The crime I am now justly to suffer for, having made a great noise in the world, a paper of more than ordinary length will be expected from the criminal; who, therefore, takes this last opportunity to profess his utter abhorrence and sincere repentance of all his sins against God, and the heinous crime committed against the Queen, whose forgiveness I most humbly implore; as I shall heartily pray for her Majesty's long life and happy reign over her united people, and success against her enemies, with my parting breath.

This being all the satisfaction I can possibly make her injured Majesty; I declare, in the next place, the reparation I would make, were it in my power, to those of her Majesty's subjects I have wronged in any kind: and, particularly, the Right Honourable Robert Harley, esq. whose pardon I heartily beg, for basely betraying my trust; which declaration, though of itself sufficient to clear the said gentleman, yet, for the sake of those, whom it was my misfortune not to be able to satisfy in my life-time, I do sacredly protest, that, as I shall answer it before the judgment-seat of Christ, the gentleman aforesaid was not privy to my writing to France, directly or indirectly; neither was I, his unworthy clerk, any ways accessory to the miscarriage before Toulon, nor the losses by sea; all which happened before the first of my letters, which was wrote the 24th of October, 1707.

As for my creditors, as I am in no condition to satisfy them, so I earnestly beg they would forgive me; and I pray to God to make up their losses to them seven-fold.

For my own part, I do freely forgive all men, and die in perfect charity with them; not without humble hopes of finding forgiveness, through the merits of Jesus Christ, with God, who, in mercy

touched my conscience so powerfully from the beginning, as to prevent my prostituting the same to save my life; for which instance of his love, to be preferred before life itself, I bless and magnify his holy name, with unspeakable joy and comfort at my death; nothing near so ignominious as would have been such a life.

After this confession, the duty of a dying man leads me to profess the religion in which I was brought up, and do now die, which is the Protestant. The scandal given whereunto, by my enormous practices, cannot be better taken away than by my publishing to the world my hearty sorrow for those sensual pleasures which have proved my bane. Wherefore let all that shall read this poor account, take warning by me, to shun the like youthful lusts; to which, whoever gives up himself, cannot tell how far they may, when indulged, carry him; even to the committing such crimes as he thought himself incapable of, some time a-day: of which sad truth, I, to my woeful experience, am a melancholy instance: but, at the same time, I appeal to the great God, before whom I am now going to appear, that, notwithstanding all the pains to make me out an old offender, by fastening on me the crime of counterfeiting the current coin; this is the first fault that I ever ventured upon, which was not out of any zeal for the Pretender, whom I not only disown at my death, but solemnly declare that, in all my life, I never thought he had any right to these realms, how foolishly soever I may have rendered myself obnoxious in this particular. But the only motive of my mad undertaking, was money; of which I never received any on account of the ship-past, though I have met with the more just reward of such secret services intended by

W. GREGG.

He was executed at Tyburn, April 28, 1708.

WILLIAM ELBY, OTHERWISE DUNN,
FOR BURGLARY AND MURDER.—1707.

WILLIAM ELBY was indicted at the sessions in the Old Bailey, for breaking into the house of Mr. James Barry at Fulham, August 2, 1707, with an intent to rob it; and likewise for the murder of Nicholas Hatfield, by giving him a mortal wound with a rapier near the left breast, of which he died soon after.

The evidence deposed, that Mr. Barry hearing a noise about his house between twelve and two in the morning, he got up with his wife and man, Nicholas Hatfield, went down stairs, and found a window broken open, and espied two men without, at about five yards distance,

one of whom was the prisoner. They then ran immediately up stairs for arms, but Hatfield stepping into the kitchen, was met by Elby, who drove him into the pantry, and gave him a stab in the breast, of which he died twelve hours afterwards.

In the scuffle between Elby and Hatfield, one of the thieves fired a pistol to disengage them, which happened to wound Elby in the leg, and a button was found in the pantry, which belonged to Elby's coat, also a bloody sword was found under a hay-cock, and a receipt that had been given Mr. Barry for money paid. The prisoner, who had little to say in his defence, was found guilty of the fact, and received sentence accordingly, upon which he was so impious as to say, "G—d d—n you all."

Elby owned he was guilty of the burglary, but would not confess the murder, neither would he discover his accomplices, or any other offences he had committed : and in this obstinacy he all along persisted ; and was so peremptory as to say, that if any person should ask him any such questions again, he would knock them down.

He said he was about 32 years of age, born at Deptford, of honest parents, who gave him a good education, and bound him to a block-maker in Rotherhithe, with whom he served his apprenticeship ; but was no sooner out of his time, than, instead of setting up, or working for himself, he went on rambling abroad, and got into bad company, who debauched him, and enticed him into those sins, which by degrees brought him to this shameful and untimely end. He said he had sometimes served at sea in her Majesty's navy, and sometimes at land in the second regiment of foot-guards ; and confessed he had committed many offences, and had formerly received both the law and mercy ; which, to his sorrow, he had not improved into amendment. Lastly, when he was near the time of his death, he acknowledged his guilt, though not wholly, yet in some measure ; and prayed that God would forgive both that, and all other his crimes.

At the place of execution, viz. the town of Fulham, the ordinary endeavoured to persuade him to the doing of what he could to save his soul. He told him, that (as he had done before) he desired his prayers, and no questions to be asked, and shewed himself more and more positive in refusing to satisfy the world, who had a hand in the burglary and murder, for which he was now to die. He said, he would make no discovery ; only he owned again his being guilty of the burglary, but not of the murder, meaning (as he expressed it) that he had not actually committed it, but another man with him had : but who that man was, or whether there were no more with him at that time, he would not at all resolve ; and he grew very angry at being asked such questions, which, he said, " put all good things out of his head, which had been put in it before ;" telling him withal, that he desired him this morning, at Newgate, not to trouble him with asking of questions at the place of execution, but only to pray by him.

Here a letter* was shewn to him, which was delivered to the ordinary on his way to Fulham; desiring him to tell whether it came from him? he told him it did. On being asked who stole the 250*l.* in money, a gold watch, and other goods therein mentioned? he answered, "it was himself:" upon which, being asked farther, who were concerned with him in that robbery? he said, nobody.

He was accordingly hung in chains at Fulham, on the 13th September, 1707.

JOHN BARNS,
FOR MURDER.—1708.

JOHN BARNS, of St. Paul's, Shadwell, was indicted at the Old Bailey, Oct. 15, 1708, for the murder of Ann Edgbrook, by giving her a mortal wound on the throat with a knife, the 19th of September preceding, of which she instantly died.

The evidence deposed, that the prisoner came to the deceased's house the 7th of September, and lay there that night; and that the next morning one Mrs. Vineyard, a lodger of the deceased's, went to London, and left the prisoner, the deceased, and a mantua-maker, drinking together; and that she returned home about six at night, and knocked at the door, but could make nobody hear; that she then went to a neighbour's house, and came again at nine o'clock, at which time

* *The Copy of the Letter above-mentioned.*

SIR,—You may remember in May last was two years, your house was broke open, and there was lost to the value of 250*l.* in money, in gold and silver, and some time before you lost a woman's gold watch, and one other watch, the outside case being tortoiseshell, studded, and two pair of stockings; and understanding you have been many times desirous of knowing the person, this presents to acquaint you, that if you will give yourself the trouble of coming to Newgate, (where I am now a prisoner under sentence of death,) I believe you may be satisfied of the truth of the same.—I am, Gentlemen, though a dying person, yet your humble servant,

WILLIAM DUNN."

Sept. 11, 1707, from Newgate.

"Please, if thought requisite, to be as quick as possible, since on Saturday morning next, I shall make my exit.

"Direct for either of the partners that keep the brewhouse at Execution Dock."

she found the door half open, and the prisoner a-bed upon the ground-floor, who called out, and told her, her landlady was not at home; upon which she, with a little girl, went to bed in a room above stairs, and left the door open, that the deceased might come in; that about eight o'clock the next morning she went down, and found the door fast shut, but the deceased was not to be found; that then she called in a neighbour, and went into the room where the prisoner lay, and found him lying upon his left side snoring, and his right hand out of bed and bloody; and that throwing down the bed-clothes they observed his throat to be cut, but the wound not dangerous; his shirt sleeves were tucked up, and his arm wounded, but that sleeve which covered the wound was not cut; a bloody knife was found in the bed, and proved to be the deceased's; his breeches were found under the bed, and under them a pole-axe: that thereupon she and her neighbour suspecting the prisoner had murdered the deceased, searched the house, but could not find her; they then went into the yard to search for her, where they found her in a shed belonging to the house, with her throat cut from ear to ear, her stomach cut down throughout like a sheep, and her bowels and heart taken out and put into a tub; and that, upon examining her head a hole was discovered, which exactly fitted the blunt part of the pole-axe; a case-knife that belonged to the deceased was likewise found under her. It did not appear that any of the deceased's goods were taken out of the house, and, the door being fast in the morning, the murder could not be committed by any without doors.

The prisoner, in his defence, pleaded that he knew nothing of the murder; and, being asked how his throat came to be cut, answered, that, at about twelve at night a black man did it: and that himself was much in drink, and could not well remember how it came; but, as he had no better defence to make, the Jury found him guilty of the murder.

Being under sentence of death, he gave the Ordinary the following account: that he was about forty-six years of age, born at Ostley, near Ipswich, in the county of Suffolk, by profession a seaman, and had served the crown several years at divers times in that capacity; but that his chief employment had been among the

colliers, in that trade between Newcastle and London. He owned he was guilty of drunkenness, whoredom, and Sabbath-breaking, but of no other great sins, and utterly denied the fact for which he was condemned; and in this denial he persisted to the last; and being pressed by the Ordinary to confess his guilt, and not die with a lie in his mouth, he answered, "that he neither did commit the murder himself, nor knew who had."

He was executed at Tyburn the 27th of October, in company with Mary Elenor, for the murder of her bastard infant, by throwing it alive into the vault, as she confessed after sentence, and that she did then hear it cry, and thrust it down with a stick to smother it; and also with Agatha Ashbrook, who was executed for the murder of her female bastard infant, by strangling it with a piece of list, which was done on the same day that Mary Elenor murdered hers.

DOCTOR HENRY SACHEVERELL,

FOR HIGH CRIMES AND MISDEMEANORS,—BEFORE
THE HOUSE OF PEERS, IN WESTMINSTER-HALL,
IN THE MONTHS OF FEBRUARY AND MARCH,
1709-10.—7 & 8 Annæ.

A COMPLAINT was made in the House of Commons on the 13th of December, 1709, of two printed sermons; the one entitled, 'The Communication of Sin,' preached at the Assizes at Derby, the 15th of August, 1709; and the other entitled, 'The Perils of false Brethren, both in Church and State,' preached before the Lord Mayor and Citizens, at the Cathedral of St. Paul's, on the 5th of November, 1709, by Henry Sacheverell, D. D. And several paragraphs thereof being read, it was resolved,

That the said sermons were malicious, scandalous, and seditious libels, highly reflecting on her Majesty and her Government; on the late happy revolution, and the protestant succession, and both Houses of Parliament; tending to alienate the affections of her Ma-

jesty's good subjects, and to create jealousies and divisions amongst them.

The Doctor, being ordered to attend the House next day, was called, and examined, if he owned those sermons? Which he did, and then withdrew: when a question being proposed, that Dr. Henry Sacheverell be impeached of High Crimes and Misdemeanors, it was thought proper to call him again first, and demand, if he had any thing to offer to the House in his excuse? Whereupon the Doctor said,

“Mr. Speaker,—I am very sorry I am fallen under the displeasure of this House: I did not imagine any expressions in my sermons were liable to such a censure as you have passed upon them. If you had been pleased to have favoured me so far as to have heard me before you passed it, I hope I should have explained myself so as to have prevented it.”

After which, the Doctor was ordered to withdraw; and it was resolved to impeach him of High Crimes and Misdemeanors: and Mr. Dolben accordingly carried up the impeachment to the Lords, acquainting them, that the Commons would, in due time, exhibit articles against him.

And the Doctor, with his bookseller, Mr. Henry Clements, were taken into custody of the Serjeant at Arms: and though the Doctor petitioned the Commons to be admitted to bail, they refused it, there being but 79 *ayes* to 114 *noes*, when the question was put.

There were great debates in the House on bailing the Doctor: some were of opinion, they had no power to take bail; others insisted, they had a discretionary power; while a third party said, if they had it in their power, the Doctor did not deserve so much indulgence: others said, in favour of liberty, if they could, they ought to admit him to bail: and that they could bail a prisoner, they argued from the equity and reasonableness of the thing, that those who could commit, might bail him; and produced two precedents, viz.: the case of Mr. Seymour, and that of the smugglers, impeached for High Crimes and Misdemeanors; in one of which, the persons impeached and committed by the House of Commons, were admitted to bail; in the other, the Commons, upon their petition, consented to bail them; and they had been bailed, but the sureties made objections to the condition of their bonds, and would not submit to it. Besides, it was urged, that this case was

in itselfailable; and so agreed by all gentlemen: and that the Doctor's hardship might be the greater, because it was probable, if the Commons did not bail him, he must lie in custody, whenailable by law, till after the recess of parliament: for the articles not being exhibited to the Lords against him, it was thought, the Lords would not take him out of the custody of the Commons, and commit him upon a general charge; and till they committed him, they could not bail him: this was his case; for, upon application to the Lords, they refused to commit him, till the Commons had exhibited their articles. The Lords said, the Commons might never exhibit any; and they would not do so unreasonable a thing, as to commit any one on a general charge; and so he lay a prisoner, by the commitment of the House of Commons, in a caseailable by law, (and for which there were precedents of the Commons admitting to bail,) from December the 14th, to January the 12th.

Mr. Dolben carried up the articles to the Lords on the 12th of January; and the Serjeant at Arms, at the same time, delivered the Doctor to the deputy Gentleman usher of the black rod: and the Doctor petitioning the House of Peers to be admitted to bail, and that he might have counsel assigned him, and a copy of the articles, their Lordships granted all his requests; and, on the 25th of January, Dr. Sacheverell attended the House of Lords, and delivered in his answer to the articles of impeachment against him; which their Lordships having communicated to the Commons, they sent up their reply on the 3rd of February: and the next day, the Lords sent a message to the Commons, acquainting them, that they had appointed the Thursday following for the trial of Dr. Sacheverell, at the bar of the House: but the Commons resolving afterwards, that they would be present at the trial, as a committee of the whole House, and acquainting their Lordships with it, and desiring convenient accommodations might be made for them; the House of Peers ordered the Lords, with white staves, to move her Majesty, to give orders for preparing a place in Westminster-hall for the trial; and her Majesty thereupon gave orders for preparing a Court in Westminster-hall; which taking up some time, the Lords put off the trial till Monday the 27th of February.

The Commons thereupon appointed the gentlemen,

who had been of the committee for drawing up articles against the Doctor, to be their managers at the trial, viz. ; Sir John Holland, comptroller of her Majesty's household, Mr. Secretary Boyle, Mr. Smith, chancellor of the exchequer, Sir James Montague, attorney-general, Robert Eyre, esq. solicitor-general, Robert Walpole, esq. treasurer of the navy, Sir Joseph Jekyll, Mr. Lechmere, Mr. Dolben, Sir Thomas Parker, Sir Peter King, recorder of the City of London, Sir John Hawles, the Lord William Paulet, the Lord Coningsby, Mr. Spencer Cowper, Mr. Thompson, Lieutenant-General Stanhope, Lieutenant-General Mordaunt, Mr. Compton, and Sir David Dalrymple.

On Monday the 27th of February, being the day appointed for the trial, the Lords came down from their House, about noon, to the Court erected in Westminster-hall: and the Commons having taken the places provided for them, the Serjeant at arms made proclamation for the Doctor to appear and save his bail; whereupon he came to the bar, and kneeled; his counsel, Sir Simon Harcourt, Mr. Dodd, Mr. Phipps, Mr. Dee, and Dr. Henchman, standing near him.

The Lord Chancellor Cowper, then commanded the Doctor to rise; and proclamation being made for the prosecutors to appear and make good their charge, the Lord Chancellor acquainted the Doctor, that it was unnecessary to give him any directions for his defence, the Lords having assigned him counsel; adding, that they had also made an order for summoning his witnesses, and admitted him to bail, on the first application, that he might be the better able to provide for his defence; and that he had all the time he desired to prepare himself; and ought ever to remember their Lordships' indulgence to him.

Then the articles of impeachment were read; the preamble whereof recites,—

That the late King William, when Prince of Orange, undertook, with an armed force, a glorious enterprize, for delivering this kingdom from popery and arbitrary power; in which he was joined and assisted by many subjects of this realm, well affected to their country; and that God being pleased to crown it with success, the late happy revolution took effect, and was established: and whereas, the said glorious enterprize had been approved by several acts of parliament, declared to be necessary, and that the same ought to be justified; and the happy consequences of it, were the enjoyment of God's true religion, and

the laws and liberties of the kingdom; the uniting the subject, in interest and affection, by a toleration of dissenters, the preservation of her Majesty, the succession of the crown in the protestant line, and the union of the two kingdoms: and whereas, the Lords and Commons, did, by their address of 17th Dec. 1705, lay before her Majesty their resolution, that the Church of England, which was rescued from the extremest danger by King William III., was, by God's blessing, under her Majesty, in a most safe and flourishing condition; and that whoever goes about to insinuate, that the church is in danger under her Majesty's administration, is an enemy to the Queen, the church, and the kingdom; and did beseech her Majesty to take effectual measures for punishing the authors of such reports, and her Majesty issued her proclamation accordingly; yet the said Henry Sacheverell had preached two sermons, and printed them, with a wicked, malicious, and seditious intention to subvert her Majesty's government and the protestant succession; to defame her Majesty's administration, to asperse the memory of his late Majesty, to condemn the revolution, arraign the resolutions of both Houses of Parliament, create jealousies and divisions among her Majesty's subjects, and incite them to sedition and rebellion.

Art. 1. That the said Henry Sacheverell, in his sermon, preached at St. Paul's, doth suggest and maintain, that the necessary means used to bring about the revolution, were odious and unjustifiable: that his late Majesty, in his declaration, disclaimed the least imputation of resistance; and that to impute resistance to the revolution, is to cast black and odious colours upon his late Majesty, and the said revolution.

Art. 2. Was in substance, that he had suggested and maintained, that the toleration was unreasonable, and the allowance of it unwarrantable; and reflected on Archbishop Grindall.

Art. 3. Imported, that he did falsely and seditiously suggest and assert, that the Church of England was in great peril and adversity under her Majesty's administration, contrary to the votes of both Houses.

Art. 4. That he did falsely and maliciously suggest, that her Majesty's administration, both in ecclesiastical and civil affairs, tended to the destruction of the constitution; and that there were men of characters and stations in church and state, who were false brethren; and did themselves undermine and betray, and encourage and impower others to undermine and betray the constitution: that, as a public incendiary, he fomented divisions, and excited her Majesty's subjects to arms and violence; and, that his seditious suggestions might make the stronger impressions, he did wrest and pervert divers passages of holy scripture.

All which they were ready to prove, from the said sermons.

Then the Doctor's answer was read, wherein he denies, he preached or printed the said sermons with a malicious intent, as the preambles to the articles charges; but says, he was induced to print the Derby sermon at the request of the grand jury, who declared their appro-

bation of it; and the said Lord Mayor having expressed his liking of the sermon preached at St. Paul's, he did, at his request, cause that sermon to be printed, and dedicated to him.

I. And in answer to the first article, he denies, that he suggested, that the necessary means used to bring about the revolution were odious and unjustifiable; but, on the contrary, endeavoured to clear the revolution, and his late Majesty, from the black and odious colours cast upon both.

That he could not find he had given the least colour for the accusation exhibited in this article, unless by his asserting, 'the utter illegality of resistance to the supreme power, upon any pretence whatsoever;' for which assertion, he had the authority of the Church of England in her homilies, ready to be produced; and was advised, that the said assertion was agreeable to, and warranted by, the laws of the land, and divers Acts of Parliament now in force; and, therefore, hoped he should not suffer for asserting the doctrine of non-resistance to the supreme powers. But if this doctrine was declared erroneous, and he should suffer for asserting it, he trusted that God would enable him to shew his steady belief of this doctrine, by a meek and patient resignation to whatever should befall him on that account.

II. In answer to the 2d Article, which charged him with maintaining, that the toleration granted by law was unreasonable, and the allowance of it unwarrantable; he could not inform himself, that a toleration had been granted; but admitted, an Act passed 1 W. and M. exempting their Majesties' protestant subjects from the penalties of certain laws; which exemption he no where suggested to be unreasonable, or the allowance of it unwarrantable.

But he did, indeed, suggest it to be one part of the characters of a false brother, 'upon all occasions to defend toleration and liberty of conscience, and, to excuse the separation, lay the fault upon the true sons of the church, for carrying matters too high.

And as to his reflecting on Archbishop Grindall, he hoped he might be excused; because the Archbishop had incurred the displeasure of so good and pious a Princess as Queen Elizabeth; and was suspended till the day of his death, for permitting innovations in the church. However, he hoped, that no words spoken of an Archbishop 120 years after he was dead, would amount to a high crime and misdemeanor.

III. To the third Article, he answered, that, he denied he asserted the Church of England was in danger under her Majesty's administration, or intended to arraign the vote of both Houses: but he acknowledged he had suggested, that the church was in danger from our national sins, from vice and infidelity, as it was declared to be by an Act of Parliament, 9 and 10 W. III. And he conceived, since the passing of that Act, the detestable crimes, for the suppressing whereof that Act was made, were greatly increased.

IV. To that part of the 4th Article, which charges him with suggesting that her Majesty's administration tends to the destruction of the constitution, he answers, 'He hath not men-

tioned her Majesty's administration, or her ministers, in either of his sermons; and was so far from censuring it, that he had reckoned it among the inestimable blessings that were owing to our deliverance, commemorated on the 5th of November, *That her Majesty, the good and pious relict of the Royal Family, sits now happily upon the throne of her ancestors; and prays, that God may long preserve her, for the comfort and support of the church; and professes, that what he spoke, proceeded from a tender concern for her Majesty's person and government.*

As to his suggesting, that there are *men of characters and stations* in church and state, that do weaken, undermine, and betray the church, &c., he denies he suggests such things of men of characters and stations in church and state: for where he speaks of those *who weaken, undermine, betray, encourage, and put it in the power of our professed enemies, to overturn and destroy the constitution*, there men of characters and stations were not mentioned by him; and when he mentions men of characters and stations, twelve pages afterwards, he says nothing of weakening, undermining, or betraying, or putting it in the power of others to overturn the constitution; and hopes he shall not be answerable for a supposed reflection, which depends upon the conjunction of passages widely distant, and so little relating to each other.

And as to that part of the charge in this Article, that, as a public incendiary, he persuaded her Majesty's subjects to keep up distinctions of factions and parties, and fomented divisions; he had, on the contrary, in that sermon, complained of those who had villanously divided us with knavish distinctions of high and low churchmen, and wished that those individuou distinctions were lost: and had condemned those, who, by false insinuations, and raising groundless jealousies and fears, embroiled the public, and would bring us into confusion; and was so far from exciting or stirring up her Majesty's subjects to arms and violence, that he had asserted the utter illegality of resistance to the supreme power upon any pretence whatsoever; which he apprehended to be the chief, if not the only ground, of the charge exhibited against him in the first article.

That he hoped what he had said in the dedication of the Derby sermon, *That there are not wanting some to preach the truth, and others to support it, at the expense of their lives and fortunes;* would not be construed, as exciting her Majesty's subjects to sedition and rebellion; since that truth which he commends some for preaching, and others for supporting, is by him opposed to the attempts of those who betray and run down the principles and interests of our church and constitution; and since he there deservedly commends the high sheriff of that county, on account of his steady loyalty and zeal to serve her Majesty and the government, for which he hath been so remarkably distinguished.

And as to so much of the said 4th Article, whereby it is charged, that he, the said Henry Sacheverell, doth wickedly wrest and pervert divers texts and passages of holy scripture, that his said malicious and seditious suggestions may make the stronger impressions upon the minds of her Majesty's subjects; the said Henry Sacheverell says, 'that having no malicious or seditious suggestions to im-

print, he could not intend to wrest any passages of the holy scripture to that wicked purpose: and hard is the lot of the ministers of the gospel, if, when they cite the word of God in their general exhortations to piety and virtue, or in their reproofs of men's transgressions, or where they are lamenting the difficulties and conflicts with which the church of Christ, whilst militant here on earth, must always struggle; the several texts and passages by them cited, shall be said to have been by them meant of particular persons and things, and shall be construed in the most criminal sense, and be made, by such construction, one ground of an impeachment for high crimes and misdemeanors.'

Then the replication of the Commons to the Doctor's answer was read, wherein they aver the charge against the said Henry Sacheverell to be true, and that he is guilty in such manner as he stands impeached.

After which, the Lord Chancellor intimating to the Commons, that they might proceed with their evidence, Mr. Attorney General (one of the managers) said,—

My Lords, by command of the Knights, Citizens, and Burgesses, in parliament assembled, we appear in behalf of all the Commons of Great Britain, to make good the impeachment against the prisoner at the bar, Doctor Henry Sacheverell.

The misdemeanors he stands accused of, are specified in the Articles which have been just now read to your Lordships; and the facts there charged, are said to have been done with a wicked, malicious, seditious, intention, to undermine and subvert her Majesty's government, and the protestant succession, as by law established; to defame her Majesty's administration; to asperse the memory of his late Majesty King William; to traduce and condemn the late happy revolution; to contradict and arraign the resolution of both houses of parliament; to create jealousies and divisions among her Majesty's subjects; and to incite them to sedition and rebellion.

My Lords, if this charge be made good, (as I am apt to think it will) I may presume to say, no words can either aggravate or alleviate the offence.

My Lords, our proofs in this case will arise from evidence which cannot be liable to the imputation of being overawed by the weight of the prosecutor's, or corrupted, or perverted; for out of his own mouth we shall charge him, and by his own words and sermons we shall convict him.

My Lords, this prosecution took its rise from a complaint that was made in the House of Commons the 13th of December last, of two books which had been lately printed and published, under the name of Dr. Henry Sacheverell. The books being delivered in, several paragraphs were read; and, by divers passages, too many for me now to enumerate to your Lordships, it did plainly appear, that both books did contain very scandalous and seditious matter, highly reflecting upon the Queen, and her administration.

Hereupon the Doctor was ordered to attend; which he did accordingly the next day; and, at the bar of the Commons

house, owned and avowed both books to be his; that they were sermons he himself had preached, and that he had caused them to be printed and published.

After such a confession, your Lordships may imagine her Majesty's dutiful Commons did express their just resentments of the great wrong and injuries that were done to her Majesty, and all that were in authority under her, and immediately ordered this impeachment.

Your Lordships will perceive, by perusal of the sermons and epistles dedicatory, that the design and drift of the same is to possess the people with strange notions, and terrible apprehensions of the danger they are in, by a general mal-administration of the public affairs, both in church and state.

One of these books is entitled, *The Communication of Sin*, being a sermon preached at the assizes held at Derby, in August last; and because the Doctor thought he had not said enough against the Queen and her government in the sermon, he affixes a dedication to it, wherein he affirms, 'That the principles of our church and constitution are shamefully betrayed and run down; that both are persecuted, on the one side by rude and presumptuous insults, and base undermining treachery on the other; and that this persecution is carried on by associated malignants.'

The other sermon was preached at St. Paul's, London, on the 5th of November, which is a day set apart for a general day of thanksgiving, for two very great deliverances vouchsafed to this nation, by the discovery of the Gunpowder-Plot, and the arrival of his late Majesty King William, to redeem us from Popish tyranny and arbitrary power.

My Lords, when you come to hear this sermon read, I am confident that it must appear very strange to find that, when there were two such memorable occasions for the Doctor to have set forth his eloquence, in a thanksgiving sermon, he should in a great measure pass by the business of the day, and entertain his audience with a long harangue of the deplorable condition the church was in; not so much from Papists, the avowed enemies of the church, as from her pretended friends, as he calls them, the false sons of the church, who were crept into her bowels, and had shewed themselves to be perfidious brethren, by defending toleration and liberty of conscience, and favouring the Dissenters. And to shew his little liking of the great work which was begun to be wrought on that day, by the arrival of his late Majesty, the chief turn of his discourse is to cry up non-resistance, and passive obedience. And to make it most evident, that what he said of non-resistance, was to cast black and odious colours upon the revolution, he lays down a general position, 'That it was not lawful, upon any pretence whatsoever, to make resistance to the supreme power;' which supreme power, by other passages, he explains to be the Regal power.

Was there any occasion at that time to be so earnest to cry down resistance, and preach up passive obedience? Can any one pretend to say there were any symptoms of discontent throughout the nation, in any parts thereof? No: to our comfort

beit spoken, no reign, no age, no history, can give a better account of the good dispositions of the people to their sovereign: therefore, since the preaching of these doctrines was needless, it does savour of some wicked design to be talking so unseasonably of this subject. If what the Doctor very frequently asserts in this sermon, be true, 'That all are false sons of the church, who assisted to bring about the revolution, or that joined in the opposition that was made to the encroachments which were begun by evil ministers, in the reign of King James II., against our religion and liberties; let the Doctor a little consider how far his character of a false brother may be carried.

Every body knows, that lived in those days, that the body of the clergy of the Church of England made a noble stand against the encroachments which were then making, and appeared as active as any of the laity.

My Lords, as the time was most unseasonable for the preaching such doctrines as these, so the place was very improper for a lecture of politics: for your Lordships do perceive this latter sermon, which was preached on the fifth of November last, was preached in the great metropolis of this kingdom, before the lord mayor, aldermen, and citizens of London; from whose steady loyalty to her Majesty, and firm affections to the revolution, such vast sums have been contributed, for carrying on this long war against France, which hath proved so fatal to the French king, and other enemies of this kingdom.

And what more likely to give a fatal wound to the public credit at this time, than such a doctrine, which tends to the overthrow of all the acts of parliament which have been made in support of this constitution?

And how strange an attempt was it in the doctor to preach against the revolution, and this government, before those citizens, who owe the restoration of their charters, and all their franchises and immunities to it!

But, to do justice to the Doctor, he, in his answer, denies he has said any thing of the means which brought about the revolution.

And, if your Lordships can believe him, he says, he has endeavoured to vindicate the revolution from the black and odious colours, the enemies of the revolution would throw both upon that and his late Majesty.

To what end and purpose then are these doctrines preached with so much vehemence, at this time, unless it be to reflect backwards upon what was done at the time of the revolution?

There is certainly no occasion to preach non-resistance to her Majesty's loyal and dutiful subjects, who have never shewn the least inclination to give disturbances to this present government.

Was there ever known a time, in which there was so universal an agreement in all ranks and degrees amongst us? Does not every one almost strive to shew their zeal and affection for her Majesty and her government? If there be any that are less quiet than their neighbours, we shall find them amongst the friends of Dr. Sacheverell, who are professedly no friends to the revolution. Nothing is more certain, than that all that are not satisfied with what was done at the time of the revolution, must be enemies to

the present establishment: and it is from this source, all these declamations against men of character and station, both in church and state, do proceed.

But I would have the Doctor consider, that we have laws to punish spreaders of false news and horrible stories of the great men and great officers of the kingdom: and it is to put a stop to these malicious practices now on foot, that this delinquent is now brought to this bar.

When we shall have read our several proofs, which will justify every particular charged on the Doctor in the articles of impeachment, the Commons will not doubt of your Lordships judgment against this defendant.

Then the dedication before the Derby sermon was read, and the sermon preached at St. Paul's, with the dedication to the Lord Mayor, Sir Samuel Garrard; after which, the Court adjourned to the next day.

On Tuesday the 28th of February, the managers for the Commons, Sir Joseph Jekyll, Mr. Solicitor Eyre, Sir John Holland, Mr. Walpole, Sir John Hawles, and Mr. Stanhope, proceeded to maintain the first article; viz. that the Doctor did suggest and maintain, that the necessary means used to bring about the revolution, were odious and unjustifiable; and that to impute resistance to the revolution, was to cast black and odious colours on his late Majesty, and the revolution, &c.

Sir Joseph Jekyll, among other things, said, that it was far from the intention of the Commons, to state the bounds of the subject's submission; what the law was wisely silent in, the Commons desired to be silent in too: nor should they put any case of a justifiable resistance, but that of the revolution only; and to make out the justice of that, laid it down for a maxim, that as the law is the only measure of the prince's authority and the people's subjection; so that law derives its being and efficacy from common consent.

Religion had nothing to do to extend the authority of the prince, or the submission of the subject; but only secured the legal authority of the one, and enforced the due submission of the other, from the consideration of higher rewards and heavier punishments.—That as the doctrine of unlimited non-resistance, was implicitly renounced by the whole nation at the revolution, so had that renunciation been expressed and confirmed by several acts of parliament since: and in the prayers appointed for the fifth of November, we thanked God for his late Majesty's safe arrival; and making all opposition fall before him, till he became our King and Governor: notwithstanding all which, Dr. Sacheverell had condemned the resistance, by which that deliverance was wrought; and knowing that there was resistance used at the revolution, and that the late King and Parliament had avowed that resistance; yet asserted, that those who say, there was any resistance in it, cast black and odious colours on

the late King and the revolution; consequently, he had condemned the resistance used to bring about the revolution, which was the charge contained in the first article.

Mr. Solicitor then cited several passages out of the sermon preached at St. Paul's, to prove the first article; and observed, that the Doctor's argument ran thus: all resistance is utterly illegal; the King disclaimed the least imputation of resistance; the parliament set the crown upon his head, upon no other title than that of the vacancy of the throne, and burnt a book, because it asserted a title by which resistance was supposed; and, therefore, to impute resistance to the revolution, is to cast black and odious colours upon it.

That the Doctor in his answer, indeed, denied that he maintained the necessary means used to bring about the revolution, were odious and unjustifiable, or affirmed any thing concerning the necessary means; and, it was true, the words *necessary means* were not used in his sermon: but if resistance was necessary, and the means by which the revolution was effected, then he had asserted the means to be odious and unjustifiable, though he had done it in other terms.

And as to the late King's disclaiming all resistance, it was an apparent scandal on his late Majesty, who was so far from disclaiming resistance, that he declared he brought over sufficient forces to defend himself against evil counsellors, and encouraged the people to join with him.

That had the Doctor the authority of the Church of England, and of the common and statute law, to justify his maxim of the utter illegality of resistance to the supreme power, there had been no colour to charge him with maintaining it: the resistance used at the revolution, could not then be defended: but the Commons should think themselves ungrateful for that deliverance, if they did not vindicate the honour of the late King, and of those illustrious persons, who, upon his invitation, defended the constitution at that time by resistance, and declare, that this resistance was lawful, honourable, and just.

It could never be supposed, that the laws were made to set up a despotic power, to destroy themselves, and to warrant the subversion of a constitution they were designed to establish: and it appeared by the Act declaring the rights and liberties of the subjects, that at the time of the revolution, there was a total subversion of the constitution in church and state; which was a case the laws of England could never provide for, or have in view; and the same answer might be applied to the general doctrine of the church, expressed in her homilies.

Mr. Stanhope, in maintenance of the first article, said, that those who asserted, in general terms, the absolute illegality of resistance, must do it with a design to overthrow her Majesty's title and government; since, at the same time they screened themselves under the notion of professing absolute passive obedience to the supreme power, they could not conceal, that the real object of this darling doctrine, was a prince on the other side the water; they could not otherwise be consistent with themselves: for in the same discourse to preach passive and unlimited obedience to magistrates, and to revile and defame ma-

gistrates; to preach non-resistance on any pretence, and to encourage sedition, were such contradictions as could no otherwise be reconciled, than by concluding, that, however they were pleased to colour and disguise their discourses, their true end was to alienate the people's affections from their present governors: to insinuate, that the revolution itself was an usurpation: that whatever had been built on that foundation was wrong; and to represent those who had a hand in it as rebels and traitors.

That it was not material, what the opinions of some divines have been: it was sufficiently known what the practice of the Church of England had been, when she found herself oppressed; and appealed to the practice of all churches and nations, how they behaved themselves, when they found their civil and religious rights invaded and oppressed by tyranny.

He believed, there was not that government in the world but had its beginning in resistance, or compact: and if compact was admitted, there must likewise be admitted a right to defend those rights accruing by compact: that Grotius, in his *Treatise de Belli & Pacis*, L. 1. Cap. 4. Sect. 13. says, "If the King hath one part of the supreme power, and the other part is in the senate, or people; when the King shall invade that part that doth not belong to him, it shall be lawful to oppose a just force to him, because his power doth not extend so far. Which position I hold to be true, even though the power of making war should be vested only in the King; which must be understood only to relate to foreign war: for as for home, it is impossible for any to have a share in the supreme power, and not to have likewise a right to defend that share."

This was exactly adapted to the constitution of England; for that the Lords and Commons, and every subject of Great Britain, had rights, could not be denied: and to say, that, when a prince shall invade all these rights, the whole collective body of the nation has no way to vindicate those rights, was so inconsistent, and contrary to reason, that it was to be wondered it could ever enter into the mind of man.

That, at the revolution, it was not thought a black and odious crime, to take up arms for defence of the constitution: many of their Lordships, and the best part of the nation, were concerned in it; and it was with much gratitude to the greatest of Queens, they remembered how great a share her Majesty had in the revolution: and after this, for the Doctor to give the injurious epithets of republicans, of enemies and traitors to church and state, to those who were concerned in that resistance, was not to be borne: it would have become him to have considered first, who were concerned, and who had a share in it.

That the principles broached by the Doctor well enough became professed jacobites; and, had they confined themselves to their own conventicles, it might have been consistent with the mildest government to suffer them to enjoy the toleration, how destructive soever their principles were. But when they should vent their treasons abroad, and occasionally conform and take the oaths to the government, the better to destroy it; when they should abjure the pretended prince of Wales, but not forget him; and when the pulpit of our metropolis should be prostituted and

polluted by venting sedition against the best of Queens, it was high time for their Lordships to animadvert upon it.

And, having made a panegyric on the then ministry, who had, he said, compelled the enemy to sue for peace, and they were about to reap the fruits of a long expensive war; at such a critical juncture, when it behoved us more than ever to be united, then did this pious son of the church, this loyal subject, this passive-obedience gentleman, endeavour to create groundless mistrusts and jealousies of the administration.—He was, indeed, but an inconsiderable tool of a party, not worth the trouble they had given their Lordships: but they looked upon it, that their Lordships' judgment in this case would be giving a sanction, which would determine what doctrines of this kind should or should not be preached; and they hoped their Lordships would inflict such punishment on this offender, as should deter others from committing the like insolence.

Sir Peter King, being assigned to maintain the second article, which charges the Doctor with asserting, that the toleration granted by law was unreasonable, and the allowance of it unwarrantable, &c. said, it was true, that the word toleration was not mentioned in the Act, as the Doctor had observed in his answer; but every body knew, that the exemption granted to Dissenters by 1 W. & M. was called the Toleration Act; and the Doctor himself, in the 14th page of his sermon, had called it, the toleration, where he said; the toleration was never intended to indulge and cherish such monsters and vipers in our bosom: and, again, in the 19th page, where he says, the Dissenters had advanced themselves from the religious liberty their Sovereign had indulged them in, to claim a civil right, and jostle the church out of her establishment, by hoisting their toleration into its place.

And for the Doctor to affirm, that heterodoxy, or a different opinion from any of the articles of the faith of our church, almost necessarily infers rebellion and high-treason in the state; what could be a more direct breaking in upon, and disavowing the toleration, than this? Was not this to maintain the toleration granted by law to be unreasonable, and the allowance of it unwarrantable, when he knew every denomination of Dissenters differed from the church in some of her articles?

Another reflection on the toleration was in page 16, where he says, what could not be gained by comprehension and toleration, must be brought about by moderation and occasional conformity: that is, what they could not do by open violence, [they will not fail by secret treachery, to accomplish, &c.

Was not this calling the toleration an open violence to the church, and affirming that it was made with an intent to destroy the church, and maintaining that the toleration was unreasonable, &c.?

And, as to that part of the 2d article, which charges him with asserting, that he is a false brother, with relation to God, religion, and the church, who defends toleration and liberty of conscience; he cited the 8th page of his sermon, where the Doctor says, if to defend toleration and liberty of conscience, and under pretence of moderation, to excuse the separation, and lay the fault upon the true sons of the church; if to court the fanatics in private, and

hear them rail at and blaspheme the church, and, upon occasion, to justify the King's murder; if to flatter both the dead and the living in their vices, and tell the world, if they have wit and money they need no repentance, and that only fools and beggars are damned; if these are the modish and fashionable criterions of a true churchman, God deliver us from all such false brethren!

Here he made it one mark of false brethren, to defend toleration and liberty of conscience, which was an evident declaration against the justice and expediency of the toleration.

That by his reflection on Archbishop Grindall, he also designed to censure the toleration; for he says, page 20, Have they not, ever since their first unhappy plantation in this kingdom, by the intercession of that false son of the church, Bishop Grindall, always improved and rose upon their demands in the permission of the government? Insomuch, that Queen Elizabeth, who was deluded by that perfidious prelate, to the toleration of the Genevian discipline, (the discipline and polity of the Dissenters,) found it such an headstrong and encroaching monster, that she foresaw it would endanger the monarchy as well as the hierarchy; and, like a Queen of true resolution and pious zeal for both, pronounced, that such were the restless spirits of that factious people, that no quiet was to be expected from them, till they were utterly suppressed: which, like a prudent princess, she did by wholesome severities, that the crown for many years sat easy and flourishing on her head.

Here he called the Archbishop a false son of the church, and a perfidious prelate, for persuading the Queen, to grant a toleration to Dissenters: and what was this in effect, but to declare the Parliament were in the wrong in granting a toleration to the Dissenters? and that the bishops, who were for tolerating them, were neither fathers nor sons of the church, but corrupt and perfidious prelates? and what could he do more to inflame the government against the Dissenters, than by recommending it as a noble resolution and pious zeal in Queen Elizabeth, utterly to suppress the Dissenters; and to recommend the severities used in her reign, because they were wholesome, and of happy consequence to that renowned Queen.

The last charge in this article was, the Doctor's asserting it to be the duty of the superior pastors, to thunder out their ecclesiastical anathemas against persons entitled to the benefit of the toleration, and insolently defying any power on earth to reverse those sentences: for which he referred to the 25th page of the sermon, and observed, that the Doctor did in his answer own this charge in effect; for he there affirmed, that some sentences pronounced by the pastors of the church were ratified in heaven: that some persons exempted from punishment by the laws of the land, might yet, by the laws of Christ, be liable to such sentences: and that schism, or a causeless separation from a church, enjoining no sinful terms of communion, was a sin which exposed the person guilty of it to the censures of the church; which was not only a weakening and censuring the toleration, but a direct impugning the Queen's supremacy, which by the canon he was bound to maintain.

The Court assembling again on Wednesday the 1st of March, Mr. Thompson endeavoured to maintain the charge in the 3d article, viz. that the Doctor had asserted, in contradiction to a vote of both Houses,—

That the church was in a condition of great peril and adversity under her Majesty's administration; and insinuated, that the members who passed that vote were themselves conspiring the ruin of the church, while they voted it out of danger; alluding, by way of parallel to that assembly, who voted the person of King Charles I. out of danger, at the same time they were conspiring his destruction.

To prove this part of the charge he quoted a passage in the 5th page of the Doctor's sermon; where he says of the Church of England, her holy communion has been rent and divided by factious and schismatical impostors, her pure doctrine corrupted and defiled, her primitive worship and discipline prophaned and abused, her sacred orders denied and villified, her priests and professors, like St. Paul, calumniated, misrepresented, and ridiculed; her altars and sacraments prostituted to hypocrites, deists, socinians, and atheists; and this done, I wish I could not say, without discouragement, I am sure with impunity, not only by our professed enemies, but, which is worse, by our pretended friends and false brethren.

Another passage he cited for proof of this article, was in page 18; where the Doctor says, falsehood always implies treachery, and whether this was a qualification for any one to be trusted, especially with the guardianship of our church and crown, let our governors consider. Whether this reflection did not aim higher than the administration, he submitted to their Lordships.

The next passage cited is in page 20; where he says, And now are we under no danger in these deplorable circumstances? Must we lull ourselves under this sad repose, and in such a stupid lethargic security embrace our ruin? When Elisha, the great prophet of God, was surrounded with an host of enemies that sought his life, his blind servant beheld not the peril his master was in, till his eyes were opened by a miracle, and he found himself in the midst of horses and chariots of fire: I pray God we be out of danger; but we may remember the King's person was voted to be so, at the time his murderers were conspiring his death.

That the Doctor would excuse himself, indeed, in his answer, by saying, that these deplorable circumstances proceeded from the maturity of national sins, &c. But it was plain he insinuated and asserted, that this danger was occasioned by the dissention from the church, which the Legislature apprehended to be no danger to it, and therefore it did not become him to assert the contrary: and as to the parallel between the assembly who voted King Charles I. out of danger, and the members who voted the church out of danger, though the Doctor said he meant no reflection on the members who passed that vote, because he never mentioned that vote, and that they were not the same people who voted King Charles out of danger, that conspired his ruin; the Doctor could not be ignorant, that it was in November, 1648,

that King Charles was voted out of danger; and how soon after the King's trial and death happened, every body knew: and, though there might be some alteration made in that assembly, during that time, the persons who conspired his destruction were part of that assembly who voted him out of danger; and it was not to be doubted but the Doctor intended his allusion in the same manner.

And as to the place of scripture quoted by the Doctor, viz. that the blind servant beheld not the peril his master Elisha was in, till his eyes were opened by a miracle, and he found himself in the midst of horses and chariots of fire. These horses and chariots of fire, he observed, were not the prophet's enemies; so that he plainly perverted the sense of the text, to make a stronger impression, and more effectually to delude the people.

The last passage he cited to maintain this article, was in the last page, where speaking, of the danger of the church, the Doctor quotes a text out of Lamentations, viz. though she lies bleeding of the wounds she received in the house of her friends. This text, he said, he could not find, and therefore it seemed to be a lamentation of the Doctor's own making. Then, he observes, the Doctor goes on, though the ways of Sion may mourn for a time, and her gates be desolate, her priests sigh, and she in bitterness, because her adversaries be chief, and her enemies at present prosper; though among all her lovers she has few to comfort her, and many of her friends have dealt treacherously with her, and are become her enemies.

These passages, he said, he mentioned only to shew that the Doctor, by the most pathetic expressions of his own, mixed with these texts of scripture, endeavoured to represent the Church of England to be in the utmost danger.

And, as to the Doctor's pretence, that the vote concerning the church's danger could not concern him, because it was made four years ago; he should have observed, that the words were, whosoever shall go about to insinuate that the church is in danger, under her Majesty's administration; and therefore it must relate to any time during her Majesty's reign.

And that the Doctor (whose education would not permit us to presume he sinned through ignorance) should take upon him, in his private capacity, to contradict the sense of the whole nation, and cast such aspersions on his superiors, this immoderate zeal could only be intended to animate a deluded people to the execution of seditious designs.

But the Commons were so well satisfied of their Lordships true concern for the preservation of the constitution, that they could not imagine they would suffer such attempts to pass without condign punishment.

Lord Coningsby being assigned also to maintain the third article, observed,—

That the Doctor's sermon, preached at St. Paul's, from the title page to the conclusion, was one malicious and seditious assertion, that the Church of England was in the utmost peril and danger in the last reign and the present; and was preached with an intention to bring in the Pretender and popery.

Mr. Sergeant Parker, being assigned to make good the charge in the fourth article, viz. that the Doctor does falsely and maliciously suggest, that her Majesty's administration, both in ecclesiastical and civil affairs, tends to the destruction of the constitution: and that there are men of characters and stations, both in church and state, who are false brethren, and do themselves weaken, undermine, and betray, and do encourage, and put in the power of others, who are professed enemies, to overturn and destroy the constitution and establishment; and chargeth her Majesty, and those in authority under her, with a general mal-administration; and, as a public incendiary, he persuades her Majesty's subjects to keep up a distinction of factions and parties, instils groundless jealousies, and foments destructive divisions among them, and excites and stirs them up to arms and violence: and, that his said seditious and malicious suggestions may make the stronger impressions upon the minds of her Majesty's subjects, he, the said Henry Sacheverell, does wickedly wrest and pervert divers texts and passages of holy scripture;—

Observed, that the avowed design of this sermon, was to represent the extreme perils and distresses of the church and constitution, from false brethren that are in the administration, and countenanced by it. And beginning with the second clause in this article, viz. that he did falsely and maliciously suggest, that there are men of characters and stations in church and state, who are false brethren, and do weaken, undermine, and betray, &c. To prove this, he cited p. 15. where the Doctor says, that they weaken, undermine, and betray in themselves, and encourage and put it in the power of our professed enemies, to overturn and destroy the constitution and establishment: that this run through his whole discourse; and being affirmed of false brethren in general, must be applied to every sort of false brother; and, consequently, if there were men of characters and stations, whom he represented as false brethren, then he affirmed of them, and had undertaken to prove, that they did weaken, undermine, and betray the constitution, &c.

That page 21. he said, what a vast scandal and offence it must be, to see men of characters and stations, thus shift and prevaricate with their principles! what can unwary persons conclude from this tergiversation and hypocrisy, but that all religion is a state of craft and imposture; that all godliness is gain; and that the doctrines of the church lie not so much in her articles as her honours and revenues?

This was a full charge of false brotherhood upon persons of characters and stations: and, according to the description he had given above of false brethren, that they did weaken, undermine,

and betray, &c. he had charged men of characters and stations, with weakening, undermining, and betraying, &c.

That this was a general arraignment of the government: and, to put the matter beyond all doubt, he said, in scripture-words, page 26, that the church's adversaries are chief.

As to the 3d clause in this article, that he charged her Majesty, and those in authority, with a general mal-administration, he cited page 14, where he said, these false brethren in our government do not singly, in private, spread their poison, but (what is lamentable to be spoken) are suffered to combine into bodies, and seminaries, wherein atheism, deism, tritheism, socinianism, with all the hellish principles of fanaticism, regicide, and anarchy, are openly professed and taught, to corrupt and debauch the youth of the nation, in all parts of it, down to posterity, to the present reproach and future extirpation of our laws and religion.

That page 23, a false brother is represented, as relinquishing his old friends and principles, and betraying his own party, for the little sordid lucre of place or preferment. And that the false brethren he mentions, as put into places, are put in by our governors, he plainly suggests, page 18, when he bids the governors consider, whether they are fit to be entrusted, especially with the guardianship of our church and crown.

As to the first clause in this article, which charges him with suggesting that her Majesty's administration in church and state tended to the destruction of the constitution: this he observed was made out by what had been said of the other two. All those fatal mischiefs complained of in them, arose from the administration; which therefore plainly tended to the destruction of the constitution.

As to that clause, which charged the Doctor, as a public incendiary, with fomenting factions and parties, instilling groundless fears and jealousies, &c. he said, his language of forsaking old friends and principles, and betraying their party, could have no other drift but the keeping up distinctions and instilling groundless jealousies; and, though he pretended to approve of an indulgence to scrupulous consciences, in reality he approved of none; since he did not admit any one to have a conscience truly scrupulous who differed from him; but all such were false brethren, and villains, and to be stigmatized with all the other names of reproach he was so liberal of.

And, as to his inciting her Majesty's subjects to arms and violence, this was most manifest from his spreading such hideous representations of the government, such outcries of the church and true religion being undermined, betrayed, and exposed by those in the administration. This naturally tended to rebellion; and, therefore, at common law, to bear the people in hand, that the King's government was erroneous, heretical, or unjust, whereby the manner of the government was arraigned or impeached, was held to be high treason. Roll's Rep. p. 89, 90.

The last part of the charge, his perverting texts of scripture, he proved from the passage concerning Elisha, mentioned before by Mr. Thompson, page 21. And whether he should impute that mistake to the Doctor's ignorance, and taking it upon

hearsay, or to his resolution knowingly to pervert it, he left to the Doctor's choice.

And whereas the Doctor said, he was, to his great comfort, charged in this article only with suggesting, and not maintaining, that her Majesty's administration tended to the destruction of the constitution, and hoped that bare suggestions and insinuations should not involve an English subject in the guilt and punishment of high crimes and misdemeanors.

He replied, that, although this charge had not been positive, (as it was,) it would be very extraordinary to imagine that, let a man cast ever so many scandals and reproaches on the government, if it were done by way of suggestion and insinuation, and the charges were expressly maintained and avowed, there should be no crime in it, or not a high one: this was to say that sedition and exposing the government were lawful, only the manner was to be taken care of; that if you do it by suggestions, which every body will understand, and which will have their full effect, yet you may be safe; for those who come to judge you, are not to understand you, though every body else does.

On Thursday the 2d of March, the Court being met again, Mr. Lechmere observed, that the Commons had made their impeachment good in every part; and having given a short abstract of the managers' arguments, he added, that the Commons had gone through their charge together, that their Lordships might have it entire; but they reserved to themselves the liberty of replying, and every other legal advantage that should arise to them in the progress of their impeachment.

The Court meeting again on Friday the 3d of March; and the Doctor's counsel being directed to proceed, defended him against the charge in the articles; but, the Doctor having given us an abstract of their arguments himself in the following speech, after his counsel had concluded, we shall content ourselves with giving that speech entire, which is esteemed one of the finest pieces of oratory we have in English.

Dr. Sacheverell.—My Lords, the defence made by my counsel has been so full and particular, and the trial itself drawn out into so great a length, that I should not add to your Lordships' trouble, by saying any thing for myself, did I not think that in such a cause as this (wherein the doctrine of our church, the dignity of that holy order to which I belong, and even the common interest of Christianity itself, are so nearly concerned) it becomes me not to be altogether silent.

For, my Lords, it has been owned by some of the managers for the honourable House of Commons, that though I am the person impeached, yet my condemnation is not the thing principally aimed at. I am, it seems, an insignificant tool of a party, not worth regarding; the avowed design of my impeachment is, by

the means of it to procure an eternal and indelible brand of infamy to be fixed in a parliamentary way, on all those who maintain the doctrine of non-resistance, and to have the clergy directed what doctrines they are to preach, and what not: and, therefore, as insignificant as I am in myself, yet the consequences of my trial (if rightly represented to your Lordships by some of those gentlemen) are of the highest moment and importance.

Since I am the unfortunate occasion of bringing these matters in judgment before your Lordships, it will behove me, I think, after what has been pleaded in my behalf by my counsel learned in the law, to say something also for myself, in order to clear the innocence of my intentions, and remove that load of guilt and infamy which may be laid upon me, should your Lordships determine (as I trust in God you will not) that the articles of impeachment exhibited, have been made good against me.

With your Lordships' permission, then, I shall lay before you some few general remarks, which, in my humble opinion, may be added to what my counsel have already observed, concerning the methods taken by the managers for the honourable House of Commons, to prove and support the articles of their charge: and shall then, with your Lordships' leave, say somewhat severally to the articles themselves, which may serve to remind your Lordships of what my counsel before offered more at large, and with greater advantage.

My Lords, the charge brought against me in these articles is of a very high and heinous nature; and, had it been as clearly made out as it has been strongly affirmed, it would justly have exposed me to a very severe sentence; but the more heinous the charge is, the more evident and undeniable, I should think, the proof ought to be. And how, my Lords, has this charge been supported in the several articles of it? By plain, direct, and express passages, produced and read to your Lordships out of my sermons; or by intendments, unnecessary implications, and strained constructions? By laying entire sentences before your Lordships, and relying upon what was manifestly contained in them; or by piecing broken sentences, and conjoining distant and independent passages, in order to make me speak what I never thought of?

I am unacquainted, my Lords, with the methods of legal proof, and little thought I should have had this occasion of enquiring into them. But, as far as I am able to comprehend any thing of this nature, I should think, that there cannot be a clearer indication that I am not guilty of having asserted, what I am charged by the several articles to have said, than that so many hours' learning and eloquence have been employed in proving me to have said it. Had I really affirmed those propositions for which I am accused, my sermons being before your Lordships, the places wherein such propositions were directly contained, might have been referred to, and read, with the same ease as my counsel referred to the passages contained in the several writings and sermons of the reverend fathers, and other eminent divines of our church, wherein they taught the doctrine of non-resistance in the same extent as I maintained it, or in terms much stronger.

These passages produced by my counsel, were barely read to your Lordships: no argument, no colours were used, because none were necessary, to prove what propositions were laid down in those passages. Whereas, to prove me guilty of having asserted what is laid to my charge, after my sermons and prefaces were read to your Lordships, much art and industry were used to persuade your Lordships, that such assertions were really contained in them.

My Lords, when my words were capable of two senses, the worst and most invidious, though at the same time the most strained and unnatural construction, has been always made of them. Nay, when my words were so plain and express, that it was impossible to put any criminal glosses or colours upon them, I have been accused of meaning the direct contrary to what I have said: and when I pressed the duty of allegiance to the Queen, your Lordships were told, that it was most certain I meant the Pretender.

But, my Lords, I lay aside all complaints of this nature, and with your Lordships' leave, shall proceed to make some few short observations upon the several branches of the charge exhibited against me.

I am charged, my Lords, in the first article, with having maintained, 'that, the necessary means, used to bring about the happy revolution, were odious and unjustifiable;' in proof of which it has been urged, that I have in general terms asserted, 'the utter illegality of resistance to the supreme power, upon any pretence whatsoever.' My Lords, the resistance in that passage by me condemned, is no where, by me, applied to the revolution; nor is it applicable to the case of the revolution, the supreme power not being then resisted.

My Lords, I neither expressly applied my doctrine of non-resistance to the case of the revolution, nor had I the least thoughts of including the revolution under my general assertion. I expressed this doctrine in the same general terms in which I found it delivered by the Apostles of Christ; I taught it, as I had learnt it, from the Homilies of our church, and as I was enjoined to teach it, by the Articles of our religion: I used no other language than what had been used by our first reformers; by a continued series of Right Reverend Prelates, and other celebrated divines, now with God, and by many of those venerable fathers, before whom I stand, and what is perfectly agreeable to the laws and statutes of this realm.

I had little reason to apprehend that I could ever have been accused by the Gentlemen of the House of Commons to your Lordships, as a criminal, or as an aspersion of the memory of the late King, for preaching this doctrine; when others, who preached the same doctrine, in the same terms, before their late Majesties, before our present gracious Sovereign, (whom I pray God long to preserve!) before each House of Parliament, before this very House of Commons, have met with public approbation. But, since it is my singular misfortune to be accused, for what others have received thanks, in some instances conveyed to them, by several of the managers themselves, I do with all humble

confidence, rely upon your Lordships' justice; not doubting but that the learned judges, if thought necessary to be consulted, will declare what I have in this case asserted, to be warranted by law; and the Right Reverend the Bishops will affirm it to be the doctrine of the gospel.

The doctrine I preached being the doctrine of the Homilies of our church, not expressed only in a few particular passages of those Homilies, but perfectly agreeable to the whole tenor, the main scope and design, of them; and those Homilies being established by the Thirty-nine Articles, as containing godly and wholesome doctrine; and those articles being confirmed by the 13th of Queen Elizabeth; and that statute being made perpetual and fundamental to our constitution, by the late Act of Union: I leave it to your Lordships to consider, how far the condemnation of me, on the account of that doctrine, may affect, and shake the present frame of the British Constitution, in church and state, and tend to dissolve the union of the two kingdoms.

My Lords, upon the second article, I would humbly pray your Lordships to consider, that I have no where in my sermon shewn any the least dislike of the indulgence granted by law to Dissenters; that, on the contrary, I have declared my approbation of it, in the most express terms imaginable, which I beg leave once more to repeat to your Lordships out of my sermon, preached at St. Paul's. 'I would not,' I there say, 'be misunderstood, as if I intended to cast the least invidious reflection upon that indulgence, which the government hath condescended to give them; which, I am sure, all those who wish well to our church, are ready to grant to consciences truly scrupulous; let them enjoy it in the full limits the law hath prescribed.'

My Lords, this then was, and still is, my sincere opinion; nor am I conscious that I have uttered one word inconsistent with it. I have indeed blamed, and perhaps with some warmth and earnestness, the abuses which men of no conscience have made, of the legal exemption granted to consciences truly scrupulous: nor could I think that those reprehensions of mine would have drawn upon me the displeasure of any sincere Christian, which were levelled against hypocrites, Socinians, Deists, and such as, under the umbrage of that Act, which permits protestant Dissenters, and those only, to serve God, every man in his own way, think themselves at liberty to be of no protestant congregation, or no religion at all. I will farther ingenuously own to your Lordships, that I had in my eye some abuses made of that Act, by the Dissenters themselves; who, I am told, do (both pastors and people) rarely observe the qualifications prescribed by that Act; and who erect seminaries for educating youth in principles opposite to the doctrine, discipline, and worship of our church: whereas, that Act was intended for the ease of those whose minds, through the unhappy prejudices of education, were already estranged from the church; not, as I humbly conceive, to indulge men in taking the most effectual methods to propagate and perpetuate their schism.

As to Archbishop Grindall, though I may seem to have used

some undue asperity of expression concerning him, yet I charged him with nothing but what I had good grounds for, from our historians. It hath been made appear to your Lordships, that, on the account of his remissness in church-government, he lived and died under the high displeasure of Queen Elizabeth; and whether, therefore, he or that glorious Queen, shall bear the blame of his disgrace and sufferings, is with all humility submitted to your Lordships.

I hope, my Lords, I stand clear in your opinions of the charge advanced against me, in the two first articles; and, as my own conscience acquits, so I trust your Lordships will acquit me, of whatever is laid to my charge in the third.

My Lords, I neither have suggested, nor do in my conscience believe, that the church is in the least peril or adversity from her Majesty's administration: so far am I from any such thoughts, that I am entirely satisfied of her being a most affectionate nursing-mother to it. But I hope I may say, without offence, that the church may be in peril from other causes, without any reflection upon her Majesty's government, or any contradiction to her royal proclamation, and the resolution of both houses of parliament, four years ago. If the church be in danger, when the Christian religion is evidently so, I hope it will be thought no crime to say, it has scarce ever been in greater danger than it is now, since Christ had a church upon earth. For, besides that deluge of profaneness and immorality which overspreads the whole kingdom; besides the variety and growing strength of those schisms which weaken and divide us, and of those heterodox opinions and damnable heresies which are daily published and propagated among us; I verily believe, that never were the ministers of Christ so abused and vilified; never was the divine authority of the holy scriptures so arraigned and ridiculed; never was infidelity and atheism itself so impudent and barefaced; never was such horrid blasphemies printed in any Christian state, from the foundation of Christianity to this day.

Out of the many instances of this kind, which, being ready at hand, I could have produced to your Lordships, I have selected a few only; but those such as, I am persuaded, your Lordships could not hear without horror and astonishment. Pardon me, my Lords, if my apprehension of the sad consequences we may expect from such crying abominations, have forced from me some expressions, which, upon a less occasion, might seem too harsh and vehement. A man that dreads no danger from such unparalleled iniquities, that do, as it were, call down God's severest judgments upon that church and nation, wherein they are openly and daringly committed, must be dead in his love for his country and religion. If I have disclosed such a frightful and detestable scene of impiety, which, by reason of your Lordships' high stations and great employments, might possibly lie undiscovered to your sight before; I shall think myself happy, whatever shall befall me, if I may, by God's grace, become the mean instrument of putting a stop to that overflowing of ungodliness and blasphemy, which, as yet, no laws, no procla-

mations, how well soever designed, and how often soever repeated, have been able to restrain.

I humbly crave your Lordships' patience yet a little farther, whilst I speak what is alleged in the fourth article, which charges me with many crimes of a very high and flagrant nature; none of which have been endeavoured to be proved upon me, otherwise than from supposed suggestions, and undetermined expressions; and I must still, with your Lordships' leave, humbly insist upon it, that where the expressions are doubtful, there the favourable sense is always to be preferred.

After all that has been said by the learned managers for the Commons, what minister of state, I beseech your Lordships, have I been proved to reflect upon, directly or indirectly? Where, and how, do I, by any suggestion, charge her Majesty, or those in authority under her, with a general mal-administration? How do I persuade her subjects to keep up a distinction of parties and factions, while I reprove those who divide us by knavish distinctions, and while I persuade my fellow-subjects to lese and forget them? How is it possible, I should stir up the people to arms and violence, when I am endeavouring to convince them of the utter illegality of resistance, upon any pretence whatsoever? These things, my Lords, seem to be inconsistent, unless a man may be thought a rebel for recommending loyalty, or seditious for preaching against sedition.

I remember, indeed, at the opening of this charge against me, that one of the managers for the House of Commons vouchsafed to offer his charitable assistance towards reconciling this seeming inconsistency; for he was pleased to suppose that, when I spoke against resisting the Sovereign, I had not our gracious Queen, but some other person, in view; and that I might, therefore, agreeably to my principles of non-resistance, stir up the people to arms and violence against her sacred Majesty. Your Lordships will once more pardon my earnestness, if I call God to witness, that I utterly detest any such traitorous intention, and I should, in my own opinion, be unworthy of the name of a Christian, if I could give myself leave to cast such a black and groundless imputation upon any one in like circumstances with mine, who had given all possible evidence of his duty and affection to the present government. My Lords, I have taken the oaths of allegiance to her Majesty, and that of abjuration against the Pretender; and when, therefore, I preached the doctrine of non-resistance, it is most apparent, that the government, which I persuaded my fellow-subjects not to resist, is the present government; and I humbly conceive, that the present government can never be overturned, if it be never resisted.

My Lords, the charge of wickedly wresting divers texts of scripture, lies very heavy upon me, as a Christian and minister of Christ. If I am guilty of it, there is another tribunal, another bar, at which I am to appear, and where, by that scripture which I have wrested, I shall be judged and condemned. In the mean time, my Lords, I hope that those, whose particular profession and studies qualify them to be the most competent judges of such matters, will absolve me in this particular.

Upon the whole, therefore, my Lords, I hope it appears, that I am not guilty of any of the crimes of which I am accused; that I have transgressed no law of the land, neither statute nor common law, relating either to her Majesty or to my fellow-subjects, to the church or to the state: and that I may with all humility apply to my own case, the words of that blessed apostle, whose doctrine I defend, and whose example I hope I shall have the grace to follow, *Neither against the law, nor against the temple, nor against Cæsar, have I offended any thing at all.*

And so, with all humility and resignation, I submit myself to your Lordships' judgment, be it what it will. One thing, I am sure, it can never take from me, the power of wishing and praying, and (whether in prosperity or adversity, whether I am acquitted or condemned,) I shall always pray for the Queen my sovereign; for your Lordships, my judges; and for the Commons, my accusers; most earnestly beseeching Almighty God to deliver all orders and degrees of men amongst us, *from all false doctrine, heresy and schism, from hardness of heart, from contempt of his word and commandment; from envy, hatred, and malice, and all uncharitableness.*

The question being put in the House, whether the Commons had made good their first article of impeachment; as also the 2nd, 3rd, and 4th; it was, as to every article, resolved in the affirmative.

On Monday, March the 20th, the Lords being come down to the court erected in the hall, the question was again put to every Peer, beginning with my Lord Pelham, the junior baron; and, having delivered their respective opinions, the Lord Chancellor numbered them, and declared, that there were one hundred and twenty of their Lordships present, of whom, sixty-eight had found Dr. Sacheverell GUILTY of the High Crimes and Misdemeanors charged on him by the impeachment of the House of Commons, and fifty-two had found him NOT GUILTY.

Then the Doctor was brought to the bar, and kneeled till the Lord Chancellor bid him rise; after which he moved in arrest of judgment: 1. That no entire clause, sentence, or expression, contained in either of his sermons, or dedications, was particularly set forth in the impeachment. 2. That the articles were said to be only by the knights, citizens, and burgesses, leaving out commissioners of shires and boroughs, which was neither agreeable to the impeachment nor to the title of the House of Commons, since the Union.

Then the Lords adjourned to their house: and on the 23rd of March, the Commons came up with their

Speaker to the House of Lords, to demand judgment; and the Doctor, being brought to the bar, kneeled till the Lord Chancellor bid him stand up; and, the Speaker of the Commons having demanded judgment,

The Lord Chancellor acquainted the Doctor, that his exceptions in arrest of judgment had been over-ruled; and then proceeded to pronounce the following judgment, viz.—

That you, Henry Sacheverell, Doctor in Divinity, shall be, and you are hereby enjoined not to preach during the term of three years next ensuing: that your two printed sermons, referred to by the impeachment of the House of Commons, shall be burnt before the Royal Exchange in London, between the hours of one and two of the clock, on the 27th of this inst. March, by the hands of the common hangman, in the presence of the Lord Mayor of London, and the Sheriffs of London and Middlesex.

And the Doctor being withdrawn, an order was made directed to the Lord Mayor and Sheriffs, to see the sentence executed.

This favourable sentence was looked upon by the Doctor's friends rather as an acquittal than a condemnation, and as a certain indication of the impotence of his enemies; and that night, several of the streets of London and Westminster were illuminated, and bonfires made, where every one that passed by was compelled to drink the Doctor's health.

The Lord Mayor insisted, that, as he was a member of the House of Commons, he was excused from attending at the burning of the sermons, pursuant to their Lordships' sentence; and so left the execution of the sentence to the sheriffs.

DR. SACHEVERELL, whose history affords a very striking example of the folly of party spirit, was the son of Joshua Sacheverell, of Marlborough, who died rector of St. Peter's church, in Marlborough. Henry was put to school at Marlborough, and afterwards sent to Magdalen College, Oxford. Here he soon distinguished himself by a regular observation of the duties of the house, by his compositions, good manners, and genteel

behaviour; qualifications which recommended him to that society, of which he became fellow; and, as a public tutor, had the care of the education of most of the young gentlemen of quality and fortune that were admitted of the college; and was contemporary and chamber-fellow with Addison, and one of his chief intimates till the time of his famous trial.

His first preferment was Cank, in the county of Stafford. He was appointed preacher of St. Saviour's, Southwark, in 1705; and, while in this station, preached his famous sermons (at Derby, August 14, 1709, and at St. Paul's, November 9, in the same year); and, in one of them, was supposed to point at Lord Godolphin, under the name of Volpone: It has been suggested, that, to this circumstance, as much as to the doctrines contained in his sermons, he was indebted for his prosecution, and, eventually, for his preferment.

His enemies triumphed, yet dared not venture abroad. He was disgraced by the legislature, but tens of thousands bent as lowly before him as the Thibetians to the Grand Lama. He went on a tour of triumph through the country; and was received with splendour and respectful pomp at every place he visited. Magistrates, in their formalities, welcomed him into their corporations; and his guard of honor was frequently a thousand gentlemen on horseback. At Bridgenorth, he was met by Mr. Creswell, at the head of four thousand horse, and the same number of persons on foot, wearing white knots edged with gold, and three leaves of gilt laurel in their hats. The hedges, for several miles, were dressed with garlands of flowers, and the steeples covered with flags. In this manner he passed through Warwick, Birmingham, Bridgenorth, Ludlow, and Shrewsbury, on his way to his Welch living, with a cavalcade better suited to a prince than a priest. Ridiculous as this farce was, it did some good, as it kept up the respect due to the national church, by engaging the voice of the people at large in its favour, and discouraging any attempts to lower or innovate upon it, in the smallest degree.

In the month that his suspension ended, he had the valuable rectory of St. Andrew's, Holborn, given him by the Queen; and the House of Commons, his prosecutors, ordered him to preach before them, and thanked

him for his discourse. : At that time his reputation was so high, that he was enabled to sell the first sermon (preached after his sentence expired on Palm Sunday) for the sum of one hundred pounds; and upwards of forty thousand copies, it is said, were soon sold.

A considerable estate at Callow, in Derbyshire, was soon after left to him by his kinsman, George Sacheverell, Esq. After this we hear little of him, except by quarrels with his parishioners. He died June 5, 1724; and, by his will, bequeathed to Bishop Atterbury, then in exile, who was supposed to have penned for him the defence he made before the House of Peers, the sum of five hundred pounds.

The Duchess of Marlborough describes Sacheverell as “an ignorant, impudent incendiary; a man who was the scorn even of those who made use of him as a tool.” And Bishop Burnet says, “he was a bold, insolent man, with a very small measure of religion, virtue, learning; or good sense; but he resolved to force himself into popularity and preferment, by the most petulant railings at dissenters and low-church men; in several sermons and libels, written without either chasteness of style, or liveliness of expression.”

DANIEL DAMAREE,

FOR HIGH TREASON.—1710.

DANIEL DAMAREE, a waterman, was indicted at the Old Bailey, April 19, 1710, for High Treason; for that he, on the 1st of March last, in the parish of St. Clement's Danes, did, with a great multitude of men, to the amount of 500, armed with swords and clubs, raise and levy public war against the Queen.

After the council had opened the charge, the first witness called was Mr. *Talbot*, who deposed,

That, going through the Temple, he saw thousands of people there, that had attended upon Dr. Sacheverell from Westminster-hall, and heard some of them cry out, that they would pull down Dr. Burgess's meeting-house that night; others were for pulling it down the ensuing night; and a third sort, not till they had seen the event of Dr. Sacheverell's trial: they all agreed in the design, though they differed in the time for putting it into exe-

cution; which, however, was done on the next night, being the 2nd of March.

The second witness was *Capt. Orril*, who deposed, that, about ten at night, he was at Leonard's Coffee-house, and news was brought there, that the mob had pulled down Dr. Burgess's meeting-house; he then resolved to go where they were, in order to do what service he could to the government, in making discoveries, &c. That the first place he went to was Mr. Bradbury's meeting-house, in Fetter-lane, where he saw the people rifling the same, and was there forced to pull off his hat; and, about half an hour after ten, he went into Lincoln's-inn-fields, where there was a bonfire made of the materials of Dr. Burgess's meeting-house; and he saw at a distance from him, a part of the mob headed by a tall man, to whom he went up and spoke, and found him to be the prisoner, with the Queen's coat and badge on; that he saw him twirl his hat, and cry, 'D—n ye, I'll head you on; G—d d—n me, we will have all the meeting-houses down; I'll head you on; High Church and Sacheverell! huzza!' He further deposed, that that part was divided where to go next, some were for going to Wild street, others objected against that, and said it was but a hen-roost, and proposed to go into Drury-lane, for that meeting was worth ten of that in Wild-street. Upon which they all agreed to go to Drury-lane; and the mob not being so quick as their leader, he cried, 'D—n you, why do you not come along. High Church and Sacheverell! huzza!' that then this witness lost him; this was about half an hour after ten.

The next evidence was *Joseph Collier*, who deposed, that about nine o'clock he saw the prisoner bring the brass scone out of Dr. Burgess's meeting-house, and carry it to the fire in Lincoln's-inn-fields; and, in a kind of procession, go round with it two or three times about the fire, huzzaing with the mob, 'High Church and Sacheverell,' and then flung it in. He observed the prisoner had been there about two hours, was positive to the man, and said he was one of the principal men in exciting the mob, and went off with great part of them to Drury-lane, just before the guards came up. Several other witnesses deposed to the same effect.

The prisoner, in his defence, denied his being the person; pleading, that he had been drinking from nine in the morning till ten at night, at which time he was very much in liquor.

And one *Wood* deposed, that he and the prisoner, being drinking at an alehouse in Water-lane, about ten at night, news was brought there was a fire in the Strand; the prisoner then said, there was a lady in the Strand that used to buy coals of him, and he would go to help her; that they immediately went to Temple-bar, stopping no-where by the way, but were stopped there, and forced by the crowd through Shire-lane into Lincoln's-inn-square, and from thence through the wicket into Lincoln's-inn-fields, then against the wicket in Duke-street; the mob seeing the prisoner in the Queen's cloth, caught him by the cravat, and threatened to dash his brains out if he would not go with them; and, as soon as they laid hands on him, he left him, and went home.

The *alehouse-keeper* deposed, he went away much in liquor a little after ten; and, being asked, if any news of a fire was brought to his house, replied no.

Charles Fisher deposed, that he was in company with Wood and the prisoner at an alehouse in Water-lane, and that the news of a fire in the Strand was brought thither about half an hour after eight, and the prisoner staid an hour, or an hour and a half, after, before he went away.

Mr. Ward deposed, that he came out of the alehouse with the prisoner about half an hour after ten, and left him talking with one Mrs. Giles, about six doors from Water-lane, who deposed the prisoner was with her about a quarter of an hour.

The next witness was one *Commins*, who deposed, he saw the prisoner at the bonfire in Lincoln's-inn-fields, about eleven o'clock, very drunk, and the people hawling him, and, as he thought, making sport with him.

Mary Redding deposed, that going with another woman to see for her brother at the bonfire in Lincoln's-inn-fields, she saw a sconce carried about the bonfire three times, and the man that carried it had the Queen's coat and badge on, who was a short man with black hair; but she only saw him through people's legs and arms: she added, that about half an hour after the sconce was thrown into the fire, she met the prisoner going towards the bonfire, when it was almost burnt to ashes.

Isabella Prince, Redding's companion, gave the same account; and that she saw him when the mob opened the ring to receive those that brought the wood; and that she met him when she was going from the fire, about eleven o'clock, in Great Queen-street.

Rowland Water deposed, he took the prisoner up at Strand-bridge, at half an hour after eleven o'clock, and carried him across the water to his own house.

Mrs. Hall and Mrs. Harvey deposed, they met the prisoner in the Strand, going towards the May-pole, about eleven o'clock.

The last piece of evidence for the prisoner, was the witnesses to his reputation, such as gave him a very good character. Notwithstanding which defence, the evidence for the Queen being positive, and agreeing in all the particulars of it; and that of the prisoner's agreeing with that of the Queen's in many points, and some of them, on whom the greatest stress seem to have been laid, being very uncertain and contradictory, the jury retired, and in a very little time returned, and brought him in GUILTY OF HIGH TREASON.

FRANCIS WILLIS was tried at the same time for assisting in demolishing the meeting-house of Mr. Bradbury, in Fetter-lane, and burning the materials at a bonfire in Holborn; but, for want of sufficient evidence, was *acquitted*.

GEORGE PURCHASE was likewise indicted for High Treason; for that he, with a great multitude of

people armed, did, on the 10th of March, levy war against the Queen.

Captain Orril deposed, that, after he had been several times at Mr. Burgess's meeting-house, and saw that demolished, and the fire made in Lincoln's-in-fields with the utensils thereof, he met with a detachment of the Queen's guards, and directed them to go to Drury-lane; that when he, with the guards, came thither, he saw a bonfire made with the pews and other utensils thereof, and a great mob about it, which were scattered by the guards; that there he saw the prisoner under a bulk, with a drawn sword in his hand, who pushed several times at the horses' breasts with his sword, to keep them off; that he was then driven from that place, and went a small distance off to the end of Long-acre, and then went up to him, and asked him what he meant, and said, in opposing the Queen's guards, he opposed the Queen, and would have him put up his sword and go home: but, instead of taking the advice, he made this reply; 'D—n you, who are you? For High Church and Sacheverell, or no? I am, G—d d—n them all; (meaning the guards) for I am as good a man as any of them all;' and called to the mob, 'Come on, come on, boys; I'll lead you on; I am for High Church and Sacheverell, and I'll lose my life in the cause.' After this he ran resolutely with his sword in his hand, and made a full pass at the officer's body; but one of the guards giving a large spring, beat his sword down, or else he would have run him through the left flank; that he retired a little lower; and the guards had at this time dispersed all the mob, knocking down about forty or fifty of them in the action. And as this witness was going off, he heard some of the mob say, they would be revenged on the guards to-morrow night, for they durst not fire upon them.

Richard Russel, one of the guards, deposed, that he was commanded by his serjeant to march into Drury-lane, and to return their bayonets, and draw their swords; that when they came to Drury-lane there was a bonfire, with a large mob about it: that, at the fire, the horse were drawn into one line, with their tails against the wall, that none of the mob might come behind; that Purchase then stood in the middle of the lane and huzzaed, and came up, and would have thrust himself between two horses, but was beaten off with the flat of their swords; that then the guards wheeled about the fire, and the prisoner came up at the head of the mob, and cried, 'D—n you, who are you? whether for High Church, or Low Church, or Dr. Sacheverell?' and that this was about a quarter of an hour before the mob was dispersed there.

One *Sutherland*, an officer that drew the guards up, deposed, that he saw the prisoner several times at the bonfires in Drury-lane, and saw him flourish his sword drawn, and cry out, 'he was for Sacheverell;' that he went up to him, and said, 'Sir, are you encouraging the mob?' He replied, 'he was for Sacheverell;' that then he, (this witness) went up to Capt. Horsey, to acquaint him how troublesome the prisoner had been, and received orders from the captain to cut him in pieces; but the prisoner made off.

George Richardson deposed, that he knew the prisoner, for they had been together in Flanders. That on the 1st of March, about ten o'clock at night, the guards marched from St. James's to Lincoln's-inn-fields, where they quelled the mob, and marched thence into Drury-lane; that when they came there, they found a bonfire with a great mob about it; that they struck the people with the flat of their swords and dispersed them. He farther deposed, that he saw the prisoner make a thrust at Capt. Hansberg, and said to him, 'Do you intend to kill my officer?' Then with his sword he struck down the prisoner's point, upon which the prisoner retired under a pent-house, and this witness rode up to him with a design to cut him down, but was prevented by his sword breaking as it was lifted up against the pent-house. Being asked, whether the prisoner knew Capt. Hansberg, he replied, he did, for he was abroad with him in Flanders.

The prisoner, in his defence, produced several witnesses that he had been drinking, from nine in the morning till ten at night; at which time he came from the Cross-keys tavern, with Mr. Broad the bailiff, who deposed, he left him very much in liquor, and, as he thought, going to his own house.

There was nothing in the whole evidence for the prisoner that contradicted what was sworn by the Queen's evidence; so that, after Lord Chief Justice Parker had summed up the evidence on both sides, the Jury went out, and returned in about four hours, well satisfied with the proof of the fact, but not as to the points of law, and therefore brought in their verdict special.

[The two following trials relate to Charles Lord Mohun, in regard to two affairs in which he committed homicide; but, in the last, fell a sacrifice to his own desperation, in a barbarous duel, in which his opponent, Duke Hamilton, was his victim. He appears by the evidence to have been a dissolute and debauched character, who passed his time in coffee-houses and brothels.]

CHARLES LORD MOHUN,

Before the House of Peers,

FOR THE MURDER OF WILLIAM MOUNTFORD,
31st OF JANUARY, 1692.*

THE Lords came down from their House, in their usual order, to the court erected for them in Westminster-hall,

* This trial is interesting, owing to the chief object of it being the beautiful Mrs. Bracegirdle, the friend of Congreve.

about twelve o'clock. Then the writ of certiorari, directed to the commissioners of oyer and terminer for the county of Middlesex, and to remove the indictment found before them, with the return thereof, and the record of the indictment, were read; after which, the governor of the Tower being called to return his precept, and bring his prisoner to the bar, the Lord Mohun was brought to the bar, the gentleman gaoler of the Tower carrying the axe before him. After which the prisoner was arraigned.

The indictment sets forth,

That the said Charles Lord Mohun (together with one Richard Hill, who was fled), not having the fear of God before his eyes, &c. on the 9th day of December, in the fourth year of the King and Queen, in the parish of St. Clement's Danes, in the County of Middlesex; in and upon one William Mountford, of his malice aforethought, did make an assault: and that the said Richard Hill, a certain rapier made of iron and steel, of the value of 5s. which he held drawn in his right hand, in and upon the right side of the body of the said William Mountford, near the right pap, wilfully, and of malice aforethought, did strike and thrust, giving the said William Mountford thereby one mortal wound, the breadth of one inch, and the depth of twenty inches; of which said mortal wound, the said William Mountford, having languished until the 10th of the same month of December, died. And that the said Charles Lord Mohun, at the time of the felony and murder aforesaid, feloniously, wilfully, and of his malice aforethought, was present, aiding, abetting, comforting, and assisting, the said Richard Hill, to kill and murder the said William Mountford, in manner aforesaid, against the peace of the said King and Queen, &c.

To which indictment the Lord Mohun pleaded *Not Guilty*.

Mr. John Hudson sworn.

Three nights before Mr. Mountford was killed, being at supper with my Lord Mohun and Mr. Hill, at the Rose Tavern, Mr. Hill began a discourse about Mrs. Bracegirdle, and said, he did not doubt of his succeeding in his amour with her, if he was not obstructed by Mountford, whom he designed to be the death of, (but I cannot say my Lord Mohun took notice of what he said): and this I heard Capt. Hill say, not only then, but several times before.

Att. Gen. Do you know any thing more of this matter?

Hudson. That night Mr. Mountford was killed, I saw Mr. Hill and my Lord Mohun change clothes at the play-house; my Lord Mohun had Captain Hill's coat on, and Mr. Hill had my Lord Mohun's on.

Mr. George Powell sworn.

About five or six days before Mr. Mountford was wounded, I was in company with Mr. Hill, who began on Mrs. Bracegirdle's health, and said, there was no bar between him and her, but

Mountford, and was resolved to be revenged on him one way or other. Three nights afterwards, I was at supper with my Lord Mohun and Capt. Hill, and, the same discourse arising again, Hill whispered me, and said, he was resolved to have the blood of Mountford; and that night Mr. Mountford was wounded, I sat up with him; and, asking him how the matter happened, he told me, Capt. Hill killed him basely; for, whilst my Lord Mohun talked to him, Hill run him through; and that his sword was not drawn till after he received the wound.

Mrs. Knight sworn.

She deposed, that about four days before Mr. Mountford was killed, discoursing with Mr. Hill, he said, he was satisfied Mrs. Bracegirdle hated him; but she loved somebody, and he had thought of a way to be even with that body: that afterwards, Hill desired the deponent to speak to Mrs. Bracegirdle for him, and that she would give her a letter from him; and upon her answering, she did not care to make herself enemies; Hill replied, do you mean Mountford? and swore he should find a way with him speedily.

Mrs. Elizabeth Sandys sworn.

I dined with them at the Three Tuns in Chandos-street; and discoursing of Mrs. Bracegirdle, my Lord Mohun asked me, if I thought Mountford had lain with her? and presently after, said my Lord, this design will cost Hill fifty guineas. Mr. Hill said, if the villain offers to resist, I will stab him. Said my Lord Mohun, I will stand by my friend. Soon after, Hill desired Mr. Brough to borrow a case of pistols of Capt. Leister; for he doubted, if the Captain knew of the design, he would not lend them to him; and Hill added, that he had a coach and six in Wych-street, to seize Mrs. Bracegirdle, and carry her into the country; and desired my Lord Mohun to meet him at the play-house at six, or he should be ruined; and my Lord gave him his honour to meet him, and said, he would stand by his friend.

Mrs. Ann Bracegirdle sworn.

Having supped at Mr. Page's, in Princes-street; about ten o'clock Mr. Page went home with me, and my mother and brother; and coming down Drury-lane, there stood a coach by my Lord Craven's; the boot of the coach was down, and my Lord Mohun was in it; and two soldiers came and pulled me from Mr. Page, and four or five more came up, and they almost knocked down my mother; but she recovered herself and hung about my neck, so that they could not get me into the coach, and Mr. Page went to call company to rescue me; then Hill came with his naked sword, and struck at Mr. Page and my mother, but, company coming in, prevented the design; then Hill said he would see me home; and led me by one hand (his sword being drawn), and my mother by the other; and my Lord Mohun came out of the coach and followed us, as did all the soldiers, but they were dismissed: and as we went along, Mr. Hill said he would be revenged; and when we came home, Mr. Hill pulled Mr. Page by the sleeve, and said he would speak with him; but Mr. Page was pulled into the house, and Mr. Hill walked up and down the street, with his sword drawn.

My Lord Mohun and Mr. Hill were together; and when Mrs.

Brown asked them, what they staid there for; Hill answered, to be revenged of Mr. Mountford; whereupon, we sent to Mrs. Mountford, to prevent danger: and as I was listening at the door, the watch came by, and said to my Lord Mohun and Mr. Hill, gentlemen, why do you walk with your swords drawn? Said my Lord Mohun, I am a peer of England, touch me if you dare; then the watch went away, and about a quarter of an hour after, there was a cry of murder.

Mr. Gawen Page sworn.

He deposed, that on Friday the 9th of December, about ten at night, as he was leading Mrs. Bracegirdle home, there stood a coach at my Lord Craven's door, in Drury-lane, and two soldiers forced Mrs. Bracegirdle from him, and would have put her into the coach; and that Capt. Hill was there with his drawn sword, and gave the deponent several blows, and cried, you villain, stand; and my Lord Mohun was in the coach; but help coming in, they were prevented carrying off Mrs. Bracegirdle: then the deponent conveyed Mrs. Bracegirdle home, and Mr. Hill went with them, but bid the soldiers begone, and my Lord Mohun followed at a distance: that, when they came to Mrs. Bracegirdle's lodgings, Hill pulled the deponent by the sleeve, and said, he would speak with him; and the deponent answering, that to-morrow would do better, Hill replied, to-morrow then; but, G—d d—n me, you will not go home to-night: then the deponent went into the house, and, about an hour and a half after, he heard an outcry of murder; and going into the street, he saw my Lord Mohun surrendering himself to the constable, and my Lord's sword was then in the scabbard: that the deponent then went to Mr. Mountford's house, and found him lying in his blood on the floor, and Mountford told the deponent, that he was barbarously run through, before he could draw his sword.

Mrs. Mary Page sworn.

My Lords, my husband went home with Mrs. Bracegirdle; and, hearing he had like to have been murdered, I went down to Mrs. Bracegirdle's lodgings, and found my Lord Mohun and Mr. Hill walking about the street, (but Mr. Hill's sword only was drawn then;) so I came into the house, and Mrs. Brown went out to them, and asked, why they staid there? And Hill answered, they staid for Mountford; whereupon Mrs. Bracegirdle desired me to go over to Mrs. Mountford's house, and speak to her, to send her husband word, that he should stay where he was, or come home with a good guard; and as I was going over, I saw that my Lord Mohun had his sword drawn: they were then walking before Mrs. Bracegirdle's lodgings, in Howard-street, (and might see any one that went to Mr. Mountford's house, and up Surrey-street,) and whilst I was desiring Mrs. Mountford to send away to her husband, I heard murder cried; and opening Mr. Mountford's door, he came in, and threw his arms round my neck, to support himself, and he said, Hill had murdered him; and I helped him as far as the parlour door, and then down he fell: then I went up the street, and called out murder; and my Lord Mohun came to me, and bid me take notice, he had no hand in it; for, he said, his sword was not drawn: and I replied, he was with Hill, with his naked sword, but just before.

Mrs. Brown was sworn, (at whose house Mrs. Bracegirdle lodged.)

She deposed, that when Mrs. Bracegirdle came home, she cried, and related how my Lord Mohun and Mr. Hill, with some soldiers, would have forced her into a coach; and added, that my Lord Mohun and Mr. Hill were then at the door; that thereupon the deponent went out to them, and asked, why they used Mrs. Bracegirdle in that manner? And my Lord Mohun answered, he protected her; and if it had not been for him, the rabble would have torn her in pieces: that he had no design upon her, for his part, but only to serve his friend: and that Mr. Hill's design was to take her out of town, and keep her a week, and see if he could persuade her to marry him: that Hill said, he should light of this Mountford; and the deponent demanding, what hurt Mountford had done him? Hill replied, I have been abused, and will be revenged; and the deponent went and told Mrs. Mountford of it: that half an hour after, or more, the deponent saw Mr. Mountford coming down the street, and she went to him, but he would not stay to let her speak to him; and presently after, Mountford met my Lord Mohun, and there passed several compliments between them; and my Lord told Mr. Mountford he had a great respect for him, and desired they might have no difference; but added, here is a thing fallen out between Mrs. Bracegirdle and Mr. Hill,—Mountford replied, has my wife disoblged your Lordship? if she has, she shall ask your pardon; but Mrs. Bracegirdle is no concern of mine: I know nothing of this matter; I come here by accident: but I hope your Lordship will not vindicate Mr. Hill in such actions as these are. Upon this, she heard Mr. Hill bid Mr. Mountford draw; and Mr. Mountford said he would, and drew his sword. But whether Mr. Mountford received his wound before, or after he drew his sword, she could not tell.

Mrs. Brewer sworn.

She deposed, that she lived next door to Mrs. Bracegirdle, and that she saw Mr. Mountford come down the street, and my Lord Mohun went to him and embraced him; and after some mutual salutations, Mr. Mountford asked, what made his Lordship there at that time of night? And my Lord answered, I suppose, Mr. Mountford, you are sent for; you have heard of the business of Mrs. Bracegirdle: and Mountford replied, no, indeed, I came by chance: that then Mr. Hill came up, and said, pray, my Lord, hold your tongue, this is not a convenient time to talk of this business; and would have drawn my Lord away: and Mr. Mountford said, he was sorry to see his Lordship assist Capt. Hill in so ill an action; and desired his Lordship to forbear. Whereupon Hill came up, and struck Mountford a box on the ear: says Mountford, d—n me, what is that for? And immediately Hill made a pass at him with his sword, before Mountford's sword was drawn. My Lord and they were all close together at that time, as well as I could discern.

Then Lord Mohun's witnessess were called.

Mr. Breerton deposed, that some few days before Mr. Mountford was killed, he (the deponent) was in my Lord Mohun's company, and heard him commend Mountford's acting, and say abundance of kind things of him; and desired the deponent to

fix upon some time, that they might drink a bottle with him: and that afterwards, my Lord Mohun being at the deponent's lodgings, told him, that Mountford had been very civil to his Lordship, the night before, at the play-house.

Eliz. Walker, Mrs. Bracegirdle's maid, deposed, that her mistress sent her over to Mrs. Mountford's, to desire her to send her husband word, that he should not come home without a good guard: for my Lord Mohun and Mr. Hill were walking about the street, and Hill with his naked sword: that the deponent went with Mrs. Mountford's maid, to look for Mr. Mountford, but they could not find him: that when she returned, my Lord Mohun and Mr. Hill were before her mistress's door, and staid there an hour: that Mrs. Brown seeing Mr. Mountford coming, went to him, and desired him not to come down that street, but go to his own house, because of my Lord and Capt. Hill: but he pressed forward, and when he met my Lord, there passed several compliments and endearing speeches between them: after which, Mr. Mountford told my Lord, it was a dishonour to him, to keep company with Mr. Hill: and that while the deponent turned about, to look to the door, she heard Mrs. Brown say, Hill and Mountford were going to fight: and that the deponent saw them make two or three passes at one another; after which, Mountford said he was killed, and threw down his sword; and she took it up, and there was a good piece of the sword broken off: that Mr. Hill ran away, and Mr. Mountford went to his own house; but my Lord Mohun staid in the same place, where he and Mr. Mountford embraced one another: and that the fight was in the middle of the street: that when the watch came, my Lord Mohun went towards them, and surrendered himself.

Edward Warrington deposed, that he lived at the Swan, over against Mrs. Bracegirdle's lodgings; and about ten at night, hearing a disturbance, he looked out, and saw two gentlemen talking to old Mrs. Bracegirdle: that she and some other people went into the house, but the two gentlemen walked about the street for an hour and a half, one of them having his sword drawn: that he saw Mr. Mountford come down Norfolk-street and turn into Howard-street, with his sword in his hand in the scabbard: that Mr. Mountford came out of the way to his own house when he turned into Howard-street; for his house was lower down in Norfolk-street: that my Lord Mohun met Mr. Mountford and embraced him, and complimented him: that he saw Hill and Mountford with their swords drawn upon the paved stones; but some women being about them he could not well discern when they drew, or who begun the quarrel: that he saw Hill and Mountford come off the flat stones with their swords drawn, not a sword's length asunder; and they passed at each other: that the deponent run for a paring-shovel to part them, but before he returned they were gone, and only my Lord Mohun left.

Lord High Steward. Can you say whether Mountford's sword was drawn before he was hurt?

Warrington. I cannot be positive whether it was or no, there being women about them.

Att. Gen. I desire Mrs. Bracegirdle may be asked what became of her maid, who was evidence for my Lord ?

Mrs. Bracegirdle. She went away from me on the Sunday, and I sent to her aunt's the week after to seek for her, and she could not be found; nor could I hear of her from that time to this.

Lord Mohun. Was she not discharged, and her wages paid her ?

Mrs. Bracegirdle. I desired her to stay, but she would not; and demanding her wages, they were paid her.

Lord Mohun. I desire the maid may be asked why she went away.

Maid. When I came from Hicks's-hall, I heard they designed to rattle me off; and Mrs. Mountford sending for me, I was afraid, because they were all players, who have a worse reputation than other people; and I went away: and finding I had taken one of my mistress's aprons by mistake, I desired my uncle, who was a porter, to carry it her, and he told me there had been three bailiffs to enquire after me; and knowing their inveteracy against me, and fearing to be laid in a prison, I kept out of the way ever since.

Then the Lord High Steward demanding of my Lord Mohun if he had any thing more to say, his Lordship answered, he thought he had made his innocence sufficiently appear, and committed himself to that honourable House; where he knew he should have all the justice in the world: after which Mr. Solicitor summed up the evidence for the King.

On Friday, about four in the afternoon, (the debates continuing until then,) the Lords came from their house above to the Court in Westminster-hall, where the Judges had waited for them a great part of the day; and my Lord Mohun being set to the bar, the Lord High Steward acquainted him, that some questions having arisen upon the evidence in point of law, he was, therefore, by their Lordships' command, to propose a case they had stated to the Judges, for their opinions, *viz.*—In a case where a man shall murder another, whether all those that are in his company at the time of the murder, are so necessarily involved in the said crime, that they may not be separated from the crime of the said

person, so as in some cases to be found guilty of manslaughter?

Whereupon my Lord Chief Justice Holt answered, he was of opinion, that the crime of those who are in the company at the time of the murder committed, may be so separated from the crime of the person that committeth the murder; as in some cases they are only to be found guilty of manslaughter; and with him the Lord Chief Justice Treby, and the rest of the judges, agreed: after which, the Earl of Monmouth proposed the following case, *viz.*—A. conscious of an animosity between B. and C.; A. accompanies B. where C. happens to come, and B. kills him: whether A. without any malice to C., or any actual hand in his death, be guilty of murder?

The case being handed to the judges and the prisoner's counsel, Sir Thomas Powis spoke to it; as did Mr. Hawles and Mr. Price; but, offering nothing further than what is advanced in their former argument, I shall refer the reader to that.

The King's counsel refusing to reply, the opinion of the judges was demanded on the second question.

My Lord Chief Justice Holt answered, that he conceived A. was not guilty of murder; for it appeared the meeting was casual, and there was no design in A. against C.: and, therefore, though A. did know of the malice between B. and C. yet it was not unlawful for A. to keep company with B., but he might go with him any where, if it was not upon a design against C.: and, therefore, as the case was put, there was not any offence in A.

With my Lord Chief Justice Holt the rest of the judges agreed.

Then the Lord Scarborough proposed another case, *viz.*—Whether, if A. heard B. threaten to kill C., and some days after A. shall be with B. upon some other design, where C. shall pass by, or come in the place where A. and B. are; and C. shall be killed by B.; A. standing by, without contributing to the fact, his sword not then being drawn; or any malice ever appear on A.'s part against C., whether A. will be guilty of the murder of C.?

The opinion of the judges being demanded to the third question, my Lord Chief Justice Holt answered, he was of opinion, that A. in this case would not be

guilty of murder or manslaughter; for it did not appear, by the stating of the case, that A. did consent to the design, or in anywise contribute to the fact. The rest of the judges were of the same opinion.

The Earl of Kingston proposed a fourth question, *viz.*—Whether a person knowing of the design of another, to lie in wait to assault a third man, who happens to be killed, (when the person who knew of the design is present,) be guilty of the same crime with the party who had the design, and killed him; though he had no actual hand in his death?

Then the fourth question was proposed again by the Earl of Kingston.

The prisoner's counsel having spoken to it, my Lord Chief Justice Holt delivered this opinion, that it was no murder or manslaughter: he that knew of the design of assaulting, only happened to be present when the assault was made and the party killed; and if he did not contribute to his death, he was not guilty of murder: but if he that knew of the design had advised it, or agreed to it, or lay in wait for it, or resolved to meet the third person that was killed, with him that killed him, it would have been murder.

The Earl of Nottingham proposed a fifth question, *viz.*—Whether a person knowing of the design of another to lie in wait to assault a third person, and accompanying him in that design, if it shall happen that the third person be killed at that time, in the presence of him who knew of that design, and accompanied the other in it, be guilty in law of the same crime with the party who had that design, and killed him; though he had no actual hand in his death?

The judges' opinion on the fifth question being demanded, the Lord Chief Justice Holt answered, that by the words—had no actual hand, he supposed was meant that he gave no stroke, or held the person while the other killed him, or used any violence: and he was of opinion, that this was murder in the person that did accompany the other in the design; for he being acquainted with the design, and knowing the intention of the party to commit murder, or do an unlawful act, upon which death might ensue; accompanying him in that design he shews an approbation of it, and gives him greater courage to put it in execution:

which is an aiding, abetting, assisting, and comforting ; which are the words used in such indictments.

Mr. Justice Gregory said, he understood it that the party accompanied the murderer not only to the place, but in the design ; and without whose presence, perhaps, the other would not have ventured upon it ; and, therefore, he was of opinion it was murder.

Mr. Baron Powel was of opinion, that it was murder. For where a person is privy to a felonious design, or to a design of committing any personal violence ; and goes along with the party, and accompanies him in putting the design in execution, though he may think it will not extend so far as death, but only beating, and has no personal hand, or does otherwise contribute, but by his being with the other person when he executes his design of assaulting ; and the party beaten, dies ; they are both guilty of murder. The rest of the judges were of the same opinion.

The Lord Cornwallis proposed a sixth question, *viz.*— If a person be by, named William, when Thomas said he would stab John ; upon which William said, he would stand by his friend : and afterwards Thomas does actually murder John, and William is present at the same murder, whether the law will make William equally guilty with Thomas ? or, what crime William is guilty of ?

The judges' opinion being demanded, they answered, this was rather a case of fact, than law.—For if William was designedly present with the other that committed the murder, then it would be murder in William ; and if there were no evidence to prove upon what account he was present, it might be presumed he was present in pursuance of his former agreement ; but, if it appeared that he did not meet in pursuance of that agreement, then it might not be murder : that this was all matter of evidence, and rested upon the conscience of those that were to try the prisoner.

The Earl of Mulgrave proposed a 7th question, *viz.*— If A. accompanies B. in an unlawful action, in which C. is not concerned, and C. happens to come in the way of B. after the first action is fully over, and happens to be killed by B., without the assistance of A., whether A. is guilty of that man's murder ?

The judges agreed, that as this case was stated, A. was not guilty of murder.

Saturday, Feb. 4. The Lords came down from their house. After the question had been propounded to the Lords respectively, in their order, the Lord High Steward declared, that fourteen of their Lordships had found my Lord Mohun Guilty, and sixty-nine had found him Not Guilty. After which, the prisoner was called; and being brought to the bar, the Lord High Steward acquainted him, that their Lordships' judgment was, that his Lordship was *Not Guilty*; and, therefore, he was discharged.

JOHN HAMILTON, Esq.

FOR THE MURDER OF CHARLES LORD MOHUN, AND
JAMES DUKE OF HAMILTON AND BRANDON.—
11th SEPTEMBER, 1712.

JOHN HAMILTON, Esq. of St. Martin's in the Fields, was indicted for the murder of Charles Lord Mohun, baron of Oakhampton, on the 15th of November last, by comforting, aiding, abetting, and assisting the most noble James Duke of Hamilton and Brandon, and George Macartney, Esq. in giving the said Lord Mohun a mortal wound, in and upon the right side of his body, near the short ribs, of the breadth of one inch, and the depth of fifteen inches, of which he instantly died.

He was also indicted upon the Coroner's inquisition for the same murder.

Another indictment was brought against him for comforting, aiding, and abetting the said Charles Lord Mohun, and George Macartney, at the same time and place, in murdering the said James Duke of Hamilton and Brandon aforesaid, by giving him one mortal wound on the left part of the breast, near the left pap, of the breadth of three quarters of an inch, and the depth of twelve inches; and another indictment likewise upon the Coroner's inquisition for that murder. To all which he pleaded, Not Guilty.

Rice Williams, footman to the Lord Mohun, deposed, That on Thursday, the 13th of November, his Lord and Duke Hamilton met at a Master in Chancery's chambers, in Chancery-lane, between six and seven in the evening; and that a paper

being there read, wherein one Whitworth had given evidence, Duke Hamilton, said he, (meaning Whitworth) had neither truth nor justice in him; to which Lord Mohun answered, he had as much truth as his Grace, or to that purpose: that Duke Hamilton made no reply, and soon after went away; and a while after, Lord Mohun came, and passed by the Duke, but neither spoke to the other: that afterwards, his Lord went to White's chocolate-house, and from thence supped at the Queen's Arms, in Pall Mall, and then went home, and gave his orders to let nobody speak with him next morning but Macartney; who not coming, his Lordship went to Macartney's lodgings, where he staid about half an hour; and afterwards, he and Macartney went to the Duke of Marlborough's, and continued there about the same time: that in the same house where Macartney lodged, there was also one Col. Jos. Churchill, to whom the evidence told, that he was apprehensive there was to be a quarrel; and a while after, his Lord checked him severely for talking after that manner: that after they came from the Duke of Marlborough's, Lord Mohun went to Sergeants' Inn, where he was about half an hour, and then dined at the Globe in the Strand, with the said Col. Churchill, Sir Robert Rich, and Macartney, and after dinner went away.

The witness called at the Globe at five, (having been sent of an errand) but they were gone, and he afterwards found them at the play; that Lord Mohun supped that night at the Queen's Arms with the Duke of Richmond, Col. Churchill, Sir Robert Rich, and Macartney. After supper, Macartney sent the witness to his lodgings, and when he came back again, they were all gone; he could not find his Lord all that night.

On Saturday morning about seven o'clock, having still a suspicion of mischief, he went towards Hyde Park, and saw Duke Hamilton's coach going that way; whereupon he followed it, and with some difficulty got over the park wall, that he might not be seen, but by that time he came up to the place where they were engaged, he saw both the Lords fall, and two gentlemen (whom he took to be the seconds) by them; the one he knew to be Macartney, but could not be positive the prisoner was the other; but that the other said, we have made a fine piece of work, or to that purpose; and that his Lord being helped up, realed about two yards, and then fell, and died presently.

John Leslie, the Duke's footman, swore, that on the 14th, about five in the evening, the Duke went in a hackney-coach to the British coffee-house, and sent him for the prisoner, who came into the coach, and went into the Rose tavern, where he bid the witness stay by the coach, while he and the prisoner were together: that the next morning by six o'clock, he was sent to the prisoner, to tell him to get himself dressed, for the Duke would call upon him about business; that when he went, the prisoner was getting up, and the Duke called, and took him in the coach, and bid the coachman drive to the park; and he being behind the coach, the Duke called to him, gave him some keys, and directed him where to find a mourning sword, which he brought, and the Duke threw it into the coach, bidding the coachman drive

to Kensington, but they got out over against the lodge, and went upon the grass between the ponds, the Duke having charged him to go and stay by the coach: that he, having a suspicion of mischief, was going back, and met Macartney, going towards Kensington; and afterwards met the prisoner, who was going away in the Duke's coach, and told him the Duke was mortally wounded.

John Pennington swore, he was called from Bow-street-end to the Bagnio, where he took up Lord Mohun and Macartney, and drove them into the park; when he came thither, he was sent to the lodge for some burnt wine, while they pretended to walk: that afterwards, Duke Hamilton and another person came to him, and asked where those were that were brought, and he telling them which way they were gone, they went that way also; whereupon, he mistrusted something, and went to the lodge, and called for help: that he saw them go over the ditch, and draw all their swords, but did not see the seconds push, though he saw them go to help the two Lords when they were down; that Lord Mohun was brought alive, by three people, to his coach side; and after he saw him dead, he followed Macartney, telling him he must pay him, or else go into the coach; but he told him Lord Mohun had a servant there, and saying, he would pay him, he was content.

Joseph Nicholson deposed, that, as he was driving a wheelbarrow in the park, one came from the lodge, and desired him to come and help, for there was a duel; and having got a stick, he made all the haste he could; but when he came within about thirty paces, he saw Lord Mohun down, and Duke Hamilton fell over him; a gentleman being behind the Duke, and another behind the Lord, endeavouring to raise them with both their swords drawn, as had also the two Peers: that when he and others came up, the two gentlemen delivered their swords, but the others were not willing to part with theirs; and Lord Mohun's sword was bent in wresting it from him: that the said Lord beginning to faint, Macartney helped to turn him on his side, saying he believed he was sick with bleeding inwardly; and at the same time bid him take notice, that he in grey clothes and a laced hat, endeavoured to part them. The swords were produced, the Duke's and Lord Mohun's were very bloody, and Macartney's was bloody from the point to about twelve inches of the blade, and very much bent; but the prisoner's sword was not bloody at all, nor could the evidence say, he was one of the four.

John Reynolds, who belonged to the lodge, deposed, that the coachman spoke for wine, and told him the two gentlemen he brought were gone to walk, but the witness was apprehensive that they were gone to fight, and bid the coachman look out, and told him, he believed it was a duel, for he had seen two more come to look for them; whereupon he made all the haste he could, and saw Duke Hamilton throw his cloak off, and Lord Mohun his surtout coat; after which he saw but two passes, and then Lord Mohun fell, and the Duke upon him; but before he could get up to them, the two gentlemen came to their assistance, as in the former evidence: he swore he did not see the seconds draw, nor could he tell how near they were to the Lords; for the way was bad, and he could not look at them all the while he was

going towards them; but when he came up, he assisted in taking the swords, and the Duke refused to deliver his.

Henry Amy, a surgeon, deposed, that he found **DUKE HAMILTON** had received a wound by a push, which had cut the artery and small tendon of his right arm; another in his right leg, eight inches long, which he supposed to be by a slash, it being very large; another small one in his left leg, near the instep; and a fourth on his left side, between the second and third ribs, which ran down into his body most forward, having pierced the skirt of his midriff, and gone through his caul: that the wound in his arm, caused his so speedy death; and that he might have lived two or three days with the wound in his breast, which wound could not be given but by an arm that reached over, or was above him.

He further deposed, that he also viewed the **LORD MOHUN'S** body, and found that he had a wound between the short ribs, quite through his belly, and another about three inches deep in the upper part of his thigh; a large wound about four inches wide in his groin, a little higher, which was the cause of his immediate death; and another small wound on his left side, and that the fingers of his left hand were out.

The prisoner, in his defence, said, that the Duke called him to go abroad with him, but he knew not any thing of the matter till he came into the field. Several noblemen of Scotland, and other persons of quality, gave him the character of a very honest, gallant, inoffensive man. After which, the Court summed up the evidence, none of which being sufficient to prove the prisoner's knowledge of the duel, the jury found him **GUILTY OF MANSLAUGHTER**.

JAMES RADCLIFFE,

EARL OF DERWENTWATER, AND OTHERS, FOR THE
REBELLION OF 1715.

JAMES, Earl of Derwentwater, was bred up in the Roman Catholic faith, and his near affinity in blood and religion to the first pretender, rendered him desirous of assisting in restoring him to the throne of his ancestors. Full of these thoughts, he joined in the ill-concerted rebellion in 1715; and, without effecting the smallest service to the cause, was obliged to surrender a prisoner at discretion. After he had been impeached, he presented a petition, requesting that mercy should be extended to him; but sentence of death was passed, and an order was signed

for his execution, with five other noblemen; great and powerful interest was made in the House of Commons, and many members seemed desirous that mercy should be extended towards them; but a motion for an ajournment passing by five votes, all hope there ended. In the House of Peers they were more fortunate, where, after a long debate, an address was voted to his majesty, recommending a reprieve to such who should deserve mercy, leaving the respite to the king's wisdom. The answer from the throne was, that, "on this, and all other occasions, the king would do what he thought most consistent with the dignity of his crown, and the safety of his people."

On the evening of the twenty-third, pursuant to the resolutions taken in the council on that day, an order was sent for executing the Earls of Derwentwater and Nithesdale, and the Viscount Kenmure; but for respiting the others. Happily for Nithesdale, he effected his escape, disguised in a woman's riding-hood and Joseph.

On the following morning Derwentwater was led to the scaffold on Tower-hill, where he read a speech, which he delivered into the hands of the sheriffs. Having fitted his head to the block with uncommon resolution and presence of mind, the executioner, by a single blow, decapitated him. He fell, greatly lamented, as a man, "amiable, brave, open, generous, hospitable, and humane. He gave bread to multitudes of people whom he employed on his estate; the poor, the widow, the orphan, rejoiced in his bounty." Thus fell the chief of the noble house of Derwentwater, at the age only of twenty-eight years; leaving a young and beautiful widow, and two infant children to lament his fate.

The following ballad is said to have been written by the Earl, and addressed to his lady, on the eve of his departure to join the rebels:—

Farewell to Lochaber, and farewell my Jean,
 Where heartsome with thee I have many days been;
 For Lochaber no more, Lochaber no more,
 Well may be return to Lochaber no more;
 These tears that I shed, they are all for my dear,
 And not for the dangers attending on war:
 Though bore on rough seas to a far bloody shore,
 May be to return to Lochaber no more.

Though hurricanes rise, and raise every wind,
 They'll ne'er make a tempest like that in my mind,
 Though loudest of thunder on louder waves roar,
 That's naithing like leaving my love on the shore ;
 To leave thee behind my heart is sair pain'd,
 By ease that's inglorious no fame can be gained ;
 And beauty and love's the reward of the brave,
 And I must deserve it before I can crave.

Then glory, my Jeany, maun plead my excuse,
 Since honour commands me how can I refuse,
 Without it I ne'er can have merit for thee,
 And without thy favour I'd better not be ;
 I gae then my lass to win honour and fame,
 And if I should luck to come gloriously hame,
 A heart I'll bring to thee with love running o'er,
 And then I'll leave thee and Lochaber no more.

The very extensive estates of this nobleman were granted, upon his attainder to Greenwich Hospital, which, including the mines, yield a very large revenue, generally estimated at between thirty and forty thousand pounds per annum.

The following is the account of the escape of the Earl of Nithesdale, as related in a letter from the Countess of Nithesdale to her sister, the Countess of Traquair, written in 1716.

“ In the evening, when all was ready, I sent for Mrs. Mills, with whom I lodged, and acquainted her with my design of attempting my lord's escape, as there was no prospect of his being pardoned ; and this was the last night before the execution. - I told her that I had every thing in readiness, and that I trusted she would not refuse to accompany me, that my lord might pass for her. I pressed her to come immediately, as we had no time to lose. At the same time I sent for a Mrs. Morgan, then usually known by the name of Hilton, to whose acquaintance my dear Evans had introduced me, and to whom I immediately communicated my resolution. She was of a very tall and slender make ; so I begged her to put under her own riding-hood, one that I had prepared for Mrs. Mills, as she was to lend hers to my lord. Mrs. Mill's was then pregnant ; so that she was not only of the same height, but nearly of the same size as my lord. When we were in the coach, I never ceased talking, that they might have no leisure to reflect. Their surprise and astonishment, when I first opened my design to them, had made them consent without ever thinking of the consequences.

On our arrival at the tower, the first I introduced was Mrs. Morgan, for I was only allowed to take one in at a time. She brought in the clothes that were to serve Mrs. Mills, when she left her own behind her. When Mrs. Morgan had taken off what she had brought for my purpose, I conducted her back to the staircase, and, in going, I begged her to send me in my maid to dress me ; that I was afraid of being too late to present my

last petition that night, if she did not come immediately. I dispatched her safe, and went partly down stairs to meet Mrs. Mills, who had the precaution to hold her handkerchief to her face, as was very natural for a woman to do, who was going to bid her last farewell to a friend, on the eve of his execution. I had, indeed, desired her do it, that my lord might go out in the same manner. Her eye-brows were rather inclined to be sandy, and my lord's were dark and very thick; however, I had prepared some paint of the colour of hers, to disguise them; I also bought an artificial head-dress of the same coloured hair as hers, and painted his face with white, and his cheeks with rouge, to hide his long beard, which he had not time to shave. All this provision I had before left in the tower. The poor guards, whom my slight liberality the day before had endeared me to, let me go quietly with my company, and were not so strictly on the watch as they usually had been; and the more so, as from what I had told them the day before, they were persuaded that the prisoners would obtain their pardon. I made Mrs. Mills take off her own hood, and put on that which I had brought for her. I then took her by the hand, and let her out of my lord's chamber; and, in passing through the room, in which there were several people, with all the concern imaginable, said, my dear Mrs. Catherine, go in all haste, and send me my waiting maid; she certainly cannot reflect how late it is: she forgets that I am to present a petition to-night, and if I let slip this opportunity, I am undone, for to-morrow will be too late. Hasten her as much as possible; for I shall be on thorns till she comes. Every person in the room, chiefly the guards' wives and daughters, seemed to compassionate me exceedingly; and the centinel officiously opened the door. When I had seen her out, I returned back to my lord, and finished dressing him. I had taken care that Mrs. Mills did not go out crying as she came in, that my lord might the better pass for the lady who came in crying and afflicted; and the more so, because he had the same dress on which she wore. When I had almost finished dressing my lord in all my petticoats excepting one, I perceived that it was growing dark, and was afraid that the light of the candles might betray us, so I resolved to set off. I went out leading him by the hand; and he held his handkerchief to his eyes. I spoke to him in the most piteous and afflicted tone of voice, bewailing bitter the negligence of Evans, who had ruined me by her delay. Then, said I, my dear Mrs. Betty, for the love of God, run quickly and bring her with you. You know my lodging; and if ever you made dispatch in your life, do it at present, for I am almost distracted with this disappointment. The guards opened the doors; and I went down stairs with him, still conjuring him to make all possible dispatch. As soon as he had cleared the door, I made him walk before me, for fear the centinel should take notice of his gait; but I still continued to press him to make all the haste he possibly could. At the bottom of the stairs I met my dear Evans, into whose hands I confided him. I had before engaged Mrs. Mills to be in readiness before the tower to conduct him to some place of safety in case we succeeded. She looked upon the affair as so very improbable to succeed, that her astonishment, when she saw us, threw her into

such consternation, that she was almost beside herself; which Evans perceiving, with the greatest presence of mind, without telling him any thing, least he should mistrust them, conducted him to some of her friends, on whom she could rely, and so secured him, without which we should have been undone. When she had conducted him and left him with them, she returned to find Mrs. Mills, who by this time had recovered herself from her astonishment. They went home together, and having found a place of security, they conducted him to it."

After being concealed a few days in London, the earl passed with the retinue, and in the livery, of the Venetian ambassador, to Dover; where, hiring a small vessel, he escaped to Calais, and thence travelled to Rome, where he lived till 1744.

LORD KENMURE,

A REBEL.

WILLIAM GORDON, seventh Viscount Kenmure, was one of the unfortunate Scotch noblemen that engaged in the ill-judged attempt to place James Stuart, son of King James the Second, on the British throne. Louis the Fourteenth, on the death of Queen Anne, sent James into Scotland to prosecute his claim, and the Scotch crowned him at Perth; but their army was defeated, and the prince escaped with difficulty into France.

Many of his adherents were taken at Preston, and conveyed to London, in order to take their trials for high-treason; among others was Lord Kenmure, who, when brought to the bar of the House of Lords, by the gentleman-usher of the black-rod, knelt until the chancellor, Lord Cowper, ordered him to rise; after which, he was asked whether he was ready to put in his answer, when his lordship said,—“My Lords, I am truly sensible of my crime, and want words to express my repentance. God knows I never had any personal prejudice against his majesty, nor was I ever accessory to any previous design against him. I humbly beg my noble Peers, and the honourable House of Commons, to intercede with the King for mercy to me, that I may live to shew myself the dutifulest of his subjects, and to be the means to keep my wife and four small children from starving; the thoughts of which, with my crime, makes me the most unfortunate of all gentlemen.”

He was, however, condemned; and, on the morning of February 24, 1716, he and Lord Derwentwater were conveyed from the Tower to Tower-hill, and conducted to an apartment in one of the houses near that place, whence Lord Derwentwater was taken, and beheaded upon a scaffold.

After every mark of the execution had been removed, Lord Kenmure was led to the scaffold, accompanied by his son and some friends, and attended by two clergymen of the church of England, which religion he professed. He made no formal speech, but expressed sorrow for having pleaded guilty. Then laying his head upon the block, he raised it up, but still continued on his knees, at which time he gave the executioner some money, telling him, he would give him no sign, but that when he laid down his head again, he might perform his office as he saw good. Then, having lifted up his hands in prayer, he resolutely laid down his head, which, at two blows, was severed from his body.

COLONEL HENRY OXBURGH,

A REBEL.

HENRY OXBURGH, a rigid and bigotted Roman Catholic, residing in Lancashire, where he possessed considerable landed property, on the breaking out of the rebellion in 1715, lost no time in joining the rebel forces; and, having served in the French army in a gallant and distinguished manner, was, by the rebel General Forster, immediately made a colonel: the short career of these deluded men gave him no opportunity to distinguish his military talents in the rash cause he had embarked in, as, on the first summons, sent by the loyal General Wills, to the pusillanimous Scotch leader Forster, after a faint attempt to capitulate, the latter was compelled to surrender himself and the whole of his followers, at Preston, prisoners at discretion.

The principals, for the most part, were conveyed to London, and sent prisoners to Newgate; among whom was Colonel Oxburgh, against whom a bill of indictment was found at the Exchequer-court, Westminster, April

7th, 1716; and, on the 7th of the following month, May, he was brought to the bar of that court to take his trial, before the Lord Chief-Justice Parker, Mr. Justice Powys, Mr. Justice Eyre, and Mr. Justice Prat.

The witnesses for the King was one Patten, a clergyman, who had been himself one of the rebels; and one Calderwood, who had acted as quarter-master-general to the rebel army. These two deposed, that they saw him with the rebels at their first meeting in Northumberland, and that he had the reputation of commanding the English under Lieutenant-General Forster.

The witnesses severally recounted the motions and marches of the rebels; and Calderwood particularly said, that a detachment of two hundred being sent to the Lord Viscount Lonsdale's, they were commanded by the prisoner; and both the witnesses being asked where they had seen the prisoner, and what they had observed of him? they answered, that they had seen him frequently at the head of the English horse, in their march from Rodberry to Preston, in which last place they saw him among the other chief commanders of the rebels at the time of the action, and at the place where they held their council of war. Patten likewise deposed, that, after the council of war which was held to consider of their submission was broke up, he saw the prisoner go out of town to treat, as it was then given out, with General Wills: and Calderwood said, that he saw the prisoner return into the town, and heard him say, there was no hopes for them but to surrender at discretion.

On Wednesday, the 9th of May, he was again brought to Westminster, where he received sentence of death, as in cases of high-treason; and a rule of court was then made for his execution, on Monday following, being May 14th, when he was executed at Tyburn accordingly.

He left a paper in the hands of the sheriff, in which he acknowledged his duty and services to belong on earth only to his sovereign King James the Third; but that from the great character General Wills gave him at Preston, he expected more mercy from the reigning prince than on the throne.

CAPTAIN PHILIP LOCKHART,

A REBEL.

DESERTING the royal army, in which he held a commission under Lord Mark Kerr, in 1715, he went over and united himself to the cause of the unfortunate Stuarts, and commanded the fifth troop in the Scotch army at Preston. Taken prisoner there, he was tried by a court-martial, not for treason, but desertion, when a half-pay officer in Lord Mark Kerr's regiment.

Sentence was passed against him, November 28, 1715, together with Lord Charles Murray, son of the Duke of Athol, Major Narn, Captains Erskine and Shaftoe. Lord Charles Murray was reprieved; but Lockhart, and the other three gentlemen, were shot, the 2d of December following.

RICHARD GASCOIGNE,

A REBEL.

THIS gentleman was born in Ireland, and descended of a good family, that had distinguished themselves as royalists in the time of Charles I. Mr. Gascoigne was, on all occasions, zealous for the interest of the Stuart family, and a declared enemy to the revolution. Upon the death of his father, who was in the service of King James, at the siege of Limerick, and died soon after it, he succeeded to an estate of about two hundred pounds per annum, in Ireland. But that kingdom being totally reduced to King William's obedience, he sold his estate, and with the money came to London, which he chose for the place of his abode.

He had a natural inclination to gaming, and his fortune not being equal to his extravagant and luxurious way of living, he endeavoured to augment what he was already possessed of, that he might appear with greater splendour, which, together with his good natural parts, brought him into the conversation of many persons of quality, and, by degrees, procured him intimacy with men in power and interest, who might have been essen-

tially serviceable to his future fortune; but, unhappily joining in the rebellion of 1715, and his guilt appearing evident, he received sentence of death.

After his fetters were knocked off, he took them up and kissed them. This done, he gave a solemn farewell to all his friends in the press-yard, and was conducted to the sledge, in which he sat with his hat off, with his eyes fixed on *Drexelius on Eternity*, during his passage from Newgate to Tyburn. Upon his arrival there, before he went up into the cart, he took off a handsome long periwig, which he wore, and gave it to a friend, who put him on a night-cap, and, being mounted, after kissing the gallows, and offering up his devotions in his own way, he addressed himself to the spectators, and told them, "He was not ashamed of suffering the ignominious and terrible death he was to undergo, since he trusted he should thereby make his peace with an incensed Deity, whom he had many ways heinously offended." To this he added, that "He thought himself obliged, before his passage out of this world, to declare, that as to that part of the evidence on his trial which rendered the Duchess of Ormond suspected of knowing the secret for which he died, it was utterly false, and that he was heartily sorry for being the occasion of the liberty that was taken, by licentious tongues, of censuring her grace's conduct. That as to Lord Lansdown and Sir William Wyndham, both whose names were made use of at his trial, he had justified them in a paper which he would leave with the sheriff."

PARSON PAUL,

A REBEL.

THE REV. WILLIAM PAUL, was the son of Mr. John Paul, of Little Ashby, near Lutterworth. From Rugby-school he went to Cambridge, and was admitted into St. John's-college, in May, 1698. He was at first a sizer, and then made scholar, and took his bachelor of arts degree in 1702; and, soon after, went into orders. After which, he was curate of Carlton Curliou, near Harborough, in Leicestershire, and was presented to the vicarage of Orton on the Hill, in Leicestershire.

He went with Mr. Gascoigne, and others, to meet the rebels at Preston, where he read prayers three days together in the parish-church, and prayed for the Pretender by the name of King James the Third: but just before the royal troops invested the town, he made his escape out of it, and only calling in his own county by the way, he came to London, disguised in coloured clothes, a laced hat, a long wig, and a sword by his side. He was accidentally met in St. James's Park, and known by Thomas Bird, esq. a justice of the peace for the county of Leicester, who took him prisoner, and carried him before the Lord Townshend, who, after a short examination, in which he would confess nothing, committed him to the custody of a messenger; and, about a fortnight after, sent him to Newgate; from thence he was brought to the Exchequer bar, at Westminster, May 31, 1716, where he was arraigned, and pleaded not guilty; but when brought to the bar of the Common Pleas, June 15, he withdrew his former plea, and acknowledged his guilt. His plea being recorded, he received sentence of death, as in cases of high-treason. He for a time affected much penitence, and wrote letters to the king, the lord-chief-justice, the archbishop of Canterbury, and others, soliciting mercy with the greatest humility; but finding this measure fail, he prepared for death, and left an inflammatory paper, avowing his loyalty to James the Third, and that he died in the true non-juring faith. He went to the place of execution in his canonicals, and was executed at Tyburn, July 13, 1716.

JOHN HALL, ESQ.

A REBEL.

THIS gentleman was of an ancient family, resident at Otterburn, in Northumberland, where he had acted as a magistrate; but, through too ardent a zeal in the cause of the ill-starred, and unfortunate house of Stuart, he rashly embarked in an enterprise which cost him both his fortune and life. On the breaking out of the rebellion, in the year 1715, many gentlemen, as well Protestants as Catholics, joined the standard of the rebels at

Preston, in Lancashire. One of the most active, and staunch in the cause, appears to be Mr. Hall; for which offence, on the 16th of May, at the Court of Exchequer, Westminster, came on his trial. The evidence against this gentleman deposed; that he joined the rebels soon after their meeting at Plainfield, and marched with them to Preston, where he was taken. One evidence was very positive of seeing him at Rodberry, and that he was there with others of the rebels; Patten swore he saw him on horseback among the rebels near Wooler; but the prisoner's counsel disputed whether that place was within the county of Northumberland; for, otherwise, that indictment would fall, and the attorney-general might bring another indictment, laid in any other place, if he saw good. But there was one evidence, who pretty plainly made this place out to be within that county; and deposed, that he saw the prisoner on the march with the rebels. This evidence said, he had been seized by the rebels as a spy, kept by them several days, and met with very severe usage from them: being asked by the prisoner's counsel, how he, who had been kept under restraint, could see the prisoner at the bar with the rebels? he said, he was carried on the march with them under a guard, so that he saw the prisoner and others, they being but at a very little distance from him. Mr. Hall in defence said that, being a Justice of Peace, he was at the sessions of Alnwyke, when he heard of the meeting at Plainfield; that he rode from Alnwyke to a friend's house, where he staid all night, and was going home next day; when, it being tempestuous weather, as he was stooping on his horse's neck, with his head to the wind, on a sudden he and his man were surrounded by the rebels, and carried away by violence; nor had he any arms, or above seven shillings and sixpence in his pocket. His servant deposed this, and that his master was never at Rodberry, in the time that had been sworn, but was constantly kept under a guard of the rebels; but, being cross-examined, he appeared very backward in answering such questions as were asked by the king's counsel; nor did it appear even by his evidence, that his master's horses were confined, but that he looked after, and had the charge of them as usual, and his master rode them at pleasure. Patten likewise said, that he never saw any restraint laid on him, but that he was as

much at liberty as himself. He called some to prove, that he had expressed his dissatisfaction at being forced along with the rebels, and said, that he had no disaffection to the government. But it was observed, in the charge to the jury, which was spoke by the whole bench, that it was, without doubt, if a man was seen among rebels, though even he had been forced thither, and had opportunities after (as it appeared the prisoner had frequent ones,) to escape from them, and did not do it, but continued, with his presence, to abet and comfort them, yet it was treason within the law; that, if that allegation of being forced away, were suffered to pass, it would be next to impossible to come at evidence to prove them guilty, since every man might pretend the same thing, and that might pass for force which was, in effect, only their own consent and contrivance.

After a long trial, the jury found him *guilty*, and being asked if he had any thing to say why judgment should not pass upon him, he desired a small time might be granted him, and said, he was tried in a strange place, where he knew nobody, and by a new law he did not understand; but, had he longer time, he could produce many witnesses to prove that he was not disaffected to the present government, and who would give him a good character: on being told it was too late, and the court could not in justice grant his request; he calmly said, "God's will be done." Sentence of death was then passed on him, as in other cases of high-treason. Mr. Hall, from first to last, behaved with great gallantry and intrepidity, but spent most of the money he was possessed of, in fees for reprieves, of which he obtained no less than five, in order to have time to compose and pen his last speech; which, when finished, he imprudently made known to some who did not prove his friends; for, when further interest was making in his favour, to a great minister, the request had for answer:—"By no means, my good Lord; 'twere pity Mr. Hall should lose the opportunity of leaving such a speech behind him as, he gives out, will rouse up the spirits of the whole nation to be of the same mind with him, and will be instrumental in bringing in the person he calls his lawful sovereign, King James the Third." In his passage to Tyburn on the sledge, he gave not the least tokens of dismay; but, on the contrary, seemed to have

put on a bold resolution, and, in a kind of bravado, now and then tossed his hat round his head, as if he gloried in his punishment.

At the place of execution he delivered a paper to the sheriff, in which he warns his fellow-countrymen not to consider his death either ignominious or dishonourable, but that he lays down his life for his lawful sovereign, King James the Third; and falls a sacrifice to tyranny, oppression, and usurpation. He was executed July 13, 1716, at the same time with William Paul.

It is remarkable, that a person who threw something at Mr. Hall, in his way to Tyburn, (who, in return, made a bow by way of thanks,) was soon after executed on the same gallows for murder.

JOHN BRUCE,
A REBEL.

JOHN BRUCE was a Scotch gentleman, who joined in the rebellion purely from principle, and an independent sense of honour; he was taken at Preston, in arms, having the rank of captain in the rebel army, and was, together with Mr. John Winkley, Mr. Thomas Shuttleworth, Mr. George Hodgson, and Mr. William Charnley, ordered for transportation; but, spurning with indignation the proffered mercy, they resolutely stood their trials at Lancaster, were found guilty, and executed there, October 2, 1716.

At the place of execution, Captain Bruce made the following speech:—"I am not ashamed of that cause for which I die; but rejoice that I am worthy to be a sacrifice in the vindication of the undoubted rights of my lawful and natural liege lord, King James the Third, and the expiring liberty of my dear country. I always firmly believed the hereditary right of succession to the imperial crowns of these realms, to be a fundamental and unalterable part of the constitution, and could never think that any difference in religion, or any pretended laws, which never yet received the royal assent of any lawful king, could in any wise disengage me, or any honest man, from that duty and allegiance which is due to our lawful sovereign King James the Third, whose title by birth-right is clear and unquestionable; and I

was, therefore, engaged by the strongest obligations of duty, honour, religion, and law, to join with his loyal subjects in their just endeavours to restore him to his right, and to break through that usurpation, and fence of rebellion, which hath so long kept him from them.”

GEORGE COLLINGWOOD,

A REBEL.

GEORGE COLLINGWOOD, esq. a gentleman of an ancient family, and plentiful estate, estimated at least to be worth two thousand pounds per annum, proceeded to Preston, the rendezvous of the rebel party; but, having neither skilful officers to discipline the few troops they could muster, and the town being surrounded by the royal troops, under the command of General Wills and Carpenter, they were under the necessity of surrendering prisoners at discretion; the greater part were sent up to London, under a strong escort of soldiery, in order to take their trials for high-treason; but Mr. Collingwood, with several more, were conveyed from Preston to Liverpool; and, at the following assizes, being brought to trial, he was found guilty, and received sentence of death, and was executed there; April the 8th, 1716. The circumstance of his well-known hospitality, as a country-gentleman, rendered him greatly lamented, especially by the poor, who lost in him a most bountiful benefactor.

JAMES SHEPPARD,

A TRAITOR.

AT Salisbury, he had imbibed the principles he acted upon, by conversation with his fellow-scholars, who, in the time of the rebellion in the north, 1715, wished that the Pretender might have success; and that he was confirmed in his opinion by reading some pamphlets he saw lying on some booksellers' stalls, and particularly by one entitled, "A Vindication of the Bishop of Exeter; and especially from the improvement of the words of St. Paul," that persons ought to be obedient to the powers that are set over them, although they are

tyrannical. Tainted with these opinions, being then under eighteen years of age, he penned the following letter, which he left at a gentleman's house.

“Sir,—From the many discontents visible throughout the kingdom, I infer, that if the prince now reigning could be by death removed, our king being here might be settled on the throne without much loss of blood; for the more ready effecting of this, I propose, that, if any gentleman will pay for my passage into Italy, and if our friends will entrust one so young with letters of invitation to his majesty, I will, on his arrival, smite the usurper in his palace. In this confusion, if sufficient forces may be raised, his majesty may appear; if not, he may retreat or conceal himself till a fitter opportunity. Neither is it presumptuous to hope that this may succeed, if we consider how easy it is to cut the thread of human life; what great confusion the death of a prince occasions in the most peaceful nations, and how mutinous the people are, how desirous of a change. But we will suppose the worst, that I am seized, and by torture examined; now, that this may endanger none but myself, it will be necessary that the gentleman who defrays my expenses to Italy, leave England before my departure, that I be ignorant of his majesty's abode; that I lodge with some Whig; that you abscond, and that this be communicated to none. But be the event as it will, I can expect nothing less than a most cruel death, which, that I may the better support, it will be requisite that, from my arrival to the attempt, I every day receive the holy sacrament from one who shall be ignorant of the design.”

JAMES SHEPPARD.”

Mr. Leak, to whom it was addressed, thought it advisable to acquaint the alderman of the ward with the matter; which he did the next morning; and going to Sir John Fryer, he told him the person who brought the letter ought to have been seized; to which he replied, that he remembered the person who left the letter signified he would come again on the Monday following. Sir John thereupon ordered him, if he came, to get a constable and secure him; and Sheppard coming to him on the Monday following, he asked him if his name was James Sheppard, and if he left a letter for him the Friday before? to which he answered, yes: he then sent for a constable, and carried him before Sir John Fryer, where he being examined, was committed to take his trial for the offence. He was indicted at the Old Bailey, March 6th, 1717, for high-treason, in imagining and compassing the death of his sacred majesty King George the First. The foregoing letter was then read in court, and Sheppard was called on to make his defence: he replied, that he acknowledged the truth of what had been deposed against him; saying, that he meant it, that he

intended it, and did not think there was any harm in it, or any guilt in the fact if committed.

The jury being satisfied, found the prisoner guilty of high-treason; and he being asked, as is usual, before receiving sentence, what he had to say why judgment should not pass upon him according to law, replied, he could not hope for mercy from a prince he would not own. Sentence was then passed on him in the usual manner; and he was executed at Tyburn, March 17th, 1717-18.

CHRISTOPHER LAYER,

A REBEL.

FRANCIS ATTERBURY, Bishop of Rochester, had been disabled from holding his preferments in the church, by an act of parliament passed in the year 1722, and was banished from England for life for his treasonable practices: and, about this period, several other persons were concerned in similar designs, among whom counsellor Layer was one of the most distinguished. This infatuated man made a journey to Rome, where he held several conferences with the Pretender, to whom he promised that he would effect a secret revolution in England, that no person in authority should be apprized of the scheme, till it had actually taken place. Impressed with the idea that it was possible to carry his scheme into execution, he came to England with a determination to effect it. His plan was, to hire an assassin to murder the King on his return to Kensington; and this being done, the other parties engaged in the plot were to seize the guards; and the Prince of Wales and his children, and the great officers of state, were to be seized, and confined during the confusion that such an event would naturally produce.

Among others concerned in this strange scheme, was Lord Grey, an ancient nobleman of the Roman Catholic religion, who died a prisoner in the Tower, before the necessary legal proceedings could take place.

Mr. Layer having settled a correspondence with several Roman Catholics, nonjurors, and other persons disaffected to the government, he engaged a small number of disbanded soldiers, who were to be the principal

actors in the intended tragedy. Layer met these soldiers at a public-house, at Stratford in Essex, where he gave them the necessary instructions for seizing the king on his return from the palace, and even fixed on the day when the plan was to be carried into execution.

Some of the people of the public-house having overheard the treasonable conversation, spoke of it publicly in the neighbourhood; and, some other circumstances of suspicion arising, probably in consequence of some of the soldiers engaged giving information, Mr. Layer was taken into custody by one of the king's messengers, by a warrant from the secretary of state.

On Wednesday, the 31st of October, 1722, Mr. Layer was brought to the court of King's-Bench, and there arraigned. After the reading the bill of his indictment for high-treason, he desired the lord-chief-justice to indulge him, and complained, that he was brought there in chains and fetters, and used more like an Algerine captive than a free-born Englishman; that he had been dragged through the streets by the hands of gaolers, and had been made a show and spectacle of. The solicitor-general replied, it was well known that, when Mr. Layer was in the custody of a messenger, he not only made an attempt to escape, but actually escaped; got out of a window two-pair of stairs high, and from thence, over the water, into Southwark; that his present restraint was necessary, for the better securing his person. Mr. Hungerford, as counsel for Mr. Layer, informed the court, that when he was with Mr. Layer in the Tower, he learnt from him his chains were so grievous, that he could not sleep but in one position, viz. on his back; that he would challenge the opposite counsel to give an instance where any prisoner was shackled with irons in the Tower, before Mr. Layer; the prisoners in the Tower are such strangers to this usage, that they had not the very materials there; they were sent for from Newgate, and he hoped they might be carried there back again. The court assented to the propriety and justice of a prisoner's being unincumbered with fetters when on his trial; but, as this was only a motion for him to plead, it would only be the accommodation of taking off his fetters, for one minute, to put them on the next; and Mr. Layer's request was, in consequence, denied.

On Wednesday, the 21st of November, the day

appointed for Mr. Layer's trial, he was brought up to the bar, in custody of the lieutenant of the Tower; and, upon a motion made by Mr. Hungerford, the lord-chief-justice ordered his chains to be taken off; then Mr. Hungerford suggested, that the poor man had been so oppressed by these chains, that he was not able to prepare his brief; that he had it not till late the night before, and that it was ten sheets of paper. The attorney-general asked whose fault it was? adding, they had time enough. Mr. Hungerford answered, it was the fault of the irons, and that the brief was not brought to him till eleven of the clock the night before. The lord-chief-justice said, it was an omission, and that the chains should have been taken off before he came to the bar. The attorney-general replied, that there was direction given before, but he could not tell how they came not to be taken off.

The witnesses called were Stephen Lynch, Matthew Plunket, and Mrs. Elizabeth Mason. The two first were persons whom Layer had been tampering with, and who betrayed him; the latter, a woman he cohabited with, and at whose residence the treasonable proofs were found.

Sir John Pratt, lord-chief-justice, summed up the evidence after the trial, which lasted sixteen hours, and the jury retiring, after deliberating one hour, brought in their verdict—*Guilty*. As he had some important affairs to settle, from the nature of his profession, the court did not order his execution till more than two months after he had been condemned; and the king repeatedly reprieved him, to prevent his clients being sufferers, by his affairs being left in a state of confusion. After conviction, Mr. Layer was committed to the Tower; and, at length, the sheriffs of London and Middlesex received a warrant to execute the sentence of the law; in consequence of which, he was drawn on a sledge to Tyburn, dressed in a suit of black, full-trimmed, and a tie-wig.

At the place of execution, he was assisted in his devotions by a non-juring clergyman, and when these were ended, he spoke to the surrounding multitude, declaring that he deemed King James (so he called the Pretender) his lawful sovereign: he said that King George was an usurper, and damnation would be the fate of those who

supported his government: he insisted that the nation would never be in a state of peace till the Pretender was restored; and, therefore, advised the people to take up arms in his behalf: he professed himself willing to die for the cause, and expressed great hopes that Providence would effectually support the right heir to the throne on some future occasion, though himself had failed of being the happy instrument of placing him thereon.

He was hanged at Tyburn, on the 15th of March, 1723, and his body being quartered, his head was placed over Temple Bar. The heads of Townley, Fletcher, and Layer, for many years remained a disgusting nuisance to the neighbourhood and casual strangers; the two former dropped by piece-meal, but Layer's was blown down by the wind.

ALEXIS PETROWITZ CZAROWITZ,

PRESUMPTIVE HEIR TO THE CROWN OF RUSSIA,
CONDEMNED TO DEATH BY HIS FATHER.

THIS Prince, the son of Peter the Great, by his first wife, was naturally prone to voluptuousness and debauchery, in love with a dissolute and licentious life. This temper of mind rendered him insupportable to a father, who was himself all spirit and action, distinguished by military virtues, and who wished above all things, to bequeath the crown to a worthy heir. As soon as the Czarowitz arrived at the years of reason, he was continually exhorting him to inform himself in the art of government; and when he saw that his remonstrances had no effect, he sent him a letter.

In this letter the Czar displayed all the sublime sentiments of his heart, and a passionate desire to leave a son to succeed him, who should perpetuate his name and glory to future ages.

The Czarowitz's Answer.

“Most gracious Sovereign and Father,

I have read the letter which your Majesty sent me of the 27th of October, 1715, after the interment of my spouse.

All the reply I would make to it is this, that if your Majesty be resolved to deprive me of the succession to the crown of Russia, on account of my inability, your will be done: I even request it of you very earnestly, because I judge not myself fit for

government. My memory is greatly impaired, and without memory there is no possibility of managing affairs. The powers both of my mind and body are much weakened by the diseases to which I have been incident, and thereby I am incapacitated for the rule of so great a people: such a charge requires a man far more vigorous than I am.

For these reasons I am not ambitious to succeed you (whom God preserve through a length of years) in the crown of Russia, even though I had no brother, as I have one at present, whom I pray God to preserve. As little will I for the future set up any claim to the succession; to the truth of which I solemnly swear, and take God to be my witness. In testimony whereof I write and sign these presents.

I put my children into your hands; and for myself I ask no more of you but a bare maintenance during my life, leaving the whole to your pleasure."

The sagacious monarch, who saw through the disguise into his son's heart, was not to be so imposed upon by him: he sent him this writing, which he intitled his last admonition.

"My sickness has hindered me, till now, from answering yours, and explaining to you my final intention. You speak only of the succession, as if I needed your consent in the disposal thereof; I reproached you with the aversion you had to business, and signified to you, that I was highly dissatisfied with your conduct in general; as to these particulars you have given me no answer. Your silence is a declaration that you have no mind to reform: my paternal exhortations make no impression upon you; wherefore I was determined to write to you this once for the last time. If you despise the advices I give you while I am alive, what regard will you pay to them after my death? What dependance can there be upon your oaths, when your heart appears so hardened? David has said, every man is a liar; but though you had the inclination at present to be true to your promises, a corrupt priesthood will be able to turn you at pleasure, and force you to falsify them.

As they see themselves deprived at present of the places of honour, whereof they have rendered themselves unworthy, by their lewdness and dissolute morals, they have no dependance but upon you; and the warm side which you shew to them already, makes them hope that you will one day alter their condition for the better.

Have you ever weighed the obligations which you owe to me as your father, who have given you your being, and neglected nothing for your education? Did you share with him the pains and anxieties he endured for you since you arrived at the age of maturity? You censure, you condemn, my most laudable actions; the sole aim whereof is the good of my people, and which I undertake at the expense of my health: whence I have ground to conclude, that, instead of watching for their preservation, you will be their destroyer, if you survive me. This calamity it is my duty to prevent, by obliging you to form other

sentiments. I cannot bear that you should live like an amphibious creature, that is, neither flesh nor fish; for I cannot otherwise define that kind of life you lead. Take your choice: either labour to make yourself worthy of the crown, or embrace a monastic state. My health is upon the decay, so that I am impatient to know your resolution. I expect your answer either by writing or word of mouth. If you shew me no satisfaction in these points, I will shew you no regard, but will treat you as a malefactor.

PETER."

But the Prince was far from answering his father's design; he wrote to him as follows:

Most gracious Sovereign and Father,

Yesterday morning I received your letter of the 19th of this month. My indisposition hinders me from writing to you at large: I am willing to embrace the monastic state, and I beg your gracious consent thereto. Your Servant, ALEXIS,

The Czar at that time had resolved to travel through Europe, there to acquire such improvements in knowledge as might qualify him for civilizing the manners of his people, and introducing arts and sciences into his empire. Before his departure, he went to the prince, whom he found in bed, and asked him again, what resolution he had taken; and the Czarowitz confirmed to him, by horrid oaths, his former declaration, that he would retire into a monastery.

The Czar, however, was resolved to oblige his son, whatever it should cost, to choose one of the two proposals he had put in his offer: he had waited hitherto in regard to the princess of the crown his spouse; but that princess being dead, he had no further obstacle in his way. The Czarowitz, who saw that he could no longer dally with a father so firm and resolute, and by no means to be put upon, determined to make an elopement: he made as if he was going to Copenhagen; but he was hardly got into Livonia, when he changed his route, and took that for Vienna, to put his destiny into the hands of the Emperor Charles VI. his brother-in-law. In order to conceal from the Czar the place of his retreat, he wrote him a feigned letter from Libau, dating it from Koningsberg; and signifying therein that he persisted in the same sentiments he had expressed to him before.

The Czar had arrived at Amsterdam, when he heard of his son's elopement. He was solicitous about nothing so much, as to find out means to bring him back. On his departure from Paris, he heard he was in Naples: as soon as he was arrived at Spau, he dispatched his

privy counsellor Tolstoy, and Romansoff, captain of the guard, who repaired speedily to Naples, with an order, accompanied by the following letter, to solicit the Czarowitz to return to Russia, and throw himself upon the mercy of his father.

“My Son,—Your disobedience, and the contempt you have shewn of my orders, are known to all the world. Neither my reproofs nor corrections have had any effect to make you follow my instructions; and at length, after you had put a cheat upon me at parting with you, and trampled on the oaths you had taken, you have carried your disobedience to extremity by flying the kingdom, and putting yourself, like a traitor, under a foreign protection; a conduct hitherto unprecedented, not only in our family, but also among all our subjects of any consideration. What perplexity and disquietude have you thereby given to your father, and what infamy have you entailed upon your country? I write you for the last time, to tell you, that you are to do what Tolstoy and Romansoff shall signify to you in my name. Such is my pleasure.

If you have any uneasy apprehensions of me, I assure you by these presents, and promise before God, as I shall answer at his bar, that I will not punish you; and that if you submit yourself to my will, and return to your duty, I will love you more than ever: but if you do not, I, as a father, by virtue of the power which I have derived from God, give you my eternal malediction, for the contempt and outrageous indignities you have poured upon me in that relation; and, as your sovereign, I assure you that I will find a way to treat you as an unworthy subject; wherein I hope God will assist me, and take my just defence into his hand.

For what remains, remember that I have offered no violence to you in any thing. Needed I to have given you the free choice of the measures you were to take? Had I been disposed to compel you, was not the power to do it at hand? It was but giving the command, and I had been obeyed.

From Spau, 16th of July, 1717. (Signed) PETER.”

Accordingly the prince set out with those two lords, by whom he was conducted to Moscow, where the Czar was, and whither he arrived on the 11th of February. That very evening he waited on his Czarish majesty, with whom he had a long conference; and the next day a great council was held: on the 14th, by break of day, the guards and all the garrison of Moscow appeared in arms, and surrounded the castle. At the same time an order was issued to all his Majesty's ministers, to the boyards, and counsellors, to repair to the great hall of the castle, and to the prelates to assemble in the cathedral, at the toll of the great bell. The Czarowitz was conducted without a sword before his Majesty; to whom, in presence of all the *grandees* of the empire, he presented a writing, containing a confession

of his crime; and, all in tears, threw himself at the Czar's feet. The monarch delivered this writing into the hands of Baron Schafiroff, the vice-chancellor, and raising up his son, asked him what was his request. The prince replied that he implored his mercy to save his life. The Czar granted his request; but told him, at the same time, that, as he had cut himself off from all hopes of the succession to the crown, he ought solemnly to renounce the same: to which he answered, that he was ready to conform himself to the Czar's pleasure.

His Majesty having put some questions to him, with regard to his disobedience, asked him, among others, who had advised him to make his elopement; upon which the prince having whispered the Czar in the ear, they both retired into a chamber adjoining, where we are told he named the persons who had spirited him up to that design. Presently three couriers were dispatched to different places. The Czar and the prince having returned into the hall, the latter signed a deed, whereby he declared himself incapable to govern, and renounced all right to the crown. Hereupon was read aloud the Czar's manifesto, containing, at large, the reasons which determined him to exclude his eldest son from the succession to the crown. After which, all the ministers, boyards, officers, and grandees who were present, signed the form of an oath, and confirmed it upon the holy gospel as follows:—That, whereas the Czar had, by his letters patent, declared the Czarowitz Alexis Petrowitz excluded from the crown, and established his second son Peter Petrowitz his heir, they submitted to the justice of his Majesty's decree, acknowledging Prince Peter Petrowitz lawful heir to the crown; bound themselves to support him with the hazard of their lives against all who should dare to oppose him, and under no pretext whatsoever, to espouse the cause of Alexis Petrowitz, nor by any means abet him in pretending to the crown.

The writing which the Czarowitz delivered into the hands of his Majesty, contained his act of renunciation, in these terms:—

“I, the undernamed, declare upon the holy gospel, that upon account of the crime I have committed against his Czarish Majesty, my father and sovereign, as set forth in his manifesto, I am, through my own fault, excluded from succession to the throne of Russia; therefore, I own and acknowledge that exclu-

sion to be just, as having merited it by my own fault and unworthiness; and I hereby oblige myself, and swear in presence of Almighty God, in unity of nature, and trinity of persons, as my supreme Judge, to submit in all things to this paternal will, never to set up a claim to the succession, never to pretend to it, or accept of it under any pretext whatsoever; acknowledging for lawful successor to the crown my brother, the Czarowitz Peter Petrowitz. In testimony whereof I kiss the holy cross, and sign these presents with my own hand."

(Signed) "ALEXIS."

The Czar, however, thought he might dispose of his crown, and deprive his son of the right to succeed to it; and, as he foresaw that after his death the Czarowitz might make a jest of his renunciation, he judged it necessary to bring him to a trial, in order to condemn him to capital punishment: and as his hands were tied up by the pardon he had promised him, he used pretexts to evade that promise; in which conduct he appears to have been influenced not so much by hatred to his son, as by jealousy for his personal glory, and that of his empire, and by love to his people; he foresaw that the Czarowitz would be so far from treading in his steps, that by his mal-administration he would plunge his dominions into an abyss of misery.

The way by which he eluded the promise of pardon he had given the Czarowitz was thus:—He declared to him it was his pleasure that he should reveal all the particular circumstances of his elopement, who were his counsellors, and whatever else had a relation to that event; assuring him, that if he spoke the truth without reserve or disguise, he would grant him his pardon: but if he did not discover all, and his accomplices too, if he concealed any thing that had any relation to his flight, the pardon should be null, and have no effect.

In consequence of this express mandate, the ministers, senate, and estates, who were regularly convened, proceeded to interrogate the Czarowitz.

This unfortunate prince was in such confusion, that, both in his answers, and the writings he gave in of his own proper motion, he contributed effectually to his own undoing. All the depositions and papers relating to the cause were read, in presence of the senate and states assembled; after which they gave orders to search the Scriptures of the Old and New Testament, the constitutions of the empire, and the military laws, for pertinent

authorities, that might be applied to the present case, in order to judge what pains and penalties his transgressions had deserved.

Several extracts from the laws, divine, civil, and military, having been read, it was unanimously resolved, that before pronouncing sentence, the ministers and senate should call the ordinary judges one after another, in order to hear each of their opinions.

This being done, the ministers in like manner delivered their suffrages, which, though given apart, unanimously centered in one and the same decision: having declared upon oath and conscience, that according to the above extracts of laws divine, civil, and military, the Czarowitz deserved death, for the crimes alleged and proved above.

The Czarowitz, in his examination, accused his confessor the arch-priest James. He said, that having confessed to him, among other things, that he wished his father's death, the confessor answered, God will forgive you: we wish that event as much as you.

On the same day, the confessor owned both upon the rack, and when he was confronted, that the Czarowitz Alexis had said these very words at confessing: that he wished for the death of his father; and that he replied to the Czarowitz, We all in like manner wish for his death: but that he did not remember who those were that wished it. He added, that he did indeed say to the Czarowitz, that the people loved him, and drank to his health, naming him the hope of Russia, having heard so from several persons, but could not recollect who the persons were. This ecclesiastic was condemned to death, degraded, and executed.

The Czar proposed several articles on which he desired that his son might be interrogated, and omitted nothing that might set his crimes in the strongest light. The unfortunate prince was entangled in his own words, by saying more than he intended to say.

At length the fatal sentence was passed, the tenor whereof was as follows:—

“The undersigned, constituted judges by his Czarish Majesty, and assembled in the great hall to give judgment; after having heard and maturely considered all that has been said, read, and reported, have with unani-

mous consent pronounced and passed the following sentence, signed and sealed with our own hands.

“ Thus, since the laws divine and ecclesiastic, civil and military, particularly the two last, condemn to death, without mercy, not only those whose attempts against their father and sovereign have been proved by testimonies or writings ; but even such as have been convicted of an intention to rebel, and of having formed a bare design to kill their sovereign, or usurp the empire ; what shall we think of a design of rebellion, such as there are few examples to be met with in history, joined to that of a horrid parricide against him who is his father in a double capacity, first as the father of his country, and then as his natural parent, a father of great lenity and indulgence, who brought up the Czarowitz from the cradle with more than paternal care, with a tenderness which appeared on all occasions, who endeavoured to form him for government, and to instruct him with incredible pains, and indefatigable application in the art military, to qualify him for the succession to so great an empire ; with how much stronger reason does such a design deserve to be punished with death ?

“ It is with an afflicted heart, and eyes full of tears, that we, as servants and subjects, pronounce this sentence ; considering, as we have said, that it belongs not to us in this quality to give judgment in a case of such importance, and particularly to pronounce a sentence against the son of our most sovereign and gracious Lord the Czar. Nevertheless, it being his pleasure that we give judgment, we declare by these presents our real opinion ; and we pronounce this sentence of condemnation with so pure and Christian a conscience, that we hope we shall be able to answer for it before the awful, the just, and impartial judgment of the great God.

“ For what remains, we submit this sentence which we now pass, to the sovereign power, the will, and merciful revisal of his Czarish Majesty, our most merciful Sovereign.”

This sentence was signed by all the members of the Court, to the number of an hundred and eighty, ministers, senators, generals, and other officers.

The Czar ordered the sentence of death to be read to the Czarowitz. The very hearing of it affected him to

such a degree, that it made a sudden revolution in his whole frame, disordered his senses, and threw him into a convulsive lethargy. By using proper means to recal his senses, he was brought to himself a little. Intimations were given him that he might expect every thing from his father's clemency; but whether it was that the severity of the Czar had made too strong impressions upon him to leave room for that hope, or that the disorder which the reading of the sentence occasioned in his faculties, was too great to be repaired, or that, as is highly probable, they had given him poison, his recovery could not be effected. He had just strength enough to ask pardon of the Czar his father, in presence of several bishops, senators, and grandees of the realm.

The Czar insisted upon the Czarowitz reading the sentence himself. He was obliged to obey his father, and had hardly read it, when certain fumes mounted up into his brain, whereby he lost the use of his sight, and fell into a swoon, out of which he scarcely recovered: all this, he said, was the effect of poison, wherewith the sentence was infected; which had such a powerful effect upon him, that he died in three days afterwards, on the sixth of July, after having received the sacraments of the church.

The Czar was not backward in performing to him the last offices of humanity with due pomp and solemnity. He ordered his body to be placed, from the eighth of July to the tenth, in the Trinity church, in an open coffin, richly ornamented with velvet. All had access to see him, and people came in crowds to kiss his hand; at length the corpse was carried in procession to the new church of the citadel, where he was interred in the imperial tomb, by the princess his wife, with all the pomp and ceremonies observed towards the princes and princesses of the blood; their Majesties having attended the funeral with all the court, and the principal nobility of the kingdom.

JAMES LE BRUN,

FOR SUPPOSED MURDER.—1699.

MADAME MAZEL was a woman who had passed the meridian of life: she was a widow, possessed of an affluent fortune; and had three sons, all well established. This lady's servants, in her hotel Rue Maçon at Paris, were two footmen, an old female cook, a coachman, two young women, and James le Brun, who had lived with her twenty-nine years, and who was her butler. Madame Mazel had gaming tables constantly in her house; and a man called the Abbé Poulard lived with her on a footing of intimacy, which did no honour to her reputation. Every Monday and Friday she kept an open table, where gamesters by profession, of both sexes, as well as persons who were unhappily addicted to that ruinous amusement, assembled to dine: after which, the house, which was very large, was filled with parties of hazard and other games of chance, at which they continued the next day, and often till the next night. Many of those who frequented her house, heard her on various occasions repeat, that she never had a less sum by her than two thousand pistoles.

Some time before the death of Madame Mazel, she had taken a master-key from Le Brun, which opened all the doors, in order to accommodate with it the Abbé Poulard; Le Brun had another which he continued to use. On the 27th of November, 1698, being the first Sunday in Advent, the two daughters of Le Brun went in the afternoon to pay their respects to Madame Mazel: she was then going to vespers at the convent of Prémentré, rue Hautefeuille; for she was ever remarkably punctilious in the exercises of religion. She left her house attended by Le Brun, on whose arm she leaned, and the two footmen followed her. As soon as she was in the chapel, Le Brun quitted her, and went to hear vespers himself at the Jacobins, rue St. Jacques. Madame Mazel supped, according to her usual custom, with the Abbé Poulard, tête-à-tête. At eleven o'clock, she went to her chamber. The maid, as was her usual custom, put the key on the chair, after which they all quitted the room; and Le Brun, who went last, drew the door after him, and shut it. He then went into the kitchen

to take the key of the outward door to lock it; he took it off the hook, but, finding himself cold, he laid it down on the table, while he warmed himself; and being fatigued, possibly too having drank more than he was accustomed to, he insensibly fell asleep: when he awoke, he heard the clock strike one. He ran up to lock the outward door, (which he was surprised to find wide open,) and, when he had done so, took the key with him into his room.

Madame Mazel usually arose at seven, and the servants expressed to each other their wonder that she had not rung her bell at eight o'clock. Le Brun went for a moment to see his wife; to whom he gave seven louis and some other money, which he bade her lock up; and, then returning home, enquired if Madame was yet up? and being told she was not, he expressed great surprise and uneasiness. The whole family now determined to endeavour to awaken her, and went to the door and rapped loudly; but all was silent. Some said she had fallen into an apoplexy; others, that a bleeding at the nose, to which she was subject, had destroyed her; but Le Brun remarked, that it must be worse,—“Something,” said he, “is wrong; I am very uneasy, because I found the street door open last night.”

The room being at length opened, the people who were assembled, entered: Le Brun went hastily to his mistress' bed;—she was assassinated, and covered with blood. Monsieur de Savonnières, her eldest son, sent for the Lieutenant Criminal Deffita, the very same who had formed the hasty judgment against the unhappy d'Anglade. He laid a complaint in his own name, and that of his two brothers; and surgeons were sent for to examine the body. About fifty small wounds, made with a knife, were found on her hands, face, shoulders, and throat; and these last, having occasioned a great effusion of blood, had been the occasion of her death; for none of the wounds were of themselves mortal. In the bed was found a piece of a lace neckcloth, and a towel twisted up in the form of a night-cap; which towel belonged to the house, and was marked with an S. The cords of the bells were twisted up above the reach of the hand, and tied to the curtain rod.

In the ashes was found a knife, seven or eight inches long, the handle of which had been of tortoise shell, but

was nearly burnt. The key of the chamber-door was not found on the seat, where the waiting-woman affirmed she had put it; no door was broken; and the two doors which opened to the back stairs, were both shut and hooked withinside. The key of the press was found under the bolster, where it was always placed: on opening this press, the purse, in which Madame Mazel kept her card money, was found, containing about two hundred and seventy-eight livres, in gold. The key of the strong box was in the same place; and in it were found four sacks, each containing a thousand livres, and many other bags, containing different sums; one of which was labelled, "This is the property of the Abbé Poulard." Under one sack was a purse, which was empty, and a red leather writing-box, which contained all the jewels of Madame Mazel, to the value of fifteen thousand livres: In her pocket were eighteen pistoles, in gold. From all which circumstances, it appeared as if those who had committed the cruel deed, had done it from some other motive than robbery.

The Lieutenant Criminal questioned the two women who attended on Madame Mazel, who related to him, succinctly, what had passed the night before. Le Brun was next called upon; who gave, with equal clearness, an account of every thing that had happened to himself, from the time of his going out with his mistress to vespers, to the moment of his examination. He was searched, and there was found on him the key of the hall where his pantry was; and a master-key with very large wards, which, on trial, was found to open the door of Madame Mazel's chamber; upon which, the Lieutenant Criminal ordered him into custody. On putting on the napkin, it was found too little for his head: they examined his hands, but there were no signs of blood upon them, or his clothes; nor was there on any part of his person, any marks of that resistance, which it was very evident the unfortunate victim had made against the ruffian who had killed her; some of whose hair she had torn off, and held in her hand.

Le Brun was again examined in prison, and neither on his person nor in his answers was there found the least cause to believe him the guilty person. They then examined the lodging of his wife, where nothing was found to criminate him; however, they seized on his linen, to com-

pare it with a shirt, which was found stained with blood in the garret, hid under some straw (and which evidently belonged to the assassin), and with the lace neckcloth. The two women declared, that this neckcloth never had belonged to Le Brun; but said, they remembered having washed it for a servant called Berry, who had been dismissed from the service of Madame Mazel about four months before, because he was detected in robbing her. No similitude was found between the shirt and those belonging to Le Brun; nor, in any enquiry that was made, did the slightest circumstance arise, that tended to fix the charge on him.

The poor man was, however, in the mean time, closely confined, and not suffered to see his wife, his children, or his friends; while the Abbé Poulard, who, during his first examination, had fainted, and appeared under the utmost agitation, went to every place, exclaiming, that Le Brun only could be guilty: and he made the same declaration before the judges.

On the 14th of January, 1699, Monsieur de Savonnières presented a request to the Lieutenant Criminal in his own name, and that of his two brothers, demanding that Le Brun should be declared duly convicted of having assassinated Madame Mazel, and of having robbed her of a quantity of gold coin that was in her strong box; and that he should, at the same time, be deprived and declared unworthy of the legacy left him by the deceased:—and it appeared too certain, that this legacy was the real source of all the enmity of the Messrs. de Savonnières against the unfortunate Le Brun.

Monsieur d'Aucour, who was employed in favour of Le Brun, shewed, how improbable it was, that a man of so excellent a character, who had brought up a large family in honest and sober principles; whose conduct, as a husband and a father, was unimpeached; and who had faithfully served his mistress nine-and-twenty years; should now, without motive, and without provocation, become her murderer. The next point was, that it was impossible Le Brun could be guilty: for she had received above fifty wounds, and had evidently made great resistance; but Le Brun had not even the smallest scratch on his hands, or spot of blood on his clothes: the towel, twisted up like a cap, was so much less than his head, that he could not put it on:—the knife was not

his;—the neckcloth was known to belong to another person;—the shirt was not like any he possessed; it was unlike, not only in quality, but in size; and was made for a little man; whereas Le Brun was tall and robust. But even if any domestic let in the ruffian, why should it be Le Brun? Why not one of the other footmen, or maids? Why not the coachman, in whose care the courtyard was left? Why not the cook, who had also a master-key to the outward door, and in whose room was a low window, communicating with the street? Finally, Why might it not be the Abbé Poulard; whose character was such as made him a more likely man than Le Brun to commit an infamous crime? Might not the wretch, who meditated the murder and robbery, conceal himself in the house during the day, when the doors were open to all comers? Might he not have remained there one night, or even more, hid among the straw, coals, and wood, in the garret, which was rarely frequented? Might he not even have come in by means of the trap-door, which opened in the roof, and which never was shut?

But why, continued M. d'Aucour, is not enquiry made after Berry? Berry, who before robbed Madame Mazel, and was dismissed in disgrace; who was known to be an infamous wretch, capable of any mischief—to whom the neckcloth was known to belong; who was seen at Paris about the time the event happened; and had been seen since with money, which he could not have honestly obtained? Why is no notice taken of the Abbé Poulard, an equivocal character at best; a priest, who, after being in two orders, actually belongs to none?—who had access, at all hours, to the house of Madame Mazel, and who was seen to go in at midnight, the time the murder was committed; and who had an interest in the death of his benefactress, which Le Brun had not.

The counsel on the other side laid the greatest stress on the circumstance of the key; on what Le Brun said, when questioned by M. de Savonnières, “this is not apoplexy, but something worse;” and on the seven louis given to his wife to lock up, which they pretended to believe was part of the money taken from Madame Mazel.

Notwithstanding this defence, and that the prosecutors could bring no one positive proof against him, nor even

presumptive evidence, which applied specially to him, yet the master-key in his possession, which opened all the doors, determined the judges to condemn him. Of eleven judges, two declared, they required further information: two voted that he might be put to torture; and six condemned him to death, and that in the most cruel manner that could be devised.

On the 22nd of February, sentence was passed by twenty-two judges: two only of which number demanded further enquiry; and the other twenty decided for the torture, ordinary and extraordinary. The unhappy man was, in consequence, put to this dreadful trial; but amid the most cruel tortures, persisted in declaring his innocence.

On the 27th, the same number of judges being again assembled, two voted that he should be sent to the galleys for life; but the rest voted for an adjourned enquiry of twelve months; during which, Le Brun was to remain in prison, and his wife to be at liberty. Le Brun, who had been kept in a dungeon, without being suffered to see any one but the jailer, was now allowed to have his wife, children, and friends. But this alleviation came too late: for the violence of the torture had so reduced him, though a very athletic and healthy man of forty-five, that his wife had time only to procure him the administration of the sacraments. As he received them, he again solemnly protested his innocence, and expired, amidst the despair of his wife and children, and the regret of all who had known him.

Information was soon after given to the magistrate of Sens, that a man named Gerlat, otherwise Berry, had established himself there as a dealer in horses, and without any visible means by which he could acquire money to support such a traffic. In consequence of which, he was arrested in March, 1690; and upon him was found a watch, which was known to belong to Madame Mazel. Process was instantly commenced against him, and witnesses examined. Some swore they had seen him at Paris at the time of the assassination. A woman swore she saw him come out of the house after midnight, on the night it was committed: a barber deposed, that he had shaved him the next day; and having observed scratches and wounds on his hands, Berry had told him, that they were made by a cat, which he had attempted

to kill. The shirt and the neckcloth were proved to be his, by comparing them with those found upon him.

Berry was put to the torture; when he confessed, that he concealed himself in the garret of the house, from the Friday to the Sunday, feeding on bread and apples, which he had put into his pocket: that on Sunday morning, when Madame Mazel went to mass, he went down into her chamber, and crept under the bed, where he lay some time: that after dinner, when Madame Mazel was gone to vespers, he warmed himself at the fire, and, finding his hat troublesome, made a night-cap of a towel; tied up the bell cords, and staid at the fire till he heard the coach enter the court-yard; then getting again under the bed, he remained there till Madame Mazel had been in bed near an hour; then he shewed himself, and asked her for her money, but on her screaming out, he told her, if she cried out he would kill her; and upon her still continuing to do so, and attempting to ring the bells, he struck her with a knife; that she defended herself for some time, but her strength failing, he continued to stab her till she died: that he then lighted a candle, and took from the bolster, the key of the press, from whence he took that of the strong box, and took all the gold, which amounted to about six thousand livres: that he placed the key where it was before, and, it being then moonlight, he took his hat, and leaving the towel and his neckcloth, he knew not where, he ascended to the garret, where he took off his shirt, and putting on his coat and waistcoat, went down to the street-door, and, finding it unlocked, made his escape.

Berry was broke on the wheel: and the memory of Le Brun was declared free from any stain: but the cruelty of giving up an innocent man to torture and death, could not be repaired.

JOHN COWLAND,
FOR MURDER.—1700.

ONE evening John Cowland, with some other *bon vivants*, followed Sir Andrew Slanning, bart. who had made a temporary acquaintance with an orange-woman, while

in the pit at Drury-lane play-house, and retired with her as soon as the play was ended. They had gone but a few yards before Mr. Cowland put his arm round the woman's neck; on which Sir Andrew desired he would desist, as she was his wife.

Cowland, knowing Sir Andrew was married to a woman of honour, gave him the lie, and swords were drawn on both sides; but some gentlemen coming up at this juncture, no immediate ill consequence happened. They all now agreed to adjourn to the Rose tavern; and Capt. Wagget having there used his utmost endeavours to reconcile the offended parties, it appeared that his mediation was attended with success; but, as they were going up stairs to drink a glass of wine, Mr. Cowland drew his sword, and stabbed Sir Andrew in the belly, who finding himself wounded, cried out "murder." One of Lord Warwick's servants, and two other persons who were in the house, ran up immediately, and disarmed Cowland of his sword, which was bloody to the depth of five inches, and took him into custody. Cowland was instantly conducted before a justice of peace, who committed him; and on Dec. the 5th, 1700, he was tried at the Old Bailey on three indictments—the first at the common law, the second on the statute of stabbing, and the third on the coroner's inquest for the murder. Every fact was fully proved on the trial; and, among other things, it was deposed, that the deceased possessed an estate of 20,000*l.* a-year, and that his family became extinct by his death; and that he had been a gentleman of great good-nature, and by no means disposed to animosity. On Cowland's being found guilty, sentence of death was passed on him; and, though great interest was made to obtain a pardon, he was executed at Tyburn the 20th Dec. 1700.

THE MARQUIS PALEOTTI,

FOR MURDER.—1718.

FERDINANDO PALEOTTI, otherwise FERDINANDO MARQUIS DE PALEOTTI, was indicted at the Old Bailey, for the murder of John Piccolo, otherwise John the Italian, the 11th of February, 1718.

He was likewise indicted for manslaughter, upon the Coroner's inquest; as also on the statute of stabbing.

John Johnson deposed, that being at his master's (Mr. Bellasis) door in Lisle-street, between nine and ten o'clock at night, he saw the marquis and the deceased pass by, and heard Niccolo say, *tous le jours*; and having passed him, he perceived the prisoner pursue the deceased with something in his hand held up, and heard Niccolo cry out, *garde, garde, garde*, near ten times, and then took hold of a post, and the marquis walked on with something under his arm, but whether stick or sword he could not say positively, but he believed it to be a sword; and the marquis being gone past him, Niccolo never spoke more, but fell to the ground: that then the marquis took to his heels, and made up Gerrard-street; upon which he and Thomas Corbridge, who came upon the outcry, examined the street, and were positive there was no person in the street at that time but the marquis and Niccolo, and himself knocking at his master's door; and that there being some lights reflecting, and himself in the dark, he had so perfect a view of the marquis's face, that he was sure he was the very same person, and swore positively to it. He added likewise, that as well as he could then distinguish, he had on a red coat.

The next evidence was *Thomas Corbridge*, who deposed, that as he was knocking at a door in Leicester-street, he heard an outcry, which he took to be murder; and running to Lisle-street, he saw a person of the same stature of the marquis pass by him, but he could not swear to his face, but by the stature and make of his body (which was pretty remarkable, he being a tall man), he did verily believe it was the marquis; that seeing the man dead, they looked and saw no person in the street at that time but the marquis, the deceased, and themselves.

Benjamin Forster deposed, that he hearing an outcry as he was at home in Lisle-street, ran out, and that there was no person to be seen in the street, but a gentleman who came down the street, keeping the coach-way, who had either a sword or stick under his left arm, and his right hand upon it, and was in red clothes; and that as he passed along hastily, he turned back several times, looking behind him as it were, to see if any person followed him, and turned up Gerrard-street; that by his stature and shape he verily believed the marquis to be the person; that then he and another stepping to the deceased, found him dead, and opened him to find his wounds; and examining his pockets they found some papers, by which they discovered he belonged to the Marquis Paleotti.

William Spicer deposed, that he living at St. James's, kept a sutler's shop, and that the marquis had for some time been his lodger, and that he was always wont to come home pretty late, and have a supper and much attendance, his room illuminated, and a fire in it; but that night he did not see him come in; but was told by the maid, who went up stairs between ten and eleven o'clock, that the marquis was in bed, though no person in the house knew he was at home.

Mr. Spicer deposed, that the next morning the marquis got out of bed, and knocking, he went up, and when he came, he asked

him for his man Niccolo? to which he replied, he did not come in that night; and that just about that time, one Mr. Belin came and told the marquis that Niccolo was found murdered; upon which, in a sort of a hurry of mind, he went to dress him, and called for his grey clothes, which he fetched him; then he dressed himself and went out; and, as it appeared, went to the Bishop of Salisbury's, (very probably thinking to find sanctuary in the bishop's house, as in a church or cloister in popish countries) where it is reported he behaved himself so rudely, making a sort of a riot, that his sword was taken from him, and sent to Justice Gore's; which sword was produced in court by John Martin, the constable, who had received it of Justice Gore.

The marquis, when he came to make his defence, having an interpreter allowed him (sworn for that purpose), pleaded total innocence as to the murder of John Niccolo, saying, he had no ill-will against him, nor had any cause; and, if he had, he had another way of punishing him, which was by martial law, he being his servant, and a soldier of his own troop. He then owned they did go out together in the morning; that they went to the other side of the water, and coming back in the evening, went to a tavern near Lincoln's-inn-fields, and supped about eight o'clock; that they went away together, and Niccolo went along with him as far as his house, and asked him at the door to let him step somewhere, and he would return presently; so he went to bed without Niccolo's putting him to bed, and had never seen him since.

His defence being trifling and contradictory, the Jury brought him in guilty of wilful murder, on the Coroner's inquest, and statute of stabbing; and he received sentence of death. After his condemnation he behaved very refractory to several persons that came to him, and even to a priest of his own persuasion, who was sent to him to prepare him for death, whom he treated very rudely.

He said he was thirty-eight years of age, born of a noble family in Italy, and brought up in the Roman Catholic religion, and had been for many years an officer, and was at that time actually colonel of a regiment.

He was conveyed from Newgate to Tyburn in a mourning coach, betwixt six and seven o'clock in the morning, March 17, 1717-18, where he suffered the sentence of the law.

JOHN SHEPPARD,
COMMONLY CALLED JACK SHEPPARD,
FOR BURGLARY.

JOHN SHEPPARD was born in the parish of Stepney, near London, in the year 1702, a son, grandson, and great grandson of a carpenter: his father died when he was so very young that he could not recollect that he ever saw him: thus the burthen of his maintenance, together with his brothers and sisters, lay upon the shoulders of the widow mother, who soon procured an admission for her son John into the workhouse in Bishopsgate-street, where he continued for the space of a year and a half, and in that time received an education sufficient to qualify him for the trade his mother designed him, viz. a carpenter. Accordingly she was recommended to Mr. Wood in Wych-street, near Drury-lane: they agreed, and he was bound for the space of seven years: the lad proved an early proficient, and had a ready ingenious hand, soon became master of his business, and gave entire satisfaction to his master's customers, and had the character of sobriety and integrity; but before he had completed six years of his apprenticeship, he commenced a fatal acquaintance with one Elizabeth Lyon, otherwise called Edgworth Bess, from a town of that name in Middlesex, where she was born. She lived a wicked and debauched life, and Sheppard being enamoured with her, they cohabited together as man and wife.

Now was laid the foundation of his ruin. Sheppard grew weary of servitude, and began to dispute with his master, telling him that his way of jobbing from house to house was not sufficient to furnish him with a due experience in his trade, and that if he would not undertake some buildings, he would start into the world for better information.

Edgworth Bess having stolen a gold ring from a gentleman, whom she had picked up in the streets, was sent to St. Giles's round-house. Sheppard went immediately to his paramour, and after a short discourse with the beadle and his wife, who had the care of the place, he fell upon the old couple, took the keys from

them, and let his lady out at the door in spite of all the outcries and opposition they were capable of making.

About July, 1720, he was sent by his master to perform a repair at the house of Mr. Baines, a piecebroker in White-horse-yard, when he stole from thence a roll of fustian, containing twenty-four yards, which was afterwards found in his trunk. This is supposed to be the first robbery he ever committed, and it was not long ere he repeated another upon this same Mr. Baines, by breaking into his house in the night, and taking out of the till £7 in money, and goods to the value of £14 more; how he entered this house was a secret, till his being last committed to Newgate, when he confessed that he took up the iron bars at the cellar window, and, after he had effected his purpose, he nailed them down again, so that Mr. Baines never believed his house had been broken open, but an innocent woman, a lodger in the house, lay all the while under the weight of a suspicion of committing the robbery.

Sheppard and his master had parted ten months before the expiration of his apprenticeship, and now fell into the snares and temptations of the vilest wretches London could afford, as Joseph Blake, alias Blueskin, William Field, Doleing, James Sykes, alias Hell and Fury, which last was the first that betrayed and put him into the hands of justice.

Having deserted his master's service, he took shelter in the house of Mr. Charles, in May-fair near Piccadilly, and his landlord having occasion for some repairs in his house, engaged one Mr. Panton, a carpenter, to undertake it, and Sheppard to assist him as a journeyman; but on the 23d of October, 1723, ere the work was complete, Sheppard took occasion to rob the people of the effects following, viz. £7 10s. in cash, five large silver spoons, six plain gold rings, and a cypher ring, four suits of wearing apparel, besides linen to a considerable value. This fact he confessed to the Rev. Mr. Wagstaff, before his escape from the condemned-cell of Newgate.

Sheppard had a brother named Thomas, a carpenter by profession, though a notorious thief and housebreaker by practice. Thomas being committed to Newgate for breaking open the house of Mrs. Mary Cook, a linen-draper in Clare-street, Clare-market, on the fifth of February, and stealing goods to the value of between

50 and £60, he impeached his brother John Sheppard and Edgworth Bess, as being concerned with him in this burglary; and these three were also charged with being concerned together in breaking into the house of Mr. William Phillips, in Drury-lane, and stealing divers goods, the property of Mrs. Kendrick, a lodger in the house, on the 14th of the said February.

Sheppard now committed robberies every where at discretion; but one day meeting with his old acquaintance James Sykes, alias Hell and Fury, some times a chairman, and at others a running footman; Sykes invited him to go to one Redgate's, a victualling-house near the Seven Dials, to play at skittles; Sheppard complied, and Sykes secretly sent for Mr. Price, a constable in St. Giles's parish, and charged him with his friend Sheppard, for robbing Mrs. Cook, &c. Sheppard was carried before Justice Parry, who ordered him to St. Giles's round-house till the next morning, for farther examination; he was confined in the upper part of the place, being two stories from the ground, but ere two hours came about, with the half of a razor, and the stretcher of a chair, he broke open the top of the round-house, and tying together a sheet and a blanket, by them descended into the church-yard and escaped.

On the 19th of May in the evening, Sheppard with another robber named Benson, were passing through Leicester-fields, where a gentleman stood accusing a woman with an attempt to steal his watch; a mob was gathered about the disputants, and Sheppard's companion being a master, got in amongst them, and actually picked the gentleman's pocket of his watch: the scene was surprizingly changed from an imaginary robbery to a real one, and in a moment ensued the outcry of Stop Thief! Sheppard and Benson took to their heels, and Sheppard was seized by a serjeant of the guard at Leicester-house, crying out stop thief! with much earnestness. He was conveyed to St. Ann's round-house in Soho, and kept secure till the next morning, when Edgworth Bess came to visit him, who was seized also; they were carried before Justice Walters, when several people in Drury-lane and Clare-market appeared, and charged them with the robberies aforementioned; but Sheppard pretending to impeach certain of his accomplices, the justice committed them to

New-Prison, with an intent to have them soon removed to Newgate, unless there came from them some useful discoveries.

He and his mate were now in a strong and well guarded prison, himself loaded with a pair of double links and basils of about 14lb. weight, and confined together in the safest apartment called Newgate-ward. Sheppard, conscious of his crimes, and knowing the information he had made would avail him nothing, began to meditate an escape. They had been thus detained for about four days, and their friends having the liberty of seeing them, furnished him with implements proper for his design: accordingly Sheppard went to work, and on the 25th of May, being Whitsun-Monday, at about two o'clock in the morning, he had completed a practicable breach, and sawed off his fetters; having with surprising diligence and dexterity cut off an iron bar from the window, and taken out a bar of the most solid oak of about nine inches in thickness, by boring it through in many places, a work of great skill and labour: they were still five and twenty feet from the ground; when Sheppard fastened a sheet and blanket to the bars, and making Edgworth Bess take off her gown and petticoat, sent her out first; he followed. They were now in a yard, but had a wall of twenty-two feet to scale before their liberty was perfected. Sheppard, far from being unprepared to surmount this difficulty, had his gimblets and piercers ready, and made a scaling ladder. While the keepers and prisoners of both places were asleep, he took up his companion, and in less than ten minutes carried both her and himself over the wall, and completed an entire escape.

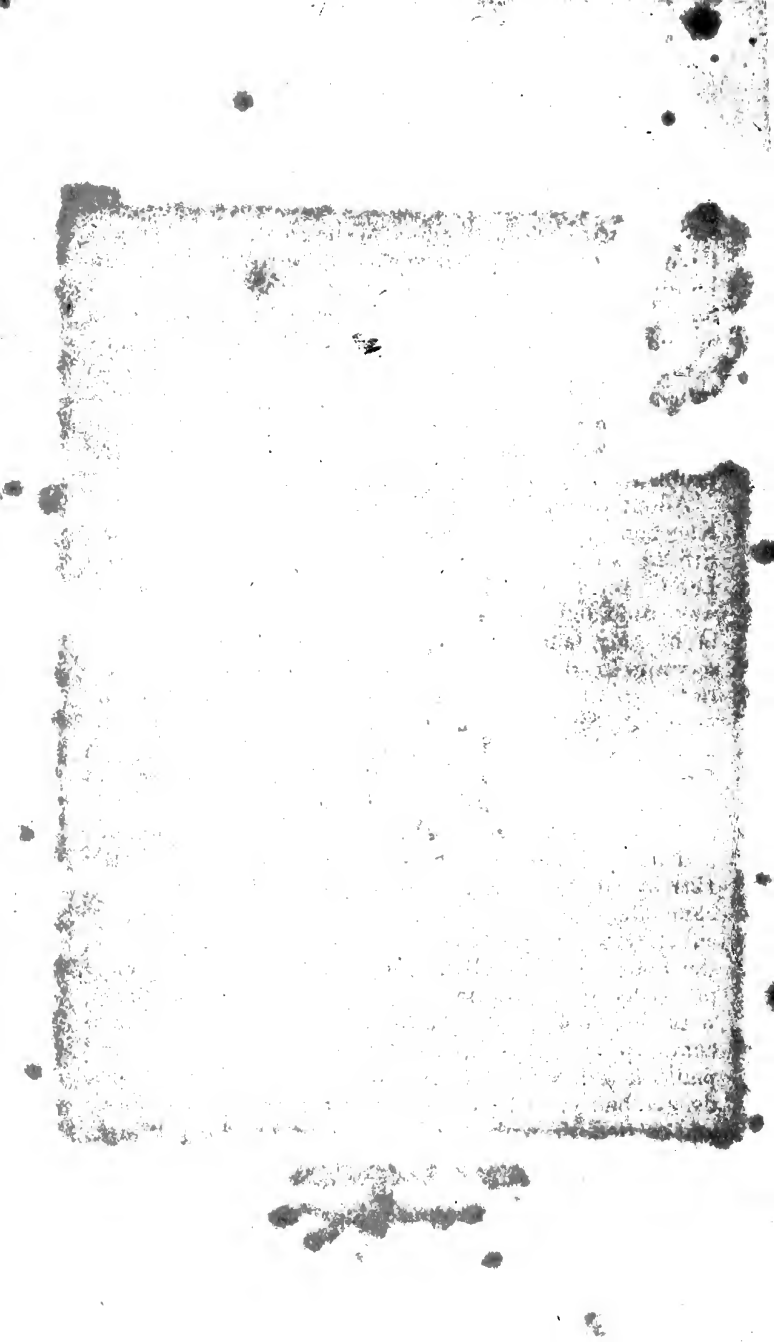
Sheppard, not warned by this escape, went secretly into his master Wood's neighbourhood in Wych-street, and concerted measures with one Anthony Lamb, for robbing Mr. Barton, who lodged in Mr. Carter's house. Charles Grace, a cooper, was let into the secret, and resolved to act his part; the 16th of June was appointed, when Lamb accordingly let Grace and Sheppard into the house at midnight, and they all went up to Mr. Barton's apartment, well armed with pistols, and entered his rooms without being disturbed. Grace was posted at Mr. Burton's bed-side with a loaded pistol, with positive orders to shoot him through the head in case he



Walt & Dobson 6. 652 Strand.

JACK SHEPPARD.

in Special Irons.



awoke; Sheppard being engaged in opening the trunks and boxes the mean while. They carried off, in notes, bonds, guineas, clothes, and other property, to the value of between two and three hundred pounds, besides a paduesoy suit of clothes, worth about 18 or £20. Grace and Sheppard having disposed of the goods at an alehouse, took their flight, and Grace was not heard of afterwards. Lamb was apprehended and carried before Justice Newton, and there made an ample confession; and there being nothing but that against him at his trial, and withal a favourable prosecution, he came off with a sentence of transportation only: he, as well as Sheppard, confirmed all the above particulars, and with this addition, viz. that it was debated among them to have murdered all the people in the house, except one person.

About the latter end of the same month, June, Mr. Kneebone, a woollen-draper near the New-church in the Strand, received a caution from the father of Anthony Lamb, intimating to Mr. Kneebone that his house was intended to be broken open and robbed that night. Mr. Kneebone prepared for the event, ordered his servants to sit up, and gave directions to the watchman in the street to observe his house. About two in the morning, Sheppard and his gang were about the door, a maid-servant went to listen, and heard one of the wretches say, D—n him, if they could not enter that night they would another, and would have £300 of his (meaning Mr. Kneebone's) money. They then went off, and nothing more was heard of them till Sunday the 12th of July following, when William Field (as he swore) came about twelve o'clock at night, and cut two large oaken bars over the cellar window, at the back part of the house in Little Drury-lane, and so entered. They proceeded to open a door at the foot of the cellar stairs, with three bolts, and a large padlock upon it, and then came up into the shop and wrenched off the hasp and padlock that went over the press, and arrived at their desired booty. They continued in the house three hours, and carried off with them one hundred and eight yards of broad woollen cloth, five yards blue baize, a light tie wig, and a beaver hat, two silver spoons, a handkerchief, and a penknife, in all to the value of £50.

The Sunday following, being the 19th of July, Sheppard and Blueskin were out upon the Hampstead

road, and there stopped a coach with a lady's maid in it, from whom they took but half a crown, being all the money she then had about her.

The next night they stopped a stage-coach, and took from a passenger in it twenty shillings; and were so expeditious in the matter, that not two words were exchanged.

Sheppard's long and wicked course was now drawing to a period. Mr. Kneebone had applied to Jonathan Wild, and set forth advertisements in the newspapers, describing this robbery. On Tuesday the 22d of July, at night, Edgeworth Bess was taken in a public-house near Temple-bar, by Jonathan Wild; when, being much terrified, she discovered where Sheppard was: a warrant was accordingly issued by Justice Blackerby, and the next day he was apprehended at the house of Blue-skin's mother, in Rosemary-lane, by one Quilt, a servant of Wild's, though not without great opposition; for he clapped a loaded pistol to Quilt's breast, and attempted to shoot him, but the pistol missed fire. He was brought back to New-Prison, confined in the dungeon, and the next day carried before Justice Blackerby. Upon his examination he confessed the three robberies on the highway aforementioned; as also the robbery of Mr. Baines, Mr. Barton, and Mr. Kneebone: he was committed to Newgate, and at the Sessions of Oyer and Terminer, and gaol delivery, holden at the Old Bailey, on the 12th, 13th, and 14th of August, and was tried upon three several indictments, viz.

John Sheppard, of the parish of St. Martin's-in-the-fields, was indicted for breaking into the house of William Phillips, and stealing divers goods, the 14th of February; but, there not being sufficient evidence against the prisoner, he was acquitted.

He was indicted a second time, of St. Clement's Danes, for breaking into the house of Mary Cook, the 5th of February, and stealing divers goods; but the evidence against the prisoner being defective as to this indictment also, he was acquitted.

He was indicted a third time, of St. Mary Savoy, for breaking into the house of William Kneebone, in the night time, and stealing 108 yards of woollen cloth, the 12th of July.

The *Prosecutor* deposed, that the prisoner had some time since been his servant; and when he went to bed, the time mentioned in the indictment, about eleven o'clock at night, he saw all the doors and windows fast; but was called up about four in the morning, and found his house broke open, the bars of the cellar window having been cut, the bolts of the door that comes up stairs drawn, the padlock wrenched off, the shutter in the shop

broken, and his goods gone; whereupon suspecting the prisoner, he having committed ill actions thereabouts before, he acquainted Jonathan Wild with it, and he procured him to be apprehended: that he went to the prisoner in New-Prison, and asking him how he could be so ungrateful to rob him after he had shewn him so much kindness? The prisoner owned he had been ungrateful in so doing, informing him of several circumstances as to the manner of committing the robbery; but said, he had been drawn into it by ill company.

Jonathan Wild deposed, the prosecutor came to him, and desired that he would enquire after his goods that had been stolen, telling him he suspected the prisoner to have been concerned in the robbery, he having before committed some robberies in the neighbourhood: that enquiring after him, and having heard of him before, he was informed that he was an acquaintance of Joseph Blake, alias Blueskin, and William Field, whereupon he sent for William Field, who came to him; upon which he told him, if he would make an ingenuous confession, he believed he could prevail with the Court to make him an evidence: that he did make a discovery of the prisoner, upon which he was apprehended, and also of others since convicted, and gave an account of some parcels of the cloth, which were found accordingly.

William Field deposed, that the prisoner told him, and Joseph Blake, that he knew a ken where they might get something of worth: that they went to take a view of the prosecutor's house, but disapproved of the attempt, as not thinking it easy to be performed; but the prisoner persuaded them that it might easily be done, he knowing the house, and having lived with the prosecutor: that thereupon he cut the cellar bar, went into the cellar, got into the shop, and brought out three parcels of cloth, which they carried away. The prisoner had also confessed the fact when he was apprehended, and before the justice: the fact being plainly proved, the jury found him GUILTY of the indictment.

Sentence of death was passed upon him accordingly. Several other prosecutions might have been brought against him, but this was thought sufficient to rid the world of so capital an offender: he begged earnestly for transportation to the most extreme part of his majesty's dominions; and pleaded youth and ignorance, as the motive which had precipitated him into the guilt; but the Court, deaf to his importunities, as knowing him and his repeated crimes to be equally flagrant, gave him no satisfactory answer. He returned to his dismal abode, the condemned-cell, where were nine more unhappy wretches in as dreadful circumstances as himself. The Court being at Windsor, the malefactors had a longer respite than is usual; during that recess, Harman, Davis, and Sheppard, agreed upon an escape, concerted measures, and provided instruments. Davis gave Sheppard watch-springs, files, saws, &c. to effect his own release,

and knowing that a warrant was hourly expected for his execution with two others on the Friday following, he thought it high time to look about him : whilst his companions were having their fetters taken off, to go to the tree, he began to saw ; Saturday he proceeded, but on Sunday discontinued, on account of the concourse in the lodge. Edgworth Bess having been set at liberty, had frequent access to him, with others of his acquaintance. On Monday the death warrant came from Windsor, appointing that he, together with Joseph Ward and Anthony Upton, should be executed the Friday following, being the 4th of September. Edgworth Bess and another woman had been stationed at the door of the condemned-cell during the afternoon. Between five and six, he desired the other prisoners, except Stephen Fowles, to remain above, while he offered something in private to his friends at the door ; they complied, and in this interval he got the spike asunder, which made way for him to pass with his heels foremost, by the assistance of Fowles.

Having now got clear of his prison, he took coach at the corner of the Old Bailey, with a man who waited for him in the street, and supposed to be one Page, a butcher, ordering the coachman to drive to Blackfriars-stairs, where his prostitute joined him, and the three took boat, went ashore at the Horse-ferry at Westminster, and at the White Hart they went in and drank, and staid some time ; from thence they adjourned to a place in Holborn, where, by the help of a saw he quitted the chains he had brought with him from Newgate, and then rambled through the city, and came to Spital-fields.

On Tuesday he sent for William Page, in Clare-market. Sheppard bought him a new blue butcher's frock, and another for himself, and both started for Warden in Northamptonshire, where they called on a relation of Page's ; Sheppard pretending to be a butcher's son in Clare-market, who was going farther into the country to his friends, and that Page was so kind as to accompany him. But the butchers having only one shilling left, after a stay of three or four days, they returned to London, on Tuesday the 8th of September. In the evening they came into Fleet-street, about eight o'clock, and observing Mr. Martin's, a watch-maker's shop,

to be open, Page went in, and asked whether Mr. Taylor, a watchmaker, lodged in the house? Being answered in the negative, he came out, and reported the disposition of the place. Sheppard now fixed a nail-piercer into the door-post, fastened the knocker thereto with packthread, broke the glass, and took out three silver watches of 15*l.* value! The shop-boy saw him take them, but could not get out to pursue him, by reason of his contrivance. The same night they came into Wych-street, Sheppard going into his master's yard, and calling for his fellow-apprentice, his mistress heard him, knew his voice, and was much frightened: he went next to the Cock and Pye alehouse, in Drury-lane; drank brandy and ate oysters before several people. Page waited all this time at the door, the whole neighbourhood being alarmed, yet none durst attack him, for fear of pistols.

The same night he had a narrow escape; one Mr. Ireton, a sheriff's officer, seeing him and Page pass through Drury-lane, about ten o'clock, pursued them, and laid hold of Page instead of Sheppard, who got off; thus Ireton, missing the main man, and thinking Page of no consequence, let him go after him.

Meanwhile, Edgworth Bess had been apprehended by Jonathan Wild, and by Sir F. Forbes, one of the Aldermen of London, committed to the Poultry-compter, for aiding and assisting Sheppard in his escape.

The householders in the Strand, Wych-street, and Drury-lane, whom he had robbed, and who had prosecuted him, were under great apprehension and terror; particularly Mr. Kneebone, on whom he vowed revenge, because he had refused to sign a petition in his behalf to the Recorder of London. This gentleman kept armed men in his house every night, till Sheppard was retaken. Several other shopkeepers in that neighbourhood were also put to great expense and trouble, to guard themselves against this villain.

The keepers of Newgate, whom the world loaded with infamy, stigmatized and branded with the title of persons guilty of bribery, for conniving at his escape, spared neither money nor time, in their search for Sheppard. At length, having learned that his haunt was about Finchley-common, and being very well informed of

the house where he lay, on Thursday the 10th of September, a posse of armed men started for Finchley; they dispersed themselves upon the Common, where they had not been long ere they saw Sheppard, in company with William Page, dressed like two butchers, in new blue frocks, with white aprons tucked round their waists.

Upon Sheppard's seeing Mr. Langley, one of the head turnkeys of Newgate, he said to his companion, 'Page, I spy a stag;' however, to make their flight as secure as they could, they thought it advisable to take to a foot-path, to cut off the pursuit of the Newgate cavalry; but this did not prove successful; Mr. Langley came up with Page, (who was hindermost,) and dismounting with pistol in hand, commanded Page to throw up his arms, which he tremblingly did; having disarmed him, he took him with him in quest of Sheppard, who had taken shelter in an old stable belonging to a farm-house; the pursuit was close, the house searched, and a girl discovered him. Mr. Austin, a turnkey, first attacked his person, Mr. Langley seconded him, and Ireton, an officer, completely secured him: upon searching him, they found a broad knife, with two of the watches that he had taken out of Mr. Martin's shop, one under each armpit.

They adjourned with their booty to a spot, where there was a coach-and-four waiting to convey them to town; where Sheppard arrived in the afternoon. On his alighting, he made a sudden spring, his intention being (as he declared) to have slipped under the coach, and have a race for it; he was put into the condemned-cell, and chained down to the floor, with double basils about his feet, &c. Page was carried before Sir Francis Forbes, and committed to the same prison, for accompanying and aiding Sheppard in his escape.

He was continually meditating a second escape, as appeared by his own hardiness, and the instruments found upon him, on Saturday the 12th, and Wednesday the 16th of September; the first time a small file was found concealed in his bible, and the second time two files, a chisel, and a hammer, were found concealed in the rushes of a chair.

It was thought necessary by the keepers to remove

him from the condemned-cell to a place called the Castle, in the body of the gaol, and to chain him down to two large iron staples in the floor.

On Saturday, the 10th of October, Anthony Lamb and Thomas Sheppard, with ninety-five other felons, were carried from Newgate on shipboard, for transportation to the Plantations; the last begged to have an opportunity given him of taking his final leave of his brother John, but this was not to be granted; and the greatest favour that could be obtained was, that on the Sunday before they had an interview at the chapel, but at such a distance, that they neither saluted, nor shook hands; that no implements might be conveyed to Sheppard to assist him in making an escape. This caution seemed to be absolutely necessary; for it appeared soon after, that Sheppard found means to release himself from the staples to which he was chained in the castle, by unlocking a great padlock with a nail, which he had picked up on the floor. He endeavoured to pass up the chimney, but was prevented by the stout iron bars fixed in his way, and wanted nothing but the smallest file to have perfected his liberty.

The felons on the common-side of Newgate, animated by Sheppard's example, the night before they were to be shipped for transportation, had cut several iron bars asunder, and some of them had sawed off their fetters, the rest huzzaing, and shouting under pretence of being joyful that they were to be removed on the morrow, to prevent the workmen being heard; and in two hours time more, if their design had not been discovered, near one hundred villains would have escaped. Sheppard was by himself in the strong room called the castle, meditating his own deliverance, which he perfected in the manner following:—

On Thursday the 15th of October, between one and two in the afternoon, Mr. Austin, one of the head turnkeys, went to Sheppard in the strong room called the Castle, with his necessaries, as was his custom every day; there went along with him Captain Geary, the keeper of New-Prison, Mr. Gough, of the Gate-house in Westminster, and two other gentlemen. Mr. Austin strictly examined his fetters and handcuffs, and found them very safe; he ate his dinner, and talked with his usual gaiety to the company; they then took leave of

him, and wished him a good evening. The Court sitting at the Old-Bailey, the keepers and most of the servants were attending there with their prisoners.

The same night, soon after twelve o'clock, Mr. Bird, who kept a turner's shop adjoining Newgate, was disturbed by the watchman, who found his street door open, and called up the family; but they concluding the accident was owing to the carelessness of some person in the house, shut their doors and went to bed again.

The next morning, Friday, about eight o'clock, Mr. Austin went up as usual to wait on Sheppard, and having unlocked and unbolted the double doors of the castle, he beheld almost a cart-load of bricks and rubbish about the room, and his prisoner gone.

The whole posse of the prison ran up, and stood like men deprived of their senses; their surprise being over, they were in hopes that he might not have yet entirely made his escape, and got their keys to open all the strong rooms adjacent to the castle, in order to trace him, when to their farther amazement, they found the doors already opened, and the strong locks, screws, and bolts, broken in pieces and scattered about the gaol. Six great doors (one whereof having not been opened for seven years past) were forced, and it appeared, that he had descended from the leads of Newgate by a blanket (which he fastened to the wall,) on the house of Mr. Bird; and, the door of the leads being left open, it was concluded that he passed directly to the street-door down the stairs, Mr. Bird and his wife hearing a noise on the stairs as they lay in their bed, a short time before the watchman alarmed the family.

He had not been many days at liberty, before he wrote the following letter; and, dressing himself at night like a porter, went to Mr. Applebee's house in Blackfriars, and left it with his maid servant:—

“Mr. APPLEBEE,—This with my kind love to you, and pray give my kind love to Mr. Wagstaff, hoping these few lines will find you in good health, as I am at present; but I must own you are the loser for want of my dying speech. But, to make up your loss, if you think this sheet worth your while, pray make the best of it. Though they do say that I am taken among the smugglers, and put into Dover-castle, yet I hope I am among smugglers still. So no more, but
Your humble servant,

JOHN SHEPPARD

P.S.—And I desire you would be the postman to my last lodging, so farewell, now I quit the English shore.”

In a few nights after leaving this letter, he broke open a shop in Monmouth-street, and stole some wearing apparel. On the 29th of October he broke open the house of Robert Rawlins, a pawnbroker in Drury-lane, from whence he took a sword, a suit of apparel, several snuff-boxes, rings and watches, and other goods to a considerable value.

Jack now resolved to appear like a gentleman among his old friends in Drury-lane and Clare-market. He strutted about in a fine suit of black, a light tie-wig, and a ruffled shirt, with a silver-hilted sword by his side, a diamond ring on his finger, and a gold watch in his pocket, notwithstanding he knew there was diligent search made after him.

On the 31st of October he dined with his two women, named Cook and Keys, at a public-house in Newgate-street, where they were very merry together. About four in the afternoon, they took a coach, and, drawing up the windows, passed through Newgate, to an alehouse in Maypole-alley, near Clare-market, where in the evening he sent for his mother, and treated her with part of three quarters of brandy. As she knew the danger he was in, she advised him to take care of himself, and keep out of the way: but Jack had been drinking hard, and was grown too wise to take counsel; and therefore, leaving his mother, he strolled about in the neighbourhood from alehouse to gin-shop, till near twelve o'clock, when he was apprehended by means of an alehouse-boy, who recognized him. He was so intoxicated as to be unable to make any resistance, and was once more conveyed in a coach to Newgate.

On the 10th of November he was carried to the King's-Bench bar at Westminster, where the record of his conviction being read, and an affidavit made that he was the same John Sheppard mentioned in that record, Mr. Justice Powis awarded sentence of death against him, and a rule of court was made for his execution on the Monday following.

The day came, but Jack had still some hopes of eluding justice. Some person had furnished him with a penknife; this he put naked in his pocket, with the point upwards, and his design was to lean forward in the cart, and cut asunder the cord that tied his hands together,

and then, when he came near Little Turnstile, to throw himself over among the crowd, and run through the narrow passage, where the officers could not follow on horseback, but must be forced to dismount; in the mean time he doubted not, but, by the mob's assistance, he should make his escape. But this scheme was discovered in the press-yard in Newgate, just as he was going into the cart, though it was not prevented without some loss of blood; one Watson, an officer, too incautiously examining Jack's pockets, unluckily cut his own fingers.

Sheppard had still another project in his head. He earnestly desired some of his acquaintance, that, after his body was cut down, they would, as soon as possible, put it into a warm bed, and try to let him blood; for he said, he believed if such care was taken, they might bring him to life again.

He was hanged at Tyburn, on Monday, November 16, 1724, in the 23d year of his age. He died with great difficulty, and much pitied by the people. When he had hung about a quarter of an hour, he was cut down by a soldier, and delivered to his friends, who buried him the same evening in St. Martin's Church-yard.

Sheppard was for a considerable time the common subject of conversation. Seven different histories of his life were published in his time, and several copper-plates, representing the manner of his escapes out of the condemned-hold, and the Castle in Newgate. The principal of the portraits was a mezzotinto, done from the original picture, painted by Sir James Thornhill, on which occasion the following stanzas were printed in the British Journal of November 28, 1724:—

Thornhill, 'tis thine to gild with fame
Th' obscure, and raise the humble name;
To make the form elude the grave,
And Sheppard from oblivion save.

Tho' life in vain the wretch implores,
An exile on the farthest shores,
Thy pencil brings a kind reprieve,
And bids the dying robber live.

This piece to latest time shall stand,
And shew the wonders of thy hand.
Thus former masters grac'd their name,
And gave egregious robbers fame.

Apelles Alexander drew,
 Cæsar is to Aurellius due,
 Cromwell in Lilly's works doth shine,
 And Sheppard, Thornhill, lives in thine.

Sheppard's adventures were dramatized; and, for some time, became the leading subject of many pulpit invectives.

HUGH REASON AND ROBERT TRANTER,

FOR MURDER.

AT THE KING'S BENCH BAR, FEBRUARY 3, 1721.

THE indictment set forth,

That Hugh Reason and Robert Tranter, on the 17th of October then last past, at the Parish of St. Clement Danes, in the county of Middlesex, feloniously, and of their malice aforethought, made an assault upon Edward Lutterell, Esq. and that the said Hugh Reason, with a pistol charged with powder and ball, did shoot the said Edward Lutterell, giving him one mortal wound under the right pap, of the breadth of one inch, and the depth of nine inches, of which wound he languished until ten o'clock in the evening, and then died; and that the said Robert Tranter was present, aiding and abetting the said Hugh Reason to commit the said murder, against the King's peace, &c.

The case was thus: as Capt. Lutterell was going from his lodgings in Surrey-street to take water, he was arrested for £10 by the prisoners Reason and Tranter; and he telling them that, if they would go home with him, he would pay the money; they did so, and Reason went up with the Captain into his dining-room, while Tranter was sent for the attorney's bill of costs: in the mean time, Mr. Lutterell going up another pair of stairs, to fetch the money, (as it is presumed,) and leaving Reason in the dining-room, came down stairs again with a brace of loaded pistols in his breast; but, upon his maid's persuasion, laid them down on the table, and said, he designed no hurt. However, Tranter returning again, high words arose between the deceased and the bailiffs; and the deceased threatened them, and struck one of them with his cane; whereupon Tranter ran the deceased against the wainscot, and Reason stabbed him: they also got possession of his pistols, and shot him; and throwing him down upon the floor, gave him nine or ten wounds afterwards with his own and Reason's sword. A cry of murder was now set up, and people came in and

apprehended the bailiffs; one of whom was wounded in the arm with a brace of balls, and they had some other slight wounds about them.

Mr. Lutterell living some hours after this rencounter, declared, before Mr. Peters, who administered the sacrament to him, and others, as he lay dying, that the bailiffs took the pistols from his table, and fired both of them; that the fat man drew his sword, and ran him through the body, and then drew his (Lutterell's) sword, which he (Lutterell) broke in the bailiff's hand, and begged for life: that he (Lutterell) neither fired a pistol nor made one push; that they both ran him through, though he offered to pay them the money; but, he said, they had given him abusive language, which induced him to strike one of them; and upon that, they immediately seized him, tumbled him down, and stabbed him: that he begged them to spare his life; but one of them said, "d—n him, draw his sword and stab him."

The Chief Justice in summing up the evidence, observed, That the prisoners had been so civil on the arrest, as to carry Mr. Lutterell to his own lodging; a circumstance, he confessed, that made some impression on him: it was what bailiffs were not bound to do; they were usually rough, and not easy to be entreated, unless well paid for it: they were too favourable in trusting him in his own lodging; and it was still a greater piece of civility, in sending Tranter for the Attorney's bill, and staying alone with him, this was extreme civil usage, and was not often done by men of their character: nay, Reason suffered him to go up stairs into another room, when his partner was gone; this shewed excessive favour to their prisoner, which they could not in strictness justify: and Mr. Lutterell's bringing down a brace of pistols, seemed to be an untoward return for their civility: indeed the maid servant deposed, That he said he had no malice towards them, and would not hurt a hair of their heads; he only brought down the pistols that he might not be imposed upon. It seems as if he intended to frighten the officers, that they should not carry him away: it was the duty of the bailiffs to carry him off, and he brought down the pistols to prevent that; and he owned that he gave one of the bailiffs a blow on the head with his stick; and the bailiffs say, in their justification, that the assault began on his side. It appeared by the evidence,

beyond contradiction, that the pistols were brought down with a design to prevent his being carried off, and that he did give one of the bailiffs a blow with a stick. Upon the whole, he thought it was plain that the prisoners at the bar killed Mr. Lutterell; that, when Tranter had him against the wall, Reason stabbed him; and, when he was lying upon the floor, Reason stabbed him: and it appeared by another evidence that Reason, the stout man, shot off a pistol; so that he made no doubt but the prisoners at the bar gave Mr. Lutterell those wounds of which he died.

Then the question was whether, upon this evidence, the defendants were guilty of felony? and if guilty, then in what degree, whether murder or manslaughter?

Bailiffs were ministers of justice, armed with the authority of the law: and those who resisted a bailiff in the execution of his office, resisted the law: and, in executing their warrants, and doing what was necessary for that purpose, for obtaining their prisoner, or for the security of their own persons, if death ensued, the bailiffs having the authority of the law on their side, it was not so much as felony; and it was necessary it should be so, for without it, all their properties would be precarious.

The Jury withdrew, and returning into Court an hour afterwards, gave their verdict that the prisoners were guilty of Manslaughter; whereupon they prayed the benefit of their clergy, and were immediately burnt in the hand and discharged.

ARTHUR GRAY,

FOR BURGLARY.—DECEMBER, 1721.

ARTHUR GRAY was indicted for breaking and entering the dwelling-house of George Baillie, esq. in the parish of St. James's, Westminster, with an intent to ravish Grizel, the wife of Alexander Murray, on the first of October, 1721, in the night.

Council.—The prisoner stands indicted for a burglary, in breaking the house of George Baillie, esq. with an intent to ravish Mrs. Murray. The breaking and entering a mansion-house in the night, with an intent to

commit a felony, is burglary, whether the felony is committed or not. I am instructed, that the prisoner, (a servant to Lord Bennyng) on the 14th of October last, about four in the morning, broke open and entered the chamber of Mrs. Murray, went to her bed-side, with a sword in one hand, and a pistol in the other, and told her, he had long had a violent passion for her, but there being a vast disparity in their fortunes, he had no hopes of succeeding in his wishes, any other way than by force, and therefore he was fully resolved to obtain his desires, or to kill her. The lady, in great surprize, endeavoured to dissuade him from his purpose, but all in vain. He laid down his sword, in order to remove the bed-cloaths, but she prevented him by suddenly catching hold of his pistol with one hand, and ringing the bell with the other, which alarming the family, the prisoner ran away, but was afterwards taken, and confessed his guilt.

Mrs. Murray.—On the 14th of October, about four in the morning, the prisoner entered my room, with a pistol in one hand, and a drawn sword in the other. And coming up to my bed-side, he threatened to kill me if I made the least noise. I asked him, what he meant by coming into my chamber in such a manner? “Madam,” says he, “I mean to ravish you, for I have entertained a violent love for you a long time, but as there is so great a difference betwixt your fortune and mine, I despair of enjoying my wishes by any means but force.” I tried what I could do to put him off, but still persisting in his design, he laid the sword upon the bolster, and endeavoured to pull down the bed-cloaths. I begged him to delay till I had spoken with him farther. I used all the entreaties I could think of, and asked him if nothing would prevail with him to desist. “No,” said he, “I have ventured my life for your sake already, and therefore am resolutely bent to go through with my design, let the consequence be what it will. All the rest of the family are asleep, and if I lose this opportunity, I can never expect another. Your making a noise will signify nothing.—I must and will—.” And with that he once more attempted to take off the bed-cloaths: but I suddenly pushed him against the wall, wrenched the pistol out of his hand, and rung the bell, and thereupon he ran out. I followed him to the door, and cried murder.

Court.—How long was he in your chamber, madam?

Mrs. Murray.—About three quarters of an hour, for upon my calling out, my father and mother immediately came up, and then it wanted a quarter to five.

Prisoner.—Pray, madam, did — never come into your chamber, when all the family were a bed?

Mrs. Murray.—No, never.

Court.—If you have any question to ask, you ought to direct it to the Court, and the Court, if the question is proper, will require an answer from the witness. Your present question is

not at all proper, nor do I see of what service it can be to you. — The lady has given you a positive answer, but it was more than she needed to have done.

Prisoner.—My Lord, I shall ask nothing but what I think may do me some service, when I come to make my defence.—I beg your Lordship would ask Mrs. Murray, if her chamber-door was constantly locked at night?

Court.—You hear the question, madam.

Mrs. Murray.—It was always shut, but not always locked.

Prisoner.—Did you never rise out of bed to lock it, when — has been in the room?

Court.—You must not go on thus.

Mrs. Murray.—I have told you already that — never was in the room.

Elizabeth Trimmel.—I attended Mrs. Murray to-bed, about one in the morning, and shut the door after me. But, going by about three, I found it open: I shut it again, and left it shut, and believe it was fast.

Prisoner.—What kind of lock was it?

E. T.—A brass spring lock.

Prisoner.—Was there a key in it?

E. T.—No; it opened and shut with a brass knob.

Prisoner.—But don't you know that the lock was faulty, was difficult to be made fast, and would after slip back and open of itself?

E. T.—The spring indeed was bad.

Prisoner.—And might not that be the occasion of the door's being open, when you came to it the second time?

E. T.—I cannot say but it might.—But I am pretty sure that I locked it fast at the second time.

Prisoner.—I suppose you thought you had made it as fast the first time.

E. T.—I cannot be so certain of that.

Prisoner.—Don't you know that — has taken leave of the ladies, and waited in a dark room, till the rest of the company were a-bed, and then gone into — chamber, and staid there two or three hours?

Council.—You will do yourself no service by this behaviour. You have been told, that you ought to propose your questions to the Court.

JAMES PARKS sworn.

James Parks.—I heard a noise about five o'clock in the morning, and thought there had been thieves in the house, and so I jump't out of bed, and ran down stairs in my shirt; but, finding nobody below, I went up again, and met Lady Grizel Baillie, and Mrs. Murray, at the stairs-head, and Mrs. Murray said, "The rogue is just gone out of the room, and run down stairs," and Lady Baillie told me, that Arthur had endeavoured to ravish her daughter Mrs. Murray: I went afterwards to look for the prisoner, and so I met Mr. Hays: he shewed me a key, and asked me if I knew it. I said, yes; and then said Hays, "If you will come along with me, I will bring you to the owner of it." I followed him into a room in his house, and, upon his bed, I found

the prisoner lying without his hat and shoes. Thomas Hughes came in soon after me. I asked the prisoner, if he went into Mrs. Murray's chamber with an intent to lie with her? He said, "Yes." "And what possessed you to do it," said I. "Why," said he again, "I believe the devil possessed me." "What!" was you drunk?" said I, "No," said he, "I cannot say that I was."

Thomas Hughes.—I got up at hearing the noise, and took a blunderbuss in my hand, as thinking some rogues were got into the house; but I was soon informed, that the prisoner had made the disturbance, by going into Mrs. Murray's room with a sword and pistol. I went in search of him, and between eight and nine in the morning, I found him upon Mr. Hay's bed, with neither shoes nor hat. I heard him own, that he went into Mrs. Murray's room, and that he was sorry for it; but I do not remember that he said he went in, with an intent to ravish her, or that I heard Parks ask him on what account he went in.

The prisoner's confession before Justice Blagney was then read, in which he acknowledged, that "He opened and entered the chamber of Mrs. Murray, with a design to ravish her, and that he brought the sword and pistol to put her in fear, and oblige her to comply. And several of his letters were produced in Court, in one of which, directed to the honourable and most Christian Lady Bennyng, in Great Marlborough-street, he says: "I must acknowledge my fault, and pray forgiveness of God, and the lady of the family whom I have offended."

The Prisoner's Defence.

Prisoner.—I had been making merry abroad with some of my fellow-servants, and came home much disordered with liquor, and, going up stairs to bed without my shoes, (as I usually did,) I thought I heard a noise of somebody in Mrs. Murray's room, upon which I went down and fetched up a sword and pistol, and Mrs. Murray's door standing a-jar, I went in, and laying down my arms to look behind the bed, Mrs. Murray rung the bell and alarmed the family.

My Lord, by what has been sworn both by this witness and Elizabeth Trimnel, I think there is a probability that the door was open, at least there appears no proof of the contrary, and if it was open, I cannot be guilty of breaking into the room; my life depends upon this one circumstance, and therefore I humbly hope your Lordship and the Jury will take it into consideration.

All the witnesses for the prisoner gave him the character of a youth of a civil and modest behaviour.

The Jury, after about an hour's consideration, brought in their verdict guilty of the indictment.—*Death.*

Great interest was exerted in his behalf, and he was

afterwards reprieved, and many ballads and poems were written on the occasion, among which, one called

Virtue in Danger : or, a Lamentable Story how a virtuous Lady had like to have been ravished by her Sister's footman.

To the Tune of The Children in the Wood.

Written by LADY MARY WORTLEY MONTAGUE.

Now ponder well, ye ladies fair,
These words that I shall write ;
I'll tell a tale shall make you stare,
Of a poor lady's fright.

She laid her down all in her bed,
And soon began to snore,
It never came into her head
To lock her chamber door.

A footman of her sister dear,
A sturdy Scot was he,
Without a sense of Godly fear,
Bethought him wickedly.

Thought he, this lady lies alone,
I like her comely face,
It would most gallantly be done,
Her body to embrace.

In order to this bold attempt,
He ran up stairs apace ;
While she, poor lady, nothing dreamt,
Or, dreamt it was *his Grace*.

The candle flaming in her eyes,
Made her full soon awake ;
He scorned to do it by surprize,
Or her a-sleeping take.

A sword he had, and hard by it,
A thing appeared withal,
Which we for very modesty,
A pistol chuse to call.

This pistol in one hand he took,
And thus began to woo her ;
Oh ! how this tender creature shook,
When he presented to her.

Lady, quoth he, I must obtain,
For I have lov'd thee long ;
Would you know how my heart you gain'd ?
You had it for a song.

Resolve to quench my present flame,
 Or you shall murder'd be ;
 It was those pretty eyes, fair dame,
 That first have murder'd me.

The lady look'd with fear around,
 As in her bed she lay ;
 And tho' half dying in a swoon,
 Thus to herself did say.

Who rashly judge, (it is a rule)
 Do often judge amiss ;
 I thought this fellow was a fool,
 But there's some sense in this.

She then recover'd heart of grace,
 And did to him reply,
 Sure Arthur you've forgot your place,
 Or know not that 'tis I.

Do you consider who it is,
 That you thus rudely treat ?
 'Tis not for scoundrel scrubs to wish
 To taste their master's meat.

Oh! Arthur, cover me (she said)
 Or sure I shall get cold ;
 Which presently the rogue obey'd,
 He could not hear her scold.

He laid his sword close by her side,
 Her heart went pit-a-pat ;
 You've but one weapon left, (she cry'd)
 Sure I can deal with that.

She saw the looby frighted stand,
 Out of the bed jump'd she,
 Catch'd hold of his so furious hand,
 A sight it was to see !

His pistol band she held fast clos'd,
 As she remembers well ;
 But how the other was dispos'd
 There's none alive can tell.

The sword full to his heart she laid,
 But yet did not him slay,
 For when he saw the shining blade,
 God wot, he ran away.

When she was sure the knave was gone,
 Out of her father's hall,
 This virtuous lady straight began
 Most grievously to bawl.

In came Pawpaw and Mawmaw dear,
 Who wonder'd to behold;
 Oot Grisee,* what a noise is here,
 Why stond you in the cold?

Mawmaw she said, (and then she wept,)
 I have a battle won;
 But if that I had soundly slept,
 My honour had been gone.

A footman of my sister, he——
 A footman! cry'd Mawmaw,
 Dear daughter this must never be,
 And we not go to law.

This lady's fame shall ever last,
 And live in British song,
 For she was like Lucretia, chaste,
 And eke was much more strong.

* The lady's name was Grissel.

JOHN MILES,
 FOR MURDER.

WILLIAM RIDLEY kept the Red Cow, a public house, at Exeter. John Miles was an old acquaintance of Ridley's, but they had not seen each other for some time (Miles living some distance off,) when they met one morning, as the latter was going a little way to receive some money. They adjourned to the next public-house, and, after drinking together, Ridley told Miles that he must go about the business which brought him from home, which was to receive a sum of money, but made him promise to wait for his coming back. Ridley returned, and they drank together again. Ridley now insisted upon Miles's accompanying him home to dinner.—They dined, they drank, they shook hands, repeated old stories, drank and shook hands again and again, as old acquaintances in the lower class, after long absences, usually do; in fine, they both got at last pretty much in liquor. The room they sat in was backwards, detached as it were from the house, with a door that went immediately into a yard, and had communication with the street, without passing through the house.

As it grew late, Mrs. Ridley at length came into the

room, and not seeing her husband there, made inquiry after him of Miles. Miles being much intoxicated, all that could be got out of him was, that Ridley went out into the yard some time before, as he supposed, on account of there being no chamber-pot in the room, and had not returned. Ridley was called, Ridley was searched after, by all the family; but neither answering, nor being to be met with, Miles, as well as he was able for intoxication, went his way.

Ridley not coming home that night, and some days passing without his returning, or being heard of, suspicions began to arise in the mind of Mrs. Ridley, of some foul play against her husband, on the part of Miles; and these were not a little increased on the recollection that her husband had received a sum of money that day, and that Miles had replied to her inquiries after him in a very incoherent, unintelligible, broken manner, which, at the time, she had attributed to his being in liquor. These suspicions went abroad, and at length a full belief took place in many, that Miles was actually the murderer of Ridley; had gone out with him, robbed and murdered him, disposed of the body, and slid back again to the room where they were drinking, unseen by any one.

The officers of justice were sent to take up Miles; and, he giving before the magistrate a very unsatisfactory relation of his parting with Ridley, which he affirmed was owing to his having been intoxicated when Ridley went out of the room from him, but which the magistrate ascribed to guilt, he was committed to Exeter gaol for trial.

Whilst Miles was in confinement, a thousand reports were spread, tending to warp the minds of the people against him. Supernatural, as well as natural, reasons, were alleged in proof of his guilt. Ridley's house was declared to be haunted! frequent knockings were heard in the dead of the night; two of the lodgers avowed they had seen the ghost! and, to crown the whole, an old man, another lodger, positively affirmed, that once at midnight his curtains flew open, the ghost of Ridley appeared all bloody! and, with a piteous look and hollow voice, declared he had been murdered, and that Miles was the murderer.

Under these prepossessions amongst the weak and superstitious, and a general prejudice even in the stronger

minds, was John Miles brought to trial for the wilful murder of William Ridley. *Circumstances* upon *circumstances* were deposed against him; and, as it appeared that Miles was with Ridley the whole day, both before and after his receiving the money, and that they spent the afternoon and evening together alone, the jury, who were neighbours of Ridley, found Miles guilty, notwithstanding his protestations, on his defence, of innocence; and he was shortly after executed at Exeter.

It happened, that, some time after, Mrs. Ridley left the Red Cow to keep another ale-house, and the person who succeeded her making several repairs in and about the house, in emptying the necessary, which was at the end of a long dark passage, the body of William Ridley was discovered. In his pockets were found twenty guineas, from whence it was evident he had not been murdered, as the robbing of him was the sole circumstance that could be and was ascribed to Miles for murdering Ridley. The truth of Miles's assertions and defence now became doubly evident; for it was recollected that the floor of the necessary had been taken up the morning before the death of Ridley, and that, on one side of the seat, a couple of boards had been left up; so, that, being much in liquor, he must have fallen into the vault, which was uncommonly deep; but which, unhappily, was not adverted to at the time of his disappearance!

WILLIAM SHAW,
FOR MURDER.—1721.

WILLIAM SHAW was an upholsterer, at Edinburgh, in the year 1721. He had a daughter, Catherine Shaw, who lived with him. She encouraged the addresses of John Lawson, a jeweller, to whom William Shaw declared the most insuperable objections, alleging him to be a profligate young man, addicted to every kind of dissipation. He was forbidden the house; but the daughter continuing to see him clandestinely, the father, on the discovery, kept her strictly confined.

William Shaw had, for some time, pressed his daughter to receive the addresses of a son of Alexander Robertson, a friend and neighbour; and one evening, being

very urgent with her thereon, she peremptorily refused, declaring she preferred death to being young Robertson's wife. The father grew enraged, and the daughter more positive; so that the most passionate expressions arose on both sides, and the words, "barbarity, cruelty, and death," were frequently pronounced by the daughter! At length he left her, locking the door after him.

The greatest part of the buildings at Edinburgh are formed on the plan of the chambers in our inns of court; so that many families inhabit rooms on the same floor, having all one common staircase. William Shaw dwelt in one of these, and a single partition only divided his apartment from that of James Morrison, a watch-case maker. This man had indistinctly overheard the conversation and quarrel between Catherine Shaw and her father, but was particularly struck with the repetition of the above words, she having pronounced them loudly and emphatically! For some little time after the father was gone out, all was silent, but presently Morrison heard several groans from the daughter. Alarmed! he ran to some of his neighbours under the same roof. These, entering Morrison's room, and listening attentively, not only heard the groans, but distinctly heard Catherine Shaw, two or three times faintly exclaim—"Cruel father, thou art the cause of my death!" Struck with this, they flew to the door of Shaw's apartment; they knocked—no answer was given. The knocking was still repeated—still no answer. Suspicions had before arisen against the father; they were now confirmed; a constable was procured, an entrance forced; Catherine was found weltering in her blood, and the fatal knife by her side! She was alive, but speechless: but, on questioning her as to owing her death to her father, was just able to make a motion with her head, apparently in the affirmative, and expired.

Just at the critical moment, William Shaw returned and entered the room. All eyes were on him! He saw his neighbours and a constable in his apartment, and seemed much disordered thereat; but, at the sight of his daughter he turned pale, trembled, and was ready to sink. The first surprise, and the succeeding horror, left little doubt of his guilt in the breasts of the beholders; and even that little was done away on the constable discovering that the shirt of William Shaw was bloody.

He was instantly hurried before a magistrate, and, upon the depositions of all the parties, committed to prison on suspicion. He was shortly after brought to trial, when, in his defence, he acknowledged the having confined his daughter to prevent her intercourse with Lawson; that he had frequently insisted on her marrying of Robertson; and that he had quarrelled with her on the subject the evening she was found murdered, as the witness Morrison had deposed: but he averred, that he left his daughter unarmed and untouched; and that the blood found upon his shirt was there in consequence of his having bled himself some days before, and the bandage becoming untied. These assertions did not weigh with the jury, when opposed to the strong circumstantial evidence of the daughter's expressions, of "barbarity, cruelty, death," and of "cruel father, thou art the cause of my death,"—together with that apparently affirmative motion with her head, and of the blood so seemingly providentially discovered on the father's shirt. On these several concurring circumstances, was William Shaw found guilty, and executed, and was hanged in chains, at Leith Walk, in November, 1721.

In August, 1722, as a man, who had become the possessor of the late William Shaw's apartment, was rummaging by chance in the chamber where Catherine Shaw died, he accidentally perceived a paper fallen into a cavity on one side of the chimney. It was folded as a letter, which on opening, contained the following:—
 "Barbarous Father, your cruelty in having put it out of my power ever to join my fate to that of the only man I could love, and tyrannically insisting upon my marrying one whom I always hated, has made me form a resolution to put an end to an existence which is become a burthen to me. I doubt not I shall find mercy in another world; for sure no benevolent being can require that I should any longer live in torment to myself in this! My death I lay to your charge: when you read this, consider yourself as the inhuman wretch that plunged the murderous knife into the bosom of the unhappy—CATHERINE SHAW."

This letter being shewn, the hand-writing was recognized and avowed to be Catherine Shaw's, by many of her relations and friends. The magistracy of Edinburgh, on a scrutiny, being convinced of its authenticity, they

ordered the body of William Shaw to be taken from the gibbet, and given to his family for interment; and, as the only reparation to his memory and the honour of his surviving relations, they caused a pair of colours to be waved over his grave, in token of his innocence.

BARBARA SPENCER, ALICE HALL, AND ELIZABETH BRAY,

FOR COINING.—MAY 1721.

BARBARA SPENCER alias Dawling, Alice Hall alias Complin, and Elizabeth Bray, were indicted for High Treason, in counterfeiting the current coin of this kingdom, on the 13th of April, 1721.

Elizabeth Miles. On Wednesday, the 12th of April, Spencer and I went to Hall's lodgings: she was not at home, but I found Bray there. We staid there all night, and next morning we all went together and drank at a brandy-shop in Bishopsgate-street, where Spencer called Hall aside, and told her, that she had no more bad money; to which Hall replied, "you may go home to your room and make some; and, if you have any occasion for me, I will meet you at the Bell and Horse-shoe in this street, at two in the afternoon." We met accordingly, and Hall brought the metal with her; and, after we had drank two or three pints of beer and ale, she bade Spencer, Bray, and myself, go to her room, and make a fire, and she would be with us as soon as it was lighted: in the way, as we were going to her room, Bray went into a shop, and bought the materials to make the moulds. Hall came as soon as the fire was made, she locked the door, melted and refined the metal, while Spencer and Bray made the moulds, which being done, Spencer cast forty counterfeit shillings, and gave half a crown apiece to Bray and Hall for their trouble.

Then she gave me the flasks or moulds, with a shilling in them, to carry off, for fear she should be taken up herself, as being suspected for a person that dealt that way; "For," said she, "if they were found in the house, it would be enough to take twenty people's lives." The ladle and file she left in a cupboard over the door, in Hall's room; "for," she said, "they could not make any thing of them if they found them:" she kept five of the forty shillings then made, and gave me the rest wrapt up in a paper.

Andrew Wild. I being in Fleet-street with Mr. Fenton and Mr. Nichols; saw Spencer and Miles who, as I have heard, put off bad money for Spencer; I told my two friends that these women were concerned in coining; we carried them to a tavern, and in searching found twenty-eight counterfeit shillings, and the moulds with a shilling in them, upon Miles, but nothing on Spencer; the money was wrapt in a paper, and the moulds in a piece of leather and a handkerchief. When I took the moulds

from her, and laid them on the table as they were wrapt up, not knowing what they were, Spencer snatched them up, and said, "You —, are you going to hang us both?" and we struggled a good while before we could get them from her; after which she called me out, and offered me thirty pounds to let her go.

Mr. Fenton and Nichols deposed to the same purpose; and added, that Spencer likewise offered them thirty pounds a piece, to let her escape.

Mr. Plumridge. When Spencer was taken, she said she was a dead woman. The twenty-eight shillings and the moulds with a shilling in them, were sealed up before a justice: I have had them in my keeping ever since, and these which are now produced in court are the very same.

Robert Bridgman. Hall and Bray were my lodgers. The day they were apprehended, I found a ladle and a file in the cupboard over the door in their room.

Five counterfeit shillings, which had been kept by themselves, being shewn to Mr. Plumridge, he made oath, that he had them of Mr. Pinkney.

Mr. Pinkney deposed, that he had them from Miles, and delivered them to Mr. Plumridge.

Miles being called up again, swore that she had them from Spencer in prison, and gave them to Mr. Pinkney.

Mrs. Bunn gave evidence, that she saw Spencer take five shillings out of her bosom in the prison-yard, and give them to Miles, and that she perceived them to be counterfeit.

All the prisoners in their defence denied the fact, and Spencer and Hall called some to their character. The jury acquitted Hall and Bray, and found Barbara Spencer guilty of the indictment, for which she received sentence to be burnt at a stake.

When she stood at the stake, she appeared to have less fear of death, than on the preceding day: she was very desirous of praying, and complained of the dirt and stones thrown by the mob behind her.

She was burnt at Tyburn, July 5, 1721.

SIR CHARLES BURTON, BART.

FOR PRIVATELY STEALING, SEPTEMBER 1722.

SIR CHARLES BURTON, BART. of St. Gregory's, was indicted for privately stealing a cornelian seal set in gold, value 15s. the goods of John Ward, in his shop, July 12, 1722.

John Young.—I am next neighbour to Mr. Ward, in St. Paul's Church-yard. He and his wife were gone out of town,

and their daughter left in the shop. She called me in, and told me, the prisoner came to cheapen some goods, and she missed a seal; and she desired me to secure him, while another fetched a constable. The prisoner shook his handkerchief; but she, taking it from him, found the seal.

Jeremy Pain.—I was in the shop when the prisoner came and asked for a seal. Mrs. Kirton took out a drawer to shew him some; but, in four or five minutes, she said she missed one. She desired him to shake his handkerchief, which he did; but she taking it from him, and shaking it herself, the seal dropped out.

Susan Kirton.—The prisoner cheapened a seal, for which I asked 3s. and he bade me 1s. Presently I missed a cornelian seal, set in gold, and looking about for it, he was in haste to go; and said, "If you wont take 18*d.* I wont have it; and so, madam, your servant." "Stay, sir," said I, "for I miss a seal." "What do you mean by that," said he, "do you charge a gentleman with theft?" "Pray," said I, "shake your handkerchief." He did so; but I observed he held it fast by one corner, upon which I took it from him, and found the seal in it. I sent for a constable; but, before he came, the prisoner went away.

Prisoner.—I asked for a seal of a shilling or 18*d.* value. She shewed me a green glass seal set in Bath metal, for which she asked 2s.; and, presently, she said she missed a seal. I laid my hands on the counter, my handkerchief being in one hand, and said,—search me. She bid me shake my handkerchief, which I did; and at the third shaking the seal dropped out, and I believe she might put it in. I walked slowly out of the shop, as far as to the middle of Ludgate-street, before I was apprehended.

Mr. Cox.—The prisoner is of a good family in Lincolnshire, and is a very civil gentleman. His mother left him 500*l.* but he has lately been reduced by misfortune.

The jury found him guilty, to the value of 4s. 10*d.* and he was ordered to be transported; but at the next sessions (in October, 1722) that judgment was reversed, and the Court ordered he should be privately whipt.

THOMAS ATHOE THE ELDER,

MAYOR OF TENBY, IN PEMBROKESHIRE,

AND THOMAS ATHOE THE YOUNGER, HIS SON,
FOR MURDER, JUNE 1723.

AT the assizes held at Hereford, March 19, 1722-3, Thomas Athoe the elder, and Thomas Athoe the younger, (who, by a habeas corpus, were brought thither from Pembroke-shire,) were indicted for the murder of George Merchant, by beating and kicking him on the

head, face, breast, and thereby giving him several mortal wounds and bruises, on the 23d of November, 1722.

The principal witness against the prisoners was Thomas Merchant, (the deceased's brother.) They had used him in so barbarous a manner, that, at the time of the trial, though it was four months afterwards, he was in so weak a condition that he could not stand; therefore the Court permitted him to give his evidence sitting.

On the 23d of November, 1722, a fair being that day kept at Tenby, the prisoners came thither to sell some cattle, and there they met with the deceased, George Merchant, and his brother Thomas Merchant. A quarrel arising, young Athoe and the deceased fell to fighting; but the deceased had the advantage, and beat young Athoe. Upon this, old Athoe was advised by some pettifogger, to bring an action against the deceased; but he answered, "No, no, we will not take the law, but we will pay them in their own coin."

The fair breaking up between ten and eleven at night, the deceased and his brother left the town. The prisoners went to the inn (where the two brothers had taken horse) and enquired which way they were gone. The ostler giving them the best information he could, they mounted and followed them directly. The brothers stopped on the road, at a place called Holloway's-water, to let their horses drink. Presently they heard a trampling of other horses behind them; and, turning about, saw two men on horseback at a little distance, but the night was so dark, that they could not discern who they were; though they were not long in doubt, for they heard old Athoe's voice.

This put them under strong apprehensions that some mischief was intended; for old Athoe, when he was at the fair, had threatened severe revenge, and therefore, to prevent it, they endeavoured to conceal themselves behind the bridge, but the splashing of their horses discovered them. The prisoners coming up with great sticks, "I owe thee a pass, and now thou shalt have it," said young Athoe to the deceased, and knocked him off his horse. Thomas Merchant was served in the like manner by old Athoe, who, at the same time cried out, "Kill the dogs! kill the dogs!" The brother's begged them, for God's sake, to spare their lives; but the prisoners had no regard to their cries. Old Athoe fell upon Thomas Merchant, beating him in a terrible manner, and pulled and squeezed him to such a violent degree, that, had he continued so doing a few minutes longer, it had been impossible for the poor man to have survived it. Young Athoe, when he had tired himself with beating him, seized him, and treated him in the most barbarous manner; and, calling to his father, said, "Now I have done George Merchant's business!"

This horrible action occasioned a vast effusion of blood: but young Athoe's revenge was not yet glutted,—for catching hold of the deceased's nose with his teeth, he bit it quite off, and afterwards tied a handkerchief so tight about his neck, that the flesh

almost covered it.—The last words the deceased was heard to say, were, “Don’t bite my nose off.”—He lived a few hours in the most grievous agony imaginable, and then expired.

When his body was examined by the surgeons, they declared, that, by the bruises they found upon him, they believed the blows he received were alone sufficient to have killed six or seven men. He had twenty-two bruises on his back, three great ones on his head, and two on his breast.

The prisoners in their defence said, that they were assaulted upon the road by the brothers, who had long borne them a grudge; and that what they did was in their own defence.

The jury found a special verdict, upon which the case was referred to the determination of the whole bench of judges; and the prisoners were brought up to London, and committed to the King’s-Bench prison in Southwark, where they lay till Saturday, June 22, 1723, when they were carried up to the court of King’s-Bench in Westminster-hall.

In their motion for an arrest of judgment at the King’s-Bench bar, the point of law debated was, “Whether a man can be tried for a fact, in a county in which the fact was not committed.” The question was decided on producing the Act of Parliament, which enacts, “That all murders and robberies, committed in, on, or about the borders of Wales, shall be triable in any county in England, where the criminal shall be taken.”

The Court then proceeded to judgment, and both the prisoners received sentence of death.

The behaviour of the father and son, in the King’s-Bench prison, and at the place of execution, is thus described by Thomas Dyche, chaplain of the prison.

I prest them both very earnestly to make an open and full confession of the crimes whereof they stood convicted. —

In all my visitings of the prisoners, I found the spirit of devotion always upon them: they behaved themselves with that temper, gravity, and tenderness, which became them, and employed their time very much in reading of such books as were suitable to their melancholy circumstances.

They expressed abundance of seeming penitence, praying earnestly in [and] declaring that they were in charity with all the world. —

However, they pretended that they had been injured by the Merchants:

First,—In their detaining an estate from them.

Secondly,—That they, the Merchants, had bought some cattle out of their hands at Weston fair, October 28, 1721.

Thirdly,—That the Merchants had opposed their elections: and,

Fourthly,—That Mr. George Merchant, the murdered person, had married a sweetheart of young Athoe's.

They buoyed up each other with hopes of life, till the rule of court came down for their execution. After this, they began to shew some signs of prevarication; for (I was assured at the prison, by the testimonies of several persons) that they denied some circumstances which they had before owned; particularly the time of Mr. George Merchant's decease, which was close put to them by a divine, on the morning of their execution.

On Friday the 5th of July, 1723, about eleven o'clock in the morning, they were conveyed in a cart to the place of execution. When they came to the fatal tree, they behaved themselves in a very decent manner, embracing each other in the most tender and affectionate manner; and, indeed, the son's hiding his face bedewed with tears, in his father's bosom, was a very moving spectacle.

When our devotions were finished, the father declared, "That he was innocent of the crime laid to his charge, and that he had not lifted up his hand against George Merchant, the deceased."

The son declared, "that he had no premeditated malice against George Merchant, the deceased; but that, being assaulted, what he did was in his own defence; that the deceased having no hair upon his head to get hold of, the damage he received must be by his handkerchief, which was tied about his neck in two knots." He then shewed the spectators, by pointing to his own neck, in what manner he throttled him.

Old Athoe was about fifty-eight years of age, and his son was twenty-four years old. They were executed at a place called St. Thomas's-Watering, a little beyond Kent-street, in Surry.

ROBERT WILKINSON AND JAMES LINCOLN,
 FOR MURDER;
 AND WITH RICHARD OAKY AND THOMAS
 MILKSOP,
 FOR ROBBERIES.—1722.

ROBERT WILKINSON, and James Lincoln alias Jones alias Williams, of St. Margaret's, Westminster, were indicted for assaulting Fleetwood Clark on the highway, putting him in fear, and taking from him a sword, value 15s., and 10s. in money, June 4, 1722.

They were a second time indicted, for that they, with Daniel Carrol (not then taken) did murder Peter Martin; Williamson, by giving him, with a sword, one mortal wound in the back, under the left shoulder, of the length of one inch, and depth of nine inches, on the 4th of June, of which mortal wound he instantly died; and Lincoln, by being present at the same time, aiding, abetting, and maintaining, the said Wilkinson, in committing the said murder.

Fleetwood Clark. Between 10 and 11 at night, as I was passing in a chair from the Bedford Head tavern, in Covent Garden, to Conduit-street, the chair was stopped in a Court by four or five men; one of them coming to the left side of the chair, dashed a pistol through the glass, by which means I received a wound in my thigh, and then robbed me of my sword and 10s.; a woman looking out of the window said, "pray, gentlemen, what is the matter?" upon which one answered, "d—n ye, what is that to you!" and immediately fired a pistol at her, and narrowly missed her.

William Lock. Valentine Carrick (who has since been executed by the name of James Carrick) and Daniel Carrol made me acquainted with the prisoners. On Monday the 4th of June last, about ten at night, we all went out together upon street robberies, and, seeing this chair, said Carrick, let us follow it, which we did, and stopped it in a court near Golden-square; I staid at the lower end of the Court to watch; Lincoln went to the upper end for the same purpose; Wilkinson stood with a pistol over one chairman, and Carrol over the other, and Carrick robbed the gentleman; a woman at the same time looked out at the window, and asking "What was the matter?" Wilkinson damned her, and fired his pistol at her; the bullets broke the glass, and just missed the woman: it was a rainy night.

William Hedges, chairman. Between King-street and Swallow-street, the chair was attacked by four men; there might be more, but I saw no more. One of them held a pistol to me, and said, "Stand!—if you offer to stir, I will shoot you through the head this minute.

Court. Look at the prisoners—Did you see either of them there?

Hedges. Yes, that is the man that stood over me with the pistol. [*Pointing to Wilkinson.*]

Court. Are you sure of it?

Hedges. Yes, I went to see him in Newgate, and picked him out directly from among fourteen or fifteen.

Wailright, the other chairman. Aye, that's he:—I went with Hedges to Newgate, and we both fixed upon the same man, though we were not together when we saw him there first, but were called up singly.

Court. Had you any light to see him by, when the chair was robbed?

Wailright. Yes; I saw him plainly by the light of my lantern; and I have reason to remember him, for he gave me a knock on the head with his pistol.

The Prisoner's Defence.

Wilkinson. When the chairmen were in Newgate, they were not positive that I was the man; but only said, they believed it, and I can prove I was at another place when the robbery was committed.

William Hide, waterman. I was arrested on the 4th of June last—

Court. Where do you live?

William Hide. At the Green Dragon in St. Mary Overy's Church-yard.—And, while I was in the bailiff's hands, my goods were carried off; I asked my wife who helped her to move them? and she said Robert Wilkinson and Richard Beach: having made up the matter with the bailiff, I went to the Dragon about twelve o'clock that night, and found them both there.

Court. Were you acquainted with Wilkinson?

William Hide. I had drank with him before.

Richard Beach. I went to drink at Wells' about seven in the evening, and there I saw Wilkinson.

Katherine Wells. Three days before the 4th of June, Wilkinson was sick; and not being quite recovered on that night, he helped to move the goods, and, it raining hard, he got cold, and was ill for two or three days after. Mrs. Hide came to desire my husband to assist her to move, and he promised her he would; but other business calling him out, and there happening a quarrel that night, which brought him into trouble, she got Wilkinson and Beach to do it, and the alehouse-boy assisted them: they went to Mrs. Hide's house about ten at night; and when they had taken a turn or two, she left orders that they should drink what they would, and went to her husband who was arrested.

Court. How do you remember it was the 4th of June, rather than any other day.

K. Wells. By a very good thing, that is not fit to be spoken of now.

Court. What weather was it?

K. Wells. It rained hard soon after they began.

The jury found both the prisoners GUILTY.—*Death.*

The Second Indictment.

Edward Parry. The deceased Peter Martin was a pensioner of Chelsea College. On the 4th of June last, between 10 and 11 at night, I walked with him from Chelsea to the camp in Hyde Park, where I left him, and he then had his fusil (his gun) with him.

Lock. After the other robbery, I went the same night with the same company along Piccadilly, to the corner of Hyde Park. We saw the deceased coming up with a fusee in his hand, which at first I thought had been a stick: Wilkinson, Carrol, and Lincoln jumped over the ditch first, and Carrick and I followed; then Wilkinson stopt the deceased, and seized his gun: the deceased cried out thieves! upon which Lincoln struck him in the face with a pistol, and knocked him down. A door being opened at a house just by, they sent me to watch who came out; when I returned, I found the deceased lolling between Carrick and Wilkinson: as they led him, he rattled in the throat; and he not going fast enough, Wilkinson took a sword, and said, "D—n you, go along," and thrust it several times into his back: the deceased sunk down; Lincoln rifled his pockets, but finding nothing but a key and a knife, he threw them away, and said, "D—n him, he has got no money;" and so we went off. A hackney coach coming along, we stopped it; but finding it was empty, we let it pass: presently after we met another coach, with a gentleman (Capt. Langley) in it. Wilkinson having the gun he had taken from the pensioner, stept up first to the coach, and presenting the gun, demanded the gentleman's money: the gentleman drew his sword to defend himself; upon which Wilkinson offered to fire, but the gun would not go off; Carrol then stept up and fired a pistol, Carrick fired another, and Wilkinson did the same; but they all missed the mark: the gentleman called to the coachman and bid him drive on; they swore they would shoot the coachman if he offered to move. The noise alarming the sentry, two soldiers came towards us, which I observing, I flapped my hat, and crossed the road: the soldiers coming up first to me, and asking what was the matter? I answered, "I believe there are some rogues robbing a gentleman; for God's sake go and help him!" with that, they went towards the coach, and one of them cocked his piece at Carrol, but it only flashed: "D—n you," says Carrol to the soldiers, "down with your pieces;" and, as he spoke, he presented his pistol, but that only flashed, as well as the soldier's musket: at seeing this, Wilkinson stept up, and struck one of them on the head with the pensioner's gun, which broke with the blow; and more company coming up, the coach got off, and our party retreated. Wilkinson was for returning; "D—n them," said he, "let us go back and kill them all;" but we would not agree to it: then he threw away the broken gun at the end of Tyburn-lane, where it was afterwards found, and is now in court.

Capt. Langley. I was attacked in a coach by five men near Hide Park corner; I drew my sword to defend myself; three of them fired at me: I received a wound in my left shoulder by one of their pistols, and seven wounds with their swords; but two soldiers coming up to my relief. I got off.

The jury found them both GUILTY—*Death.*

Robert Wilkinson, of Pancras, was a third time indicted for assaulting William Ship on the highway, putting him in fear, and robbing him of two gold rings, value 20s., and 4s. in money, November 26, 1721.

The jury found him GUILTY—*Death*.

Robert Wilkinson, of Pancras, was a fourth time indicted with Richard Oakey, for assaulting William Graham on the highway, putting him in fear, and taking from him a whip, value eighteenpence, a coat, value five shillings, and seven shillings and eight pence halfpenny in money, April 8, 1722.

On this indictment, the jury acquitted him.

Robert Wilkinson was a fifth time indicted with Thomas Milk-sop alias Jennings alias Ghenning alias Trantum, for that they, in company with Thomas Ping (not then taken), did assault Ralph Keat on the highway, put him in fear, and take from him a gelding, value £10, a bridle, saddle, whip, a guinea, and thirteen shillings.

The prisoners said nothing in their defence, and the jury found them both GUILTY.

The Prisoner's Defence.

Prisoner. When the coachman came to Newgate, he pitched upon another man at first; but afterwards he came to me, and said, "No, I believe you are the man:" as for the ladies, none of them can swear to me. I was walking to Hampstead when the gentleman (Mr. Nugent) asked me, who I was? and I answered, a friend; but seeing more come up, I was afraid they had an ill design upon me, and so got into the fields, and, when they took me, and charged me with a robbery, I made no resistance, but said, "Gentlemen, use me civilly, and I will go with you where you please:" but they said they could prove I had the purse, and put it in the grass; and they then bound me behind a coach, and brought me to London.

The jury found him GUILTY—*Death*.

They were hanged at Tyburn on Monday, September 24, 1722.

JOSEPH BLAKE, ALIAS BLUESKIN,
FOR BURGLARY.—1723.

JOSEPH BLAKE, while at school, formed an acquaintance with William Blewit, who afterwards entered into Jonathan Wild's gang, and became one of the most notorious villains of the age. He commenced pickpocket, and had been in several prisons for various felonies before he was fifteen years of age. From this practice he turned street-robber, and joined Oaky, Levee and many other rogues, who acted under the directions of Wild. For some of the robberies they com-

mitted they were taken into custody, and Blake was admitted an evidence against his companions, who were convicted; in consequence of which he claimed his liberty, and part of the reward allowed by government. He had no sooner obtained the former than he was concerned in several robberies with Jack Sheppard. The footpad robberies and burglaries committed by Blake and his associates were very numerous; but Blake suffered for the robbery of Mr. Kneebone. He was indicted at the Old Bailey sessions, in October, 1724, for breaking and entering the dwelling-house of William Kneebone, stealing one hundred and eight yards of woollen cloth, value £36 and other goods. The prosecutor having sworn that the bars of his cellar window were cut, and that the cellar-door, which had been bolted and padlocked, was broke open, he acquainted Jonathan Wild with what had happened, who went to Blake's lodgings, with two other persons; but Blake refusing to open the door, it was broke open by one of Wild's men.

As the parties were conveying him to Newgate, they passed the house of the prosecutor, on which Wild said to the prisoner, "there's the ken;" and the latter replied, "say no more of that Mr. Wild, for I know I am a dead man; but what I fear is, that I shall afterwards be carried to Surgeons'-hall, and anatomised;" to which Wild replied, "no, I'll take care to prevent that, for I will give you a coffin."

William Field, who was evidence on the trial, swore that the robbery was committed by Blake, Sheppard, and himself, and the Jury brought in a verdict of **GUILTY**.

As soon as the verdict was given, the prisoner addressed the Court in the following terms: "On Wednesday morning last, Jonathan Wild said to Simon Jacobs, I believe you will not bring £40 this time: I wish Joe (meaning me) was in your case; I will do my endeavours to bring you off as a single felon. And then turning to me, he said, "I believe you must die—I will send you a good book or two, and provide you a coffin, and you shall not be anatomised."—Wild was to have been an evidence; but going to visit him in the bail dock, previous to his trial, Blake suddenly drew a clasped penknife, with which he cut Jonathan's throat, which prevented his

giving evidence ; but as the knife was blunt, the wound, though dangerous, did not prove mortal.

Blake suffered in a state of intoxication at Tyburn, Nov. 11, 1723.

LEWIS HOUSSART,

FOR THE MURDER OF HIS WIFE.—1724.

LEWIS HOUSSART, of Shoreditch, was indicted for the murder of Ann his wife, by cutting her throat with a razor, February 26, 1724.

Ann Rondeau, the mother of the deceased. I live in Swan-alley in Shoreditch ; on the 26th of February last, between seven and eight in the evening, a boy came to me, and said a gentleman wanted to speak with me at the sign of the black-dog, within Bishopgate. My daughter, the deceased, enquired of the boy what sort of a person it was that wanted me? the boy answered, a gentlemen in light clothes. I left my daughter sitting by the fire in good health, and went to the black-dog, but when I came there, I could hear of nobody that wanted me, and therefore I returned immediately, and going into the room, I found my daughter sitting in her chair, with her head leaning against the chimney-piece, as if she had been asleep. I called to her, and said, what, are you fast asleep? She not answering, I took hold of one of her hands, and letting it go again, it fell down, at which being surprised, I looked upon her and saw some blood, and then saw that her throat was cut. She had been married six years ; though her husband had lived with her but a short time, for he soon consumed all she had by gaming, and then he left her. But two years afterwards, she having been furnished with some household goods, he came to her again, pretending that, for the future, he would behave himself better towards her, and she was persuaded to go to live with him ; but, when he got her goods into a cart, he appointed her to meet him at a certain place : instead of meeting her as he had promised, he carried the goods to a different place, disposed of them, and then absconded.—Since Christmas 1722, he came to see her again. She complained of a pain in her stomach, and he pretending to be a surgeon as well as a barber, said he would give her something to do her good, and then gave what he called conserve of roses. In an hour's time it set her vomiting so violently, that I thought she would have died ; for it was several hours before it had quite done working that way, and then she lay altogether senseless, as in a swoon, so that I was afraid she was dead ; nor did I think her life was out of danger for a fortnight, and since that time she has daily complained of a great pain at her stomach.

Court. How did you leave the door, when you went out ?

Ann Rondeau. I left it upon a French latch, that opened on the outside. The prisoner put the latch on himself.

Martha Rupert. The night the deceased was murdered—I think it was between seven and eight o'clock, I saw such a man as the prisoner and a boy together, near the house where the deceased then lived. The man had on a whitish coat; but I cannot swear positively that it was the prisoner, because his hat was flapped, and I could not very well see his face. He asked the boy which way she was gone? and the boy said, that way. Then the man went towards the deceased's house, and the boy went towards Shoreditch.

Martha Bread-and-Wine [Painvin.] I lived within two doors of the deceased, and going out between seven and eight at night, for a pail of water, a boy and man came running towards me. The boy was in a brown coloured coat, and the man in a whitish one: he was in height and person every way like the prisoner.—The boy went down the steps towards Mrs. Rondeau's house.

Clarges Fradding. About a year ago, the prisoner having the liberty of my shop to make a wig in, we fell into some discourse about love and matrimony, and I said to him, "I wonder how you can pretend courtship to so many young women as you do; when, if you could gain their consent, you know you cannot marry any of them, because you have got a wife already. He answered, I could do well enough as to that; for my wife is of such a religion, that she deserves to be burnt for it, and it would be no more sin to kill her, than to kill a dog, whether I did it, or any body else:" and, when he was before Sir Francis Forbes, he said he was a Socinian.

Lewis Marriot. I was walking with the prisoner's second wife after the murder was committed. She said, she had been married to him about five weeks; but hearing (soon after their marriage) that he had another wife, she taxed him with it. He swore it was false, and offered to take the sacrament upon it. She told him, if it was not so, he ought to arrest those who reported it, and clear his reputation; or otherwise she would not cohabit with him; to which he replied, my dear, do not be uneasy; for in a little time I will make you sensible that I have no other wife.

The prisoner called witnesses in his defence; and although there appeared a strong presumption, that he was the man who sent the boy to tell Mrs. Rondeau that a gentleman wanted her at the black-dog in Bishopsgate-street, but, for want of the boy's evidence, the Jury did not think the proof sufficient.

In October, he was again brought to trial, on the appeal of Solomon Rondeau, brother of the deceased.

The following witnesses appeared to prove him guilty, and first the boy, James Ainsworth (or Hensworth) was called.

Court. How old are you, child?

James Ainsworth. I was thirteen last Michaelmas. Between seven and eight o'clock at night—

Court. How long ago?

J. A. Last winter.

Court. What month and day?

J. A. I don't remember the day of the month, but it was that night Mrs. Rondeau was murdered, and as I was standing near the end of Swan-alley in Shoreditch, the prisoner came to me, and asked me if I would go of an errand? I said, yes. Then he asked me, if I knew one Mrs. Rondeau? I answered, no. Upon which he told me, that he would shew me the house, and give me a penny to go thither, and tell Mrs. Rondeau that a gentleman wanted to speak with her immediately, at the black-dog alehouse in Bishopsgate-street. Then he went with me into Swan-alley, as far as within one door of Mrs. Rondeau's, and bid me go down the steps, and ask for her; and so I did, and delivered the message, and she said, she would come presently. When I came out of the house to the prisoner, he gave me a penny, and asked me which way she went? I told him towards the street, and he then bad me go about my business.

Court. How could you see him at that time of night, so as to know him again?

J. A. I saw him plainly by the light of a lamp near the end of Swan-alley, where he stood talking with me.

Court. Are you sure there was a lamp at the end of the alley.

J. A. It was not one of your common lamps that are put up to light the streets, but it was a glass lamp, that hung up at a butcher's shop. I believe you call it a lanthorn. The prisoner had a whitish coat on.

Court. Did you see his face?

J. A. Yes, and I am sure that he is the man, the very man that sent me to Mrs. Rondeau's that night the murder was committed. And Mrs. Rondeau, who stands here, is the woman to whom I carried the message.

Mrs. Rondeau. This is the boy that brought me that message.

J. A. Besides, when I went to see the prisoner in Newgate I knew him at first sight, and picked him out from among several before any body told me which was he, or gave me the least notice of him.

Daniel Grenoe. When the boy went to Newgate, Mr. Rouse and another man led him up, and, without suffering anybody to speak to him, or give him the least hint, they brought him into the room where the prisoner was, and seven or eight others were with him. The minute that the boy set his eyes upon the prisoner, he said, this is the man! to which the prisoner said, "What do you mean, child? you don't know me." And the boy replied, "Yes, but I do. You gave me a penny to go to Mrs. Rondeau's in Swan-alley." "If I had known of your coming, (said the prisoner,) I would have been provided for you."

Eliz. Walbridge. The prisoner had a room in my house in Swan-alley in Coleman-street. He came thither, as near as I can guess, between seven and eight at night, and took a candle, and went up stairs to his own room, where he dressed himself, and, in a quarter of an hour, came down with a sword and a cane, and he had a great coat on over a whitish coat. This was the

night on which his wife was murdered; and the great coat has never since been heard of.

Charles Cotterel. I had some acquaintance with the prisoner, for we had been neighbours. And, when he was in Newgate, about three sessions ago, he sent a porter for me twice, and I went to him. He said, he wanted to treat with me about being an evidence for him. I asked him "how I could be a witness, when I knew nothing of the matter?" "Why, (said he,) I would have you swear, that you and I were drinking together at an alehouse in Newgate-street, at the time the murder was committed.—Though, I must own, I did give the boy a penny to call the old woman out, and then I went in and gave my wife a touch with a razor, but did not think of killing her." And, the day before this present sessions began, he sent for me again, and promised to give me a new shirt, a new suit of clothes, and twenty guineas to swear for him. And, when I objected to it as a great sin, he said, there was no more harm in taking a false oath, than in common cursing and swearing.

Houssart called several witnesses in his defence, but the Jury found him GUILTY.

He was hanged on Monday, December 7, 1724, at the end of Swan-yard, in Shoreditch; and died unpitied by the populace.

CAPTAIN JAYNE,

FOR THE MURDER OF HIS CABIN-BOY.—APRIL, 1726.

ON Wednesday, May 26, 1725, at a Sessions of Admiralty, held at Justice-hall in the Old Bailey, John Jayne, of London, mariner, was indicted for the murder of Richard Pye, on the high seas, within thirty leagues of South Carolina, and within the jurisdiction of the admiralty of England, by striking, kicking, and beating him on the head, shoulders, arms, back, breast, and sides, on the 15th of March, 1724-5, and thereby giving him several mortal wounds and bruises, of which he languished till the 21st of the same month, and then died.

But the prisoner making affidavit that two of his material witnesses, Capt. Samuel Jennings and Morpeth, were then at sea, and had been gone about a fortnight, the court deferred his trial.

At a court of Admiralty held at the Sessions-house in the Old Bailey, on Monday, April 25, 1726, he was again brought to the bar, and arraigned. He pleaded Not Guilty, and put himself upon his trial.

Richard Foring deposed, I served on board the ship *Burnet*, of which the prisoner was Master. We had five hands on board besides the prisoner and *Richard Pye*, and the deceased, who was his cabin-boy: during the voyage from Bristol to South Carolina, the prisoner beat the deceased in such an unmerciful and inhuman manner, that I and the other mariners frequently complained to the prisoner of it, telling him that we were not used to see such barbarity practised; and, if he did not desist, we would leave the ship when we came to Carolina; indeed, when we arrived there, *Mr. Ireland*, the mate, and another mariner, left the ship accordingly: but *Mr. Ireland*, having spoken there freely of the prisoner's behaviour to the boy on board, the prisoner sued him for slander and defamation, and put him to great trouble and expence in Carolina.

Anthony Harper. On the 29th of December, 1724, having contracted with the prisoner to serve as his mate in his voyage home, I came on board the ship *Burnet* at Carolina: she was laden with pitch and rice, and bound for Bristol. Having heard of the prisoner's cruelty to his cabin-boy, for which the former mate and another sailor had left the ship, I took occasion to speak to the boy about it. He told me that he had lived well for a few days past, not having been beaten, but said he should have enough of it when he came to sea again; indeed, he was so terrified with the apprehension of it, that he several times attempted to make his escape on shore, or on board another ship, but was prevented. The ship soon after falling down from *Charles-town* to *Rebellion-road*, the prisoner resumed his cruel practices, taking the deceased to the leeward to beat and kick him, that the other ships' companies, riding hard by, might not hear his cries. The *Burton* happening to run foul on *Capt. Jollop's* hawser in the night time, the prisoner commanded the deceased to strike a light, but he not doing it so soon as the prisoner expected, the prisoner stabbed him in several places about the head with a penknife, though he afterwards said it was only a small key: but this was nothing to his cruelty after we got out to sea. His common practice then was, on every trifling occasion, to kick him violently about the head, face, belly, legs, and arms, and to keep him without any kind of sustenance for several days together; the boy being hungry, took a piece of pudding out of the locker, for which the prisoner tied a bag of sand and several iron weights about his neck, extended his arms at full length, and fastened them behind with a mopstick, and, in that helpless posture, kicked him about the deck, at the same time laughing and scoffing at him in his agonies: after this, he ordered him to be kept night and day on the open deck in severe cold weather, and his victuals to be given him raw. This punishment he suffered for about a week, and I then coming upon the midnight watch, the boy, upon his knees, begged me to let him go below deck to refresh himself, or he should die with hunger and cold; I gave him leave to go down, his master being then asleep in the cabin. Another time for taking a piece of sea-pie, and a small dram of rum out of a jar, the prisoner stripped him naked upon deck, extended and fastened his arms as before, whipt him, and then left him in that lamentable

condition till four the next morning. I several times desired the prisoner to let him be removed, telling him, that I could not bear to see such intolerable severities; and therefore, if he was resolved to murder the boy, I hoped, at least, he would not do it in my sight. At last he suffered the miserable boy to be untied, and ordered him to be kept to pumping as long as he was able to stand, though there was no necessity for it; and that his meat should still be given him raw. But, when the boy had done no fault whatever, the prisoner would come upon deck, and kick him about merely for his own diversion. Soon after the former whipping, he ordered him to be bound to the mast, and to remain there day and night, which was accordingly executed; and, whenever the prisoner came near him, he kicked him upon the belly, and heaved buckets of water upon him. He whipt him very cruelly one night for losing a hatchet, and ordered William Phipps, one of the seamen, to sound the speaking-trumpet all the time, that the cries and groans of the poor creature might not be heard: the number of bruises on his head having stupified him, and rendered him unable to stand, the prisoner ordered him off the deck; but, as he was going down the ladder, the prisoner beat his head against the ladder, and then threw an iron pot, with about six quarts of water, upon him: the pot broke the boy's head, so that the blood ran down in streams; which the prisoner perceiving, he thrust wet swabs into the boy's bosom, to put him, if he could, to more pain. By the prisoner's continued barbarities, the boy was become a dismal spectacle; his head and body were beat to a perfect jelly, and his flesh appeared all colours. These, and many other unheard-of cruelties, the unhappy boy suffered during eight and forty days, and then expired about the latter end of March, we being then near the Western islands.

Anthony Willis, having confirmed most of the foregoing evidence, added, the boy was speechless for about two days before he died, and, in that sad condition, was bound to the mast.

The Court having summed up the evidence, the jury withdrew, and, after a short stay, found the prisoner **GUILTY—Death.**

On Friday, May 13, about ten o'clock in the morning, Jayne was brought out of Newgate in a very weak condition, and put into a cart, in which he laid himself down, and was carried slowly through the streets to Execution-dock, where he seemed to revive a little, to the great joy of the mob, who had been under some fears that he would have died before he came thither. Being raised up in the cart, he sat still a short time, and was then carried on men's shoulders to the scaffold, where he delivered a paper to Mr. Phillips, the high constable; and, casting his eyes around, and perceiving no friendly concern in any one countenance, he threw himself upon his back, and covered his face with his hat. In this

posture he continued all the time the minister was at prayers, but repeated every word after him with great earnestness: the people having notice to get off the scaffold, and the minister taking leave of him, he appeared in a violent agony, discovering the utmost consternation; he cried out once or twice, "God's will be done," and then wringing his hands, and vehemently calling upon God, for Christ's sake, to have mercy upon him, and receive his departing soul, the scaffold was struck.

As soon as he was dead, the smith affixed the irons to his body; after which it was cut down, and conveyed by water, and hung up in chains over against the King's powder-house at Greenwich.

GEORGE HENDERSON,

Merchant in Edinburgh,

AND MARGARET NISBET,

FOR FORGING A BILL UPON THE DUCHESS OF GORDON.—1726.

IN the beginning of May 1726, it was discovered that one Petrie, a town-officer in Leith, held the Duchess of Gordon's bill for £58, which had been delivered to him, blank indorsed, by Mrs. Macleod, as a security for £6 for which sum her husband had been laid in prison. The bill was drawn by George Henderson, accepted by her Grace, indorsed by Henderson the drawer, to Mrs. Macleod, and blank indorsed by Mrs. Macleod; and in virtue of this blank indorsation Petrie the town-officer held it. The holder of the bill was apprehended and brought before the magistrates of Edinburgh; in a few days after Mrs. Macleod and Mr. Henderson were also brought before them. It was manifest that the Duchess of Gordon's acceptance was a forgery, but the point in dispute was, whether this forgery was contrived by Mr. Henderson the drawer and indorser, or Mrs. Macleod the indorsee.

Upon the 5th of May, Petrie was brought before the magistrates, and told the manner in which he came by the bill. Henderson was at the same time brought before them, who denied all knowledge concerning it. Mrs. Macleod was apprehended on the 7th, and examined, and she and Henderson being confronted with

each other, the former judicially declared, that the bill, and other deeds challenged, were written by Henderson, who denied all knowledge concerning them. Upon which, Mr. Henderson and Mrs. Macleod were committed close prisoners.

John Gibson, wright in the canongate of Edinburgh, deposed, that he knew Mr. Henderson then at the bar, having seen him several times, and been once in company with him. Deposed that, on the 3d of May last, about nine at night, as he was going down the canongate, he met Mr. Henderson and Mrs. Macleod, who went along with him to the deponent's house; he there saw Mr. Henderson sign the obligation to Mrs. Macleod now exhibited; the deponent read it over, and signed as witness to Mr. Henderson's subscription, and the deponent's two daughters and Archibald Dempster were present. Part of this deed was written before the deponent saw it, but the last part of it, viz. from the following words, "before these witnesses," downwards, was written, with Mr. Henderson's own hand, in the deponent's presence. They staid in his house almost an hour; and, during this time, Mr. Henderson repeatedly desired of Mrs. Macleod "that she should delay and keep herself quiet till Saturday, and she should have her money, which she refused to do unless he signed the obligation." Mr. Henderson, Mrs. Macleod, and the deponent, then went down the Canongate together. When they were before Deacon Lauchlan's house, Mrs. Macleod told Mr. Henderson she had intimated the bill to the Duchess' gentleman; whereupon he, Henderson, clapped upon his breast, and said, "O, good God, that is all wrong, why have you done so?" and upon this he immediately left them. Deposed, that Mr. Henderson had on dark coloured clothes and a black wig, such as he now wore. And, being interrogated if he knew one David Household, alias Cameron? deposed, he knew no such person.

Archibald Dempster, servant to James Aitkin, wright, deposed that, on the 3d of May last, after nine at night, he was sent for by John Gibson, the preceding witness, to his house. He found there Mr. Henderson, Mrs. Macleod, Gibson, his wife, and two daughters. Henderson was then writing a paper, which the deponent saw him subscribe; Gibson signed as witness to the deed, and desired the deponent to do the same. He hesitated, lest it might be the cause of his afterwards being taken from his work, or of otherwise being brought into trouble. But, Mr. Gibson said, it was no more than an obligation which Mr. Henderson was giving Mrs. Macleod for some money, and that he would pay against Saturday, and the deponent would not get into trouble about it; upon which he signed as witness, and then went immediately to his master's house. Being interrogated, deposed, that he never saw Mr. Henderson before that night, nor since, except once about three weeks after, when he Mr. Henderson, was brought before the magistrates of Edinburgh. He thought Mr. Henderson then at their Lordships' bar, was the same person whom he saw at Mr. Gibson's, and afterwards before the magistrates.

Catherine Gray, servant to Alexander Hope, tailor in Canon-gate, deposed, that she had frequent occasion of seeing and knowing George Henderson at the bar; and, particularly, on the 3d of May last, on which the Deacons of the corporations of the Canongate were chosen: she saw the said George Henderson, prisoner, about nine o'clock at night, coming up the Canongate in company with Mrs. Macleod, the other prisoner; and, a little above the Canongate-cross, she saw them meet with John Gibson; and the deponent, having asked Mrs. Macleod, if she had got payment of her money due to her by Mr. Henderson? the said Mrs. Macleod answered, that she was just going to get security for it. Being interrogated for Mr. Henderson, she deposed, that she did not know, and, to her knowledge, never saw the person named David Household.

William Petrie, town-officer in Leith, deposed that, on the 5th of February last, Mrs. Macleod delivered a bill to him for 58*l.* which was drawn by Mr. Henderson, and accepted by the Duchess of Gordon, indorsed by Mr. Henderson to Mrs. Macleod, and blank indorsed by her. She gave this bill to the deponent in security for 6*l.* 1*s.* which he advanced to her in order to relieve her husband, Mr. Macleod out of prison. Deposed, he knew nothing as to the verity of the subscriptions, farther than Mrs. Macleod said it was a true bill. To the best of his remembrance, she said the cause of her getting that bill was tea and other goods she had furnished Mr. Henderson. Deposed that, about three years ago, Mrs. Macleod delivered to him, in security of a debt she owed him, a bill for 38*l.* or 40*l.* drawn in the same manner by George Henderson, and accepted by the Duchess of Gordon, and that Mrs. Macleod paid him punctually the sum she had borrowed upon the pledge of this bill, and took up the same; and she made use of this as an argument for the deponent's advancing her the 6*l.* upon the bill produced in process. The deponent did not demand payment of the bill from the Duchess of Gordon, for he was prevented from doing so during the whole month of April, by Mrs. Macleod's telling him, that the Duchess was then occupied with her devotions, and that her gentleman, Mr. Gordon, was in the North, upon whose return the bill would be paid. She added, that she had been to wait upon her grace, had been kindly entreated, and had got a glass of some liquor out of the Duchess's hand.—At last, the deponent became suspicious about the verity of the bill, and he told Mrs. Macleod, that, unless she got a letter from Mr. Henderson, declaring the verity of the bill, he would protest it, upon which she brought him the letter from Mr. Henderson now produced in process, but the deponent desired her to get an obligation from Mr. Henderson for the amount, signed before witnesses; she accordingly called on him, and shewed him the obligation now produced in process. This he thought happened a day or two before the deponent was apprehended by order of the magistrates, which to the best of his recollection, was upon the 4th day of May last. It was about ten o'clock at night when she called and shewed him the obligation.

Alexander Nicolson, tailor in Edinburgh, being specially

questioned, whether Mrs. Macleod at any time promised him any thing to be a witness in this cause, deposed that, about eight days after he was examined before the magistrates, the deponent having occasion to be in the tolbooth of Edinburgh, Mrs. Macleod whispered to him, that it should be better than 4*l.* sterling to him, if he would depose that he had carried a message from Mrs. Macleod to Mr. Henderson to come to her, that he came accordingly, and the deponent saw him deliver to Mrs. Macleod an accepted bill by the Duchess of Gordon; but the deponent answered, his conscience would not allow him to declare any such thing. Deposed, that he afterwards got a letter from Mrs. Macleod, threatening him that, in case he should declare any thing contrary to what he said before the magistrates, the King's advocate would put him in prison; and that he shewed the said letter to several, and particularly to Mr. Henderson's agent, Mr. Donaldson, and that the deponent had since lost the said letter out of his pocket. That in February last, when he was working in Mrs. Macleod's house, he heard her railing against a maid-servant for want of some money, and that a man came into the room whom the deponent did not know, nor remember; and that, when he was gone, Mrs. Macleod came to him, and said she had got a bill from him, and said, it would be good money to her. Mr. Henderson at the bar, being pointed out to the deponent, and asked if it was the man that was in Mrs. Macleod's house the time deposed? he said he had not seen the said man now pointed out to him in Mrs. Macleod's house, either that or any other time. He thought the man who came into Mrs. Macleod's had on a dark coloured wig.

Captain Neil Macleod, deposed, that he had a servant, one David Household, a lad about seventeen years of age, who left his service at Michaelmas last, and whom he had frequently seen write. The letter from Henderson to Petrie, and the obligation by Henderson to Mrs. Macleod being shown to him, he deposed, that he could not say any thing to the letter, but, as to the other obligation, he said that, to the best of his knowledge, it was the hand-writing of the said David Household. He deposed, that Household was not of a slender make, that he wore his own black hair, and was about the head lower than Mr. Henderson; but he had seen him since wearing a light coloured wig.

Patrick Innes, writer in Edinburgh, deposed, that Mrs. Macleod having shown the deponent the obligation subscribed by Mr. Henderson, and produced in process, told him, that the motive of Mr. Henderson indorsing the Duchess of Gordon's bill to her was, that he might conceal an unlawful correspondence which he kept with one Helen Moody, a servant of hers, and carry the said Helen out of the country. Mrs. Macleod told the deponent this in the house of John Gibson, on the 4th or 5th of May. Being interrogated if he knew that Mrs. Macleod kept out of the way on account of this bill? he deposed, that Mrs. Macleod absconded for three days, and told the deponent, that the reason of her doing so was, that Petrie had a warrant to apprehend her, and that she expected payment before eight o'clock on Saturday night, from Mr. Henderson, and that then she

would give them all the tail of a long tow.*—The deponent went with Mrs. Macleod to one Doctor Smith, who was well acquainted with the Duchess of Gordon, and requested him to intercede with her Grace, that she would pass from any ground she had for challenging the bill; but this the doctor positively refused, upon which Mrs. Macleod said she was undone.

Mary M'Aulay, widow of Alexander M'Lellan, barber in Leith, deposed that, some few days after Mrs. Macleod was made prisoner, the deponent saw in her house one David Household, who told her, that, a few days before Mrs. Macleod was apprehended, he, at her desire, put on a coat of her husband's, and went with her to the Canongate, and in some house there, he assumed the name of Henderson, and, under that name, subscribed a paper, in presence of two witnesses, one of them a married man, and the other a young lad; and he said it was on account of this paper that Mrs. Macleod was put in prison. He added, that the reason she gave for his putting on her husband's coat was, that he might appear like Henderson.—Household expressed his sorrow for what he had done, said he was not aware of his hazard, but now he was in danger of his life, and was resolved to fly the country; that he was afraid to cross at Leith, lest he should be apprehended, and would cross at Queensferry.—And the deponent believed that he fled accordingly.

The trial had proceeded thus far, neither party being able to produce more witnesses to support their mutual recrimination and defence, when the Lord Advocate represented to the Court, that, as the evidence given must have established with their Lordships a conviction of Mr. Henderson's guilt, the duty of his office required it of him, to ask their Lordships to pronounce a decree, finding the bill drawn upon the Duchess of Gordon to be forged by the prisoner Henderson, and therefore remitting him to the Court of Justiciary, that he might suffer a capital punishment.

The counsel for Mr. Henderson urged in his defence, that, notwithstanding the direct testimony which was given by several witnesses, of his having granted the obligation relative to the forged bill, yet, having visited him in prison, and repeatedly examined him in private, in the most solemn manner,—the simplicity, uniformity, and steadiness of his answers to the counsel's interrogatories, gave the latter, if not a perfect conviction, at least a strong belief, that Henderson was truly innocent. The counsel, therefore, requested of their Lordships, that they would not be hasty to embrace, nor resolute to conclude, a decided opinion of Henderson's guilt; for

* The swing of a rope.

that even procrastination was not a fault, when the life of a man was at stake. And he entreated their Lordships to spare his feelings of the pain it would give them, to see a sentence pronounced on almost the last day of a session, which was to be the foundation of a capital punishment being adjudged to a man, of whose innocence he still entertained a strong persuasion.—The solemn and animated address of the counsel made a forcible impression upon the Court, and their Lordships delayed the cause till the next session.

During the vacation, a singular coincidence of circumstances occurred, which was the means of vindicating Henderson's innocence, and of detecting a profound scheme of fraud, not less ingeniously contrived, than dexterously executed.

The Lord Advocate, when going North to his house at Culloden, paid a visit to Mr. Rose of Kilravock. Mr. Rose shewed his Lordship a house he was building; and, happening to miss one of the carpenters whom he thought an expert workman, he asked the overseer what was become of him? the overseer taking Mr. Rose aside, bid him take no further notice of this, for the young man, upon hearing that the Lord Advocate was to be at Kilravock, declared it was high time for him to leave the country; and that he would immediately go to Aberdeen, and take ship for London. Mr. Rose communicated this to his Lordship, who asked the overseer the carpenter's name, and if he knew of any crime that the carpenter had committed? The overseer answered, that the man's name was David Household, and he suspected the crime was being accessory to some forgery. The Lord Advocate immediately dispatched a messenger to Aberdeen, who apprehended Household, and carried him prisoner to Edinburgh.

Upon the commencement of the Winter Session, Household being brought before their Lordships, and examined, deposed that, in the beginning of the year, he, at the desire of Mrs. Macleod, wrote the bill produced in process, which she dictated to him, and he, in particular, wrote the name of George Henderson, both as drawer and indorser; but the word Gordon, he did not write. At another time Mrs. Macleod carried him to a gardener's house without the Water-gate, at the foot of the Canongate; but, before taking him there, she put

on him a coat belonging to her husband, and a black knotted perriwig, and told him, that she was to bring him into the company of two honest men, before whom he must personate George Henderson. The deponent did as she desired, and, in the gardener's house at the Water-gate, she dictated to him a part of the obligation now produced. She then took him to a wright's house in the Canongate, on the south side of the street, and there, in presence of the wright, and of a boy called Dempster, Mrs. Macleod dictated, and the deponent wrote, the remainder of the obligation, and subscribed it George Henderson, in presence of the wright, and of Dempster, who subscribed as witnesses.

The letter produced in process from George Henderson to William Petrie, being likewise shown to the deponent, he deposed, that he wrote it also at the desire of Mrs. Macleod, who dictated the same to him, and this happened before he wrote the obligation above-mentioned. Deposed, that, after Mrs. Macleod was put in prison, a highlandman came to him, and said, that he was sent by Mr. Macleod, Mrs. Macleod's husband, to persuade him to abscond on account of the papers he had written: this he thought unnecessary, as he wrote them at the desire of another, and was altogether ignorant of the import of the said writings, but, upon advising with some friends, he was convinced of his danger, and he absconded.

John Winchester, clerk to the comptroller of the customs at Leith, deposed that he was intimately acquainted with David Household; that some time in May last, the deponent went to see Household, who was then working aboard Captain Marsham's ship, which was lying in Leith harbour; but was told that Household was not to be found. He called a second time, and the mate of the ship brought Household to him. The deponent asked, what was the matter with him? He answered, that he was obliged to hide himself, for Mrs. Macleod had induced him one day to go to a house in the Canongate with her, and there to write out a bill for her for about 50l. or 60l. in presence of two witnesses, but the deponent did not remember what he said about subscribing the bill. Deposed, that he said to Household, he would be hanged for so doing; to which Household answered, he was resolved to fly; and added, that he had received a message from Mrs. Macleod's husband to abscond. The deponent asked him, if it was on account of this bill that Mrs. Macleod was put in prison? to which he answered, that it was the very same.—The bill, letter, and obligation in process, being shown to the deponent, he deposed, that he was well acquainted with Household's hand-writing, and he believed the said deeds to be written by him.

Archibald Dempster, a preceding witness, being re-examined, and his former deposition read over to him, deposed, that nobody instructed him as to what he was to say in that deposition, nor

promised him any reward on that account. Being confronted with Henderson at the bar, and with David Household, and being desired to look narrowly upon the said David, and upon George Henderson at the bar, in order to declare upon oath, which of the said two was the person who wrote and subscribed the obligation in the house of John Gibson, mentioned by the deponent in his former oath, he said, that he did believe that the said person was David Household, and not George Henderson.

The second part of this plot being performed, and the 'plot detected,' it remained now but for public justice to bring the matter to a catastrophe. Upon the 8th of December, the Lord Advocate represented to the court, that it was manifest that the Duchess of Gordon's bill was a forgery: that it was evident from the proof that Henderson was innocent of the forgery, who, therefore, ought to be acquitted; and that Mrs. Macleod was guilty of the same, as well as of counterfeiting the letter and obligation produced in process. This, his Lordship said, was established by Household, who, at the desire and by the contrivance of Mrs. Macleod, actually forged the deeds; by Dempster, who, in his second deposition, ingenuously and satisfactorily accounted for the mistake into which he was led in his first, by the artful contrivance of Mrs. Macleod; by comparing the deeds produced with the hand-writing of Household, taken down in their presence; and by the evidence which Henderson led of an alibi. He added, that she had formed a malicious intention to hang her neighbour, and it was but just she should fall into her own snare. Upon the whole, his Lordship observed that, by her artful and horrid contrivance, Mrs. Macleod had well nigh made "an innocent man suffer death. That this contrivance was, by the good providence of God, discovered: and concluded, that, therefore, the said Mrs. Macleod was guilty of forgery, and ought to suffer the pains of death." The Solicitor General added, "that there was such a horrid design, and so artfully laid, that, at first, he firmly believed Henderson guilty; nay, and could appeal to all, if Household had not been apprehended, they had not condemned Henderson."

The Court found that Mrs. Macleod was GUILTY of the said forgeries; and they reduced the deeds, remitted Mrs. Macleod to the Court of Justiciary, acquitted Mr. Henderson, and dismissed him from the bar.

Mrs. Macleod was then served with a criminal indict-

ment at the instance of his Majesty's Advocate, setting forth, that the crime of forgery, or the using of forged deeds, was punishable with "death and confiscation of moveables, and other pains of law;" that, nevertheless, Mrs. Macleod had been guilty of all, or one, or other, of these crimes, in so far as she had forged a bill upon the Duchess of Gordon, &c. &c. That the Court of Session had pronounced a sentence, declaring the bill, &c. to be forgeries, and that the prisoner was guilty of the same, and therefore remitting her to the Court of Justiciary: and that the extracted, i. e. authenticated, decree of the Court of Session, was lodged with the clerk of the Court of Justiciary. "All which, or any part thereof, being found proven against her," she ought to be punished with the pains of death.

The prisoner and the public prosecutor were heard by counsel. It was objected for her, that forgery, by the law of Scotland, did not infer a capital punishment: that she was not accused of having actually committed the forgery, but only of being *art and part*: that she had not used the bill with an intent to defraud, but merely as a fund of credit for a small sum of money, which she meant honestly to repay; and that the decree of the Court of Session was neither to be held as determining the relevancy of the indictment, nor as *probatio probata*, or evidence not to be controverted of the prisoner's guilt. Informations for both parties were also lodged by order of the court. But, as the defences stated for the prisoner were over-ruled, and as these general points of law, and of form, are now established by subsequent practice, it is needless to state the arguments which they contained.

The decree being read, the Court ordered the assize instantly to inclose: the jury returned a verdict, unanimously finding the indictment proved, and the prisoner "guilty, art and part, of the crimes libelled." The Court adjudged the prisoner to be hanged on the 8th of March.

She went to the place of execution dressed in a black robe and petticoat, with a large hoop, a white fan in her hand, and a white sarsnet hood on her head, according to the fashion of the times. When she came upon the scaffold, she put off the ornamental parts of her dress, pinned a handkerchief over the breast, and put the fatal

cord about her neck with her own hands. She persisted to the last moment in the denial of her guilt, and died with great intrepidity.

REV. MR. KINNERSLY AND WILLIAM HALES,
FOR FORGERY.—JANUARY, 1728-9.

THOMAS KINNERSLY (a clergyman) and William Hales were indicted for forging and counterfeiting a note of hand, bearing date August 16, 1727, for £1260, payable to Samuel Edwards, esq. or order, signed Thomas Kinnersly, and indorsed Samuel Edwards.

Thomas Maddox. The prisoner Hales lived opposite to my master, Mr. Edwards, in Duke-street, Westminster, and for some years past my master had franked a great many covers for him.

Ann Clark. In July last the prisoner Hales's servant brought six blank covers to our house to franked; but he was told that my master, Mr. Edwards, would not frank any letters, except he wrote all the directions himself; and with that, the servant went away, but came again afterward, and gave me a note for my master, in which was written three directions, *To John Pratt, Esq. Bristol; Mr. Levett, Huntington; and Stephen Mitford, Esq. Exeter.*

Mr. Spicer, clerk to Mr. Edwards. I am well acquainted with Mr. Edwards's affairs in general, and never so much as heard that he had any dealings with either of the prisoners.

Council. No; why here is a promissory note from Kinnersly to Mr. Edwards for £1260, and is endorsed with the name of Mr. Edwards.

Mr. Spicer. But it plainly appears to be a counterfeit, drawn upon one of the covers that my master franked for Hales. The paper is indented as if it was done to take out the tails of the letters above; and yet this is not done effectually, for the bottoms of some of those letters are still visible: the word *free* is altered to *for*, the two *e*'s being erased, and an *o* crowded between the *f* and the *r*; and those two letters, and the name of Samuel Edwards, are written with a blacker ink than the rest of the indorsement.

Mr. Bird. On the 20th of March last, Hales brought me this note of Kinnersly's for £1260, on the credit of which, I lent Hales £750, he giving me a promissory note of his own for that sum, and leaving me Kinnersly's note, as a pledge for my farther security. On the 3d of April following, Hales brought me £400, in part of payment, and indorsed on his own note; but he not keeping his time for the payment of the remainder, I sent my attorney, Mr. Tomkins, to Parson Kinnersly, to demand the money: the parson came to me, and owned the note of his own hand-writing; but he said, he could not tell how it came to be

indorsed by Mr. Edwards; adding, that he was a ruined and undone man, and must make himself over to the Fleet, if the money was demanded of him; and that Mr. Edwards, who indorsed the note, was a man of substance, and able to pay it. All this he said, before I shewed him or told of the indorsement. Here is the note: it has been in my custody ever since the 20th of March without any alteration.

Court. Read the note. [*Clerk reads.*]

August the 16th, 1727.

I promise to pay Samuel Edwards, esq. or Order, the sum of One thousand Two Hundred and Sixty Pounds, for value received

£1260.

THOMAS KINNERSLY.

It is endorsed,

£1260, pray pay to the Order of—— For the value received.

SAMUEL EDWARDS.

William Wright. I was present when Kinnersly was brought before Sir Richard Hopkins, to whom he confessed, that he wrote the note with his own hand; but said he did not write the indorsement. Mr. Edwards being present, asked him for what reason he drew up a note payable to him, when they never had any dealings together, nor had he so much as seen him before that time? The parson answered, that he was indebted to Mr. Hales for more than the sum mentioned in the note; and Hales demanding a note of him, he asked Hales to whom he should make it payable, and Hales directed him to draw it payable to Samuel Edwards, Esq.; the Parson was going on to give an account of the indorsement; he said, he knew it was indorsed with the name of Samuel Edwards, and——; but he was stopt by one Mr. Mitford.

Sir Richard Hopkins. I committed Kinnersly on the oath of Mr. Bird, who swore that, before he shewed the note to Mr. Kinnersly, Kinnersly confessed, that it was indorsed by Samuel Edwards. I examined Mr. Edwards, who was present, and he declared that he never had any dealings with Kinnersly; upon which Kinnersly said, that he drew up the note, payable to Mr. Edwards, at the request of Hales. Kinnersly seemed inclinable to make a full confession, as I thought, but he was prevented by the interposition of a gentleman belonging to the law, whose name I understand is Mitford.

Counsel for the Prisoner. We cannot but observe on Mr. Kinnersly's conduct in this affair, that he acted like a man of conscience. He would not be guilty of such an unlawful action for a hundred pounds, though it has been frequently practised by others.

Counsel for the Prosecution. He said so indeed, but if any body had offered him a hundred pounds for such a job, and if he had not smoked the design, as the constable phrased it, there might have been more room to have talked of his acting like a man of conscience. But when the constable had called, and had sent several times

after him, and at last, when he gained admittance, told him a lame story about a wedding, and unluckily happened to name Mr. Bird, the man to whom the counterfeit note was pledged, is it any wonder that the reverend gentleman's conscience should put him in mind of the forgery, and, consequently, make him apprehensive that there was some design against him? We shall call witnesses to prove that he and his fellow-prisoner (who has already been convicted of several forgeries) frequently met together, and in such a private manner, as will make it very suspicious, that they were mutually concerned in carrying on ill practices.

Counsel for Kinnersly. We have two witnesses to prove that Mr. Kinnersly was indebted in a considerable sum to Mr. Hales, and if one man owes another money, we hope there is no crime in giving a promissory note for it.

Robert Burkett. I have heard Mr. Hales say, that Mr. Kinnersly owed him some money.

Counsel for Kinnersly. We do not ask you what you heard Mr. Hales or any body else say; but what you yourself know of the matter.

Burkett. I cannot say that I know it.

C. for Kinnersly. Do you know of any account that was between them.

Burkett. No.—*C. for Kinnersly.* Then you might as well have said nothing. Where is the other witness?

Burkett. That I cannot tell.

C. for Kinnersly. Pish!—Here is one witness quite lost, and the other had better never been found.

Other Witnesses. We know that Mr. Hales and Mr. Kinnersly had dealings together, and transacted business for one another.

Counsel for the Crown. Aye, we do not dispute that; for we ourselves have called some witnesses to prove it.

The Rev. Mr. Kinnersly lifted up his eyes and hands towards heaven, and called upon the living and true God to witness his innocence; but notwithstanding this, the jury found him and his fellow-prisoner GUILTY.

William Hales was again indicted for fraudulently procuring 750*l.* of Thomas Bird, by false tokens. The evidence against him was to the same effect as in the last trial, and the jury found him GUILTY.

Thomas Kinnersly and William Hales were a second time indicted together, for forging and counterfeiting a note for 1650*l.* payable to Thomas Kinnersly, signed with the name of Samuel Edwards, dated March 30, 1728, and indorsed Thomas Kinnersly.

Mr. Maddox, Mrs. Clark, Mr. Booth, and Mr. Spicer, deposed to the same effect as in the former trials, in relation to Mr. Hales's

procuring franked covers from Mr. Edwards, and the notes being counterfeited.

Mr. Thrup. On the 22d of——last, Hales brought this note to me, and desired me to lend him 400*l.* upon it in notes, which I readily did; for at that time I reposed so much confidence in him, that I did not think he would be guilty of so vile an action, as to impose upon me in such an affair; but I found myself mistaken, for the money was never repaid, and here is the note in the same condition as when I received it.

Thomas Williams, churchwarden. I have often seen Kinnersly write in our parish-book, which I have brought hither; I have compared this note with his writing in this book, and verily believe they were both written by the same hand; and I doubt not but the Court and the Jury will be of the same opinion, when they see them both together.

The court and the jury then compared the writings, and all agreed that both were the same hand-writing.

Mr. Lenton. I have seen him write, and believe this note was of his writing.

Then the court ordered the note to be read. The contents follow:—

March 30, 1728.

I promise to pay to Mr. Thomas Kinnersly, or Order, six months after date, the sum of One Thousand Six Hundred and Fifty Pounds, for value received.

Per me, SAMUEL EDWARDS.

The jury found the prisoners GUILTY.

The Judgment of the Court was,—

That William Hales and Thomas Kinnersly should stand twice in the pillory; once in Fleet-street, at the end of Fetter-lane, and once at the Royal Exchange.

That Hales should pay a fine of 50 marks, suffer five years' imprisonment, and give security for his good behaviour for seven years afterwards. And that Kinnersly should pay a fine of 200*l.*, suffer two years' imprisonment, and give security for his good behaviour for three years longer.

Kinnersly mounted the pillory in his canonical habit. Before his head was fixed in a proper position, he threw several printed papers among the crowd: several constables and others, with long staves, were hired to prevent the mob from their usual diversion in such cases; so that he and his partner in iniquity suffered very little from their hands.

Kinnersly died of a fever in the Press-yard in Newgate, on Monday, April 7, 1729; and Hales in the same prison.

THOMAS WOOLSTON, B.D.

FOR WRITING AND PUBLISHING FOUR BOOKS ON
THE MIRACLES.—MARCH, 1729.

AT the Court of King's-bench, in Guildhall, on Monday, March 9, 1729, Thomas Woolston, B.D. was tried on four informations, for publishing four books on the miracles of our Saviour.

The Jury were sworn to try the issue between the King and Thomas Woolston, defendant.

The Council for the King opened, that Thomas Woolston, some time fellow of Sidney-College in Cambridge, had written a wicked and blasphemous book, of which he caused to be printed and published on the first May last, intituled, *A Discourse on the Miracles of our Saviour*: insinuating, that the miracles of Jesus Christ might be done by the power of magic: to the scandal of our holy religion, and bringing into contempt the life and doctrines of our Lord and Saviour. That the defendant was once esteemed a learned clergyman; but, through conceit, he fell into a crime that exposed him to the censure of all good Christians: by representing the scripture accounts of our Saviour's miracles as so many romances, idle tales, and rhodomontades; vile absurdities, incoherences, and contradictions; instead of being evidences of his divinity. And that, though the defendant now maintained such blasphemous notions, he once entered into orders, and consequently then believed, or at least pretended to believe, the scripture narration of our Lord's miracles, as they are believed by all true Christians.

Another of the King's counsel observed, that this was the most blasphemous book that was ever published; a book in which our Saviour was compared to an impostor, a wizard, and a conjurer; and the gospel turned into ridicule, the literal sense of it represented as an idle romance, and St. Austin quoted as encouraging such notions: the author affirming, that St. Austin had said, "such works as Jesus did, might be imputed to, and effected by magic;" when, indeed, the author had mistranslated the quotation, and, it might be presumed, wilfully,

and with a design to impose upon the ignorant ; for he being a man of learning must know, that he varied from the sense of the Latin, which he has placed in the margin, and in which St. Austin does not say, the works of Jesus might have been performed by magic, but that infidels might suggest such a thing.

Mr. Tuskin deposed, that, on the second of May last, he bought this book, intituled *A Discourse on the Miracles of our Saviour*, of the defendant, at his house in the Old-Jury, and gave him a shilling for it.

The counsel for the defendant said that, as to the defendant's publishing the book, he would not dispute it, but he could not agree that it was done with a blasphemous design, and to bring our religion into contempt, but to put it upon a better footing, by shewing that our Saviour's miracles were to be understood in an allegorical, and not in a literal, sense.

To this it was answered, that if his design had been such, he would not have turned the miracles into ridicule, and treated our Saviour in such a ludicrous manner ; but would have endeavoured to prove, by a serious discourse and sound argument, that they were not to be understood in a literal sense.

The council for the defendant replied that, by several passages in the book, it appeared, that the author had no such design as was laid to his charge ; that he expressly declared that, what he did was not for the service of infidelity, which had no place in his heart, but for the honour of the holy Jesus. That he believed upon good authority (the authority of the fathers,) that some of the miracles of our Saviour were only related as prophetic and parabolical narratives of what would be mysteriously and more wonderfully done by him, and he concluded his first discourse with telling the reader, that he intended, with God's leave, to go on with his undertaking, to the honour of the holy Jesus, our Spiritual Messiah, to whom he ascribed glory and praise for ever. That from these, and many other passages of the like import, the author's aim seemed to be, as was said before, to set our religion upon a better footing, by explaining some passages of the Gospel in an allegorical sense, in order to lead men into (what he apprehended to be) the right way of applying the scriptures.

In reply to this, it was urged that, what he had

written was too plain to be misunderstood, and, if the author of a treasonable libel should write at the conclusion of it, God save the King ! it would not excuse him.

Then part of the book was read, beginning with his account of our Saviour's driving the buyers and sellers out of the temple :

"I have read (said he,) in some modern author, whose name does not occur to my memory, that this was, in his opinion, the most stupendous miracle that Jesus ever wrought, and in truth it was a most astonishing one, if literally true : and Jesus must appear more than a man ; he must put on an awful and most majestic countenance to effect it. It is hard to conceive how any one, in the form of a man, and a despised one too, (and we do not read that Jesus changed his human shape,) with a whip in his hand, could execute such a work upon a great multitude of people, who were none of his disciples, nor had any regard for him. Supposing he could, by his divine power, infuse a panic fear into the people, yet what was the reason that he was so eaten up with zeal against the profanation of that house, which he himself came to destroy, and which he permitted, I may say commanded, to be filthily polluted not long after."

The defendant then made several quotations from Origen, St. Hillary, St. Ambrose, St. Jerome, St. Augustine, Theophilact, and Erasmus, in order to prove that they understood this miracle in an allegorical sense.

The second miracle he noticed was, that of casting the devils out of the madman, or madmen, and permitting them to enter into the herd of swine, which thereupon ran down a precipice, and were all choaked in the sea :

"To exorcise, or cast devils (said he) out of the possessed, without considering the nature of such a possession, or the nature and power of the devil, we will allow not only to be a kind and beneficent act, but a great miracle. But then, be the miracle as great as can be imagined, it is no more than what false teachers, workers of iniquity, and even some artists among the Jews, have done before ; consequently such a work of exorcism in our Saviour, could be no proof of his divine authority ; and if there was no more to be said against this miracle, this is enough to set it aside, and to spoil the argument of Jesus's divine power from it. But there are many circumstances in the story, literally considered, that would induce us to call the whole into question. How came those madmen to have their dwelling among the tombs of a burying-ground ? Where was the humanity of the people, that did not take care of them in pity to them, as well as for the safety of others ? Or if no chains, as the text says, which is hardly credible, could hold them, it was possible surely, as well as lawful, to dispatch them, rather than that their neighbours and passengers should be in danger from them. Believe then, this part of the story, who can. But what is worse, it is not credible

there was any herd of swine in that country. If any historian but the evangelists had said so, none would have believed it. The Jews are forbidden to eat swine's flesh; what then should they do with swine? Perhaps it may be said the Gadarenes were not Jews, but neighbouring Gentiles, with whom it was lawful to eat and keep swine. We will suppose so, but then it is unlikely, that our Saviour would permit the devils to enter into a herd of them to their destruction. Where was the goodness and justice in so doing?"

After some remarks, he endeavoured to prove, upon the authority of the fathers, that the relation of this miracle was not to be understood literally, but in an allegorical and mystical sense.

The third charge against him in this information was, for his abuse of the scripture history of our Saviour's transfiguration on the mount:

"And this, said he, is the darkest and blindest story of the whole gospel, which a man can neither make head nor foot of: and I question whether the conceptions of any two thinking doctors do agree about it. To say there is nothing in the letter of this story, we believers must not; because St. Peter says he was an eyewitness of Jesus's majesty, saw his glory on the mount, and heard the voice out of the cloud. But, as infidels will be prying into the conduct of Jesus's life, and forming their exceptions to the credibility, or probability, of this or that part of it, some Christians should be ready at an answer that might reasonably satisfy them, and not forcibly bear down their opposition, which will make no sincere converts of them. And I believe they would easily distress us with difficulties and objections to the letter of this story.

St. Augustine himself owns, that the whole of it might be performed by magic art: and we know in these our days, that some jugglers are strange artists at the imitation of a voice, and to make it as if it came from afar, when it is uttered close by us; and can cast themselves too into different forms and shapes, without a miracle, to the surprize and astonishment of the spectators."

In this ludicrous manner he proceeded to amuse himself with asking questions about the manner of the transfiguration, of what use it was, and what discourse passed between our Saviour, and Moses and Elias; and then, introduced the fathers to support his own whimsical and allegorical scheme.

The next miracle which, as he said, he would take to task, was that of changing water into wine. And this he treated in a more extravagant and indecent manner than any of the former.

This was the last charge in the first information. The Court having summed up the whole to the Jury,

they found the defendant GUILTY of writing, printing, and publishing, the said book.

The Jury were sworn again to try the second issue between the King and Thomas Woolston, for writing, printing, and publishing a book, intituled A Second Discourse on the Miracles of our Saviour.

A witness having sworn that he bought this second book of the defendant, part of the book was read.

The author said, that the miracles of healing all manner of bodily diseases, which Jesus was justly famed for, were none of the proper miracles of the Messiah, nor so much as a good proof of his divine authority to found a religion. That many of them literally, as recorded by the evangelists, implied absurdities, improbabilities, and incredibilities; and, consequently, either in whole or in part, were never written as they are commonly believed now-a-days, but were only related as prophetic and parabolical narratives of what would be mysteriously and more wonderfully done by him.

He said, that Jesus was supposed often miraculously to cure lameness; but there was no account of the nature and degree of the lameness he cured; nor was it certain whether the skill of a surgeon, or nature itself, could not have done the work without his help. That if the evangelists had told us of men that wanted one or both their legs (and such miserable objects of Christ's power and compassion were undoubtedly in those days as well as in ours,) and Jesus had commanded nature to extend itself to the entire reparation of such defects, those would have been stupendous miracles indeed, which infidelity itself could not have cavilled at; nor would the fathers have known how to have allegorized or made parables of them.

The miracle he first treated of here was that of healing the woman who had been twelve years diseased with an issue of blood.

He seemed angry with the evangelists for not telling the nature of this distemper, and said it might be only a little bleeding at the nose, &c. He insinuated that she was not so bad as she pretended to be, for she pressed through the crowd; and that the curing her, by stopping the effusion of blood, might hasten her death. He introduced a vile comparison of Moore the apothecary;

and maintained that the woman was cured by conceit, on touching the hem of Christ's garment. And from our Saviour's words, that virtue was gone from him, he drew a profane inference, that Jesus's virtue hung very loosely on him.

The miracle of healing the woman who had an infirmity eighteen years, he treated in the same ludicrous manner. He called her a drooping, vapourish woman, full of fancies of the devil's temptation over her; but that, when our Saviour had laid his hands on her, she might be of a more cheerful heart, and freed from the whimsical imagination of being Satan-ridden.

He next alluded to the woman of Samaria, which he said was a broken absurd tale: that the Samaritans expected our Saviour would be a fortune-teller, and he wondered that the gipsies, from this story, do not account themselves the disciples of Jesus. He added, that the men had but little wit, or they had never stirred from their homes to see such a fortune-teller upon the report of a poor w—e.

The Jury found him GUILTY of publishing the second book.

The Jury were sworn again, and a third information was pleaded against Thomas Woolston, for writing, printing, and publishing, a third book, intituled, *A Third Discourse on the Miracles of our Saviour*.

In this performance, he first attacked our Saviour's cursing the fig-tree.

To look upon this miracle according to the letter, he said, it appeared to be such a foolish and absurd, if not a malicious and ill-natured act, that he questioned whether the folly and absurdity of it could be equalled in any instance of the life of a reputed wise man. For he said, that Jesus, it seemed, was hungry; and, being disappointed of figs, to the satisfaction of his appetite, cursed the fig-tree, which (he added) was as foolishly and as passionately done, as for another man to throw the chairs and stools about the house because his dinner was not ready at a critical time, or before it could be got ready for him.

He desired to know where was Judas, the steward and caterer, with his bag of victuals as well as money; and said, it was poor forecast and management among them,

or Jesus had never trusted to the uncertain fruits of a fig-tree, which he espied at a distance, for his breakfast.

After these, and other no less offensive reflections on the literal sense of the history, the author, by way of salvo, turned the whole into an allegory, and pretended a great veneration for the mystical meaning. But the council for the King observed, he could have no good in his heart, who could let such expressions come from under his hand.

The next miracle he ridiculed was that of healing a man of an infirmity of thirty-eight years' duration, at the pool of Bethesda, where a great number of blind, lame, and impotent, lay waiting for the descent of an angel, who, by troubling the waters, gave them such a sanative virtue, as to cure the first distempered person who stepped in.

This whole story, he said, was a camel of a monstrous size, for absurdities, improbabilities, and incredibilities, which our divines and their implicit followers had swallowed without clearing, while they had been straining at gnats in theology, and hesitating at frivolous and indifferent things of the church of no consequence. He then said, that the man's infirmity was more laziness than lameness, and that Jesus only shamed him out of his pretended illness, by bidding him take up his stool and walk off, and not lie any longer like a lazy dissembler, among the diseased, who were real objects of compassion. After this, he said, that the angel's descent into the pool might be to wash himself, and clear off some bodily defilement or heat, contracted in the celestial regions.

The Jury found him **GUILTY** of publishing this book likewise.

The Jury were sworn a fourth time: and a fourth information was pleaded against him, for writing, printing, and publishing, *A Fourth Discourse on our Saviour's Miracles.*

He began with our Saviour's giving sight to the man who was born blind. "And this, he would persuade us, was done with eye-salve, made of clay and spittle." He said, that sometimes we hear of famous chance doctors, who, by a gift of God, nature, or fortune, without any skill in the structure of the eyes, have been successful in the cure of distempers incident to them.

He then said, for instance, Sir William Read was no scholar, and yet he cured his thousands of sore and blind eyes, to the astonishment of professed physicians and surgeons; and he questioned whether Sir William or Jesus cured the greater number: but added, that they both met with some that were out of their power.

He then fell again upon the marriage at Cana, in Galilee, and amused himself, in an unaccountable manner, with the miracle of Jesus turning water into wine, when the guests had drunk heartily.

And yet, which was very surprizing, after all this, he set up for a good Christian, and a true believer in Jesus, though in a manner different from what others believe.

The Jury likewise found him GUILTY of publishing this book.

The judgment against him was, that he should pay a fine of £100, suffer a year's imprisonment, and give security for his good behaviour during life; himself in a recognisance of £2000, and two sureties in £1000 each, or four in £500 each.

JEPHTAH BIG,

FOR EXTORTION.—APRIL, 1729.

JEPHTAH BIG was indicted on the statute made in the 9th year of King George I. for sending two letters without names to Nathaniel Newnham, the elder, demanding in the first 85 guineas, and in the second 100 guineas, and threatening to murder him and his wife, if the said sums were not sent according to the directions given in the said letters.

Peter Salter, sworn. The prisoner came to me in Squirrel-alley, in the Minories, where I was at work, and asked me to go and drink with him; we went to the Ship alehouse, which I frequented, but he desired me to go to some other house, saying, that he wanted to talk with me about a particular affair; and so we went to the Sieve in the Little Minories. The prisoner began to tell me his business: "Peter," said he, "I have something to say to you, but I would not have every body know it. I want 10 or 15 guineas, and, if I had them, they would get me sixty more." I asked him what he would have me do? "Why," said he, "my brother is coachman to a fearful old man, and I would write him

a letter to send me a parcel, and I would have you fix upon a house where the parcel may be sent to and received, and you not be suspected: is there not a house at Billingsgate, the Shoulder of Mutton, where you drink? Will they have any suspicion of you?" "I think not," said I: "Well then," said he, "do you go to the Shoulder of Mutton, and sit there and call for drink, and when a porter comes for a parcel directed for John Harrison, if you suspect any thing, come immediately to the King's Head alehouse, in King's-head-court, on Fish-street-hill, where I will wait for you." I went at the time appointed to the Shoulder of Mutton, and while I was there, a porter came in with a piece of paper, and asked for the landlord; the landlord and his son were both there; the porter said, "Here is a note;" the son looked on it, and gave his father a sign, went out and brought in another man, and then gave the porter the parcel. As soon as I saw this, I went to the King's-head alehouse, and acquainted the prisoner with it. We then went to Moorfields; he said he was disappointed, and that if he had got the money, he intended to have given me five guineas: thence we went to the Three Tuns, where the prisoner said, "though he was disappointed now, he would write him another letter that should make him tremble; and that the second parcel should be directed to be left at the Black Boy in Goodman's-fields, for John Harrison; for there," he said, "the man of the house would have no suspicion of me." On the 1st day of April, the prisoner sent for me to the Ship alehouse in the Minories; I went: he said, he wished me to go with him to the Black Boy in Goodman's-fields, and see if the parcel was brought thither: "You will have nothing to do," said he, "but to sit in the house, and observe if there is any trap laid to catch me." We went together to the Black Boy, where we read the newspaper, in which was an advertisement about these letters; and it was said by some, that they did not believe any body would appear, because of the advertisement: the prisoner left me there, with orders to meet him at the Rose at Aldgate. After he was gone, a porter came in with a note, which he shewed to Mr. Whitaker, who kept the Black Boy: Mr. Whitaker said to the porter, "I had rather the person had come himself for the parcel; however, you shall have it. Mr. Whitaker went to the door, where a man came up to him, when he delivered the parcel to the porter, and bid him carry it to the gentleman: they went out after the porter, and followed him at a distance on the other side of the way. I staid afterwards and drank a pint of beer, and then went to the prisoner at the Rose at Aldgate, and told him there was a trap laid for him. After this, we both went to see his brother, who lived with Mr. Newnham; and, going to an alehouse close by, we dined there, and sent for the prisoner's brother; who came, but said he could not stay, because he was going on an errand, but he should soon be back, and then he would come to us again: he came accordingly; the prisoner asked him if he designed to quit his present situation? he answered, No. "Why," said the prisoner, "you have complained that your master was cross and peevish:" "aye," replied the brother, "but now I know the reason of it: a vile rogue has sent him a

letter, demanding a great sum of money, and threatening to murder him upon refusal." "A vile rogue, indeed," said the prisoner; "and now I think of it, I have heard that there is an advertisement about it." From this place we went to the Sieve in the Little Minories, where we read the advertisement; from the Sieve we went to the White Swan in Goodman's-fields, where the prisoner told me, that he would endeavour to learn when the old man came out of the country, when, he said, he would send him another letter. I answered, "I am sorry you will meddle with such affairs, for they are very dangerous:" he replied, "you need not fear, for nothing can hurt you; but my life is in your hands, and, if you ever discover the matter, you shall share the same fate."

John Long, servant to the prosecutor, sworn. On the 20th of March, a letter came by the penny-post, directed to my master; I took it in, and gave it him, and, when he had read part of it, he gave it to me, and bid me read it, which I did. It contained several threats, if 85 guineas were not sent as directed. The same evening a brown-paper parcel was made up, but without any money in it; it weighed about two pounds, and was directed for John Harrison. I carried it next morning to Mr. Ward's, at the Shoulder of Mutton: after this, came another letter of the same hand, dated March 27, demanding 100 guineas, to be sent in a parcel to the Black Boy in Goodman's-fields, directed for John Harrison, and threatening, if this was not complied with, to murder my master and mistress; thereupon another parcel was made up, and carried to the place appointed.

Mr. Benger, at the Bell in Mincing-lane, deposed: a man came to my house, and called for a pen and ink, which was carried him; he wrote a note, and then wanted a porter: but I took so little notice of the person, that I cannot swear whether the prisoner is the same man or not.

— *Flinder*, the porter. I carried the note, but I cannot swear that the prisoner is the man who sent me.

The two letters were proved and read in court; the first demanding 85, and the latter 100 guineas: this especially was filled up with the most horrid oaths and imprecations, and threatenings to murder the prosecutor and his wife, if the demand was not complied with.

Several respectable persons gave the prisoner the character of a sober industrious man.

The jury found him GUILTY.—*Death*.

He was hanged at Tyburn, on Monday, May 19, 1729.

THOMAS BAMBRIDGE, Esq.

FOR FELONY.—DECEMBER, 1729.

THOMAS BAMBRIDGE, late warden of the Fleet prison, was indicted for stealing a feather-bed and bolster, two pillows, two blankets, one quilt, two cane chairs, one easy chair and cushion, two stuffed chairs, two tables, a looking-glass, a fire-shovel, a pair of tongs, a gridiron, a pair of bellows, and three pair of window-curtains; a Mechlin laced head, value 10*l.*, a Flanders laced head, value 6*l.*, six silver handled knives, value 3*l.*, six silver forks, value 40*s.*, two tea-spoons, a strainer, and tongs; twenty ounces of gold lace, value 10*l.*, two gold seals, one emerald; five diaper napkins, a piece of dimity, a sable tippet, a piece of blue and white satin, two stone seals set in gold, three silk gowns, two pieces of sarsenet, a garnet ring, and other articles of great value, the goods of Elizabeth Berkley, October 31, 1727.

John Turner. In October, 1727, I was a prisoner in the Fleet; Mrs. Berkley lodged within three rooms of me: I being an upholsterer by trade, Mr. Pindar called me into her room to appraise her goods. I accordingly took an inventory of what appeared, but the boxes were mentioned in gross, without being opened at that time. The door had been broken open, and there was a man present whom they called a constable: I went in again, and then the prisoner sent to Mrs. Berkley for the keys of her boxes; but she refusing to send them, he broke the boxes open, and then wrote the title of an inventory on a loose piece of paper, and ordered me to copy it at the head of my inventory; the title was to this effect:—An inventory of the goods of Elizabeth Berkley, distrained for 56*l.* rent due to Mr. Huggins, October 23, 1727; then followed the inventory,—one bedstead with a sacking bottom, &c. We generally deliver in the sum total of the value, but I gave the prisoner the value of the particulars, that he might the better know how to dispose of the goods. The second inventory consisted of plate, china, rings, precious stones, and wearing apparel: I told the prisoner that it was not usual to distrain necessary wearing apparel, and upon that, he bid me only set down so many yards as they contained. At first I made the goods come to 30*l.*, but he thought that was too much, alleging there were charges attending the appraisement, which reduced the sum to 27*l.* 16*s.* 9*d.*: it is customary to have two appraisers, but there was none but myself. After the appraisement, I saw the prisoner put some silver tea-spoons, rings, and other small things in his pocket, and some wearing apparel and other goods into a portmanteau: upon finding a brush used in cleaning diamonds, he said, he believed there must be diamonds; and afterwards he looked about every where, and at length

found the rings: while this search was making, Mrs. Berkley appeared very much displeas'd; but she could not help herself: she was turn'd on the common side, without a bed to lie on, nor had she any bed all the time of my imprisonment. She grew very incoherent, and talk'd wildly: she would often assert, that Lord Harcourt was not dead, but would come and punish the rogues that had robbed her.

Prisoner. Did not I order you to put every thing down.

Turner. Yes, but if I had had money I would have given 30*l.* for the goods myself, because I knew they were very well worth it; but I lower'd them to 27*l.* odd at your desire.

C. What conversation pass'd at the time of seizing the goods?

T. The prisoner told Mrs. Berkley that, it was a shame she should live there and not pay her rent; for she had a good income. She said, the house was the King's, and if the King sent her there she would pay no rent.—I had made several seizures before with Pindar and Chamberlain.

Prisoner. Pindar was indicted, that he might not be an evidence for me.

C. He was indicted as being a principal concern'd.—What trade was Pindar?

T. A Distiller.—He knew nothing of the value of household goods.—There was a man whom they call'd a constable, at both seizures.

Prisoner. Did not I propose to Mrs. Berkley to send for some friend to pay the rent, and save her goods?

T. You did so.

Thomas Wilkinson. I was a prisoner in the Fleet on the common-side, and about six o'clock—

Prisoner. What money have you received, and how long have you been maintain'd to be an evidence against me?

Court. That is not a proper question.—If you can prove any such thing as you insinuate, you may.

Wilkinson. About six o'clock at night, the latter end of October, I believe it might be the 27th, I saw the prisoner at Mrs. Berkley's door. There were two padlocks on the door, she had the key of one, and Pindar had the key of the other. Pindar was there too, with Turner and Barns, and a constable, as they call'd him; he had a short staff, but I never saw him before nor since. The prisoner order'd Pindar to unlock one of the padlocks, and Mrs. Berkley was brought up from the common-side, to unlock the other; but she refusing, Barns was sent for a hammer to break it off. At last they procur'd a poker and wrench'd the door open. Upon this Mrs. Berkley said it was a robbery, and she hop'd Bambridge would be brought to justice for it. When they enter'd, they took an account of a few goods, and then requir'd Mrs. Berkley to open her boxes, two of which were lock'd, and the other nail'd; but she still refusing, the prisoner himself brok them open, and took out some of the goods, and Turner, as the appraiser, took out others; when the goods were apprais'd, they were all sent away by the prisoner's orders: I carried the bed first into the lumber-room, and afterwards to Dorset-stairs, in order to be sent to Wandsworth. The

wearing apparel, and several other things were put into a portmanteau; but the rings the prisoner put into his pocket, for fear they should be lost out of the boxes. Mrs. Berkley was present all this time, was much vexed, and said it was a robbery.

C. Do you know particularly what articles the prisoner put in his pocket?

W. Two gold seals, an emerald, some stones, a garnet, two gold rings, and a stone ring; but I never saw any of them afterwards. The prisoner found a little brush, and said, he believed there must be diamonds. At first he said the goods were going to a sale; but afterwards he sent me to the Wandsworth waterman. The easy chair was left with Turner to be cleaned, and, when that was done, I carried it to Will's coffee-house.

Prisoner. Was there any talk about rent?

W. Yes, there was.

Prisoner. When were the goods carried out?

W. About six days after they had been in the lumber-room, but they were locked up, and you kept the key.

Prisoner. Were they not sent out of prison publicly?

W. They were.

Prisoner. Was not Mrs. Berkley in the room all this time?

W. I am not positive of that, for after her bed was carried out, you sent me to procure an inferior bed that she would not lie upon: there were better beds in the room, which you sent away afterwards.

Ambrose Burgess. I was not present when the door was broken open, but afterwards I went into the room, in which were Barns, Pindar, Douglas, Turner, and the prisoner. I saw the three boxes broken open, and abundance of good things taken out; apparel, china, orris-lace, pearl, emerald, ruby, and other articles. The small things the prisoner put in his pocket, for fear (as he said) they should be lost. Turner weighed the gold lace, and there was twenty ounces and a half.—Mrs Berkley was present while the boxes were broken open.

John Savage. I was passing the end of the gallery, when the last inventory was taken; and, observing several people at Mrs. Berkley's door, I went to ascertain their business. I found the prisoner and Douglas in her room. The prisoner demanded her keys; she said, she would give him none, for he had no authority to take them. He told her he had authority, and she should see presently; and then he broke open the boxes. They contained good apparel, and other rich articles. In one of the drawers there was a box with four rings in it; I think one of them had some small diamonds round it, but the middle diamond was wanting; and two seals set in gold; I took one to be an amethyst, and a silver-handled knife and fork in a shagreen case, and these, I think, the prisoner put in his pocket, and did not take them out again while I was there. The other valuable goods were put into a portmanteau.—Turner telling the prisoner that it was not usual to distrain necessary wearing apparel, the prisoner bid him then put down the quantities they contained, as if they had not been made up.

Prisoner. Were not the rings shewn in the coffee-house afterwards?

J. S. They were; but it was in a private room among your own company.

Mendez Soles. Captain Douglas brought a ring to me to know the value of it, and desired me to take the stone out and weigh the gold. I told him it was an amethyst: he said it came from Bambridge: and Bambridge afterwards came himself, and asked me if it was an amethyst? I told him I was sure it was; and then he ordered it to be cut; telling me, that he had it from Mrs. Berkley. I set that and another ring for him; one of them was worth about 30s. Dr. Colthart brought a garnet and a brilliant from the prisoner, and some time afterwards the doctor came again with a person that kept Will's coffee-house, and brought another ring to know the value of it: it was worth about 14*l.*: it had a diamond in the middle.

Mr. Howard. The prisoner lodged at Will's coffee-house, about a year together, and it is now about a year since he went away. Some articles were brought thither, but I do not know what; and some things were sold to Mr. West, a gown and petticoat; I cannot tell what else, for I did not notice what sort of goods they were: but I heard Mr. West say, that they came to 14 or 15*l.* I know nothing of the matter but what he told me, except that I saw goods brought in. I saw the prisoner with some gold lace about two years ago, and he sold it to Mr. Harris, who paid him the money for it; and about November, 1727, I saw the prisoner with two or three tea-spoons, there might be three or four of them; but I cannot say whether he sold them, or whether Mrs. Corbet bought them.

Mrs. Howard. I cannot tell exactly the time, but when the prisoner lodged at Will's coffee-house, some women's clothes were brought thither, and sold to Thomas West, and a gold watch was given in exchange for them: there were a blue and white flowered satin gown, and a worked gown; also a scarf and hood laced with black lace, and a sable tippet, also sold to Mr. West, and I do not know of any thing that was given for them besides the gold watch: the prisoner offered some tea-spoons to me, but I would not buy them: there was some silver lace, about 4*l.* worth sold to Mr. Harris, who paid the prisoner for it at my house.

Prisoner. I do not apprehend that any thing criminal has been proved against me; I have records to prove that I acted according to law; but I shall leave my case to the Court and the Jury, only requesting, that, if any point of law should arise, my counsel may speak to it.

The Jury acquitted him.

On Friday, May 23, 1729, Thomas Bambridge, late warden of the Fleet-prison, was tried upon an indictment for the murder of Robert Castell, but was acquitted.

CAPT. JOHN GOW AND OTHERS,
FOR PIRACY.

JOHN Gow, whose assumed name was Captain Smith, was a native of one of the Orkney Islands in the North of Scotland, and, having been instructed in maritime affairs, became so expert, that he was soon appointed mate of a ship, in which he sailed on a voyage to Santa Cruz. When the vessel was ready to weigh anchor from this place, the merchants who had shipped goods on-board her, came to pay a parting visit to the captain, and to give him their final instructions. On this occasion, the captain, agreeably to custom, entertained his company under an awning on the quarter-deck; and, while they were regaling, some of the sailors preferred a complaint of ill-treatment they pretended to have received, particularly with regard to short allowance. The captain was irritated at so undeserved a charge, which seemed calculated to prejudice him in the opinion of his employers; but conscious of the uprightness of his intentions, he did not reply in anger, but only said that, "there was a steward on-board who had the care of the provisions, and that all reasonable complaints should be redressed;" on which the seamen retired with apparent satisfaction.

The wind being fair, the captain directed his men to weigh anchor as soon as the merchants had quitted the vessel. It was observed that Paterson, one of the complainants, was very dilatory in executing his orders, on which the captain demanded, "why he did not exert himself to unfurl the sails;" to which he made no direct answer, but was heard to mutter, "as we eat, so shall we work:" the captain heard this, but took no notice of it, as he was unwilling to proceed to extremities. The ship had no sooner sailed, than the captain considered his situation as dangerous, on reflecting that his conduct had been complained of, and his orders disobeyed: hereupon he consulted the mate, and they agreed to deposit a number of small arms in the cabin, in order to defend themselves in case of an attack. This precaution might have been extremely salutary, but that they spoke so loud as to be overheard by two of the conspirators, who were on the quarter-deck: the captain likewise directed

the mate to order Gow, who was second mate and gunner, to clean the arms; a circumstance that plainly insinuated to the latter, that the conspiracy was at least suspected. Those who had overheard the conversation between the captain and mate, communicated the substance of it to Gow and the other conspirators, who thereupon resolved to carry the plan into immediate execution.

Gow, who had previously intended to turn pirate, thought the present an admirable opportunity, as there were several chests of money on-board the ship; he therefore proposed to his companions that they should immediately embark in the enterprise; and they accordingly determined to murder the captain, and seize the ship. Half the vessel's company were regularly called to prayers in the great cabin, at eight o'clock in the evening, while the other half were doing duty on deck; and, after service, those who had been in the cabin went to rest in their hammocks.

The contrivance was to execute the plot at this juncture. Two of the conspirators only remained on duty; the rest being among those who retired to their hammocks. Between nine and ten at night, a kind of watch-word was given, which was, 'Who fires first?' On this, some of the conspirators left their hammocks, and, going to the cabins of the surgeon, chief mate, and supercargo, they cut their throats while they were sleeping. The surgeon finding himself violently wounded, quitted his bed, and soon afterwards dropped on the floor, and expired: the mate and supercargo held their hands to their throats, and, going on the quarter-deck, solicited a momentary respite, to recommend their souls to heaven; but even this favour was denied, for the villains, who found their knives had failed to destroy them, dispatched them with pistols. The captain hearing a noise, demanded the occasion of it. The boatswain replied, that he did not know; but he was apprehensive that some of the men had either fallen or been thrown overboard. The captain now went to look over the ship's side, on which two of the murderers followed, and tried to throw him into the sea; but he disengaged himself, and turned about to take a view of them, when one of them cut his throat, but not effectually; he loudly solicited mercy, but, instead of granting it, the other stabbed him in the back with

a dagger, and would have repeated his blow, had he not struck with such force, that he could not draw back the weapon. At this instant, Gow, who had been assisting in the murders between the decks, came on the quarter-deck, and fired a brace of balls into the captain's body, which put a period to his life.

As soon as the dead bodies were thrown overboard, Gow was unanimously appointed to the command of the ship. Those of the sailors who had not been engaged in the conspiracy, secreted themselves; some in the shrouds, others under the stores, in dreadful apprehension of sharing the fate of the captain and their murdered companions. Gow, having assembled his associates on the quarter-deck, appointed them their different stations on board, and it was agreed to commence cruising. The new captain now directed that the men who had concealed themselves should be informed that no danger would happen to them, if they did not interfere to oppose the new government of the ship, but kept such stations as were assigned them. The men, whose terrors had taught them to expect immediate death, were glad to comply with these terms; but the pirates, to enforce obedience to their orders, appointed two men to attend with drawn cutlasses, to terrify the others into submission.

Gow and his companions now divided the most valuable effects in the cabin; and then ordering liquor to be brought on the quarter-deck, they consumed the night in drinking, while those unconnected in the conspiracy, had the care of working the ship. The crew originally consisted of twenty-four men; of whom four had been murdered, eight were conspirators, and before morning, four of the other men had approved of the proceedings of the pirates, so that there were only eight remaining in opposition to the newly usurped authority. On the following day, the new captain summoned these eight men to attend him; and, telling them he was determined to go on a cruising voyage, said, "that they should be well treated if they were disposed to act in concert with the rest of the crew." He said, "that every man should fare in the same manner; and that good order and discipline were all that would be required." He said further, "that the captain's inhumanity had produced the consequences which had happened; that those

who had not been concerned in the conspiracy, had not reason to fear any ill-consequences from it; that they had only to discharge their duty as seamen, and every man should be rewarded according to his merit." To this address, these unfortunate honest men made no kind of reply; and Gow interpreted their silence into an assent to measures which it was not in their power to oppose.

After this declaration of the will of the new captain, they were permitted to range the ship at their pleasure; but, as some of them appeared to act very reluctantly, a strict eye was kept on their conduct. Williams, who acted as lieutenant of the vessel, and who was distinguished for his ferocious conduct, had an opportunity of exerting his cruelty, by beating these unhappy sailors; a privilege he did not fail to exert with great severity.

The ship, thus seized, had been called the *George* galley, but the pirates gave her the name of the *Revenge*; and, having mounted several guns, they steered towards Spain and Portugal, in expectation of making a capture of wine, of which article they were greatly in want. They soon made prize of an English vessel, laden with fish, bound from Newfoundland to Cadiz; but, having no use for the cargo, they took out the captain, and four men who navigated the ship, which they sunk. One of the seamen whom they took out of the captured vessel, named John Belvin, proposed to Gow to enter into all his schemes. The next vessel taken by the pirates was a Scotch ship, bound to Italy, with pickled herrings; but this cargo, like the former, being of no use to them, they sunk the vessel, having first taken out the men, arms, ammunition, and stores.

When they had cruised off for some days, they found themselves in such distress, that it became necessary to seek immediate relief; on which they sailed to *Porta Santa*, a Portuguese settlement, at the distance of about ten leagues. On their arrival at this place, they sent their boat on shore, with a present of salmon and herrings for the governor, and the name of a port to which they pretended to be bound. The persons sent on shore were civilly treated by the governor, who accompanied some of his friends on board the ship. Gow, and his associates, received the governor very politely, and entertained

him and his company in the most hospitable manner; but the boats belonging to the pirates not coming on board with provisions as they had expected, and the governor and his attendants preparing to depart, Gow and his people threatened to take away their lives, unless they instantly furnished them with what they required. The Portuguese governor and his friends dreaded instant death, and solicited that their lives might be spared: Gow being peremptory in his demands, the governor sent a boat repeatedly on shore, till the pirates were furnished with such articles as they wanted. The Portuguese were now permitted to depart; and the pirates determined to steer towards the coast of Spain, where they soon arrived. After cruising a few days off Cape St. Vincent, they fell in with an English vessel, bound from the coast of Guinea to America, with slaves, but which had been obliged to put into the port of Lisbon: though it was of no use to them to capture such a vessel, they took it, and putting on board the captain and men they had heretofore taken, and taking out all the provisions and some of the sails, they left the ship to proceed on her voyage. Falling in with a French ship, laden with wine, oil, and fruit, they took out the lading, and gave the vessel to the Scotch captain, in return for the ship which they had sunk. The Scotchman was likewise presented with some valuable articles, and permitted to take his men to sail with him; all of whom joined him, except one, who continued with the pirates through choice.

The day previous to this affair, they observed a French ship bearing down towards them; on which Gow ordered his people to lay to; but, observing that the vessel mounted two and thirty guns, and seemed proportionally full of men, he assembled his people, and observed to them, that it would be madness in them to think of engaging so superior a force. The crew in general were of Gow's opinion; but Williams, the lieutenant, said that Gow was a coward, and unworthy to command the vessel. The fact was, that Gow possessed some share of calm courage; while Williams's impetuosity was of the most brutal kind: the latter, after behaving in the most abusive manner, demanded that the former should give orders for fighting the vessel; but Gow refusing to comply, the other presented a pistol to shoot him, which only flashed in the pan. This being observed by two of the

pirates, named Winter and Paterson, they both fired at Williams, when one of them wounded him in the arm, and the other in the belly. He dropped as soon as the pieces were discharged; and the other seamen, thinking he was dead, were about to throw him overboard, when he suddenly sprang on his feet, jumped into the hold, and swore he would set fire to the powder-room; and, as his pistol was yet loaded, there was every reason to think he would actually have done so, had he not been instantly seized, and his hands chained behind him; in which condition he was put among the French prisoners, who were terrified at the sight of him; it having been a common practice with him to flog the poor prisoners, by way of entertainment.

At length they determined to put Williams on board a captured ship; the commander of which was desired to turn him over to the first English man-of-war he should meet with, that he might experience the justice due to his crimes; and in the mean time to keep him in the strictest confinement. On the departure of this ship, Gow and his crew began to reflect on their situation. They were apprehensive that, as soon as intelligence of their proceedings reached Portugal, some ships would be sent in pursuit of them.

After much deliberation, they steered northward, and entering a bay of one of the Orkney Islands, Gow assembled his crew, in order to instruct them to say, that they were bound from Cadiz to Stockholm; but contrary winds driving them past the Sound, till it was filled with ice, they were under the necessity of putting in to clean their ship, and that they would pay ready money for such articles as they stood in need of.—It happened that a smuggling vessel lay at this time in the bay, which belonged to the Isle of Man, and being laden with brandy and wine from France, had come north about, to steer clear of the custom-house cutters. In their present situation, Gow thought it prudent to exchange goods with the commander of the vessel; though, in any other, he would hardly have been so ceremonious. A Swedish vessel entering the bay two days afterwards, Gow likewise exchanged some goods with the captain.

When the boat went ashore one evening, a young fellow, who had been compelled to take part with the pirates, got away from the rest of the boat's crew, and,

after lying concealed some time at a farm-house, hired a person to shew him the road to Kirkwall, the principal place on the Islands, and about twelve miles distant from the bay where the ship lay at anchor. Here he applied to a magistrate, said he had been forced into the service, and begged that he might be entitled to the protection of the law, as the fear of death alone had induced him to be connected with the pirates. Having given a full account of their irregular proceedings, the sheriff issued his precepts to the constables and other peace officers, to call in the aid of the people, to assist in bringing those villains to justice.

About this juncture, ten of Gow's sailors, who had likewise taken an involuntary part with the pirates, seized the long-boat, and having made the main land of Scotland, coasted the country till they arrived at Edinburgh, where they were imprisoned on suspicion of being pirates. Notwithstanding these alarming circumstances, Gow was so careless of his own safety, that he did not put immediately to sea, but resolved to plunder the houses of the gentlemen on the coast, to furnish himself with fresh provisions.

In pursuance of this resolution, he sent his boatswain and ten armed men to the house of Mr. Honeyman, high sheriff of the county; and, the master being absent, the servants opened the door, without suspicion: nine of the gang went into the house to search for treasure, while the tenth was left to guard the door. Mrs. Honeyman running to the door, saw the man who stood guard there, of whom she asked the meaning of the outrage; to which he calmly replied, "that they were pirates, and had come thither only to ransack the house:" recollecting that she had a considerable quantity of gold in a bag, she returned and put it in her lap, and ran by the man at the door, who had no idea but that she ran to preserve her life. The boatswain not finding money, declared that he would destroy the family writings, if cash was not produced; but this being overheard by Miss Honeyman, she threw the writings out of the window, and jumped out after them, (it being a low house,) escaped unhurt, and carried them off. In the interim, the pirates seized the linen, plate, and other valuable articles, and then walked in triumph to their boat, com-

pling one of the servants to play before them on the bagpipes.

On the following day they weighed anchor; but, on the evening of the same day, came again to anchor near another island. Here the boatswain and some men were sent on shore in search of plunder, but did not succeed. They then sailed to an island called Calf Sound, with an intention of robbing the house of Mr. Fea, who had been an old school-fellow with Gow. His house was situated near the sea-shore: he had servants at home when the pirates appeared off the coast, but they were by no means equal to a contest with the plunderers. Gow having incautiously cast his anchor too near the shore, so that the wind could not bring him off, sent a boat with a letter to Mr. Fea, requesting that he would lend him another boat, to assist him in heaving off the ship, by carrying out an anchor; and assuring him that he would not do the least injury to any individual. As Gow's messenger did not see Mr. Fea's boat, the latter gave him an evasive answer; and, on the approach of night, ordered his servants to sink his own boat, and hide the sails and rigging. While they were obeying this order, five of Gow's men came on shore in the boat, and proceeded, doubly armed, towards Fea's house.

Mr. Fea represented how dangerous it would be for him to assist them, in lending them the boat, on account of the reports circulated to their discredit; but he offered to entertain them at an adjacent alehouse, and they accepted the invitation, as they observed he had no company. While they were drinking, Mr. Fea ordered his servants to destroy their boat, and when they had done so, to call him hastily out of company, and inform him of it. These orders were exactly complied with; and, when he left the pirates, he directed six men, well armed, to station themselves behind a hedge, and if they observed him come alone with the boatswain, instantly to seize him; but, if he came with all the five desperadoes, he would walk forward, so as to give them an opportunity of firing without wounding himself.

After giving these orders, Fea returned to the company, whom he invited to his house, on the promise of their behaving peaceably, and said he would make them heartily welcome. They all expressed a readiness to attend him, in the hope of getting the boat; but he told

them, he would rather have the boatswain's company only, and would afterwards send for his companions. This being agreed to, the boatswain set forward with two brace of pistols; and walking with Mr. Fea, till they came to the hedge where his men were concealed, he then seized him by the collar, while the others took him into custody, before he had time to make any defence. The boatswain called aloud for his men; but Mr. Fea, forcing a handkerchief into his mouth, bound him hand and foot, and then left one of his own people to guard him, while himself and the rest went back to the public-house. There being two doors to the house, they entered by each, and rushing in at once, they made prisoners of the other four men, before they had time to take up their arms for defence. The five pirates being thus in custody, were sent to an adjacent village, and separately confined; in the interim, Mr. Fea sent messengers round the island, to acquaint the inhabitants with what had been done; desiring them to haul their boats on the beach, that the pirates should not swim to and steal them; and requesting that no person would venture to row within reach of the pirates' guns.

At length, by an equal exertion of courage and artifice, Mr. Fea captured these dangerous men, twenty eight in number, without a single man being killed or wounded; and only with the aid of a few countrymen. When the prisoners were properly secured, Mr. Fea sent an express to Edinburgh, requesting that proper persons might be sent to conduct them to that city. As soon as his express arrived, another was forwarded to London, to learn the Royal pleasure respecting the disposal of the pirates; and the answer brought was, that the Lord Justice Clerk should immediately send them to London, in order to their being tried by a court of admiralty, to be held for that purpose. When these orders reached Edinburgh, a guard of soldiers marched to escort them to that city; and on their arrival, they were put on board the Greyhound frigate, which immediately sailed for the Thames. A commission was now made out for their trial; and, soon after their commitment, they underwent separate examinations before the judges of the Admiralty court, in Doctor's Commons, when five of them were admitted evidences against their accomplices.

Being removed from the Marshalsea to Newgate, their

trials came on at the Old Bailey. Gow, at first, refused to plead; in consequence of which, he was sentenced to be pressed to death in the usual manner. His reason for this refusal was, that he had an estate which he wished might descend to a relation, and which would have been the case had he died under the pressure; but when the proper officers were about to inflict this punishment, he begged to be taken again to the bar to plead, of which the judge being informed, humanely granted his request; consequently, he, and six others, were convicted, and received sentence of death: but the rest were acquitted, as it appeared they acted by compulsion.

They suffered at Execution-dock, August 11, 1729. Gow's friends, anxious to put him out of pain, pulled his legs so forcibly that the rope broke, and he fell, on which he was again taken up to the gibbet, and when he was dead, was hung in chains on the banks of the Thames.

MAJOR JOHN ONEBY,
FOR MURDER.—1729.

JOHN ONEBY was the son of an eminent attorney at Barnwell, in Leicestershire, and was born in the year 1677. At first he was intended for the law, but his father having married the niece of Sir Nathan Wright, who was appointed lord keeper of the great seal, he applied to him, earnestly soliciting that he would exert his influence in favour of his son. At his request Sir Nathan promoted him to be his train-bearer, which place he kept some time, in expectation of preferment; but failing in his views of promotion, he bought a commission in the army.

He served under the Duke of Marlborough in several campaigns, and was soon promoted. While in winter quarters at Bruges, at the close of one of these campaigns, he had a quarrel with another officer, which occasioned a duel, and Oneby having killed his antagonist, was brought to trial before a court-martial; but acquitted of the murder. Soon afterwards the regiment was ordered to Jamaica, and Mr. Oneby joined it; during his residence at Port Royal he fought ano-

ther duel with a brother officer, whom he wounded in so dangerous a manner that he expired, after an illness of several months. The rank of major in a regiment of dragoons had been conferred on Mr. Oneby, in consequence of his services: but, on the peace of Utrecht, he returned to England, and was reduced to half-pay.

Returning to London, he frequented the gaming-houses, and became so complete a gamester, that he commonly carried cards and dice in his pockets. One evening he fell into company with some gentlemen at a coffee-house in Covent Garden, when they adjourned to the Castle Tavern in Drury-Lane, where they sat down to cards. Mr. Hawkins, who was one of the company, having declined playing, Mr. Rich asked if any one would set him three half-crowns. The bet was apparently accepted by Mr. Gower, who, in ridicule, laid down three halfpence. On this Major Oneby abused Gower, and threw a bottle at him: and, in return, Gower threw a glass at the Major. Swords were immediately drawn on both sides: but, Mr. Rich interposing, the parties were apparently reconciled, and sat down again.

Gower seemed inclined to compromise the difference, saying that he was willing to adjust the affair, though the major had been the aggressor. In answer to this, Oneby declared, he "would have his blood;" and told Mr. Hawkins that the mischief had been occasioned by him. Hawkins replied, that "he was ready to answer if he had any thing to say:" to which Oneby said, "I have another chap first." Mr. Hawkins left the company about three o'clock in the morning; soon after which Mr. Oneby arose, and said to Gower, "Harkee, young gentleman, a word with you;" on which they retired to another room, and shut the door. A clashing of swords being heard by the company, the waiter broke open the door, and on their entrance they found Oneby holding Gower with his left hand, having his sword in the right; and Mr. Gower's sword on the floor. Before the company could part the combatants, Gower dropped to the ground; but it was not imagined that he had been wounded, till blood was observed streaming through his waistcoat. On this one of the company said to the major, that he was apprehensive he had killed Mr. Gower; but the other replied, "No, I might have done it if I would; but I have only frightened him;

but supposing I have killed him, I know what is to be done in these affairs; if I have killed him to-night, in the heat of passion, I have the law on my side; but, if I had done it at any other time, it would have looked like a set meeting, and not a rencontre." A surgeon of eminence having examined Mr. Gower's wounds, it was found that the sword of his antagonist had passed through the intestines,—of which wound he died the following day: on which Major Oneby was apprehended, and lodged in Newgate.

The above circumstances were stated on his trial; but some doubt arising in the minds of the jury, they brought in a special verdict, for the decision of the twelve judges. Major Oneby having remained in Newgate two years, and the judges not having met to give their opinion, he became impatient of longer confinement, and therefore moved the court of King's-Bench that counsel might be heard on his case. The prisoner was therefore carried into court, by virtue of a writ of habeas corpus; and the record of the special verdict being read, the reverend bench, with great humanity, assigned him two counsel, a solicitor, and a clerk in court. Lord Chief Justice Raymond, and three other judges, presided a few days afterwards, when the major being again brought up, his counsel, and those for the crown, were heard; after which the Lord Chief-Justice declared that he would take an opportunity of having the opinion of the other judges; and then the prisoner should be informed of the event. The major, on his return to Newgate, gave a handsome dinner at the Crown and Anchor Tavern in the Strand, to the person who had the custody of him; and, seeming to be in high spirits on account of the ingenious arguments used by his counsel, entertained little doubt of his being discharged.

After a considerable time the judges assembled at Serjeants' Inn Hall, to bring the matter to a decision. Counsel was heard again on both sides, and the pleadings lasted a whole day, during which the major was carousing with his friends in Newgate, and boasting of the certainty of his escape, as he had only acted in conformity with the character of a man of honour. In the midst of these delusive expectations, a gentleman called and told him that eleven of the judges had decreed against him, which greatly alarmed him. Soon after, the

keeper of Newgate told him he must double iron him, to prevent his making his escape; and that, he must be removed to a safer place, unless he would pay for a man to attend him in his room. Oneby was shocked at this news; and, having written several letters to the judges, and other persons of distinction, to which he received no answer, he began to be apprehensive that the most serious consequences would result from the crime of which he had been convicted.

At length the judges re-assembled again at Serjeants'-Inn Hall, and having declared their opinions, the counsel for the prosecution demanded that their lordships would proceed to judgment. The sense of the bench was accordingly delivered to Oneby by Lord Raymond, who said, that it was the unanimous opinion of the judges that he had been guilty of murder: and that his declaring he would have the blood of Gower had great weight against him. To this the major solemnly declared that he had never spoken such words; and begged the interposition of the judges with his majesty for a pardon. Lord Raymond told him it was in vain for him to deny the words, as they were returned in the special verdict: and that the judges could not interfere by an application to the king; but that he must seek another channel through which to solicit the royal mercy.

A few days after this, sentence of death was passed on him; and he was ordered to be executed. His friends and relations exerted their influence to procure him a pardon; but their intercessions proved in vain. On the Saturday preceding the day he was ordered for execution, (1729,) he went to bed at ten o'clock; and, having slept till four o'clock on Sunday morning, he asked for a glass of brandy and water, and pen, ink, and paper; and, sitting up in the bed, wrote the following note:—

“**COUSIN TURVILL,**—Give Mr. Akerman, the turnkey below stairs, half-a-guinea; and Jack, who waits in my room, five shillings. The poor devils have had a great deal of trouble with me since I have been here.”

Having delivered this note to his attendant, he begged to be left to his repose, that he might be fit for the reception of some friends who were to call on him. He was accordingly left, and a gentleman coming into his apartment about seven o'clock, and the major's footman with him, he called out to the latter, “Who is that,

Philip?" which were the last words he was heard to speak. The gentleman approaching the bed-side, found he had cut a deep wound in his wrist with a pen-knife, and was drenched in blood. A surgeon was instantly sent for, but he was dead before his arrival.

HUGH NORTON ALIAS HORTON,
FOR ROBBING THE BRISTOL MAIL.—1730.

HUGH HORTON alias Norton, was indicted for assaulting Stephen Croucher on the highway, putting him in fear, and taking from him a sorrel gelding, value £5, the property of Thomas Austwick, a mail, value £4, and fifty leather bags, value £5, the property of our Sovereign Lord the King, March 1, 1730.

Stephen Croucher. As I was going with the Bristol and Gloucester mail, a man came out of a gateway near Knights-bridge, and, catching hold of my horse's bridle, bid me stand. I told him he was mistaken, for I was but a post-boy. I know what you are, said he, and you must come along with me, and if you cry out, or speak a word, before you tell me which is the Bristol bag, I'll kill you. He then led me to the further side of a field, where he pulled me off the horse, and took off the mail, and either unbuckled, or cut it open, I cannot say which; but he had a knife in his hand, and a sack lay by him. He took out several bags, and put them into the sack. Then he tied me, and took off the hinder mail-pin and crupper, and laid the sack upon the fore mail-pin, and was about to get up; but he came to me again, and said, he had not tied me fast enough, and so he tied my hands behind me, and threatening to kill me if I offered to stir before the people came to fetch the oxen out of the ground, he got upon the horse, and rode away with the bags.

Prisoner. Do you know me to be the man?

S. C. I cannot swear that; but, as to his stature, and size, and voice, they were very like yours.

Prisoner. What coat had the man on?

S. C. A great coat, with the cape buttoned over the lower part of his face, and the hat flapping over the upper part. As to the colour of his coat, I cannot pretend to say what it was, for it was a dark night, and it snowed very hard, so that the coat was almost covered with snow.

Daniel Burton. The prisoner and I both lodged in the house of one Mr. Marlow. The prisoner had often solicited me to go along with him to rob the Bristol mail; telling me that, as we were both short of money, it was better to go out, and raise some, by robbing the mail, which he said might very easily be done, there being only a boy with it; and then we should be made for ever: but I, not liking the proposal, would not agree

to it. I was afterwards in the company of one Mr. Mason, who told me, that the prisoner was but an indifferent sort of a man, and had been the ruin of him. The prisoner likewise proposed to me to rob Mrs. Marlow, some night when she went out; but I acquainted Mr. Marlow and his wife, that she was in great danger if she went out at night, and told them, if they did not turn him away, I would go away myself, and, upon that, they turned him out, though at that time he owed Mr. Marlow 5l. 10s. He came several times afterwards to the house, and Mr. Marlow told him, if he would pay the five pounds in a month's time, he would abate him the ten shillings.

William Burleigh and *Richard Dickenson*. Upon searching the prisoner in the board-room at the post-office, we took out of his breeches, between the lining and the skin, and near the garter, a pocket-book or case with bills in it. He said that he found a case and the bills in Covent garden. He had two guineas, moidore, and some silver, in his pockets.

Mr. Jones. When I took the prisoner, to the best of my remembrance, he said that he found the notes in Lincoln's-inn, or Lincoln's-inn Fields.

Mr. Langley, Turnkey of Newgate. When the prisoner was brought to our house—Newgate, I searched him, and found three bank notes, and five fifty-pound notes of Mr. Hoare's, upon him. I delivered them to Mr. Archer.

This was confirmed by Mr. Archer.

Woodford Moore. On the 28th of February, I inclosed two twenty-pound notes in a letter, which I directed to Mrs. Martin at Bath, and delivered it to Mrs. Gibson.

Elizabeth Gibson. I received that letter of Mr. Moore, and gave it to the postman.

Thomas Eggleston. Mrs. Gibson gave me three letters; I put them into the bag, and sent them to the post-office.

Thomas Gregory. I took out a bank bill of exchange, in February, at the Bank, and got a friend to enclose it in a letter, and directed it to Mr. Chandler, and desired a person to go with me to see it put in.—This was one of the three bills that was taken upon the prisoner by Langley.

Mr. Wallet. I saw Mr. Houghton enclose the bill, and then he gave the letter to me, and I delivered it in at the post-office.

Samuel Potts. I taxed the bills on the 28th of February, and put the Bristol letters into the bag, and so delivered them to Charles Davis.

Charles Davis. I assisted in sorting the letters, and put them into the bag, and delivered it sealed to Stephen Croucher, the post-boy.

Mr. Potts. I sealed all the bags that were in the Bristol mail, and buckled it up, and saw it delivered to the post-boy.

Mr. Jones. On the 14th of March, when I searched the prisoner's lodgings, I found, in a trunk, the receipt he had of Marlow for 5l. and several slips of leather, which I suppose to be parts of the bag in which the Bristol letters were.

Mr. Crawley. I dress the leather for the post-office. I believe those slips of leather belong to the mail; but I cannot be positive that they were part of the post-office bags.

Mr. Archer. I believe those slips were part of the post-office bags, and the rather, because of the marks of wax dropt upon it, which is what frequently, if not always happens in sealing them, for we are obliged to use a great deal at a time.

The Prisoner's Defence.

Prisoner. I am not guilty of the robbery, for I really found the notes, and I believe this is a trap laid for me by Daniel Burton: I have witnesses to prove that I was at home when the mail was robbed.

Elizabeth Hales. The prisoner lodged in my room, and he was at home that night the mail was robbed. He came in at nine o'clock on the Saturday night, and did not go out of my room till six o'clock on the Sunday evening.

C. What day of the month was that?

E. H. It was on the 30th or 31st of February; and he was at home all the day, on the 1st of March.

C. How do you know it was the day the mail was robbed?

E. H. I heard the people talk of it as I looked out of my window in Long-Acre.

Sarah Andrews. Having some work to do that night in haste, I went about six o'clock to my sister Elizabeth Hales (the last witness,) to get her to help me. The prisoner came in soon after: and my sister and I worked till twelve o'clock, and then we both went to bed, and the prisoner sat up. And when I waked about six in the morning, I found him sitting in the room by the fire-side. I staid there till near noon, and then went home. This was on a Sunday, and it was her Majesty's birth-day.

The Jury found him Guilty. Death.

He hanged himself in Newgate, on Sunday, May 21, 1730.

ROBERT HALLAM,

FOR THE MURDER OF HIS WIFE.—JAN. 1731-2.

ROBERT HALLAM was indicted for the murder of Jane his wife, she being then pregnant, by throwing her out of a window one pair of stairs high, upon a stone pavement, whereby she received several mortal bruises, of which she instantly died, December 9, 1731-2.

Charles Bird, the prisoner's apprentice, deposed. On Wednesday, December 9, about eleven at night, I went to bed, and fell asleep, but was waked by a noise between twelve and one. I heard my mistress, in the room under me, cry "Murder! for God's sake do not murder me! for the Lord's sake, Robin, do not murder me! pity me, for Christ's sake! for my poor families sake! then she called to me, Charles! Charles! Charles! and once she cried louder than ordinary." The prisoner said, "D—n ye, what do ye want with Charles?" I was afraid he would come up to me, and so I stept out of bed, and was about to get out of

the window to save myself, but a child that lay with me) who was lame, and could not speak plain, though it was ten years old) cried Sharley! Sharley! do not go. So I went into bed again. I heard a great many violent blows, which, by the sound, I thought were given with the tongs or fire-shovel. Presently, the neighbours cried Murder! and I heard the street-door open. I thought the people without had broken it open, but presently the prisoner came up stairs into his own chamber; I knew it was him, because I heard him scolding again. I got up about six in the morning, and, as I was going down stairs, I heard a low voice, (which I thought was my mistress,) saying, Charles, strike a light, and draw some beer in the tin-pot. I did so, and brought it up, and the voice said, set it down upon the chest; which I did, but I neither saw his nor her face, for they were both covered in the bed. Then the voice bid me make a fire, and I made one; and, while I was blowing it up, I heard two or three dismal groans. This was betwixt six and seven in the morning, and then I went to my work at the plying-place, a stone's-throw from our alley. The prisoner is a waterman, and I am his apprentice. About eight o'clock Job Allen came and told me my mistress was dead. Then I have lost a very good mistress, said I: then I ran home and saw Dr. Smith and the constable, and the prisoner, and found my mistress was dead.

Prisoner. You said you thought it was I that came up stairs, because you heard my voice afterwards.—How do you know but that it was your mistress who came up?

Bird. I thought it was not possible for her to come up so readily after so many violent blows had been given her.

Prisoner. Did you hear us both go down?

Bird. I do not remember that I heard any more than one.

Prisoner. When you came home to dinner, the day before this happened, did she not say she would give you no victuals, for she designed to make away with herself?

Bird. No, there was cold beef for dinner. I desired she would let me broil it, and she said—with all her heart.

Ann Anderson. I live next door to the prisoner. There is only a thin deal partition betwixt his room and mine. Between twelve and one that night, I heard him say to his wife. God d—n ye, tell me the truth. Several blows were given. I waked my husband, and said, Hallam's beating his wife according to custom. She got from him, and ran down stairs, and out at the street-door, and he followed. I opened my window, and saw him beat her in the street, and force her in again. He shut the door, and, while she was in the entry, she called Charles! Charles! Charles! When they came into the chamber again, I heard a great many unmerciful blows, which by the jarring sound, I thought were given with the fire-shovel or tongs; and, as if her breath was almost gone, she cried, oh! oh! oh! The blows were more like beating an ox than a pregnant woman. Soon after she cried, O Robin! spare my life! do not kill me, for God's sake! for Christ's sake! for my poor infant's sake! then I heard a struggling and rustling towards the window. She gave a lamentable shriek, and presently something rushed from the window with such violence, that I thought the window-frame had

followed, this was between twelve and one. I jumped out of bed, and ran to the window, and looked out. He ran down stairs, and out of doors, in his shirt, with a candle in his hand. His wife was lying in the street. He damned her, and said she was drunk; and, setting the candle down on a bench, he took her by the arms, and dragged her backwards up the steps into the entry, and shut the door. As he was hauling her in, I called out, "You villain! you have thrown your wife out of the window, and killed her." The neighbours were alarmed, and came out, and said, "For Christ's sake, do not use the poor woman so, but let somebody help her." But he would let nobody. When he had got her in, I heard several groans, and thought she might be in labour, for she was so near her time, that she looked every hour. But, about six o'clock, she died; and, half an hour after, he brought a midwife. "O you villain," said I, "you have called a midwife now your wife is dead!" About nine, I went in, when the doctor was there; and he said, she had been dead a long time. Her right hand was cut across the fingers, and the window post was bloody with struggling. The prisoner said, see how the wicked jade has cut her hand with the glass-window in getting out. But I looked, and there was not one pane of glass broke, nor any of the glass bloody, but only the post.

John Fleming. I live next door to the prisoner, in the back part of the house, and can hear every word that is spoken in his room: I have frequently heard outcries of Murder, particularly about three weeks before her death; he beat her, and swore he would be her butcher, if he was hanged for it: she cried out, "O for God's sake, mercy! pity me!—pity the tender infant within me." "D—n you for a b—h," said he, "I will send you and your infant to the devil together; I will split your skull, and dash your brains out against the back of the chimney, I know I shall come to be hanged at Tyburn for you:" and, the night she was killed, I heard him give her a great many blows; "For God's sake," said she, "and for my poor children's sake, do not murder me;" then she called, Charles, Charles, Charles, and afterwards gave a great shriek. I heard Mrs. Anderson get out of bed and open her window, and say, "he has thrown his wife out of the window;" I struck a light, and saw it was half an hour past twelve: after he was taken up, I heard him say, "I will not wrong my conscience, I believe the blows I gave her, and my threatening to fetch my cane, made her go out of the window, but I was not then in the chamber:" he was before a justice nine months ago for throwing her on the bed, while he had a knife in his mouth, and threatening to rip her up.

The prisoner called several witnesses in his defence, who attempted to prove that his wife threw herself out of the window, while in a fit of intoxication. The Jury however found him GUILTY, and he was executed at Tyburn.

HENRY ROGERS,
FOR MURDER.—1735.

OF all the brutal malefactors that ever existed, Henry Rogers may be accounted the chief: he was by profession a pewterer, residing at a village called Skewis, in Cornwall, and was a man of considerable property, independent of his trade. But a disagreement arising between him and some claimants to property that each considered himself entitled to, they not arranging with themselves, sought the judgment of the law, by a suit in Chancery; which, after being carried on to the most expensive and vexatious extent, was decided in favour of Rogers' opponents.

A writ was issued to take Rogers into custody for a contempt of Court, by not surrendering certain property he held, in opposition to its orders. Having heard that every man's house was his castle, and which none dare forcibly enter, he strongly fortified it, making loopholes for his muskets, and planted them about in a way resembling a place besieged. Here he imagined himself secure; resisted every remonstrance made by his friends and well-wishers; and, ignorant of the strong power of the law, proceeded to the outrage of shooting two men of the *posse comitatus*, who attended the under-sheriff. Shortly after, he shot one Hitchens as he was passing the high-road on his private business; and, firing through the window, killed one Toby, nor did he suffer his body to be taken away to be buried for some days. At length the neighbouring justices of the peace assisted the constables, and procured the aid of some soldiers, one of whom he killed, and afterwards made his escape; but at Salisbury, on his way towards London, he was apprehended and conveyed to Cornwall, where, at the assizes, in August 1735, five bills of indictment were found against him by the grand jury, for the murders aforesaid. To save the Court time, he was tried only on three of them, and found guilty of every one, before Lord Chief-justice Hardwick. As he lay in gaol after his condemnation, the under-sheriff coming in, he attempted to seize his sword, with a resolution to kill him; swearing he should die easy if he could succeed in that

design. He was attended by several clergymen, but so callous was he, that they could make no impression on his brutal stupidity; and he died at the gallows without the least remorse.

He was hung, September 1735, at Skewis, where he committed these atrocious murders.

CHARLES MACKLIN,*

FOR THE MURDER OF THOMAS HALLAM, MAY 10, 1735.

CHARLES MACKLIN was indicted for the murder of Thomas Hallam, by thrusting a stick into his left eye, and thereby giving him one mortal wound, of which wound he languished till the next day, and then died.

Thomas Arne deposed: I have the honour to be numberer of the boxes of Drury-lane play-house, under Mr. Fleetwood. On Saturday night, I delivered my accounts in the Property-office, and then, at eight at night, I came into the scene-room, where the players warm themselves, and sat down on a chair at the end of the fire: fronting the fire, there is a long screen where five or six may sit. The play was almost done, and they were making preparation for the entertainment, when the prisoner came and sat down next to me, and high words arose between him and the deceased about a stock wig for a disguise in the entertainment; the prisoner had played in this wig the night before, and now the deceased had got it: "D—n you for a rogue," said the prisoner, "what business have you with my wig?" "I am no more a rogue than yourself," said the deceased; "It is a stock wig, and I have as much right to it as you." Some of the players coming in, they desired the deceased to fetch the wig and give it to the prisoner, and he said to him, "here is your wig, I have got one that I like better:" the prisoner sitting by me, took the wig, and began to comb it out, and all seemed to be very quiet for half a quarter of an hour; but the prisoner began to grumble again, and said to the deceased, "G—d d—n you for a blackguard scrub rascal, how durst you have the impudence to take this wig?" The deceased answered, "I am no more a rascal than yourself;" upon which the prisoner started up out of his chair, and having a stick in his hand, he gave a full lunge at the deceased, and thrust the stick into his left eye; and pulling it back again, he looked pale, turned on his heel, and, in a passion, threw the stick in the fire; "G—d d—n it," said he, and, turning about again upon his heel, he sat down; the deceased clapt his hand to his eye, and said it was gone through his head; he was about to sink, when they set him in a chair: the prisoner came to him, and, leaning upon his left arm, put his hand to his eye; "Lord," cried

* Author of *Love a-la-mode*, *The Man of the World*, &c. &c.

the deceased, "it is out;" "No," said the prisoner, "I feel the ball roll under my hand:" young Mr. Cibber came in, and immediately sent for Mr. Coldham the surgeon.

Prisoner. Did I shew any concern afterwards?

Arne. I believe he was under the utmost surprise, by his turning about, and throwing the stick in the fire; and he shewed a further concern, when he felt of the eye-ball.

Thomas Whitaker deposed, I am a dresser in the house, under a comedy-player: on the Friday night, the prisoner asked me to lend him a comedy-wig to play Sancho, in the Pop's fortune; and the next night, the deceased came and asked me for the same wig; I told him I had it not, and bid him go to the other dresser: as I was afterwards waiting in the hall for my money, the prisoner came in, and asked the deceased for the wig; the deceased answered that he should not have it; and the prisoner replied, "you are an impudent rascal, and ought to be caned for your impudence:" Mr. Mills, who was acting Juba, came and said, "What is the matter with you? we cannot play for the noise you make;" the prisoner answered, "This rascal has got a wig that belongs to me;" Mr. Mills said to the deceased, "Hallam, do not be impertinent, but give him the wig:" Hallam still refused; upon which the prisoner said, "G—d—n you, such little rascals ought to be made an example of," and so turned out of the room. I being drest in shape, went up and undrest; Mr. Woodford bid me bring down a scimitar, which I did, but, when I came down I could not find him, and I then went into the scene-room; the deceased was standing still between the door and the settle; the prisoner was about three yards from him, and, starting up, he made a sudden lunge (whether stepping or running I cannot say), the deceased clapped his hand to his eye, and made a reel, as if he was throwing himself into the settle; the prisoner seemed to be much concerned.

Prisoner. I played Sancho the night before; and the wig I then used was proper for the new play, and absolutely necessary for my character; the whole force of the poet's wit depending on the lean meagre looks of one that wanted food: this wig, therefore, being so fit for my purpose, and hearing the deceased had got it, I said to him, "You have got the wig I played in last night, and it fits my part this night;" "I have as much right to it as you have," said he: I told him I desired it as a favour; he said, I should not have it;—"You are a scoundrel," said I, "to deny me, when I only ask that as a favour, which is my right;" "I am no more a scoundrel than yourself," said he, and so he went out, and I went to the prompter's door to see for Mr. Cibber; meanwhile the deceased went into the scene-room, and said, that I had used him like a pickpocket: the author persuaded him to let me have the wig, and the property-man brought him another wig: he threw the first wig at me; I asked him why he could not as well have done that before? He answered, "because you used me like a pickpocket:" this provoked me, and rising up, I said, "D—n you for a puppy, get out." His left side was then towards me, but he turned about unluckily, and the stick went into his eye; "Good God," said I, "what have I done," and threw the stick in the chimney. He sat

down, and spoke to Mr. Arne's son. I begged them to take the deceased to the bagnio, but Mrs. Moore said, she had a room where he should be taken care of; I had then no thought that it would prove his end, but feared that his eye was in danger: but next morning I saw Mr. Turbut, who advised me to keep out of the way, or I should be sent to gaol; I begged him to get the assistance of a physician, and gave him a guinea, which was all the money I had. From the beginning of the quarrel to the end, it was but ten minutes, and there was no intermission.

Robert Turbut. I had played that night, and was in the scene-room when the deceased came in, and seemed flushed, and said, "Macklin has used me like a pickpocket: I had this wig of Mrs. Greenwood the dresser, and now he wants it; and I think it is as proper for my character as for his:" the prisoner then came in and demanded it; upon which, in a merry way, it was put to the question which of them should have it, and it was agreed that the prisoner should: Mr. Kitchen came in, and said, "Here is another wig;" the deceased then tossed the former wig to the prisoner, who said to him, "Why could not you have done this before?" He answered, "Because you used me like a pickpocket." "You lie," said the prisoner, and "you lie," said the deceased; you are a scoundrel, said one, and you are a scoundrel said another; at last, the prisoner rising up, said, "You puppy, get out," and pushed at him; but, I believe, not with any particular aim.

Mr. Rich, Mr. Fleetwood, Mr. Quin, Mr. Ryan, Mr. Thompson, Mr. Mills, Mr. Lessley, Mr. Black, and *Mr. Fern*, appeared to the prisoner's character, and deposed, that he was a man of a quiet and peaceable disposition.

The jury found him GUILTY OF MANSLAUGHTER.

MARY YOUNG, *alias* JENNY DIVER,

FOR PRIVATELY STEALING.—1740.

THIS extraordinary woman was a native of the North of Ireland, and, having lost her parents while in a state of infancy, she was taken into the family of an old lady, who educated her. Among her first acquaintance, was one of her country women, named Anne Murphy, by whom she was invited to partake of a lodging in Long Acre. Here she endeavoured to obtain a livelihood by her needle; but, not being able to procure sufficient employment, in a short time her situation became truly deplorable. Murphy intimated to her that she could introduce her to a mode of life that would prove exceedingly lucrative; adding, that the most profound secrecy

was required. The other expressed an anxious desire of learning the means of extricating herself from the difficulties under which she laboured; and made a solemn declaration that she would never divulge what Murphy should communicate. In the evening, Murphy introduced her to a number of men and women assembled in a club, near St. Giles's. These wretched people gained their living by cutting off women's pockets, and stealing watches, &c., in the avenues of the theatres, and at other places of public resort; and, on the recommendation of Murphy, they admitted Mary a member of the society.

After her admission, they dispersed, in order to pursue their illegal occupation; and the booty obtained that night, consisted of eighty pounds in cash and a valuable gold watch. As Mary was not yet acquainted with the art of cheating, she was not admitted to an equal share of the night's produce; but it was agreed that she should have ten guineas. She now regularly applied two hours every day in qualifying herself for an expert thief, by attending to the instructions of experienced practitioners; and, in a short time, she was distinguished as the most ingenious and successful adventurer of the whole gang. In a few months, she became so expert in her profession, as to acquire great consequence among her associates, who distinguished her by the appellation of *Jenny Diver*, on account of her remarkable dexterity.

On one occasion, Mary, accompanied by one of her female accomplices, joined the crowd at the entrance of a chapel in the Old Jewry, where a popular divine was to preach; and observing a gentleman with a diamond ring on his finger, she held out her hand, which he kindly received, in order to assist her, and at this juncture she contrived to get possession of the ring, without the knowledge of the owner; after which, she slipped behind her companion, and heard the gentleman say, that as there was no probability of gaining admittance, he would return. Upon his leaving the meeting, he missed his ring, and mentioned his loss to the persons who were near him, adding, that he suspected it to be stolen by a woman whom he had endeavoured to assist in the crowd; but, as the thief was unknown, she escaped. This robbery was considered as such an extraordinary proof of Mary's cleverness, that her associates determined to allow her an equal share of all their booties, even though she was not present when they were obtained.

A short time afterwards, she procured a pair of false hands and arms to be made; and, concealing her real ones under her clothes, and putting something beneath her stays, to make herself appear as if in a state of pregnancy, she repaired on a Sunday evening to chapel, in a sedan chair, one of the gang going before, to procure a seat among the genteel part of the congregation, and another attending in the character of a footman. Being seated between two elderly ladies, each of whom had a gold watch by her side, she conducted herself with seeming devotion; but, when the service was nearly concluded, she seized the opportunity while the ladies were standing up, of stealing their watches, which she delivered to an accomplice in an adjoining pew.

She practised a variety of felonies of a similar nature in different parts of the metropolis and its adjacencies; till, by the minute accounts in the newspapers, it was deemed impolitic to repeat them; and, therefore, the gang resolved to go to Bristol, in search of adventures during the fair, held in that city every summer. Here Mary Young and Anne Murphy assumed the characters of merchants' wives, and Mary's favourite retained the character of footman. They took lodgings at different inns; and agreed that, if any of them should be apprehended, the others should endeavour to procure their release, by representing them as people of character.

On the return of Mary to town, she hired a real footman, and her favourite who had long acted in that character, assumed the appearance of a gentleman. She hired lodgings in the neighbourhood of Covent-garden, that she might more conveniently attend the theatres. This infamous association was now become so notorious a pest to society, that they judged it prudent to leave the metropolis, where they were apprehensive they could not long remain concealed from justice. They practised a variety of stratagems with great success, in different parts of the country; but, upon revisiting London, Mary was committed to Newgate, on a charge of having picked a gentleman's pocket; for which she was sentenced to transportation.

She remained in the above prison near four months; during which time, she employed a considerable sum in the purchase of stolen goods. When she went on board the transport vessel, she shipped a quantity of goods,

nearly sufficient to load a waggon. On her arrival in Virginia, she disposed of her goods, and for some time lived in good style.

She soon found that America was a country where she could expect but little emolument from the practices she had so successfully followed in England; and, therefore, she employed every art that she was mistress of, to ingratiate herself into the esteem of a young gentleman, who was preparing to embark on board a vessel, bound for the port of London: he became much enamoured of her, and brought her to England. While the ship lay at Gravesend, she robbed him of all the property she could get into her possession, and pretending an indisposition, intimated a desire of going on shore, in which her admirer acquiesced; but she was no sooner on land, than she made a precipitate retreat.

She next travelled through several parts of the country, and by her usual practices, obtained many considerable sums. At length she returned to London, but was not able to find her former accomplices. She now frequented the Royal Exchange, the theatres, London-bridge, and other places of public resort, and committed innumerable depredations on the public. Being detected in picking a gentleman's pocket upon London-bridge, she was taken before a magistrate, to whom she declared that her name was Jane Webb; and, by that appellation, she was committed to Newgate.

On her trial, a gentleman who had detected her in the act of picking the prosecutor's pocket, deposed, that a person had applied to him, offering £50, on condition that he should not appear in support of the prosecution: and a lady swore that, on the day she committed the offence for which she stood indicted, she saw her pick the pockets of more than twenty different people. The record of her former conviction was not produced in court; and she was therefore arraigned for privately stealing, and on the clearest evidence, the jury pronounced her GUILTY. The property being valued at less than one shilling, she was sentenced to transportation. A twelvemonth had not elapsed before she returned from transportation a second time; and on her arrival in London, she renewed her former practices.

A lady going from Sherborne-lane to Walbrook, was accosted by a man, who took her by the hand, seemingly

as if to assist her in crossing some planks that were placed over the channel for the convenience of passengers; but he squeezed her fingers with so much force, as to give her great pain; and, in the mean time, Mary picked her pocket of thirteen shillings and a penny. The lady, conscious of being robbed, seized the thief by the gown, and she was immediately conducted to the compter. She was examined the next day by the lord mayor, who committed her to Newgate, in order for trial.

At the ensuing sessions at the Old Bailey, she was tried on an indictment for privately stealing, and the jury brought in the verdict *GUILTY*; in consequence of which, she received sentence of *Death*.

On the following morning, she appeared to be composed; but being brought into the press-yard, where the executioner approached to put the halter about her, her fortitude failed; but in a short time her spirits were again tolerably composed. She was conveyed to Tyburn in a mourning coach, attended by a clergyman. At the place of execution, she employed a considerable time in fervent prayer. She suffered on the 18th of March, 1740; and her remains were, by her particular desire, interred in St. Pancras churchyard.

HENRY COOK,

HIGHWAYMAN.—1741.

HENRY COOK was the son of respectable parents in Houndsditch; who, having given him a decent education, apprenticed him to a leather-cutter, and when out of his time, his father took the shop of a shoemaker at Stratford, in Essex, in which he placed his son. Having some knowledge of the shoemaking business, he was soon well established, and married a young woman at Stratford, by whom he had three children. It was not long after his marriage, before the associating with bad company, and the neglect of his business involved him so far in debt, that he was obliged to quit his house, in apprehension of bailiffs.

Among the idle acquaintance that Cook had made at Stratford, was an apothecary, named Young, who was concerned with him in robbing gardens and fish-ponds, and in stealing poultry. The persons robbed offered a reward for apprehending the offenders; and Cook having been known to sell fowls at Leadenhall-market, a warrant was granted to take him into custody; but receiving notice of it, he concealed himself two months at the house of a relation, at Grays, in Essex. During this retreat, it was determined not to execute the warrant; but Cook, learning that a bailiff at Stratford had vowed to arrest him if he could be found, he sent the officer a letter, advising him to consult his own safety, for he would blow his brains out if he should meet him. This threat effectually intimidated the bailiff; and Cook, having dissipated all his cash, went to Stratford, where he found a man so intimate with his wife, that he became greatly enraged, and taking several articles of furniture with him, he went to London and sold them.

This being done, he went to the house of a relation in Shoreditch, where he was treated with civility while his money lasted; but, when that was nearly gone, there was no further appearance of friendship; and, being now driven to extremity, he went to Moorfields, where he purchased a pair of pistols, and having procured powder and ball, went towards Newington, in his way to which place, he robbed a man of fifteen shillings, and returned to London. The following day he went to Finchley-common, where he stopped a gentleman, the bridle of whose horse he seized, and ordered him to dismount, on pain of death. The rider complying, was robbed both of his money and horse, having offered the highwayman three guineas if he would send the horse to an inn at St. Albans, which he promised to do; but, afterwards finding that he had a valuable acquisition in the beast, he failed to restore him. He now crossed the country to Enfield-chase; and, going to a public-house where he was known, said that he wished to hide himself, lest he should be arrested.

Having continued here two days, he proceeded to Tottenham, where he robbed a gentleman of about six pounds; and, leaving his horse at an inn in Bishops-gate-street, he went to his kinsman's in Shoreditch,

where he was interrogated respecting his possessing so much money ; but he would give no satisfactory answer. On the following day he went on the St. Albans road, and having robbed a stage-coach of eight pounds, he went to Enfield-chase, to the house he had frequented before ; but, while he was there, he read an advertisement, in which his horse was so exactly described, that he determined to abscond : on which he went to Hadley-common, near Barnet, where he robbed a gentleman ; and, taking his horse, gave the gentleman his own. Soon after this, he went to an inn at Mims, where he saw a gentleman whom he had formerly robbed ; and was so terrified by the sight of the injured party, that he ran to the stable, took his horse, and galloped off with the utmost expedition. On the road between Mims and Barnet, he was met by eight men on horseback, one of whom challenged the horse he rode, saying that a highwayman had stolen it from a gentleman of his acquaintance. Our adventurer replied, that he had bought the horse at the Bell at Edmonton, of which he could give convincing proofs ; on which the whole company determined to attend him to that place ; but, when he came near Edmonton, he galloped up a lane, where he was followed by all the other parties : and, finding himself in danger of being apprehended, he faced his pursuers, and, presenting a pistol, swore he would fire, unless they retreated ; but some countrymen coming up at this juncture, he must have been made prisoner, only that, night advancing, he quitted his horse, and took shelter in a wood.

When he thought he might safely leave his lurking place, he hastened to London, and going to the house of his relation in Shoreditch, he was challenged with having committed robberies on the highway ; but nothing could be learnt from the answers he gave. Having dissipated his present money, he went again to Finchley-common ; but his late narrow escape made such an impression on his mind, that he suffered several persons to pass unattacked ; but at length robbed an old man of his horse and five pounds, though not till after it was dark. Soon after the commission of this robbery he met a gentleman, whom he obliged to change horses with him ; but, in a few minutes afterwards, the gentleman was stopped by the owner of the stolen horse, who said

a highwayman had just robbed him of it; he then delivered the horse, and walked to London.

Cook, riding to his old place of resort near the Chase, remained there three days; but, seeing the horse he had last stolen advertised, he rode off, in fear of discovery: he had not proceeded far, before he was seized by the owner of the horse, and three other persons, who conducted him to Newgate. At the next Old-Bailey sessions he was indicted for stealing this horse, but acquitted, because the owner would not swear to his person. Soon after his discharge, he returned to his former practices, but, his affairs with his creditors having been by this time adjusted by his friends, he lived at Stratford with his wife, and committed his depredations chiefly on Epping-forest. Having acquired a booty of thirty pounds, he shewed it to a journeyman he kept, named Taylor, and asked him how he might employ it to the best advantage in buying leather: Taylor, guessing how it had been obtained, offered to enter into partnership with his master in committing robberies on the highway; and the contract was instantly made.

They now stopped a great number of coaches on the borders of the forest; but acted with such an uncommon degree of caution, that they were for a long time unsuspected; but the neighbours being terrified by such repeated outrages on the public peace, a Captain Mawley took a place in the basket of the Colchester coach to make discoveries: when Cook and Taylor coming up to demand the money of the passengers, Taylor was shot through the head; on which Cook ran to the Captain, and robbed him of his money, threatening him with instant death. The coach was driven on, and Cook began to search his deceased companion for his money; but some of the neighbours coming up, he retired behind a hedge to listen to their conversation; and, having found that some of them knew the deceased, and intimated that he had been accompanied by Cook, he crossed the fields to London. Having spent three days in riot and dissipation, he went to his relation in Shoreditch, whom he requested to go to Stratford, to enquire the situation of affairs there. When his friend returned, he told him there were several warrants issued against him, and advised him to go to sea. This he promised to do, but

instead thereof, he bought a horse, and rode to Brentwood, in Essex; where he heard little conversation but of Cook, the famous highwayman of Stratford: and, on the next day, he followed a coach from the inn where he had put up, and took about thirty pounds from the passengers.

He now connected himself with a gang of desperate highwaymen in London, in conjunction with whom he stopped a coach near Bow, in which were some young gentlemen returning from school. A Mr. Cruikshanks riding up at this instant, one of the gang demanded his money; but, as he hesitated to deliver it, another of them knocked him down, and killed him on the spot; after which the robbers went to a public-house near Hackney-marsh, and divided the spoils of the evening. Cook continued but a short time with this gang; but, going to a house at Newington-green, sent for a woman with whom he had cohabited, who threatened to have him apprehended, unless he would give her some money; and, though he had but little in his possession, he gave her a guinea, and promised her a farther sum, lest she should carry her threats into execution. Oppressed in mind, and particularly by reflecting on the murder of Mr. Cruikshanks, he went to St. Albans, where he assumed a new name, and worked as a journeyman shoemaker for about three weeks; when a highwayman being pursued through the town, the terrors of his conscience on the occasion were such, that he hastily left the shop, and ran across the country towards Woburn, in Bedfordshire. In his way to Woburn, he robbed a farmer of fifty pounds and his horse; and bade him sue the county. The farmer soon raised the hue and cry; but Cook escaped for the present; and, riding as far as Birmingham, took lodgings at a public-house, and disposed of his horse. He now took the name of Stevens; and the landlord of the house where he lodged telling him that there was a shop to let, he took it, and entered into business as a shoemaker, and hired a Mrs. Barrett as his housekeeper; but she soon became his more intimate companion, and accompanying him to horse-races and other public places of amusement, his little money was soon exhausted. Thus situated, he told his housekeeper that he had an aunt in Hertfordshire, who allowed him a hundred pounds per annum, which he

received in quarterly payments; and that he would go to her for his money. Under this pretence he left her, and went to Northampton, and from thence to Dunstable; near which place he robbed a farmer of his horse, and sixteen pounds, and then rode to Daventry.

At this last place he met with a Manchester-dealer, returning home from London, with whom, after spending the evening, he travelled next day, and dined at Coventry. Cook, having an intention of robbing his fellow-traveller, intimated that it would be proper to conceal their money, as they had a dangerous road to travel; and, putting his own money in his boot, the other put a purse of gold into his side-pocket. Prosecuting their journey till they came to a cross-road, Cook demanded his companion's money, on pain of immediate death: and, having robbed him of thirty-five guineas, set off immediately to Birmingham; and Mrs. Barret concluded he had been supplied by his aunt, agreeable to what he had before told her.

He now carried on trade as usual; but, as often as he was distressed for money, he had recourse to the road, and recruited his pockets by robbing the stages. At length, a London trader coming to Birmingham, asked Cook how long he had lived there; which terrified him so much, that he quitted the place, and travelled towards London; and, near Highgate, robbed a gentleman, named Zachary, of his horse and money. On this stolen horse, he rode to Epping-forest on the following day; and, having robbed a gentleman, returned to London by the way of Stratford, at which place he spoke to a number of his old acquaintance; but was not imprudent enough to dismount from his horse.

Our going to a house he had frequented at Newington-green, he sent for his relation who lived near Shoreditch; who advised him to make his escape, or he would certainly be taken into custody. On this he went to Mims; and his relation visiting him, Cook begged he would sell five watches for him; but the other declined it, recommending him to dispose of them himself in London. On the following evening, when it was almost dark, he rode towards town, and observing a chaise behind him, permitted it to pass, and followed it to the descent of the hill towards Holloway. There were two gentlemen in the chaise, whose money Cook demanded; but in-

stead of complying, they drove on the faster; on which he fired, and wounded one of them in the arm: the report of the pistol brought some people towards the spot, and Cook galloped off to Mims, his old place of retreat.

Next day he went to London to sell his watches, when he was recognized in Cheapside by a woman who followed him to Norton-Falgate, where observing him to go into a public-house, she went and procured a constable, who took him into custody, and found on him five watches, and about nine pounds in money. On his examination before a magistrate, Mr. Zachary (whom he had robbed near Highgate,) swearing to the identity of his person, he was committed to Newgate: but not before he had offered to become evidence against some accomplices whom he pretended to have had; but this offer was rejected. He now formed a scheme to murder the keepers, and to make his escape; but being detected, he was confined to the cells. At length he was brought to his trial at the Old Bailey, and was capitally convicted. After sentence of death, he for some time affected a gaiety of behaviour; but, when the warrant for his execution arrived, he was so struck with the idea of his approaching fate, that it occasioned convulsive fits, and he never afterwards recovered his health or spirits.

He was hanged at Tyburn, on the 6th of December, 1741.

MATTHEW HENDERSON,

FOR MURDER.—1746.

MATTHEW HENDERSON was born at North Berwick, in Scotland; and was nineteen years of age when he committed the barbarous act for which he suffered. He had lived in the family of Sir Hugh Dalrymple five years; during which time he was treated with the greatest humanity, both by his master and mistress, and much respected by all the servants. On the 24th of March, 1746, about eleven at night, Mary Platt, the servant, told him she would go and see her husband. She went, and took the key to let herself in again. He shut the door after her, and cleaned some plate in the

kitchen ; from thence he went to the back parlour, where he was accustomed to lie, and let down his bed in order to go to sleep. Preparing himself for rest by taking off his shoes, and tying up his hair with his garter, he that moment imbibed the idea of destroying his lady. He went down-stairs into the kitchen, and taking a small iron cleaver, came into his bed-chamber again, and sat down on his bed about twenty minutes, considering whether he should commit the murder. His heart relented, and he thought he could not do it, but at last resolved to perform the deed, as no person was in the house save the lady and himself. Going up to the first landing-place on the stairs, and after tarrying a minute or two, he came down, shocked at the thought of the crime he was about to perpetrate. He sat on the bed for a short time, and then went up as far as the dining-room ; but again remorse checked his guilty purpose, and he returned to his bed, almost determined not to commit the murder. The watchman was calling past twelve o'clock, when Henderson had proceeded again as far as the first window : all was now silent, the watchman had passed the house, and was no longer heard. Henderson having the cleaver in his hand, came down two or three steps, but presently went up as far as the lady's room-door, which he entered ; but again his resolution failed him. Terror and remorse arrested his hand, and he left the room as far as the stair-head, about three yards from her chamber-door ; but immediately returned, with a full determination to murder her. He entered the chamber a second time, went to the bedside, undrew the curtains, and found she was fast asleep. Twice he went from the bed to the door in great perplexity of mind, the deceased being still asleep. He had no candle, and believed if there had been a light he could not have committed the murder. With great trepidation he felt where she laid, and made twelve or fourteen motions with the cleaver before he struck her.

The first blow missed, but the second struck her on the head, and she endeavoured to get out of bed on the side next the door ; he then repeated it, when she moved to the other side of the bed, and spoke several words, which he could not remember. He struck successively, and, in struggling, she fell out of the bed next the window, when he thought it was time to put her out of her

misery, and aimed a blow at her with all his might, as she lay on the floor. She bled very much, and the curtains were cut in several places with the stroke of the weapon. All the words she said, when he struck her the third or fourth blow, were, "O Lord, what is this!" She rattled in her throat greatly, and he was so frightened that he ran down stairs, and threw the chopping knife down the privy. He then went into his bed-chamber, and sat down on the bed for about ten minutes, when it entered into his head to rob the house, which he solemnly declared he had no intention of doing when he committed the murder. Having determined to do so, he directly struck a light, went into the deceased's bed-chamber, and took her pockets, as they were hanging on the chair, also a gold watch and two diamond rings, out of the drawers, with several other articles; but did not remember all the particulars. When he had taken what he thought proper, he went out at the street-door, and fastened it with a piece of cord; and, on entering the street, he was so terrified that he could scarcely walk. He then proceeded to Holborn, where his wife lodged.

The watchman was crying past two o'clock, as he walked along Holborn, so that he had been nearly an hour in committing this horrid deed. He put what things he had taken into a box, at his wife's lodging, who asked him what he did there at that time of night, and several other questions; to all which he answered, it was no business of hers. He solemnly declared, his wife, and every other person, was entirely innocent and ignorant of the fact. He did not stay with her more than a quarter of an hour, and then returned to his master's; but, by endeavouring to break the string, with which he had fastened the door, he shut himself out, so that he was obliged to wait till the maid came home, then about six o'clock; and, in pretext, told her he had been to get some shirts that were mending, and had locked himself out. The maid, on opening the windows, first below and then above, by degrees discovered that there had been a robbery; and, by some blood on the stairs, suspected her lady was murdered. She told him, from time to time, what things she missed as she went about the house, and lastly of the blood on the stairs; on which he desired she would go into her lady's room, and see if

it were really so ; she consented, and he went to the door with her ; she presently returned, crying, "It is so ! it is so !" Henderson immediately went to a gentleman, who was nephew to his master, and acquainted him that somebody had broken into the house, and suspecting the maid, who had been out all night, she was taken before a justice, who, on hearing her examination, sent for Henderson, which summons he readily obeyed.

At first he denied the facts, and accused two innocent persons ; but, being much confounded by the cross-questions put to him, he at length confessed the truth. He appealed to all that knew him for the irreproachableness of his life before this happened ; and again acknowledged himself the only person guilty of, and privy to, the murder ; affirming, that he was prompted neither by malice nor interest, and never thought of committing so dreadful a crime, until a quarter of an hour before the perpetration of it.

He was tried at the Old-Bailey ; and the Jury brought in their verdict, *GUILTY—Death.*

On the Wednesday before his execution, the clergyman who attended him, pressed him to make a more ample confession, and discover his motive for committing so unparalleled a murder, which there was the greatest reason to believe he concealed. He then gave the following account : that, about eight or ten days before his guilty act, he was dressing his master, when his lady coming into the room, he happened to tread on her foot. She did not at that time notice it with angry words, but frowned, expressive of her resentment, and he conceived she imagined he did it purposely, though he solemnly declared it was entirely accidental. When his master had dressed and gone out, his lady came into his master's dressing-room, and asked him, "what he meant by treading on her foot?" he replied, "Madam, I did it not on purpose, I humbly beg pardon." She said, "Matthew, I'll turn you out of doors immediately, for you have behaved very rudely to me;" and then gave him a box on the ear. He said, "Madam, you need not threaten with turning me out of doors ; if you please, I will go out." He confessed his lady did not continue long in this passion, and that no servant was ever better treated.

He was executed on Friday, the 25th of February, 1746, on a gibbet erected for that purpose, opposite the end of Oxford-street, and was afterwards hanged in chains, by Edgware road.

TRIAL AND SUFFERINGS OF
JOHN COUSTOS,
IN THE INQUISITION AT LISBON; DESCRIBED BY
HIMSELF.

I WAS a native of Berne in Switzerland, and a lapidary by profession. My father came, with his whole family, to London; and, as he proposed to settle in England, he got himself naturalized there. After living twenty-two years in that city, I went at the solicitation of a friend, to Paris, in order to work in the galleries of the Louvre. Five years after I left this capital, and removed to Lisbon, in hopes of finding an opportunity of going to Brasil, where I flattered myself that I should make my fortune.

The inquisitors had usurped so formidable a power in Spain and Portugal, that the monarchs of those kingdoms were no more, if I may be allowed the expression, than as their chief subjects. Those tyrants did not scruple to encroach so far on the privilege of kings, as to stop, by their own authority, at the post-office, the letters of all whom they took it into their heads to suspect. In this manner I myself was served, a year before the inquisitors had ordered me to be seized; the design of which, I suppose, was to see, whether among the letters of my correspondents, some mention would not be made of Free-Masonry; I passing for one of the most zealous members of that art, which they resolved to persecute, upon pretence that enormous crimes were committed by its professors.

The reader is to be informed, that our lodges, in Lisbon, were not kept in taverns, &c. but alternately at the private houses of chosen friends. In these we used to dine together, and practise the secrets of Free-Masonry. As we did not know that our arts were forbidden in Portugal, we were soon discovered by the barbarous

zeal of a lady, who declared, at confession, that we were Free-Masons ; that is, in her opinion, monsters in nature, who perpetrated the most shocking crimes. This discovery immediately put the vigilant officers of the Inquisition upon the scent after us ; on which occasion, my friend, Mr. Mouton, fell the first victim.

Being sensible that he had not committed any crime for which he could incur his Portuguese majesty's displeasure, he gave up his sword the moment it was demanded of him. Immediately several trusty officers of the Inquisition, called familiars, fell upon him to prevent his escaping : they then commanded him not to make the least noise, and began to search him. This being done, and finding he had no weapons, they asked, whether he desired to know in whose name he had been seized ? Mr. Mouton answered in the affirmative : " We seize you (said they) in the name of the Inquisition ; and, in its name we forbid you to speak, or murmur ever so little." Saying these words, a door at the bottom of the jeweller's shop, and which looked into a narrow bye-lane, being opened, the prisoner, accompanied by a commissary of the holy office, was thrown into a small chaise, where he was so closely shut up, (it being noon day,) that no one could see him. This precaution was used to prevent his friends from getting the least information concerning his imprisonment ; and, consequently, from using their endeavours to procure his liberty. Being come to the prison of the Inquisition, they threw him into a dungeon, and there left him alone ; without indulging him the satisfaction they had promised, which was, to let him speak, immediately upon his arrival, to the president of the holy office ; to know from him, the reason of his detainer.

I perhaps should have escaped their merciless paws, had I not been betrayed, in the most barbarous manner, by a Portuguese friend of mine, as I falsely supposed him to be ; and whom the holy office had ordered to watch me narrowly. This man seeing me in a coffee-house, thé 5th of March, 1742-3, between nine and ten at night ; went and gave notice thereof to nine officers of the Inquisition, who were lying in wait for me, with a chaise, near that place. It was to no purpose that I alleged a thousand things in my own justification. Immediately the wretches took away my sword, hand-

cuffed me, forced me into a chaise drawn by two mules, and in this condition I was hurried away to the prison of the Inquisition. I was delivered up to one of the officers of this pretended holy place. This officer presently calling four subalterns, or guards, they took me to an apartment, till such time as notice should be given to the president of my being caught in their snare.

A little after, the above-mentioned officer coming again, bid the guards search me, and take away all the gold, silver, papers, knives, scissors, buckles, &c. I might have about me. They then led me to a lonely dungeon, expressly forbidding me to speak loud, or knock at the walls; but that in case I wanted any thing, to beat against the door, with a padlock that hung on the outward door, and which I could reach, by thrusting my arm through the iron grates. It was then that, struck with all the horrors of a place of which I had heard and read such baleful descriptions, I was plunged at once into the blackest melancholy.

I passed a whole day and two nights in these terrors, which are the more difficult to describe, as they were heightened at every little interval, by the complaints, the dismal cries, and hollow groans (echoing through this dreadful mansion,) of several other prisoners, my neighbours; and which the solemn silence of the night made infinitely more shocking. I devoted my whole thoughts to the means of my justification. And this I made so familiar to myself, that I was persuaded neither the partiality of my judges, nor the dreadful ideas I had entertained of their cruelty, could intimidate me, when I should be brought before them; which I accordingly was, in a few days, after having been shaved, and had my hair cut by their order.

I was now led, bare-headed, to the president and four inquisitors, who, upon my coming in, bid me kneel down, lay my right hand on the bible, and swear, in the presence of Almighty God, that I would speak truly with regard to all the questions they should ask me. These questions were, my christian and sir-names, those of my parents, the place of my birth, my profession, religion, and how long I had resided in Lisbon. This being done, they addressed me as follows:—"Son, you have offended and spoken injuriously of the holy office, as we know from very good hands, for which rea-

son we exhort you to make a confession of, and to accuse yourself of the several crimes you may have committed, from the time you were capable of judging between good and evil, to the present moment. In doing this, you will excite the compassion of this tribunal, which is ever merciful and kind to those who speak the truth."

I now implored and besought them, "To let me know the true cause of my imprisonment; that, having been born and educated in the Protestant religion, I had been taught, from my infancy, not to confess myself to men, but to God, who, as he only can see into the inmost recesses of the human heart, knows the sincerity or insincerity of the sinner's repentance, who confessed to him, and being his Creator, it was he only who could absolve him."

The reader will naturally suppose, that they were not satisfied with my answer;—"They declaring, that it would be indispensably necessary for me to confess myself, what religion soever I might be of, otherwise, that a confession would be forced from me, by the expedients the holy office employed for that purpose."

To this I replied, "That I had never spoken in my life against the Romish religion: that I had behaved in such a manner, ever since my living at Lisbon, that I could not be justly accused of saying or doing any thing contrary to the laws of the kingdom, either as to spirituals or temporals: that I had also imagined, that the holy office took cognizance of none but those persons who were guilty of sacrilege, blasphemy, and similar crimes, whose delight is to depreciate and ridicule the mysteries received in the Romish church, but of which I was no ways guilty." They then remanded me back to my dungeon, after exhorting me to examine my conscience.

Three days after, they sent for me, to interrogate me a second time, and presently gave orders for my being conveyed into another deep dungeon; the design of which, I suppose, was to terrify me completely; and here I continued seven weeks. It will be naturally supposed, that I now was overwhelmed with grief: I will confess that I then gave myself up for lost.

During my stay in this miserable dungeon, I was taken three times before the inquisitors. The first thi

they made me do was, to swear on the bible, that I would not reveal the secrets of the Inquisition ; but declare the truth with regard to all such questions as they should put to me : they added, “ That it was their firm opinion that Masonry could not be founded on such good principles as I, in my former interrogatories, had affirmed ; and that, if this society of Freemasons was so virtuous as I pretended, there was no occasion of their concealing so very industriously, the secrets of it.” They then insisted upon my revealing to them the secrets of this art. —“ The oath (said I) taken by me at my admission, never to divulge them, directly or indirectly, will not permit me to do it ; conscience forbids me ; and I therefore hope your lordships are too equitable to use compulsion.” They declared, “ That my oath was as nothing in their presence, and that they would absolve me from it.” —“ Your lordships (continued I) are very gracious ; but as I am firmly persuaded that, as it is not in the power of any being upon earth to free me from my oath, I am firmly determined never to violate it.” This was more than enough to make them remand me back to my dungeon, where, a few days after, I fell sick.

Being again ordered to be brought before the inquisitors, they insisted on my letting them into the secrets of Masonry ; threatening me in case I did not comply. I persisted as before, “ in refusing to break my oath ; and besought them, either to write, or give orders for writing, to his Portuguese majesty’s ministers, both at London and Paris, to know from them, whether any thing was ever done in the assemblies of the Freemasons, repugnant to decency and morality ; to the dictates of the Romish faith ; or to the obedience which every good Christian owes to the injunctions of the monarch, in whose dominions he lives.” I observed farther, “ that the king of France, who is the eldest son of the church, and despotic in his dominions, would not have bid his favourite enter into a society proscribed by the mother-church ; had he not been firmly persuaded that nothing was transacted in their meetings, contrary to the state, to religion, and to the church.” I afterwards referred them to Mr. Dogood, an Englishman, who was born a Roman Catholic and a Freemason. This gentleman had travelled with, and was greatly beloved by, Don Pedro

Antonio, the king's favourite; and who, I observed farther, "having settled a lodge in Lisbon fifteen years before, could acquaint them, in case he thought proper, with the nature and secrets of Masonry." The inquirers then commanded me to be taken back to my dismal abode.

Appearing again before them, they did not once mention the secrets of Masonry; but reminded me that I, in one of my examinations, had said, "that it was a duty incumbent on Freemasons to assist the needy;" upon which they asked, "whether I had ever relieved a poor object?"—I named to them a lying-in-woman, a Romanist, who being reduced to the extremes of misery, and hearing that the Freemasons were very liberal of their alms, she addressed herself to me, and I gave her a moidore: I added, "that the convent of the Franciscans, having been burnt down, the fathers made a gathering, and I gave them, upon the Exchange, three quarters of a moidore:" I declared farther, "that a poor Roman Catholic, who had a large family, and could get no work, being in the utmost distress, had been recommended to me by some Freemasons, with a request that we would make a purse among ourselves, in order to set him up again, and thereby enable him to support his family: that accordingly we raised among seven of us who were Freemasons, ten moidores; which money I myself put into his hands."

They then employed all the powers of their rhetoric to prove, "that it became me to consider my imprisonment, by order of the holy office, as an effect of the goodness of God; who (added they) intended to bring me to a serious way of thinking; and by this means, lead me into the paths of truth, in order that I might labour efficaciously at the salvation of my soul: that I ought to know, that Jesus Christ had said to St. Peter, 'Thou art Peter, and upon this rock I will build my church, and the gates of hell shall not prevail against it;'^{*} whence it was my duty to obey the injunctions of his holiness, he being St. Peter's successor."—I replied, with spirit and resolution, that I did not acknowledge the Roman pontiff, either as successor to St. Peter, or as infallible;

* St. Matthew.

that I relied entirely, with regard to doctrine, on the Holy Scriptures, these being the sole guide of our faith: I besought them to let me enjoy, undisturbed, the privileges allowed the English in Portugal: that I was resolved to live and die in the communion of the church of England; and, therefore, that all the pains they might take to make a convert of me, would be ineffectual." I was ordered back by the inquisitors, to my dismal abode; after they had declared to me, "that if I turned Roman Catholic, it would be of great advantage to my cause; otherwise, that I perhaps might repent of my obstinacy when it was too late." I replied in a respectful manner, that I could not accept of their offer.

A few days after, I was again brought before the president of the holy office, who said, "that the proctor would read, in presence of the court, the heads of the indictment, or charge, brought against me." The inquisitors now offered me a counsellor, in case I desired one, to plead my cause. Being sensible that the person whom they would send me for this purpose, was himself an inquisitor, I chose rather to make my own defence in the best manner I could. I therefore desired, "that leave should be granted me to deliver my defence in writing;" but this they refused, saying, "that the holy office did not allow prisoners the use of pen, ink, and paper." I then begged they would permit me to dictate my justification in their presence, to any person whom they should appoint; which favour was granted me.

The heads of the charge or indictment brought against me, were, "That I had infringed on the Pope's orders, by my belonging to the sect of the Freemasons; this sect being a horrid compound of sacrilege, sodomy, and many other abominable crimes; of which the inviolable secrecy observed therein, and the exclusion of women, were but too manifest indications; a circumstance that gave the highest offence to the whole kingdom: and the said Coustos having refused to discover to the inquisitors, the true tendency and design of the meetings of Freemasons; and persisting, on the contrary, in asserting that Freemasonry was good in itself: wherefore the proctor of the Inquisition requires, that the said prisoner may be prosecuted with the utmost rigour; and for this purpose, desires the court would exert its whole authority, and even proceed to tortures, to extort from him a con-

cession, viz. that the several articles of which he stands accused, are true."

The inquisitors then gave me the above heads, ordering me to sign them, which I absolutely refused. They thereupon commanded me to be taken back to my dungeon, without permitting me to say a single word in my justification. Six weeks after, I appeared in presence of two inquisitors, and the person whom they had appointed to take down my defence; which was little more than a recapitulation of what I before had asserted with regard to Masonry.

A few days after, I was brought before his Eminence, Cardinal da Cunha, Inquisitor and Director-General of all the Inquisitions dependant on the Portuguese monarchy. The president, addressing himself to me, declared, "that the holy tribunal were assembled, purposely to hear and determine my cause; that I therefore should examine my own mind, and see whether I had no other arguments to offer in my justification."—I replied, "that I had none; but relied wholly on their rectitude and equity." Having spoken these words, they sent me back to my sad abode, and judged me among themselves.

Some time after, the president sent for me again; when, being brought before him, he ordered a paper, containing part of my sentence, to be read. I thereby was doomed to suffer the tortures employed by the holy office, for refusing to tell the truth (as they falsely affirmed); for my not discovering the secrets of Masonry, with the true tendency and purpose of the meetings of the brethren.

I hereupon was instantly conveyed to the torture-room, built in form of a square tower, where no light appeared but that from two candles; and, to prevent the dreadful cries and shocking groans of the unhappy victims from reaching the ears of the other prisoners, the doors were lined with a sort of quilt. The reader will naturally suppose, that I must be seized with horror, when, at my entering this infernal place, I saw myself on a sudden surrounded by six wretches, who, after preparing the tortures, stripped me naked, (all to linen drawers,) when, laying me on my back, they began to lay hold of every part of my body. First, they put round my neck an iron collar, which was fastened to the scaffold; they then fixed a ring to each foot, and this being done, they stretched my limbs with all their might: they next wound

two ropes round each arm, and two round each thigh, which ropes passed under the scaffold, through holes made for that purpose; and were all drawn tight at the same time, by four men, upon a signal made for this purpose.

The reader will believe that my pains must be intolerable, when I solemnly declare, that these ropes, which were of the size of one's little finger, pierced through my flesh quite to the bone; making the blood gush out at the eight different places that were thus bound. As I persisted in refusing to discover any more than what has been seen in the interrogatories above mentioned; the ropes were thus drawn together four different times. At my side stood a physician and surgeon, who often felt my temples, to judge of the danger I might be in; by which means my tortures were suspended at intervals, that I might have an opportunity of recovering myself a little.

Whilst I was thus suffering, they were so barbarously unjust as to declare, that, were I to die under the torture, I should be guilty, by my obstinacy, of self-murder. In fine, the last time the ropes were drawn tight, I grew so exceedingly weak, occasioned by the blood's circulation being stopped, and the pains I endured, that I fainted quite away; insomuch, that I was carried back to my dungeon without my once perceiving it.

These barbarians finding that the tortures above described could not extort any farther discovery from me, but that, the more they made me suffer, the more fervently I addressed my supplications for patience to Heaven: they were so inhuman, six weeks after, as to expose me to another kind of torture more grievous, if possible, than the former. They made me stretch my arms in such a manner, that the palms of my hands were turned outward, when, by the help of a rope that fastened them together at the wrist, and which they turned by an engine, they drew them gently nearer to one another behind, in such a manner, that the back of each hand touched, and stood exactly parallel one to the other; whereby both my shoulders were dislocated, and a considerable quantity of blood issued from my mouth. This torture was repeated thrice; after which I was again taken to my dungeon, and put into the hands of physicians and surgeons, who, in setting my bones, put me to exquisite pain,

Two months after, being a little recovered, I was again conveyed to the torture-room, and there made to undergo another kind of punishment twice. The reader may judge of its horror from the following description :

The torturers turned twice round my body, a thick iron chain, which, crossing upon my stomach, terminated afterwards at my wrists : they next set my back against a thick board, at each extremity whereof was a pulley, through which there ran a rope, that caught the ends of the chains at my wrists : the tormentors then stretching these ropes by means of a roller, pressed or bruised my stomach, in proportion as the ropes were drawn tighter. They tortured me on this occasion to such a degree, that my wrists and shoulders were put out of joint : the surgeons, however, set them presently after ; but the barbarians not having yet satiated their cruelty, made me undergo this torture a second time, which I did with fresh pains, though with equal constancy and resolution. I then was remanded back to my dungeon, attended by the surgeons who dressed my bruises ; and here I continued till their *Auto da Fé*, or gaol delivery.

The reader may judge, from the faint description, of the dreadful anguish I must have laboured under, the nine different times they put me to the torture. Most of my limbs were put out of joint, and bruised in such a manner, that I was unable, during some weeks, to lift my hand to my mouth ; my body being much swollen, by the inflammations caused by the frequent dislocations. I have but too much reason to fear, that I shall feel the sad effects of this cruelty so long as I live ; as I am seized, from time to time, with thrilling pains, with which I never was afflicted, till I had the misfortune of falling into the merciless and bloody hands of the inquisitors.

On the day of the *Auto da Fé*, I was made to walk in the procession, with the other victims of this tribunal. On arriving at St. Dominic's church, my sentence was read, by which, I was condemned to the galley (as it is termed) during four years.

A fortnight before the solemnization of this *Auto da Fé*, notice was given in all the churches, that it would be celebrated on Sunday the 21st of June, 1744. At the same time, all who intended to be spectators thereof, were exhorted not to ridicule the prisoners, but rather pray to God for their conversion. On Saturday, the 20th of the month above mentioned, we were all

ordered to get ready by next morning: and, at the same time, a band was given each of us, and old black clothes to such as had none.

Those accused of Judaism, and who, through fear of the torture, confessed their being such, were distinguished by large scapularies called *san benidos*. This is a piece of yellow stuff about two ells long; and in the middle of which, a hole is made to put the head through; on it were sewed stripes of red stuff, and this falls behind and before, in form of a St. Andrew's cross. Those who are condemned for sorcery, magic, and such like, wear the same kind of scapulary described above. They are distinguished only by wearing a pasteboard cap, about a foot and a half high, on which devils and flames are painted; and at the bottom, the word WIZARD is written in large characters.

I must observe that all such persons as are not sentenced to die, carry a lighted yellow wax-taper in their hands. I was the only person to whom one was not given, on account of my being an obstinate protestant.

The relapsed Jews, and such heretical Roman Catholics, as are sentenced to die for refusing to confess the crimes whereof they are accused, are dressed in grey *samaras*, much shorter than the *san benidos* above mentioned. The face of the person who wears it, is copied (before and behind) from the life, standing on firebrands, with flames curling upwards, and devils round it. At the bottom of the *samara*, their names and surnames are written.

Blasphemers are dressed as above, and are distinguished only by a gag in their mouths. The prisoner being thus habited, the procession opened with the Dominican friars, preceded by the banner of their order: afterwards came the banner and crucifix of the Inquisition, which was followed by the criminals, each whereof walked between two familiars, who were to be answerable for them, and bring back to prison such as were not to be executed, after the procession was ended.

Next came the Jewish converts, followed by such as were indicted for witchcraft and magic, and had confessed their crimes. The procession closed with the unhappy wretches who were sentenced to the flames. The march then began, when the whole procession walked round the court of the chief inquisitor's palace, in presence of the king, the royal family, and the whole court, who were come thither for this purpose. The prisoners having all gone through the court just mentioned, proceeded along one of the sides of Rocio-square; and went down Odreyros-street; when, returning by Escudeyros-street, and up another side of Rocio-square, they came, at last, to St. Dominic's church, which was hung, from top to bottom, with red and yellow tapestry.

Before the high altar was built an amphitheatre, with a pretty considerable number of steps, in order to seat all the prisoners and their attendant familiars. Opposite was raised another greater altar, after the Romish fashion, on which was placed a crucifix surrounded with several lighted tapers, and mass-books. To the right of this was a pulpit, and to the left, a gallery, magnificently adorned, for the king, the royal family, the great men

of the kingdom, and the foreign ministers, to sit in. To the right of this gallery was a long one for the inquisitors; and between these two galleries a room, whither the inquisitors retire to hear the confessions of those who, terrified at the horrors of impending death, may be prompted to confess what they had before persisted in denying; they sometimes gladly snatching this last moment allowed them to escape a cruel exit. Every person being thus seated in the church, the preacher ascended the pulpit, whence he made a panegyric on the Inquisition; exhorted such prisoners as were not sentenced to die, to make good use of the clemency indulged them, by sincerely renouncing that instant, the heresies, and crimes, of which they stood convicted. Then addressing himself to the prisoners who were to be burnt, he exhorted them to make good use of the little time left them, by a sincere confession of their crimes, and thereby avoiding a cruel death.

During the sermon, the prisoners have some refreshments; the open air having a very strong effect on most, and the length of the march fatiguing them greatly: on this occasion dry fruits were given them, and as much water as they could drink.

The preacher having come from the pulpit, some priests belonging to the Inquisition ascend it successively, to read the trial of each prisoner, who was standing all the time holding a lighted taper; each prisoner, after hearing it, returned to his place: this lasted till ten at night. The trials of all the prisoners not sentenced to die, being read, the president of the Inquisition, drest in his sacerdotal vestments, appeared with a book in his hand; after which, five or six priests, in surplices, tapped with a sort of wands, the heads and shoulders of the prisoners in question; saying certain prayers used in the Romish church, when the excommunication is taken off: then another priest went up into the pulpit, to read the trials of the ill-fated persons sentenced to the flames; after which these sad victims were delivered up to the secular power, whose officers take them to the Relacaon, whither the king comes. Thus the Inquisition, to conceal their cruelties, calls in the secular arm, which condemns the prisoners to die; or rather ratifies the sentence passed by the inquisitors: this lasted till six in the morning.

At last these miserable creatures, accompanied by the familiars and priests, were conducted, under the guard of a detachment of foot, to Campo da Laa, or the Woolfield. Here they were fastened with chains to posts, and seated on pitch-barrels: afterwards the king appeared in a sorry coach, at which were ropes instead of harnesses. He then ordered the friars to exhort each of the victims in question, to die in the Romish faith, upon pain of being burnt alive; but to declare, that such as complied with the exhortation of the priest, should be strangled before they were committed to the flames. His majesty staid till all the prisoners were executed.

In this Auto da Fé, were burnt the following persons.

1. Father Joseph de Seguira, a priest, convicted of various heresies, and obstinate.
2. Theresa Carvalha, a widow, found guilty of different heresies, and confessing them.

3. Francis Dias Cabaco, a scrivener, convicted of heresy, and obstinate.
4. Charles Joseph, a barber, convicted of heresy, and obstinate.
5. Gabriel Roderiguez Bicudo, a shoemaker, who, after publicly abjuring Judaism in a former Auto da Fé, and being taken up a second time for committing a similar crime, was convicted, and proved obstinate.
6. Pedro de Rates Henequim, living on his estate, condemned for inventing, writing, following, and defending, the doctrines of heretics; for turning heresiarch with execrable blasphemies; convicted, false, dissembling, confident, varying, and impenitent.
7. Josepha Maria, spinster, daughter of Gabriel Roderiguez Bicudo, abjuring in the same manner as her father (above) and convicted a second time; false, dissembling, and impenitent.
8. Mecia da Costa, a widow, reconciled in a former Auto da Fé, for the crime of witchcraft, and living apart from the Catholic faith; making a contract with the devil, whom she worshipped as God; convicted, denying, obstinate, and relapsed.

The instant the sad victims above mentioned were delivered up to the secular arm, all the rest of the prisoners were led back, with the same ceremony, about ten at night, from St. Dominic's church to the Inquisition. On arriving there, we were carried through several galleries, till we came to the abode allotted us. Here were several chambers, the doors of which were open, when each of us chose that which he liked best: there then were given to each a straw bed, a blanket, and sheets which had been lain in: most of these things were far from being clean, there not having been an Auto da Fé for two years before. The women were lodged a story above us.

During the course of the week, some of the prisoners were banished; such as had more husbands or wives than one, were whipt through the streets of Lisbon; and others sent to the galley, among whom I was included.

The Portuguese galley is a prison standing by the river side, and consists of two very spacious rooms, built one over the other; that on the ground floor is the apartment of the slaves, and the other is for the sick, and the officers of this prison: it being the receptacle, not only of such as are condemned by the inquisitors, but likewise by the lay judges. Among these prisoners are Turks and Moors, taken on board the corsair vessels; together with fugitive slaves, and dishonest servants, whom their masters send to this galley, as a chastisement.

These several prisoners, of what quality soever, are employed in toils equally low and grievous. Some work in the dock-yards; others carry timber to the carpenters, unload the ships, and provide water and provisions for victualling such as are outward bound: they likewise carry water to the prisons in Lisbon, and to the king's gardens, in order for refreshing them; in a word, they are obliged to submit to any labours, how ignominious and painful soever, for the service of his Portuguese majesty, or of the officers who command them. These slaves are

treated with the greatest severity and cruelty, except they find means to bribe their overseers to gentleness.

In this galley, all the slaves are fastened two and two, by one foot only, with a chain eight foot long. At their girdle is an iron hook, by which they shorten or lengthen their chain, to make the weight of it less troublesome. Their heads and beards are shaved once a month: they wear coarse blue clothes, caps, and coats; and have a great coat made of coarse serge of the same colour, which serves them as a cloak in the day-time, and a coverlet at night. They lie in a sort of frame of boards raised a little from the ground, over which a mat is spread.

To every galley-slave is given, each day, a pound and a half of very dry, black biscuit, with six pounds of salt meat every month, and a bushel of pease, lentils, or beans, which they are allowed to sell, in order to purchase better provisions, if they can afford it. They are led early every morning, a few festivals excepted, whithersoever their drudgery may be wanted: they then toil incessantly till eleven, when they leave work, in order to eat and rest themselves till one; after which they again renew their miserable labours, and these they continue till night, when they are conducted back to the galley. Such is the life which these unhappy wretches lead daily.

Four days after this procession, I was conveyed to this galley, and joined, on the morrow, in the painful occupations of my fellow slaves. However, the liberty I had of speaking to my friends, after having been deprived of even the sight of them, during my tedious, wretched abode in the prison of the Inquisition; the open air I now breathed, with the satisfaction I felt in being freed from the dreadful apprehensions which always overspread my mind, whenever I reflected on the uncertainty of my fate; these circumstances united, made me find the toils of the galley much less irksome.

As I had suffered greatly in my body, by the tortures inflicted on me in the prison of the Inquisition, I was unfit to go about the painful labour that was immediately allotted me, viz. the carrying of water (an hundred pounds' weight) to the prisons of the city: but, the fear I was under, of being exposed to the inhumanity of the guards or overseers, who accompanied the galley-slaves, caused me to exert myself so far beyond my strength, that, twelve days after, I fell grievously sick; I then was sent to the Infirmary, where I continued two months. During my abode in this place, I was often visited by the Irish friars belonging to the convent of Corpo Santo, who offered to get my release, provided I would turn Roman Catholic. Being unable, after this, to go through the toils to which I had been sentenced, I was excused,

by my amply rewarding the overseers. It was now that I had full leisure to reflect seriously on the means of obtaining my liberty; and, for this purpose, I desired a friend to write to my brother-in-law, Mr. Barbu, to inform him of my deplorable state; and to intreat him, humbly to address the Earl of Harrington in my favour; my brother-in-law at that time living in his lordship's family. This nobleman, whose humanity and generosity have been the theme of infinitely abler pens than mine, was so good as to declare, that he would endeavour to procure my freedom. Accordingly, his lordship spoke to his grace the duke of Newcastle, one of the principal secretaries of state, in order to supplicate for leave, from our Sovereign, that his minister at Lisbon might demand me, as a subject of Great Britain.

His Majesty was so gracious as to interpose in my favour. Accordingly his commands being despatched to Mr. Compton, the British minister at Lisbon, that gentleman demanded my liberty of the King of Portugal, in his Britannic Majesty's name; which accordingly I obtained in the latter end of October, 1744. The person who came and freed me from the galley, by order of the inquisitors, took me before them: the president then told me, that Cardinal da Cunha had given orders for my being released; at the same time, he bid me return to the holy office in three or four days.

I now imagined, that prudence required me to secure myself from a second persecution. As there was at this time no English ship in the port of Lisbon, I waited upon Mr. Vantil, the resident of Holland, and besought him to speak to the Dutch admiral to admit me on board his fleet. The resident, moved with my calamities, hinted my request to the admiral, who generously complied with it. I then went, together with a friend, and informed the inquisitor, that I designed to embark for England, in the *Damietta*, commanded by Vice-admiral Cornelius Screiver, who was to sail in a few days: upon the inquisitor's enquiring the exact time when I intended to go on board, I replied, at nine o'clock the next morning: he then bid me come to him precisely at that hour; adding, that he would send some officers of the Inquisition to see me on ship-board.

I therefore thought it would be safest for me to go on board immediately, without giving any notice of it to

the inquisitors : we lay at anchor, after this, near three weeks before Lisbon. The inquisitor no sooner found that I failed coming to him at the time appointed, in order to be conducted to the ship, than he sent out about thirty spies. Nine of these coming to enquire after me at the house where I used to lodge, searched it from top to bottom, examining every trunk, chest of drawers, and closet. But their endeavours to find me being fruitless, some of the officers of the Inquisition getting into a boat, rowed several times round three Dutch men-of-war lying at anchor.

I arrived in London on the 15th of Dec. 1744, after a long and dangerous voyage.

I shall now proceed to a brief description of that tribunal, by whose unrelenting commands I have suffered those tortures.*

Dominic was the first inquisitor, and Toulouse the first city where the Inquisition was settled.

The Inquisition of Rome is composed of twelve cardinals, and some other officers. The Pope presides personally in this assembly. The Inquisition is the chief tribunal of Rome. The congregation of the Inquisition was first established in 1545. The above cardinals assume to themselves the title of Inquisitors-General throughout the Christian world; but they have no jurisdiction in France, and some other Romish countries: they are empowered to deprive or remove all inferior inquisitors, at least those of Italy.

Though the Inquisition had been so strongly opposed

* The origin of the Inquisition is thus related by Fleury, in his Ecclesiastical History. "In 1198, Innocent III. sent into the southern provinces of France, two Cistercian monks, Reinier and Gui, to convert the Manichees, with which those parts swarmed; to excommunicate the obstinate, and to command the lords to confiscate the possessions of the excommunicated; to banish them, and punish them with severity: impowering at the same time, Reinier to force the lords likewise, and to excommunicate them, and put their lands under sequestration. These commissioners, thus sent against the heretics, were afterwards called inquisitors." The jesuits of Trevoux observe, that "the council of Narbonne, held in 1235, and that of Beziers in 1246, gave the Dominicans (Inquisitors) in the province of Arles, of Aix, of Embrum, and Vienne, a rule or ordinance, consisting of thirty-seven articles; and these were the basis of the procedures which have been observed, since that time, in the tribunals of the Inquisition."

in France and Germany, it yet gained footing in Spain; the kings of Arragon admitting it into the several states dependant on their crown. The court of Rome was indebted for this to John de Torquemada, a Dominican. This friar, who was confessor to Isabella, had made her promise, before she came to the throne, that, in case she should be raised to it, she would use all possible methods to extirpate heretics and infidels. Torquemada had been of such important service to the see of Rome, that it was natural he should be rewarded by it; the Pope raising him to the purple. He afterwards was appointed by Ferdinand and Isabella, Inquisitor-General of the whole monarchy of Spain; and he discharged the functions of his employment so much to their expectation, that he prosecuted, in 14 years, above 100,000 persons, 6000 of whom were sentenced to the flames.

Matters were afterwards carried to such a height, by the barbarous zeal of princes, that Philip II. king of Spain, established the Inquisition even on board ships of war. In 1571, he fitted out a fleet called the Invincible, commanded by Don John of Austria; and, as it had been found necessary to employ sailors of all nations, Philip fearing that a mixture of religions would corrupt the Romish faith, consulted pope Pius V. on this occasion; when the pontiff sent one of the inquisitors of Spain, who had been appointed by the Inquisitor-General of that monarchy, as inquisitor of the fleet; with power to preside in the several tribunals, and solemnize Auto da Fés in all places they might put into. The first Auto da Fé was held in the city of Messina, where various punishments were inflicted on many persons.

We are told that the Inquisition of Portugal, was copied from that of Spain, and introduced in the former, anno 1535. The Inquisition has subsisted ever since in Portugal, and is the most severe, the most rigid, and cruel of any in the world. The inquisitors being judges delegated by the pope, for enquiring into matters of faith, and for extirpating heresy; they, upon this specious pretence, are empowered to prosecute all sorts of friars, of what rank or condition soever, either in their own names, by the supreme council of the kingdom, or by the pope. They may prosecute indiscriminately, any layman infected with heresy, not excepting princes or

kings. However, the inquisitors, to secure themselves from any ill consequences which might attend their attacking persons in such exalted stations, consult the Pope on these occasions, and proceed as he may direct.

Under the name of heretics are comprehended all persons who have spoken, written, taught, or practised any tenets contrary to the scriptures; to the articles of the creed; and, especially, to the traditions of the Church of Rome. Likewise such as have denied the catholic faith, by going over to some other religion; or who, though they do not quit the Romish communion, praise the customs and ceremonies of other churches; practise some of them; or believe that persons may be saved in all religions, provided they profess them with sincerity.

They likewise consider as heretics, all who disapprove any ceremonies, usages, or customs received, not only by the church, but even by the Inquisition.

All who think, say, or teach any thing contrary to the opinion received at Rome, with regard to the Pope's supreme, unlimited authority, and his superiority over general councils; as likewise such as speak, teach, or write, any thing contrary to the papal decisions, on what occasion soever, are looked upon as heretics: that person is likewise suspected of heresy, who contemns, insults or mutilates any images: likewise all those who read books condemned by the Inquisition, or who lend them to others.

Persons are not only forbidden to save heretics, but are obliged to discover them, though a father, brother, husband, or wife; and this upon pain of excommunication; of incurring a suspicion of heresy; and of being obnoxious to the rigours of the tribunal in question, as fautors or abettors of heresy.

The fourth case, subject to the judgment of the Inquisition, includes magicians, wizards, soothsayers, and others, of whom there are supposed to be more in Italy than in any other country, the Italian women being strangely curious and credulous. Though neither Jews, nor Mohammedans, are subject to the Inquisition in many points, they yet are obnoxious to it, in all the cases above mentioned.

The sixth and last case, subject to the judgment of the Inquisition, is of those who resist its officers, or in any way oppose its jurisdiction. As one of the chief maxims of this tribunal is to strike terror, and to awe such as are subject to it, it punishes with the utmost severity all who offend its agents and officers.

The most formidable of all the tribunals is that of the Inquisition, whose bare name strikes universal terror. I. Because the informer is admitted as a witness. II. As the persons impeached never know those who inform against them. III. As the witnesses are never confronted. Hence innocent people are daily seized, whose only crime is, that certain persons are bent upon their destruction.

When a person is once imprisoned by the inquisitors, his treatment is most cruel. He is thoroughly searched, to discover, if possible, any books or papers which will serve to convict him; or some instrument he may employ to put an end to his life, in order to escape the torture, &c. Of this there are but too many

sad examples; and some prisoners have been so rash, as to dash their brains out against the wall, upon their being unprovided with scissars, a knife, a rope, &c.

After a prisoner has been carefully searched, and his money, papers, buckles, rings, &c. have been taken from him, he is conveyed to a dungeon, the bare sight of which must fill him with horror. Torn from his family and his friends, who are not allowed access to, or even to send him one consolatory letter; or to take the least step in his favour, in order to prove his innocence; he sees himself instantly abandoned to his inflexible judges, to his melancholy, to his despair; and even often to his most inveterate enemies, quite uncertain of his fate.

On his arrival at the prison, the inquisitor, attended by the officers of this mock holy tribunal, goes to the prisoner's abode; and there causes an exact inventory to be taken of all his papers, effects, and of every thing found in his house. They frequently seize all the prisoner's other goods; at least the greatest part of them, to pay themselves the fine to which he may be sentenced; for very few escape the Inquisition, without being half ruined.

The house of the Inquisition in Lisbon is a spacious edifice. There are four courts, each about forty foot square, round which are galleries (in the dormitory form) two stories high. In these galleries are the cells or prisons, being about three hundred. Those on the ground floor are allotted for the vilest of criminals (as they are termed,) and are so many frightful dungeons, all of free-stone, arched, and very gloomy. The cells on the first floor are filled with persons considered less guilty; and women are commonly lodged in those of the second story: these several galleries are hidden from view, both within and without, by a wall above fifty feet high, and built a few feet distant from the cells, which darkens them exceedingly.

The furniture of these miserable dungeons is, a straw bed, a blanket, sheets, and sometimes a mattress. The prisoner has likewise a frame of wood about six feet long, and three or four wide; this he lays on the ground, and spreads his bed upon it: he also has an earthen pan for washing himself; two pitchers, one for clean and the other for foul water; a plate, and a little vessel with oil to light his lamp: he is not, however, allowed any books, not even those of devotion.

Sometimes a prisoner passes several months in his cell, without hearing a single word of his being brought to trial; without his knowing the crime of which he stands impeached, or a single witness who swore against him: at last the gaoler tells him, as of his own accord, that it will be proper for him to sue to be admitted to audience.

The ceremony of the *Auto da Fé*, or act of faith, solemnized at Madrid, in 1682, took place as follows:—The officers of the Inquisition, preceded by trumpets, kettle-drums, and their banner, marched, May 30, 1682, in cavalcade to the palace of the great square, where they declared by proclamation, that on the 30th of June,

the sentences of the prisoners condemned to the flames, and to other punishments, would be put in execution. There had not been a spectacle of this kind in Madrid, during forty years before, for which reason it was expected, by the inhabitants, with as much impatience, as though it had been the merriest holiday. On the 30th of June, numberless multitudes of people appeared, splendidly dressed, as for a royal wedding. In the great square was raised a high scaffold: into this square, from seven in the morning; till nine at night, came criminals of both sexes; all the inquisitions in the kingdom having sent their prisoners to Madrid. The prosecutions and sentences were read aloud. There were twenty Jews, men and women, and one renegade Mohammedan, all of whom were burnt. Fifty Jews and Jewesses having never been imprisoned before, and repenting of their crimes, were sentenced to a long imprisonment, and to wear a yellow scapulary: ten more, indicted for bigamy, witchcraft, and other crimes, were sentenced to be whipped, and afterwards sent to the galleys; the latter wore large pasteboard caps on their heads, with inscriptions on them; having halters about their necks, and torches in their hands.

The whole court was present; the king, the queen, the ambassadors, courtiers, and immense crowds of people: the inquisitor's chair was placed in a sort of tribunal above that of the king. The unhappy victims were executed so near to the place where the king stood, that he might hear their groans; the scaffold on which they stood, touching his balcony: the nobles of Spain, acted here the same part as the sheriffs' officers in England. Those noblemen led such criminals as were to be burnt, and held them when they were fast bound with thick cords; the rest of the criminals being conducted by the familiars, or common servants of the Inquisition. Several friars, both learned and ignorant, argued with great vehemence, to convince these unhappy creatures of the truth of the Christian religion. Some of the criminals (Jews) were perfectly well skilled in their religion; and made argumntative replies, and that without the least emotion. Among them was a young maiden of exquisite beauty, about seventeen years of age; who being on the same side with the

queen, addressed her, in the hope of obtaining her pardon, as follows: "Great queen! will not your royal presence be of some service to me in my miserable condition? consider my youth; and that I profess a religion which I imbibed from my infancy." The queen turned away her eyes, and though she seemed to pity her distress, yet she did not dare to speak a word in her behalf.

Mass now began, in the midst of which, the priest came from the altar, and seated himself in a chair prepared for that purpose: the chief inquisitor descended from the amphitheatre, dressed in his cope, and wearing a mitre on his head; when, after bowing to the altar, he advanced towards the king's balcony, ascended to it by the stairs, at the end of the scaffold, attended by some of the officers of the Inquisition, carrying the cross and the gospels; with a book containing the oath by which the kings of Spain oblige themselves to protect the Catholic faith; to extirpate heretics; and to support, with all their power, the prosecutions of the Inquisition.

Doctor Geddes thus describes an *Auto da Fé* in Lisbon, of which he himself was a spectator. "The prisoners are no sooner in the hands of the civil magistrate, than they are loaded with chains, before the eyes of the inquisitors; and being carried first to the secular gaol, are, within an hour or two, brought from thence before the Lord Chief Justice; who, without knowing any thing of their particular crimes, or of the evidence that was given in against them, asks them, one by one, in what religion they intend to die? If they answer that they will die in the communion of the church of Rome, they are condemned by him, to be carried forthwith to the place of execution, and there to be first strangled, and afterwards burnt to ashes:—but if they say, they will die in the protestant, or any other faith that is contrary to the Romish, they then are sentenced by him to be carried forthwith to the place of execution, and there to be burnt alive.

At the place of execution, which, at Lisbon, is the Ribera, there are so many stakes set up, as there are prisoners to be burnt, with a good quantity of dry furze about them. The stakes of the professed, as the inquisitors call them, may be about four yards high, and have a small board, whereon the prisoner is to be seated,

within half a yard of the top. The negative and relapsed being first strangled and burnt; the professed go up a ladder, betwixt the two jesuits, who attended them all day; and, when they are come even with the before-mentioned board, they turn about to the people, and the jesuits spend near a quarter of an hour, in exhorting the professed to be reconciled to the Church of Rome; which, if they refuse to be, the jesuits come down, and the executioner ascends, and having turned the professed off the ladder upon the seat, and chained their bodies close to the stake, he leaves them; and the jesuits go up to them a second time, to renew their exhortation to them, and at parting, tell them, that they leave them to the devil, who is at their elbow to receive their souls, and carry them with him into the flames of hell-fire, so soon as they are out of their bodies. Upon this a great shout is raised; and, as soon as the jesuits are got off the ladder, the cry is,—let the dogs' beards be made,—let the dogs' beards be made; which is done by thrusting flaming furzes fastened to a long pole, against their faces: and this inhumanity is commonly continued till their faces are burnt to a coal; and is always accompanied with such loud acclamations of joy, as are not to be heard upon any other occasion; a bull feast, or a farce, being dull entertainments, to this inhuman treatment of a professed heretic.

The professed beards being thus made, or trimmed, as they jocosely call it; fire is set to the furze, which is at the bottom of the stake, and above which the professed are chained so high, that the top of the flame seldom reaches higher than the seat they sit on; and if there happens to be a wind, to which that place is much exposed, it seldom reaches so high as their knees; so that, if there is a calm, the professed are commonly dead in about half an hour after the furze is set on fire; but, if the weather is windy, they are not, after that, dead in an hour and a half, or two hours; and so are really roasted and not burnt to death. But though, out of hell, there cannot possibly be a more lamentable spectacle than this, being joined with the sufferers, (so long as they are able to speak,) cries, viz. 'Miserecordia por amor de Dios,—Mercy, for the love of God;' yet it is beheld by people of both sexes, and all ages, with such transports of joy and satisfaction, as are not, on any other occasion, to be witnessed."

JOHN COLLINGTON,

AN INCENDIARY.—1749.

COLLINGTON was the son of a clergyman at Pluckley, near Sandwich, in Kent, and was qualified, by a liberal education, and great talents, to have filled a respectable station in life. His father apprenticed him to a grocer in Newgate-street, London, but he behaved so brutally as to become an object of terror to his fellow-servants, and rendered himself so obnoxious to his master, that he gave up his indentures, and discharged him. Having served the remainder of his apprenticeship with a grocer of Maidstone, he opened a shop at Rye in Sussex, where he lived some years; but here he fomented such perpetual discord among his neighbours, as to occasion several law-suits.

He had not been long in business before he married a young lady, with whom he received a considerable fortune, and by whom he had ten children.—Six, who died, he buried in his own garden, nor would he permit any of them to be baptized. He frequently beat them in a barbarous manner; and when the mother interposed in their behalf, he as often confined her whole nights in a saw-pit. On her interposing in behalf of one of the children, whom he was treating with severity, he threw her down stairs, and stamped on her breast, which gave rise to a cancer that occasioned her death.

His father dying soon after this, he succeeded to a good estate at Throwleigh in Kent, to which place he removed; where being detected in exporting wool contrary to law, he was prosecuted in the Court of Exchequer, and convicted to pay a large penalty, which he avoided, by having previously conveyed his estate to another, and then swearing he was not worth five pounds.

Notwithstanding the treatment his first wife had received from him, he soon married a second, by whom he had also six children. At length his offences against the game laws were so numerous, that the dowager Countess of Rockingham built a cottage, in which she placed one of her servants, as a spy upon his conduct. Collington, in-

censed by this circumstance, tempted a poor countryman to set fire to the cottage; by which it was reduced to the ground. Collington was so neglectful of his children, that he would not buy them necessary apparel, so that they appeared like beggars; nor would he pay for their education. One of his sons, a boy twelve years of age, having offended him, he confined him in a saw-pit, where he must have been starved, but that he was occasionally supplied with food by the servants. He then refused to maintain his son, so that the child begged his bread in the neighbourhood: but Mr. Clarke, the churchwarden, received him into his house, and provided for him till the quarter-sessions, when he submitted the case to the magistrates; who gave directions that the child should be properly provided for, and a warrant issued for seizing on part of the father's effects, to defray the charge. This warrant was executed by a constable whom Clarke attended—a circumstance which gave such offence to Collington, that he vowed revenge, and bade Clarke make his will. After this he hired five fellows to go to Clarke's house, and demand the child, on pretence that he belonged to a ship: but Clarke refused, on which they beat him, and threatened his instant destruction. These threats had such an effect, that he mounted a horse behind one of them; but as they were riding along, he jumped off, and ran into the court-yard of a gentleman, while the other parties fired at him—but he escaped unhurt. He now swore the peace against Collington; on which the magistrate granted a warrant for his apprehension, and, refusing to give bail for his good behaviour, he was lodged in the gaol of Canterbury. During his confinement, he continually threatened vengeance against Clarke; and to execute his purpose, he sent for a labouring man named Stone, and one Luckhurst, and offered them a guinea each, on the condition of their setting fire to Mr. Clarke's barn, in which a considerable quantity of corn was deposited. The villains agreeing to this bargain, fired the barn at midnight, and likewise a number of hay-ricks, all of which were destroyed.

Mr. Clarke, suspecting that Collington was the contriver of this horrid scheme, made application to a magistrate, who issued an order that the prisoner should be more closely confined, and that the gaol-keeper should

take particular notice of his visitors. This precaution led to a discovery of the offenders: for on Luckhurst coming to procure more money of Collington, he was taken into custody, and conducted before a magistrate, to whom he confessed the affair: and being admitted an evidence, Stone was soon apprehended as one of the principals.

At the following assizes held at Maidstone, Collington and Stone were brought to trial; when, being convicted on the fullest evidence, they were conveyed back to Canterbury.

The day preceding his execution, Collington was visited by his wife and several relations, who advised him to make a serious preparation for his approaching fate; and asked him where he would be buried. This question so irritated him, that he swore he would not be hanged: but soon afterwards calling for a glass of wine, he drank it, saying, "Let us eat and drink, for to-morrow we die." On the following day, he was conveyed to the place of execution in a mourning coach, and Stone in a cart: both of them being placed under the gallows at Canterbury, on the 7th of August, 1749.

WILLIAM PARSONS,

HIGHWAYMAN.—1750.

WILLIAM PARSONS, the son of a baronet, was born in London, in the year 1717, and received the rudiments of his education at Pepper-Harrow, near Godalming, in Surry, after which he studied at Eton. Soon after, he left college; when his father, to prevent his getting into bad company, got him appointed midshipman on board his majesty's sloop Drake, Captain Fox, then ordered to sail from Spithead to Jamaica, and to be stationed there, three years. The ship not proceeding immediately on her voyage, he obtained liberty to go ashore on a party of pleasure: and nothing but an amour of his, coming to the ears of his uncle, would have stopt him from hastily marrying the daughter of a

doctor, in hopes of gaining some property which she possessed. But, fortunately for the intended bride, his uncle hastened to send him on board the sloop, which set sail, and reached its destined port. He had not been long at Jamaica, before he determined to leave the Drake, and ship himself for England, to renew his former suit with the doctor's daughter, at Bishop's Waltham, in Hampshire, about ten miles from Portsmouth. To effect this scheme, he got on board his majesty's ship Sheerness, in quality of midshipman, and soon came to England. As soon as he arrived, he set off for Waltham, and was renewing his courtship, when he was a second time prevented by his uncle from succeeding in his suit, who shipped him on board the Romney, bound to Newfoundland.

During his absence in this ship, some artful persons had incensed the Duchess of Northumberland so greatly against him, that she altered her will, and bequeathed his intended legacy, which was considerable, to his sister. His friends were so much displeased with his former behaviour at Waltham, that they would not admit him into their society, nor even see him, so that he was destitute of almost every necessary of life. His father at length relenting, obtained him a situation in the service of the Royal African Company of England, at James'fort, on the river Gambia; but here quarrelling with the governor, he once more returned to England, and came safe to London; where he had not been long, before the news of his arrival reached his uncle, who sent him a very kind invitation, which he readily accepted; and, waiting on him at his house at Epsom, was favourably received. Here he staid some time, and was treated with great kindness and affection; yet he soon grew restless, and felt anxious to enter into all the pleasures of what he styled the polite world. During his abode with his uncle, he imprudently debauched one of the servant-maids, and she becoming pregnant, accused him as the father. This so much incensed the old gentleman, that he immediately turned him out of doors, friendless and pennyless, and left him to seek shelter where he could. Entirely destitute, he bent his course towards London, and was reduced to such penury, as to have no more than three halfpence for four days; and

frequently used to quench his thirst at the pumps in the streets. In this interval, he lay four nights in a hay-loft, belonging to the Master of the Rolls' stables, in Chancery-lane; where his weak and miserable condition influenced the coachman to commiserate his case, and shelter him from the inclemency of the weather.

From this wretched situation he was relieved by a gentlewoman, who had lived with the Duchess of Northumberland, and had known Parsons in his childhood. She procured him a lodging in Cambridge-street, and supplied him with a trifling sum for his daily expenses. A short time after, hearing his father was in town, in Conduit-street, he determined to apply to him, and going to his house, the servant not knowing him, he was immediately introduced. His father was induced to pardon him, on confessing his follies; but his mother-in-law, violently irritated, left the room. His father now advised him to enlist in the life-guards: this counsel he thought very salutary, but was greatly astonished, when, upon volunteering his service, he was informed the point was only to be accomplished by purchase, which would cost him seventy guineas. In this dilemma he thought of consulting once more with his father, but had the mortification to learn he had quitted town, after leaving five shillings for his use. Under all these difficulties, he recollected that his father's sister was lately dead, and had left his brother a handsome legacy, which he learnt by a letter from a friend. He immediately turned this letter to account, by raising money on security of the legacy, representing it as belonging to himself. Thus frequently mortgaging his pretended bequest, he was enabled to appear in genteel life. About this time he met with a young lady, whose father was just dead, and had bequeathed her a handsome estate, at her own disposal, which he thought a favourable occasion of introducing himself to her acquaintance, which he cultivated with such success, that, after four months' courtship, they were married, February 10, 1740.

The news of this union soon reached the ears of his uncle, and his relations in general, who were so pleased with it, that they made what interest they could

in his favour at court; and, a few days after his marriage, a commission from his majesty, appointing him an ensign in the Honorable Colonel Cholmondeley's regiment of foot, was presented him. He directly hired, and genteelly fitted up, a house in Poland-street, where he lived two years. After which, he removed into Panton-square, and the greatest harmony subsisted between him and his wife; nor was he guilty of any misconduct, except his profuseness in keeping a chaise and pair, three saddle-horses, and servants equivalent, which exceeded the bounds of his income. But the greatest of all possible misfortunes which happened to him, was falling into company accidentally with one J—— N——, generally known by the name of Dr. N——, a man of very good address, and a perfect master of cunning, who, by his crafty insinuations, soon made him believe him his sincere friend, and that his open expressions and professions of friendship, were genuine and unfeigned.

This man had no visible way of subsisting, but by frequenting gaming-houses, tennis-courts, &c. with a company of sharpers, his intimate acquaintance, to cajole and cheat the inexperienced, heedless of their health, fortune, and credit. In an evil hour N—— gained so far upon Parsons, as to persuade him to play, which, with a great deal of argument, he effected.

About this time, Mr. Parsons received his commission as a lieutenant; and the regiment being ordered into Flanders, he was obliged to accompany it. He still remained a stranger to the villany of N——, and being attached to him as an agreeable companion, he took him abroad with a servant to attend him; little suspecting this vulture was sucking out his heart's blood, and undermining his future content and happiness. His extravagance, and the predilection he now had for gaming, occasioned him frequently to borrow large sums of money by annuities, mortgages, or otherwise; and, being pressed hard for debts he had contracted in the regiment, whilst abroad, which he was entirely unable to pay, he obtained leave to sell his commission, in order that these demands might be discharged.

N—— still associated with him, whilst he had any thing to prey upon, and returned with him from Flan-

ders to England. On his arrival in town, he found his creditors so clamorous, as not to permit him a quiet residence, at least with his wife, with whom, till now, he had always lived in amicable and harmonious comfort; therefore, he was obliged to leave her, and seek for private lodgings. Finding an apartment to his satisfaction in Gough-square, Fleet-street, he hired it in the name of Captain Brown, and passed as a single gentleman. He now paid his addresses to the gentleman's daughter, in a supposed honourable manner, but whom he debauched; and she soon afterwards being deserted by him, was sent to Newgate for debt. From this time Mr. Parsons commenced the profession of a swindler, and that of the worst description, ever practising frauds on his best friends, and those who wished to serve him.

War about this time being declared with France, and Parsons being quite out of employ, he shipped himself, in hopes of accumulating some wealth, and of recruiting his shattered fortunes, in June 1745, on board the *Dursley*, galley-privateer, Captain Organ Furnell, as captain of marines. After having been some time at sea, they fell in with a French privateer, which they took, and carried into Cork, in Ireland, when he was taken ill, occasioned by a sickness amongst the prisoners, and, in consequence, sent ashore; the privateer sailing from Cork soon after, left him behind. In a short time he had spent all his ready-money, and, to replenish his stock, drew three bills upon some eminent merchants in London, for which he received sixty pounds; but a little before he thought they could have any advice concerning them, took the opportunity of coming to England, in the *Louis Erasmus*, French prize, and in a few days arrived safe at Plymouth.

On his arrival in London, and finding his cash run low, he went to a tavern in the Strand, and asked the landlord, with whom he was well acquainted, if he could send him a parson, as he was about to marry a young lady. A clergyman was soon found, but a ring being requisite, Mr. Parsons ordered the waiter to step to a jeweller's, and bid him bring some plain rings, when the clergyman told him he had a friend who lived at hand, and, if he pleased, he would send for him. Mr. Parsons politely thanked him,

saying, he thought a trifling present to his wife would not be amiss, and begged a few diamond rings might be brought likewise. The clergyman sent, and the rings were produced, when, after choosing a plain one, and a diamond ring of considerable value, Mr. Parsons produced a draft, desiring the jeweller to give him change; but, recollecting himself, he told the clergyman he would settle with him for the whole when the ceremony was over, with which the jeweller was quite satisfied, and went away. The lady shortly after quitted the room on some pretence, when, staying longer than was expected, Mr. Parsons pretended to be uneasy, and went in search of her, leaving his hat in the room, to avoid suspicion, but decamped after his accomplice to a rendezvous appointed where they should meet, leaving the clergyman to settle with the jeweller. During the rebellion, in 1745, Mr. Parsons, then a lieutenant in Col. Cholmondeley's regiment of foot, having involved himself by his extravagances, in great difficulties, applied to a half-pay officer, proposing to go down in the country and join the rebels. His friend advised him by no means to embark in such a desperate scheme, and generously lent him forty guineas, as a present supply; he afterwards borrowed a horse of the same gentleman, under pretence of going a journey, but immediately rode the animal to Smithfield and sold it. After this infamous transaction he was ashamed to meet or see Mr. St. John, the friend whom he had thus abused, but accused him of a design of joining the rebels; upon which charge he was taken into custody, and retained a prisoner for many months, nor did he get his liberty without the loss of his half-pay.

A masquerade happening at Ranelagh, he borrowed money for admission, and drew a note, on the strength of which he played for small sums; but at length he lost to the full amount, when, on the persons offering the note for payment where directed, the fraud was detected, and a day or two after Mr. Parsons was apprehended and committed to Wood-street compter, from whence he was removed, by Habeas Corpus, after seven months' confinement, to Maidstone, to take his trial for a fraud on a Mr. Fuller. He was found guilty, received sentence of transportation, and shortly after was shipped

on board the Thames, Captain Dobbins, bound to Maryland, where, on the 30th of November, 1749, he was landed at Annapolis. After his arrival, he continued as a common slave about seven weeks, when Lord F—— having heard some account of him, and feeling for the hardships he suffered, kindly received him into his house, and treated him with great regard. Parsons being naturally ungrateful, went off with the horse into the country; and, about a fortnight before he left Virginia, robbed a gentleman on horseback of five pistoles, one moidore, and ten dollars. This being but a small sum, about eleven days afterwards he met a gentleman and lady in a chaise, with a negro servant, from whom he took about eleven guineas sterling, and three dollars; when he made for Powtomack river, where he found a ship just ready to sail. Having sold his horse, he embarked; and, after a passage of three weeks and four days, arrived safe at Whitehaven, in the North of England.

He now forged a letter, stating that his father was dead, and that he had arrived in England to take possession of a large estate, and thus prevailed on a merchant at Whitehaven to give him seventy pounds, for a draft for the same on a banker in London. Having provided himself with necessaries here, he set out for town, where, on his arrival, he frequented his old haunts, such as gaming-tables, brothels, &c. and, as this diminished his cash, he determined to find some method of relief. Tired of his bare-spun forgeries and cheats, he had no means left for subsistence but the road; and, in August, 1748, he set out and robbed two gentlemen in a post-chaise, upon Hounslow-heath, of five guineas, eight shillings and a watch, which he pledged the next morning, for a guinea and a-half, at a pawnbroker's in Piccadilly.

He carried on this trade with great success for a short time; but, happening to overtake Mr. Fuller, his former prosecutor, on Turnham-green, in company with a Mr. Best, he was immediately recognized by them. On his approaching them, and fearing some evil consequences, they desired he would keep off. However, Parsons still kept close to them, till they came near Hounslow, when a person on horseback joined them, and they all entered the town together. Mr. Best and Mr. Fuller, on reaching the town, got out of the chaise, insisting on Parsons surrendering himself, and

submitting to their mercy, or they would have him apprehended. Upon this, Parsons alighted from his horse, and, in a confused manner, supplicated their mercy, and begged to speak with them in private. They immediately went into a private room, and, as he thought resistance useless, he freely delivered his pistols, charged and primed, and trusted to the lenity of the two gentlemen. But, on Mr. Day (the master of the Rose and Crown Inn at Hounslow,) observing that Parsons answered the description of a highwayman, who at that time infested the road, the gentlemen thought proper not to let him go, in justice to the public; whereupon a constable was sent for, who, upon searching his pockets, found a horn of gunpowder and some balls.

Upon being carried before a justice of the peace, he pleaded very much for mercy, and urged the respectability of his family, which he hoped would operate in his favour; nevertheless, upon examination, he was committed to Newgate. Tottering on the verge between time and eternity, his behaviour accorded not with his awful situation; and a preparation for a future state still remained unheeded and unthought of. He had always strong hopes within himself of a reprieve, and vainly flattered himself with such expectations, to the last minute; and he was executed the 11th of February, 1750, pursuant to his sentence.

JOHN AYLIFFE, ESQ.

FOR FORGERY.—1759.

MR. AYLIFFE was land-steward to a lady, who recommended him as a man of abilities to the Hon. Mr. Fox, (afterwards Lord Holland,) who gave him the place of one of the commissaries of musters in the war-office, by which he acquired the right of adding the title of esquire to his name. The profits of Ayliffe's new office were so considerable, that he was induced to purchase an elegant house in Dorsetshire, which he furnished in a style far too expensive for his rank of life. At length when his creditors became urgent, he had recourse, for a present supply, to irregular practices; among others, he forged a

presentation to the valuable rectory of Brinkworth in Wiltshire, which he sold to a young clergyman for a considerable sum. This living being in Mr. Fox's gift, he forged his hand-writing, and that of two subscribing witnesses, with admirable dexterity; but soon after his affairs became desperate, and a discovery was made of the fraud. Hereupon the clergyman was so dejected, that he died in consequence, of a broken heart; the purchase of the presentation having ruined his circumstances. After his death, a short note was found in his drawer, directed to "John Ayliffe SATAN, Esq."

"Sir,—I am surprised you can write to me, after you have robbed and most barbarously murdered me.

"O. BRINKWORTH."

Ayliffe being arrested for debts to the amount of eleven hundred pounds, took refuge in the Fleet-prison, where he forged a deed of gift from Mrs. Horner, for four hundred and twenty pounds a-year, and three thousand pounds in money. On this deed he raised considerable sums, by a series of artifice and management, almost without precedent. For this forgery he was brought to trial at the Old Bailey, and capitally convicted: but, in the interval, he was continually representing Mr. Fox as the concerted author of his ruin, to prevent his making discovery of some irregular transactions which he alleged were carried on in the war-office. He still continued to charge his benefactor with unjustifiable proceedings, in the very moment when he was soliciting his interest to save his life; for, after conviction, he wrote him the following letter.

"Honoured Sir,—The faults I have been guilty of shock my very soul, and particularly those towards you; for which I heartily ask pardon both of God and you. The sentence pronounced upon me fills me with horror, such as was never felt by mortal. What can I say? O my good God! that I could think of any thing to induce you to have mercy upon me; or to prevail upon you, good Sir, to intercede for my life. I would do any thing, either at home or abroad. For God's sake, good Sir, have compassion on your unhappy and unfortunate servant,

"JOHN AYLIFFE."

It is also said, that Mr. Fox supported this man during the whole time of his confinement in Newgate, allowing every thing that his unhappy situation could require. He suffered at Tyburn on the 7th of November, 1759.

APPENDIX.

SIR RICH. GRAHME, BART., VISC. PRESTON,
Secretary to James II.,
 JOHN ASHTON, AND EDMOND ELLIOT, GENT.
 AT THE OLD BAILEY, THE 16th OF JANUARY, 1690,
 FOR HIGH TREASON.

The indictment set forth,—

That the prisoners, the 29th day of December, in the Second Year of their present Majesties King William and Queen Mary, and divers other days and times as well before as after, at the Parish of St. Clement's Danes, in the County of Middlesex, did maliciously and traitorously conspire, compass, and intend to depose the said King and Queen, and to put them to death: and to that end, at the time and place aforesaid, did traitorously propose, consult, and agree, to procure and prepare great numbers of armed men, to make war and rebellion against the said King and Queen: and that they did prepare and compose, and cause to be prepared and composed, divers treasonable letters, notes, memorandums, and instructions in writing, to inform Louis, the French King, and his subjects, enemies of our said Lord and Lady, the King and Queen, of the number, force, and condition of their Majesties' ships of war; how they were manned, and the names of several of the captains; and how the castles and fortresses of Portsmouth and Gosport, within this kingdom, were strengthened and fortified; and how the same might be taken and seized; as also, how they might invade this kingdom, and depose their Majesties; and also, when and where the enemy's fleet might attack their Majesties; and how to send ships to plague the city of London, and war and rebellion within this kingdom to procure: and that the prisoners at the time and place aforesaid, did secretly, knowingly, and traitorously procure, conceal, and keep two several Bills of Exchange, for the payment of several sums of money to the enemies of our said Lord and Lady the King and Queen: as also, divers traitorous let-

ters, notes, &c. *prout autea*, to inform the said Louis, and others their said Majesties' enemies, of the force and condition of their Majesties' ships, &c. *prout autea*: and that afterwards, viz. the 30th day of December, in the year aforesaid, at the Parish of St. Clement's Danes aforesaid; the said prisoners, for the sum of one hundred pounds by them, or some of them paid, did hire a ship to transport themselves and the said bills of exchange, letters, notes, memorandums, and instructions, into parts beyond the seas, to and among their Majesties' enemies; and did also prepare a boat to carry them to the said ship, and did enter into the said boat, which carried them to the aforesaid ship, with the bills of exchange and papers aforesaid: and being on board the said ship, did sail towards France with the said bills and papers, with an intent to disperse them, and accomplish their said treasons; and the indictment further sets forth, that long before the said 29th of December, there had been an open war between our said Lord and Lady the King and Queen, and Louis the French King and his subjects; and the men of those parts then, and yet enemies to their said Majesties: and that the prisoners being subjects of our said Lord and Lady the King and Queen, during the war aforesaid, viz. the 29th day of December, in the second year of their Majesties' reign, and divers other days and times, as well before as after, at the Parish of St. Clement's Danes, in the county aforesaid, were traitorously adhering and assisting their said Majesties' enemies; and in execution and performance of the said adherence, did prepare and compose such notes, instructions, &c. *prout autea*: and also did procure and conceal such bills of exchange, notes, and papers, and did hire such ship and boat to carry themselves and papers into France, and did go on board the said ship and sail for France, with intention to aid and assist their said Majesties' enemies in council and intelligence, by those notes, bills of exchange, and instructions, &c. *prout autea*, against the duty of their allegiance, their Majesties' peace, &c.

Lord Preston. I find I stand indicted by the name of Sir Richard Grahme, bart. but I take myself to be entitled to another way of trial, as being a Peer of England, by virtue of a patent, before the vote of abdication was made; and it was at a time when all your processes and writs ran in the late King's name, and all officers acted by virtue of his commissions; and, therefore, I desire to know whether your Lordships think fit to allow me my peerage?

L. C. J. Pollexfen. My Lord, you must make it out that you are a peer, to the court.

The *Solicitor General* said, that when he claimed his peerage in the House of Lords, they refused his claim: that his Lordship had disclaimed his right to peerage there; and that where one pleads to the jurisdiction of the court, his plea must be in form, and he must be ready to make it good.

L. C. J. My Lord, you have offered nothing that we can take notice of, unless you had your patent to produce; and we cannot give your Lordship time to plead to the jurisdiction of the court.

Lord Preston then desired that the indictment might be read in Latin; and because he could not retain all the contents in his memory, he desired leave for his solicitor to stand by him.

Mr. Ashton and Elliot. We join with my Lord, and desire it may be read in Latin.

L. Preston. There is a statute in the 46th Edw. III. that orders a copy of any record to any prisoner, or other person, if he demand it; and I am informed, it has been granted in other cases, particularly Col. Sidney's.

L. C. J. No, my Lord, it was denied in Col. Sidney's case.

L. Preston. It was given as a reason for the reversal of Mr. Cornish's attainder, that it was not a legal trial, because he had not a copy of his indictment.

L. C. J. This is but a private act; I never saw it, nor can we take notice of it: your Lordship is to be tried by the same methods of law, that all persons that have gone before you have been: it has not been the course to allow a prisoner a copy of his indictment; it was denied both to Col. Sidney and Sir Henry Vane.

L. Preston. Was it not granted in the case of Lord Russel?

L. C. J. No; Lord Russel had it not.

L. Preston. May I not have counsel heard, whether I ought to have a copy of my indictment, according to the 46th of Edw. III.?

L. C. J. There is no such statute that gives the prisoner a copy of his indictment.*

Mr. Solicitor. My Lord, this statute of the 46 Edw. III. is printed at large, in the preface to Lord Coke's third Report, and has been insisted on in several cases in the King's Bench, where the prisoner has desired a copy of his indictment, but a copy has been always denied; and this statute has been taken to extend only to records which may be evidence for the subject.

L. C. J. That statute says, that all persons shall be

* But when it is not done, it is the duty of the jury to acquit. A juryman always has it in his power to correct the injustice and absurdity of law.—EDIT.

free to make use of the public records, and take copies of them; because, oftentimes the records are evidences of men's estates and titles; but an indictment is not such a record, as is within the intent of the Act.

L. Preston. There is a statute that says, It shall be allowed to all persons to have copies of records, as well for as against the King; and those I have advised with say, that the statute is express.

L. C. Baron. If any doubtful words be in such statute, yet the constant practice must expound it; the law is now settled, that is not within the meaning of that statute.

L. C. J. See the 46th of Edw. III. read it.

L. C. J. Pollexfen. It is not printed; and it is mentioned no where but in Lord Coke's 3d Report, that I know of, and whether there be such a statute, *non constat*: and if all people were to have copies of their indictments, to make exceptions to them before they plead, instead of days of gaol delivery, the whole year would not be sufficient, but would be spent, before they could be brought to trial.*

L. Preston. Will your Lordship please to allow my counsel to be heard to it?

L. C. J. No, my Lord; not counsel in a plain case, as I take this to be.

L. Preston. My Lord, I submit to the court; but I take leave to represent, that I have had very short notice of my trial, not above six or seven days; I hope you will not refuse me a little longer time.

L. C. J. My Lord, seven days is very fair notice.

Mr. Ashton. My Lord, three days of the seven, we had not the liberty of seeing any friend or counsel; and then, indeed, with great application and charge, we got an order for our counsel to come to us; but we never had a copy of our jury to this minute.

L. C. J. We debate the time of your trial too early, for you must put yourself upon your trial first by pleading.

Lord Preston then pleaded Not Guilty.

Mr. Ashton and Mr. Elliot then pleaded severally Not Guilty; and *Lord Preston* moved again for time for his trial, and a copy of the pannel.

* What a sorry argument!—EDIT.

The prisoners then moved to put off the trial. They urged, that those hasty proceedings in the last reign were condemned, and given as a reason of King William's coming over, in one of his declarations; and that the benefit the law gave them of excepting to the jurors, was to no purpose, if they had not time to enquire after them.*

L. C. J. Suppose they are all strangers to you, and yet good and lawful men of the county, and there be no difference between you and them, then they are fit to try you?

The prisoners were then remanded to Newgate, Saturday the 17th of January, 1690.

The prisoners declaring they would challenge severally, they were ordered to be tried apart, and Mr. Ashton was not allowed to be present when Lord Preston was tried: afterwards the court was informed that Mr. Elliot desired to be tried with his Lordship; but the court said, unless they would all join, they must be tried severally; Mr. Ashton and Elliot were then carried back to Newgate, and Lord Preston was directed to look to his challenges.

Lord Preston. Must they not shew cause?

L. C. J. By and by; if there be not enough, they shall shew cause.

L. Preston. I desire I may have counsel to that point.

L. C. J. Shall we assign counsel to dispute matters not disputable? If your Lordship pleases, you shall have the book to read, that the King is not bound to shew cause till the pannel is gone through.

Mrs. Pratt gave evidence of hiring a vessel of her to go to France.

Mr. Pasely, master of the smack, proved the hiring of the vessel, and their going on board and sailing down to Gravesend.

Betsworth, the waterman, proved that he carried them on board.

Captain Billop stated as follows:—

Upon the last of December, about two o'clock, Lord Danby came to me at one of the doors of the house of Lords, and told me his father would speak with me; and he carried me to Lord Lindsey's chamber, whither the Lord President presently came, and told me there were some persons going for France, about business of dangerous consequence, and desired me to use some means to have them apprehended; and he gave me a letter to

* Very sound reasoning: and, whenever accused parties are thus treated, juries should protect innocence, and acquit whenever law is at variance with reason and justice: an honest man on the jury can correct the law, and is bound to do it.—EDIT:

another person who was to instruct me further about this matter; Lord Danby got me a boat ready and some arms in it, and I borrowed more of Lord Lucas: about eleven o'clock we put off from Tower-wharf, and ran down as far as Gravesend, and I brought several vessels under my lee, and pressed out of them two or three Barking men, one of whom knew all the vessels in the river; and, seeing this vessel sailing along, he told me it was the *Thomas and Elizabeth*, whereupon we made up to them, and waving our hands they stayed for us; I went down into the cabin and took up the hatches, and there I found all four of them lying together. Mr. Elliot and Mr. Ashton were my former acquaintance; but Lord Preston I had forgotten, till one of them called him my Lord: I handed Lord Preston up first, and searched him, and took all the papers I could find, and put them into my own pocket; then I searched Mr. Elliot, but found nothing upon him; and when Mr. Ashton came up, one of my men told me he had put something in his bosom, whereupon I gave him a sudden turn and asked what it was; he said, nothing but his handkerchief, and pulled out his handkerchief, when I clapped my hand into his bosom, and plucked out the packet with the lead fixed to it (I have the lead now in my pocket): I commanded these gentlemen all into my boat, and took all the people that belonged to the smack with me, and left two of my men on board her, and ordered them to search all parts of the vessel, and carry what they found to the Tower, to Lord Lucas.

Serj. Tremain. What conversation had you with these gentlemen in your boat?

Capt. Billop. Lord Preston desired they might go ashore at Gravesend to refresh themselves, because they had eaten nothing, and it was cold; and I begged his pardon, and told him there was a man-of-war lay in Long-Reach, where he might be accommodated; Mr. Ashton and Mr. Elliot telling Lord Preston I was of their acquaintance, he said he was glad he had fallen into the hands of a civil gentleman; and he said, if ever it lay in his power to do me a service, he would, and he did not doubt but it might; and used a great many expressions of kindness and readiness to do me service, if I would dispose of the packet; Mr. Elliot and Ashton begged me to throw the packet overboard; and one time particularly, Mr. Ashton said, 'It would be a generous thing, Billop, if you would go along with us, you may do as well there as here;' and Mr. Elliot whispered me several times, 'Dear Billop, throw the packet overboard; what good would it do you to injure so many honest gentlemen?' And Mr. Ashton and Elliot said, 'I had it now in my power to make myself as great and as rich as I would be;' and Mr. Elliot said, 'It was impossible the tide could run always this way,' and when nothing would prevail, they said, 'every dog had his day.'

Serj. Thomson. What did you do with the papers?

Capt. Billop. I brought these gentlemen to Lord Nottingham's office, and delivered the packet with the lead fixed to it, and stood by Lord Nottingham till he had opened the papers, (except when Lord Preston was examined,) and saw him make them up again, and I took some of them in my hand, and he

said I might read them, but I was not disposed at that time to read many of them, so I did not read them all.

Johnson proved the apprehending of the prisoners, and the packet with Lord Preston's seals lying on the ballast, where they were taken.

Lord Preston. I perceive there seems to be some stress placed upon my lying next to Mr. Ashton, and my seals lying by the packet; it is in vain to deny we were all together, but it is a very hard presumption, because we were in one place, and the seals at a little distance from the packet, that, therefore, the packet must be mine.

L. C. J. It is only a circumstantial evidence; how far it will weigh is to be left to the jury when all the evidence is heard: the packet was found in the place where your Lordship lay, and by it the seals that belong to you; one is the seal of your office, as secretary of state, the other is your own proper coat of arms.

Earl of Nottingham. All I have to say in this matter is, Capt. Billop brought me a bundle of papers tied with a packthread, to which was fixed a piece of lead, I believe the same that is now produced, and this, I presume, is the signet which he shewed me: the papers, when he delivered them to me, I opened in his presence, and when I had read them, I put them all up together again, and sealed them with my seal, and delivered them to him back again.

Serj. Thomson. Were the papers out of Capt. Billop's sight while your Lordship had them?

Earl of Nottingham. Not after they were opened: Capt. Billop went out while I examined Lord Preston, and left the bundle lying on the table; and after Lord Preston was gone out, I called in Capt. Billop and opened the packet in his sight, and read the papers, and he read some of them; and all that I received from him, I delivered to him, and no more.

The Marquis of Carmarthen, Lord President, was then sworn.

L. President. Capt. Billop brought me a bundle of papers, and said he brought them from Lord Nottingham, and they were sealed with his Lordship's seal; I shewed them to the King next morning, and the King delivered them back to me, having read some of them, and commanded they should be delivered to the Cabinet Council: a Cabinet Council was called, and I delivered them paper by paper; and they were all marked by Lord Sidney, and some, I think, by Lord Marlborough: so I delivered them all together to Lord Sidney.

Lord Sidney sworn.

The papers that were delivered by the Lord President, as soon as I had read them, I marked them with the letter H, and have kept them ever since; only one morning I gave them to Mr. Bridgman, to be copied out as soon as he could, and he delivered me them back again, and they have not been out of my custody since the night before last, when they were sent to Mr. Solicitor to read, and brought immediately to me again.

(The Lord President was then desired to look upon the papers.)

L. President. This is one of the papers I had from Capt. Billop, and shewed the King, and which I brought to the Cabinet Council; and this is another of them.

Sol. Gen. My Lord, we desire this paper may be read.

(*Clerk reads.*) "The result of a conference between some Lords and Gentlemen, both Tories and Whigs, in which it was undertaken to prove the possibility and method of restoring, by a French power, without endangering the Protestant religion, and civil administration, according to the laws of this kingdom." The substance whereof was,—

"1st. That it is the interest of France, rather to endeavour to oblige, than conquer us.

"2dly. That France must take off the frightful character we have of him, and shew he has no design of returning our offended King a conqueror upon us; upon which, he will find many Lords and Gentlemen in his interest.

"3dly. That he must overrule the bigotry of St. Germain's, where one silly thing or other was done every day, which obstructed their return; and particularly, that none should be permitted to send letters from thence, but King James; for they were generally filled with arguments against the restoration: that King James must think of nothing short of a Protestant administration; and must give us a model of this by preferring Protestants at St. Germain's.

"4thly. That he should encourage Lords and Gentlemen to come to him, of whom he might frame a council, which would facilitate his return, and give satisfaction here.

"5thly. That the French King should grant liberty of conscience to the Hugonots; that we might believe his conduct towards them flowed from the hazard he thought himself in from their rebellious principles, rather than an inclination to persecution.

"*Lastly.* All other measures depended on the acceptance this found; and an answer was impatiently expected: so ended with an unanimous consent of Tories and Whigs, who are in a way of closing in his Majesty's interest."

Lord Preston. I can safely swear I never saw this paper.

Another paper was then shewn to Lord Sidney and the Lord President, containing heads of a declaration, which they deposed were in the packet; the substance whereof was,—That the King should declare, that the law should be the rule of his actions, and he would endeavour to settle liberty of conscience by law: and that whatever had formerly occasioned jealousies, particularly his claiming the dispensing power, should be determined by Parliament, to be speedily called.

That he had shewn his averseness to an army of strangers, by refusing aid from France, on the Prince of Orange's invasion, and should bring no more with him than for the defence of himself and his loyal subjects; and that even they should be dismissed, when the nation was rid of those foreigners who had invaded it, and trampled on the laws and liberties of the people.

The next paper produced, was a list of the English fleet, which Captain Billop deposed was one of those taken in the packet, as he had marked it.

Another letter, dated the 31st of December, 1690, and directed to Mrs. Charlton, was read,—it says, No endeavours had been

wanting to perfect the settlement; that he had hopes of seeing him before Christmas, and desired he would lose no more time, for things might now easily be settled; that his young daughter would find many friends, and hoped her portion would be well secured.

Another letter, dated the 31st of December, but not directed, was proved by Lord Sidney and the Lord President, to be in the packet.

The writer observed,—That in trade, as well as government, schemes must be laid; and advises his correspondent to lay his designs probably, and pursue them diligently, and with vigour; and though the times were hazardous, yet by venturing boldly, where venturing was advisable, it often returned great profit. He hopes the accounts the bearer would give, would encourage their trade, and excite the utmost diligence: and desires his correspondent not to let the season pass unprofitably, for that a more likely one could not present itself, than between that time and the 1st of March.

Then a cypher, or alphabet of names, that was sworn by Billop to be found in the packet, was read. A, stood for the King, B, the Queen, C, the Prince of Wales, D, the Prince of Orange, &c.

Three other papers were produced, and proved by Billop to be found in the packet.

(*Clerk reads.*) Lady D. £2000, and £200 for shop debts, &c.

These papers seemed to be memorandums of the condition the fleet was in, when the Dutch were likely to join them; and that the French might fight the English fleet before they were joined. In them also, notice was taken of the strength of Portsmouth, and that it was garrisoned by five hundred men, who were commanded by Gibson, a Scotch pedlar: there was also a list of the admirals who commanded the respective squadrons; and some heads for a declaration on the King's landing: that he should land in Scotland in February, and endeavour to unite the Episcopal and Presbyterian parties: that he should have an army of Scotch, not French, and procure 5000 Swedish foot; and hinted at the reputation a Protestant ally might give him: notice was also taken in them, that Ormond and Brandon were disobliged about the guards; how to procure seamen, and to block up Newcastle with Scotch ships, in order to plague London: mentioned protesting Lords against the Usurper, and said three in five were against the vacancy of the throne: said, London clergy the worst, for we have their wishes, and they their oaths.

Mr. Townsend. I am in the office of the Great Wardrobe, where I have had occasion to see his Lordship's writing sometimes, and I believe these three papers to be in his handwriting.

Mr. Warr. I believe the seals to be Lord Preston's: one of them was his seal when Secretary of State; I was under him in that office.

L. C. J. Then, if your Lordship please, you may make your defence.

L. Preston. My Lord, the treasons of which I am accused, were none of them done in the County of Middlesex, and they are said to be done within this county, in the indictment.

In the next place, I desire to know whether these memorandums are sufficiently proved to be mine? that is, whether similitude of hands is proof, or not, against me in such a case?

L. C. J. Would your Lordship disprove any thing of the matter that has been proved against you?

L. Preston. I must deny the whole fact; but I have no witnesses or evidence to offer you.

Sol. Gen. We shall offer nothing further, but leave it wholly to your Lordship.

L. Preston. There ought to be two credible witnesses to prove every fact; and, I hope, the gentlemen of the jury will consider, there is nothing but supposition as to me: and, I hope, I and my family shall not be ruined upon a supposition.

The rest of the judges upon the bench declared their opinions, that if the jury believed that Lord Preston took boat, with an intention to carry these papers (which were treasonable) into France, then there was sufficient evidence of an overt-act in the County of Middlesex.

Then my Lord Chief Justice proceeded to sum up the evidence, and direct the jury;

Whereupon Lord Preston desired he might have liberty of speaking again, before the jury went out.

L. C. J. It is contrary to the course of all proceedings in such cases, to have any thing said to the jury, after the Court has summed up the evidence; but for this once, we permit it.

L. Preston. My Lord, I desire the jury may be informed I am a Protestant, baptized in the religion of the church of England, in which I have always lived, and hope to die in it. Things have been urged against me with severity; they make that a proof which amounts but to a presumption; as in the case of the letters that are written in a cant, and my intention to go to France, and those words in the letter, where my Lord, the bearer, is named; but that letter is not directed to any body, and is as full of cant as any of the rest: why should I be supposed the bearer, more than either of the others, when they were found about one of them? And the reason of my going beyond sea, is not to be wondered at; for I, who had lived quietly, after the loss of my places upon this revolution, and suffered great inconveniences in my estate, and was retired to my own house, was imprisoned twice in the tower, and proclaimed a traitor in every market town, without any indictment, this made me uneasy here; and, my Lord, I went under a fixed resolution to go to Flanders, or any place where I could be quiet.

L. C. J. You should have said this before, for it is not the course to reply upon the court; and you know I let you interrupt me as often as you saw fit, when I was directing the jury, which has not been allowed at any time before: but, my Lord, if you did think you were

hardly used, yet you must remember, it was in a time of danger that your Lordship was taken up before ; and you had shewed your disaffection to the present government, and they were not to be blamed if they secured themselves against you : and if you had a mind to go abroad, was France the only country you could choose ? a country at open war with the government !

L. Preston. I hope the gentlemen of the jury will consider all that is alleged against me, is but presumption.

L. C. J. If you reflect on the court, the court will reflect upon you ; I think the evidence has been stated very impartially : the evidence that is given, must have its due weight and consideration. If any one can design innocently to go into France at this time of day, with such papers, and in such a manner, that I shall leave to the jury's consideration.

The jury then withdrew, and within half an hour, brought the prisoner in GUILTY.

[Ashton and Elliot were both convicted on the very same evidence.]

JOSEPH DAWSON,
EDWARD FORSEETH, WILLIAM MAY,
WILLIAM BISHOP, JAMES LEWIS,
AND JOHN SPARKS,

FOR PIRACY AND ROBBERY.—AT THE OLD BAILEY,
19th OCTOBER, 1696.

THE prisoners were indicted for feloniously and piratically taking and carrying away, from persons unknown, a certain ship, called the *Gunsway*, with her tackle, apparel, and furniture, to the value of £1000, and of goods to the value of £110, together with 100,000 pieces of eight, and 100,000 chequins, upon the high seas, ten leagues from the Cape St. John, near Surat, in the East-Indies.

To this indictment, Dawson pleaded Guilty, and the other five pleaded Not Guilty.

The evidence against the prisoners was full and clear, (which, being the same as in the following trials, is omitted here,) however, they were all acquitted ; whereupon the Court adjourned to Saturday the 31st of

October, and the prisoners were committed upon a new warrant, for several other piracies.

31st Oct. 1696.—The Court being set, and proclamation made as usual, Sir Charles Hedges, the Judge of the Court of Admiralty, charged the Grand Jury.

The Grand Jury withdrew, and soon after returned, having found a second indictment against the said Joseph Dawson, Edward Forseeth, William May, William Bishop, William Lewis, and John Sparks; who were thereupon set to the bar, and arraigned again.

The indictment set forth, "That the prisoners, on the 30th of May, in the 6th year of King William and Queen Mary, by force of arms, upon the high seas, about three leagues from the Groyn, and within the jurisdiction of the Admiralty of England; piratically and feloniously did set upon one Charles Gibson, a subject of this crown; being then commander of a certain merchant ship of forty guns, called Charles the Second, and belonging to certain subjects of this crown: and did then, and there put the said Charles Gibson in fear of his life; and feloniously and piratically steal and take away, from the said Charles Gibson, the said ship, called Charles the Second; with her tackle, apparel, and furniture; guns, arms, provisions and merchandize, of such a value, being then in the possession of the said Charles Gibson, and belonging to the subjects of this crown, against the peace of our said Lord the King, and the late Queen, their crown and dignities, &c.

To this indictment Joseph Dawson pleaded Guilty, and the other five pleaded Not Guilty.

John Gravett sworn.

Sol. Gen. Give an account of what you know of the prisoners running away with the ship Charles the Second.

Gravett. I was second mate of the ship: there came a boat from the James galley with people in her, and as soon as the boat came, the carpenter seized me by the throat, and clapped a pistol to my breast, and said, if I resisted, I was a dead man: and they led me to my cabin, and one stood with a pistol at my cabin-door, until they were got two leagues without the Groyn; then Avery came to speak with Captain Gibson, who lay sick, and was guarded on both sides; and when he had done speaking to him, he said to me, he supposed I did not intend to go with them; and I and the rest that would not go with them, had liberty to go ashore, and Avery was so kind to let me have some of my clothes; and William May took me by the hand, and wished me well home, and bid me remember him to his wife.

Sol. Gen. Do you know any of the prisoners?

Gravett. I know Joseph Dawson, William May, and John Sparks; they belonged to the Charles the Second.

Mr. Conyers. Did any of the prisoners come in the boat from the James?

Gravett. I cannot tell, but there were about twenty-six came from the James.

David Creagh sworn.

Sol. Gen. What do you know of the prisoners running away with the ship Charles?

Creagh. Upon the 7th of May, 1694, I came to the Groyne, on board the Charles, and being in my cabin, I heard a great noise upon deck, and Capt. Humphreys, who commanded the James galley, called to us, to tell us his men were run away with the boat, and gone to Captain Gibson, to which Avery answered, he knew that well enough; so the men came on board: and as I was coming out of my cabin to see what the matter was, I was met by Avery, the carpenter, and two Dutch men, who obliged me to retire to my cabin again: and Capt. Humphreys fired two guns at us, but we soon got out of reach, and I went up on the quarter-deck, and Avery took me by the hand, and asked me if I would go with him, I said I did not know his design; and he answered, we should all know to-morrow morning: I told him that then it would be too late to repent of the design. Upon this the carpenter came to me and said, if I would not go down, he would knock me on the head, and as I was going down William May met me, and held a pistol to my head and said, d—n him, he deserves to be shot through the head; but there presently came orders from Avery, that those who would go ashore should prepare to be gone; and when Capt. Gibson was got out of bed, (he being very ill of a fever,) Avery said to him, I am a man of fortune, and must seek my fortune, but if the Captain would go with them, he should still command the ship; Capt. Gibson said, he was sorry it happened at that time, and that he never thought they would have served him so, who had been so kind to them all; and to go on a design against his owners' orders he would not do it. Then Avery bid him prepare to go ashore, and the Captain and several others went into the boat, and the deponent heard them order the doctor to be secured; but if any more would go into the boat they might; and we came into the pinnace to the number of sixteen, and they gave us four oars and set us adrift, and we went aboard the James.

Conyers. Was there room for more in the boat?

Creagh. Yes, there was.

Mr. Couper. Was there any opposition when this was done?

Creagh. No, there could be no opposition, for there came men from the whole squadron and surprised us, and they were assisted by those who belonged to the ship Charles.

Sol. Gen. What do you know of the prisoners at the bar?

Creagh. I know only May.

John Dan sworn.

Mr. Conyers. Pray give an account what you know of taking the ship Charles.

Dan. We had been at the Groyne three or four months, and had been about eight months out of England, and we lay there for our wages; there was no wages to be got, so Avery and several others contrived to run away with the ship, and on Sunday night they went ashore, and when they came aboard, again they made some men privy to it; and our cables were cut and ready to go; and coming under the castle, we cut all the boats away but two, and stood two or three leagues to sea; and

then Avery bid Captain Gibson prepare to go ashore if he would not go with them; and the word was given, that they that would go ashore might; nobody was ordered to be stopped but the doctor; and the Captain, and about fifteen of them, went off. We came to the Isle of May and victualled, and there we found three English ships, out of which we took some necessaries, and nine men:

Sol. Gen. Were the prisoners at the bar with you when you went away with the ship?

Dan. Yes, Edward Forseeth, Bishop, and Lewis came from the James, and the other two belonged to the Charles. After we had been at the Isle of May, and took in what we had occasion for, our quarter-master said, he would give them bills for what we took of them; then we went to the coast of Guinea and took several negroes, and from thence to the Island of Princes, where lay two Danes, and we fought with them, and took them, and some of the men went ashore in the island, and others went along with us; we brought the ships to Vandepo, and burnt one, and carried the other with us; then we came to the Cape Lopez under the Equinoctial line, and there we sunk the other. After this we went about the Cape, and touched at Madagascar. The next vessel we met was about forty ton, we took a small matter out of her and put her ashore, and there we put Mr. May ashore; and, seeing three English ships coming, we left him there and went to the Equinoctial line, but for want of bread and water came back again, and took some rice and pody out of another small vessel and sunk her, and then went to the Cape again and took in William May, and met another vessel, and took meal and rice out of her, and sunk her too; then we went to a town called Meat, in the Red Sea, and the people would not trade with us, and we burnt it; we went up the Red Sea as far as we could, and, coming to Cape Adin, we met two English pirates more who joined us: they sailed along with us, and we came to an anchor at Bob's-quay, and had lain there but a night and a day, and there came three English ships more from America, who likewise joined us; and we lay there five or six weeks in expectation of the Moorish fleet that came from Mocha, but they passed by us on Sunday night unseen, as we understood by a vessel we took; we followed them two or three days, and came up with one of them, of two or three hundred tons, and took her and plundered her, and had some gold and silver out of her; we put some men on board her to keep her with us, and two days after, as we were lying at anchor at St. John's, we saw a great ship called the Gunsway, and we weighed anchor, and fought her about two hours and took her, and plundered her, and then sent her to Surat, with the people in her; and we stood away for the Indian coast, and about a week after shared our money.

Mr. Cowper. Had all the prisoners some share.

Dan. Yes, some had £1000, some £500, and some £300.

Mr. Whitacre. What did you do with the Charles the Second after the voyage?

Dan. We left her at Providence.

Philip Middleton sworn.

Mr. Conyers. What do you know of running away with the ship Charles the Second?

Middleton. I was asleep when they ran away with her, but in the morning they called up all hands, and Captain Avery said every man should share alike, only he would have two shares. And we went to Bonavis and took in salt, and from thence to the Isle of May, where they plundered three English ships: the governor of the island they took aboard until they had got what provision they wanted, and then sent him away again. From the Isle of May they steered to the Coast of Guinea, and put out English colours, whereupon the natives came on board to trade with them; and they surprised them, and took away their gold, and chained them in the hold, and when they came to the Island of Princes, they gave seven of them away for slaves. They sailed from thence to Vandipo, then to Cape Lopez, and afterwards to Annibo, and then went about the Cape and touched at Madagascar, and watered and got provisions and cows to salt up; from thence we went to Joanna, and took some rice out of a junk and sunk her, and at Commeroe we met a small French vessel and sunk her, and then went to Joanna again and took in Mr. May; then they went to Meat and burnt it, because the inhabitants refused to trade with us, and from thence to Bob's-quay, at the mouth of the Red Sea, and there we met five other English pirates; May, Farrel, and Wake, were the captains of three of them; and on the Saturday night all the Mocha fleet passed by, as we found by a vessel we took the next morning; and they went all together after them, and overtook them, and took one of three or four hundred ton, and they plundered her of some gold and silver, and put men on board to keep her; and the next day they spied the Gunsway, and took her, and killed several men on board; and when they had plundered the ship, they left the men on board to go to Surat, then they went to Rachipool in the East-Indies, afterwards to Degorecs, and from thence to Dassaran, where they set ashore twenty-five Frenchmen, fourteen Danes, and some English, who were afraid they should be hanged if they came to England. From thence they went to Assension, and so to the Island of Providence in the West-Indies, and they sent a letter to the governor, and let him know they would make him a present of twenty pieces of eight, and two pieces of gold, if he would let them come in; and Capt. Avery, because he had a double share, offered forty pieces of eight, and four of gold; and the messenger returned with a letter from the island, that they should be welcome, and might come and go when they pleased.

L. C. J. Had the prisoners their shares of the several prizes?

Middleton. Yes; they had.

Just. Turton. What number of persons were aboard when the dividend was made?

Middleton. About one hundred and sixty; some had 1000*l.* some 600*l.* some 500*l.* and some less, according as the company thought they deserved; they gave me above 100*l.* and told me that would serve to put me out apprentice, and that I should never go near my friends.

Mr. Conyers. What became of it?

Middleton. John Sparks robbed me of it.

L. C. J. The King's counsel have done. Now is your time to speak.

Forseeth. My Lord, I desire Mr. Druit may be asked if I was not one of the pinnace's crew?

Druit. Yes, you were; and I commanded you back, and you refused.

Forseeth. Did not you command me to go?

Druit. Yes, and I afterwards commanded you back, and you refused, and I fired at you, and shot through the boat.

Forseeth. I held water with my oar, and that was all I could do.

L. C. J. He commanded you to rescue the ship, and instead of that you ran away with her.

Forseeth. I could not bring her back myself, nor come back, unless I should leap over-board. When I came aboard the Charles, the sails were loose, and they cut the boat off and put her adrift in a minute; I could not get into her, nor heard nothing until two o'clock the next day. I hope, my Lord, as we are but poor seafaring men, and do not understand the law, you will take it into consideration.

L. C. J. You knew that he that commits piracy deserves to be hanged.

Forseeth. My Lord, I was sent of an errand, and compelled to do what I did.

May. Here is one of the King's evidence testifies I knew nothing of the ship's going away, and I believe not above nine or ten knew of it.

L. C. J. You were zealous from the beginning, and said to one D—n you, you deserve to be shot through the head.

May. They hurried away the men into the boat, and as Mr. Gravett, the King's evidence, says, I desired him to remember me to my wife, for I was not likely to see her, none being permitted to go into the boat but whom they pleased, and when those men were in the boat, they cried to have a bucket, or else they should sink, for they had three leagues to go, and I do not know how they could go so far with more, when the boat was like to sink with those that were in her, as some of the King's evidence have testified.

L. C. J. Mr. Dan, did the men in the boat call for a bucket?

Dan. They did call, and a bucket was given them to pump with.

May. Afterwards, if I had denied to go with them, I might have been killed.

Sir Charles Hedges. You saw you were under constraint and terror: did you make any complaint or discovery, on your first coming into the King's dominions?

May. I was several days in the collector's house at Bristol, and related the whole to him, and designed to have discovered it to the Lords of the Admiralty. I lay sick four or five days at Bristol, and then got passage for London in the coach, and was taken and carried back to Bath again, where the Duke of Devonshire examined me, and I gave the same account that I have done here; and then he directed the messenger to convey me to London.

L. C. J. Mr. Gravett, when you went into the boat, did he express any inclination to go with you?

Gravett. No, my Lord, not at all; he was very merry and jocular, and knew whither they were going.

The Lord Chief Justice then charged the Jury, and said, "That if there be a piracy committed, though contrived but by one man, yet if others concur in it, they are equally guilty. That though the prisoners objected, there was a force put upon them, it was a mere suggestion, without any manner of evidence. But there was evidence of their consenting and confederating in this enterprize."

The Jury withdrew, but soon after returned into Court, and desired, if there were any evidence to prove John Sparks consented to running away with the ship, they might hear it again.

L. C. J. He was with them at the carrying off the ship, and at the taking of the several prizes, and had his share. Can men otherwise demonstrate their consent than by their actions?

Juryman. But we understand, my Lord, he is tried upon his consenting to carry away the ship.

L. C. J. When a ship is run away with, and people are aboard that ship, that is a proof of their consent, unless they can produce evidence of the contrary. Besides, has it not been proved that, as many as were not willing to go upon the design, were at liberty to leave the ship? no man was hindered but the doctor.

The Jury having re-considered of the evidence, in a short time brought the five in GUILTY.

L. C. J. Gentlemen, you have done extremely well; and you have done very much to preserve the honour of the nation, and the city.

The Court adjourned to Friday the 6th of November, when they were all tried upon the two other indictments, viz. for the seizing, robbing, and carrying away, the two Danish ships, on the 30th of August, 1694. And, for committing piracy on a Moorish ship, the 28th of September, 1695, near Surat, of which they were found Guilty.

On the 10th of November, 1696, they were brought into Court, to receive sentence; and were condemned to be hanged. They were executed accordingly, the 25th of November, at Execution-dock.

CAPTAIN THOMAS GREEN,
AND HIS CREW,
FOR PIRACY.—MARCH 5, 1705.

THERE were two indictments preferred against them, the one against the Captain, by the name of Captain Thomas Green, commander of the ship called the Worcester, Captain John Madder, chief mate of the said ship, John Reynolds, second mate, Thomas Linstead, assistant to the supercargo, James Burn, boatswain, James Sympson, gunner, Andrew Robertson, gunner's mate, and John Brucklie and George Kitchen, seamen. The other indictment was preferred against Henry Keigle, carpenter of the said ship, and Samuel Urline, his mate, George Haines, steward, Daniel Stringman, cook, Samuel Wilcocks, surgeon's mate, and George Glen, Henry Barnes, Alexander Taylor, and John Bannantine, seamen, (foremast-men) of the said ship the Worcester, then lying in the harbour of Bruntisland.

These indictments were of the same tenor; setting forth, that notwithstanding, by the law of God, and of this, and all other well-governed nations, the crimes of piracy, robbery, and murder, were prohibited under the highest pains; the same Captain Green and his crew had, nevertheless, dared to commit the same, in the following manner, viz. that having sailed in the said ship from England to the East-Indies, under pretence of merchandizing, they did, in the month of February, March, April, or May, in the year 1703, encounter or meet with a ship upon the coast of Malabar, in the East-Indies, the said ship carrying a red flag, and having English or Scotchmen on board; and after having had some discourse with them, did, without any lawful warrant, or just cause, attack the said ship, first by their sloop, which they had manned and furnished with guns and other arms, for that purpose, and after they had engaged her some time by their sloop, the ship the Worcester boarded her, and having overcome the said ship, seized her men, killed them, and threw them overboard, and having plundered her afterwards, made sale of the ship and goods; for which the prisoners ought to be punished with the pains of death, and confiscation of moveables.

The witnesses for the crown being called,

Antonio Ferdinando, a black, the cook's mate of the ship the Worcester, was sworn, and testified, that about a month after he came on board, a sloop and the ship the Worcester attacked another ship, sailed by white men, carrying English colours, and the men on board her speaking English; that before the fight, Captain Green, Mr. Loveday, and Coge Commodo, an Indian merchant, went on board the said stranger's ship, where they

remained some time. Immediately after their return, the sloop was manned with about twenty men, among whom were Captain Green, Mr. Loveday, the supercargo, the gunner, and the carpenter, and they took with them four great guns and two patereroes on board the said sloop; that afterwards, Captain Madder, chief mate of the Worcester, came on board the sloop, and they engaged the stranger ship in a running fight two days, and the third day they boarded her with the sloop, killed the men in her with their hatchets, and threw them overboard: that during the engagement between the sloop and the said stranger ship, the ship the Worcester came up, and fired at the stranger ship, but did not board her; that there were ten or twelve men on board the ship that was taken, and but few goods, and what goods were found in her were carried on board the Worcester; that he (the witness) was wounded in the arm in the fight, and the captain threatened to kill him, if ever he spoke of the engagement, either to white or black men: that eight of the prisoners at the bar, viz. Haines, Bannantine, Bruckley, Wilcocks, Burn, Robinson, Glen, and Taylor, were on board the Worcester during the engagement, and Captain Green, Madder, Simpson, Keigle, Kitchen, Linstead, and the witness, were on board the sloop.

Charles May, surgeon of the said ship the Worcester, testified, that they sailed from England, and arrived on the coast of Malabar in the East-Indies, in January, 1703, having thirty-five or thirty-six seamen on board; and that he was set on shore at the Ibeck (or Port) of Callicoiloan; that about a fortnight after he had been at Callicoiloan, he heard firing of guns as at sea; that meeting the same day with Coge Commodo the ship's merchant, and Francisco de Olivera, the interpreter of the Worcester, who were just come from the Port, and asking, what that shooting meant? they answered, the Worcester had an engagement with another ship; and that the witness walking on the shore next morning, saw the Worcester riding in her birth (or station), where she used to lie, and another vessel riding at her stern, about four miles distant from the shore.

William Wood testified, that being in company with one Henderson, and one of the prisoners, Haines, at Bruntisland, and Haines appearing melancholy, Henderson demanded the reason of it; and Haines answered, it is a wonder, since we did not sink at sea, that the ground does not open and swallow us up, now we are come on shore, for the wickedness that has been committed during the last voyage, on board the Worcester; and this witness told Haines, that Captain Madder's uncle was boiled in oil, for attempting to burn the Dutch ships at Amsterdam. Haines replied, if what Madder had done the last voyage were as well known, he deserved as much as his uncle had met with.

This testimony of Wood was confirmed by Henderson, who was present during the conversation.

Several extracts from books and papers, found on board the ship Worcester, were also adduced as evidence.

The prisoner's counsel made some objections to the form of the indictment, which were over-ruled by the court: they also made several objections to the evidence;

as, that the two blacks, who were produced as evidence against them, were not Christians: they also insisted, that Anne Seaton, being a woman, was not a legal witness.

The Queen's counsel answered, that though, by the laws of Scotland, one who was not worth ten pounds could not be a witness in some cases, by the laws of that kingdom; yet, in crimes so atrocious, and committed against the law of nations, this rule did not hold: and, as to the blacks not being Christians, this was a mistake, for they professed themselves such; and they insisted also, that a woman was a good witness in crimes of this nature.

After the counsel had concluded, the jury were ordered to withdraw, and bring in their verdict on the 16th of March, to which day the court adjourned; when the jury returned the following verdict, viz.—

That they, by majority of voices, (being fifteen in number,) find, that there is one clear witness as to the piracy, robbery, and murder; and that there are accumulative and concurring presumptions proved for the piracy and robbery; but find that John Reynolds, second mate of the ship Worcester, was on shore at the time of the action.

The court adjourning afterwards to the 21st of March, then pronounced sentence on the following prisoners, viz.: on Capt. Thomas Green, John Madder, James Simpson, Henry Keigle, George Haines, George Glen, Alexander Taylor, Andrew Robertson, George Kitchen, James Burn, John Bruckley, Samuel Wilcocks, John Bannantine, and Thomas Linstead:—

That they should be taken to the Sands of Leith, within the flood-mark, and there hanged till they were dead, (the first five on the 4th of April, the next four on the 11th of April, and the remaining five on the 18th of April); and that all their moveable goods and geer, and particularly the ship Worcester, should be forfeited to her Majesty, saving, to all persons claiming a right to the said cargo, their respective claims.

John Reynolds was acquitted; and the court recommended Thomas Linstead, assistant to the supercargo, to the Queen's mercy, he being on shore at the time the said ship was taken.

Captain Green and the rest of the prisoners, except Linstead, it is said, were afterwards executed, in pursuance of the sentence. Haines, and Bruckley, the cooper, previous to their execution, confessed, that after the ship was taken on the Malabar coast, they saw the men killed with pole-axes and cutlasses, and their bodies thrown overboard.

ROBERT FIELDING, ESQ.

FOR BIGAMY,

AT THE OLD BAILEY, 4th DECEMBER, 1706.*

THE indictment set forth, that the said Robert Fielding, on the 9th of November, in the 4th year of the Queen, at the Parish of St. James, Westminster, in the County of Middlesex, took to wife one Mary Wandsworth, spinster, and that afterwards, viz. on the 25th of the same month of November, in the year aforesaid, at the parish of St. Martin's in the Fields, in the said county, he did feloniously take to wife the most noble Barbara, Duchess of Cleveland, (the said Mary Wandsworth, his former wife, being then alive,) &c.

Mr. Raymond opened the indictment, and Sir James Montague opened the evidence, after which the witnesses were called.

Mrs. Villars deposed, that one Mrs. Streights came to her lodging, when she was not at home, and left word, that the deponent should call upon her, or it might be 500*l.* out of her way; that afterwards the deponent met with Mrs. Streights and Mr. Fielding, and Mr. Fielding asked the deponent, if she knew Mrs. Delean? and she told him, she used to cut her hair; that thereupon Mr. Fielding said he was in love with Mrs. Delean, and asked the deponent if she could not assist him in his courtship, and whether a marriage might not be brought about, and that the deponent told Mr. Fielding then, she did not know whether she had such an interest in the lady, as to be serviceable in such a design. That about three days after, Mrs. Streights came and fetched the deponent to Mr. Fielding again, and he said, he found the lady was worth 60,000*l.* (as he had been told before) and asked where she lived, and the deponent told him she lived

* This is altogether a curious case, independently of its connection with the celebrated Duchess of Cleveland, then in old age. Fielding himself was so handsome, as to be generally designated "handsome Fielding."

in Coptal-court, near the 'Change, and that her country-house was at Waddon in Surrey; that thereupon Mr. Fielding said he would go to Tunbridge, and call by the way and see Mrs. Delean's gardens, which accordingly he did, hoping, by that means to get a sight of Mrs. Delean; that at his return, he told the deponent the gardens were very fine, and he had seen the lady through a casement, and that she might have a more perfect view of his person, he took several turns in the garden, and pulled out his watch, and set it by the sun-dial, and that he came round the country, and almost murdered his horses to get a sight of her; that in order to get into Mrs. Delean's company, and become acquainted with her, he desired the deponent to acquaint Mrs. Delean, that the Duchess of Cleveland was desirous to see her gardens, which the deponent did; but Mrs. Delean desired it might not be that week, but the week following, because she was to see a race at Banstead Downs; that when the deponent told Mr. Fielding this, she found the Duchess knew nothing of the message, but he said he would go to the race at Banstead Downs, and when he came back, he told the deponent, he believed he saw Mrs. Delean upon the Downs, and he bowed to her, and she to him, and that he afterwards sent a letter to her, by a servant, who was not in a livery, and that Mrs. Delean read it, but said it required no answer.

That the deponent perceiving Mr. Fielding had no knowledge of Mrs. Delean, she acquainted one Mrs. Wandsworth with his design, and proposed her personating Mrs. Delean, and marrying Mr. Fielding, which Mrs. Wandsworth very readily came into, and several letters passed between Mr. Fielding and Mrs. Wandsworth, (whom he took for Mrs. Delean,) and Mr. Fielding sent several presents to the lady, by the deponent, particularly, a gold apron struck with green, and that Mr. Fielding continued sending presents and letters from Bartholomewtide to Lord-Mayor's day, and that night he desired the deponent to bring the lady to his lodgings, which she did about nine at night, in a mourning-coach, and Mr. Fielding was not then at home, but soon after he came in, and fell down upon his knees and kissed her, and used abundance of fond expressions, and sent for Margaretta, who sung them two songs, "Charming Creature," and "Ianthé the lovely;" after which he sent for wine and plumb-cakes, and urged the lady very much to marry him, which she declined, but he made her promise to come to him the Wednesday following; however, because she would not seem too forward, it was Friday the 9th of November before she came to his lodgings again, and then Mr. Fielding took Mrs. Wandsworth in his arms, and said nothing could ease his mind but a promise to make him happy, in marrying him presently, and he would fetch a priest. Mrs. Wandsworth pretended to reject the proposal, and was going away, but he said she had disappointed him once before, and he was resolved to make her his own before she went away; and he went out for a priest, and locked them into his chamber; that Mr. Fielding soon after returned, and brought a priest with him, in a long red gown, a fur cap, and a long beard, and Mr. Fielding told her, that this was the holy father that was to make them one; and Mrs. Wandsworth said, how shall I

know this priest is in orders? and the priest pulled a picture out of his pocket, of the size of a crown-piece, and told them that none but priests had such pictures: that after they had supped, Bouchier, and the rest of Mr. Fielding's servants, were ordered down stairs, and the priest called for water, salt, and rosemary, to make holy water, and having blessed it, the ceremony was performed in the bedchamber, none being present but Mr. Fielding, Mrs. Wandsworth, the priest, and the deponent, and when Mrs. Wandsworth seemed still unsatisfied whether he was a priest, the priest took from under his gown a piece of silk, like a scarf, marked with a cross in the middle, and said, none but priests used such a thing; that the service being in Latin, when the priest came to that part, wilt thou have this woman to be thy wedded wife? Mrs. Wandsworth desired it might be repeated in English, and accordingly the question was asked Mr. Fielding in English, and he answered, yes, with all my heart; and the lady being asked, if she would have this gentleman for her husband? she answered, yes, faintly; and Mr. Fielding said, you do not speak it so earnestly as I did; you must say, with all my heart and soul, which she did; that afterwards the priest blessed the ring, and gave it to Mr. Fielding, to put it upon the lady's finger; and the ceremony being ended, after they had taken a glass of wine, the priest went away, and the deponent put Mrs. Wandsworth to bed, and Mr. Fielding called her his dear wife, the Countess of Fielding, and said he would make haste and fly to her arms, and he went to bed to Mrs. Wandsworth, and called the deponent to see them in bed together, which she did; and the deponent saw them a-bed together next night, and following morning; that Mrs. Wandsworth went away in a coach, as before, and Mr. Fielding continued sending letters to her till she came again, which was about fifteen or sixteen days after, and the deponent then also saw them in bed together; that Mr. Fielding then told Mrs. Wandsworth he was about to leave his lodgings, and be with the Duchess of Cleveland. When she came next time, Bouchier soon after came in, and said he had brought his master's night-gown and slippers from the Duchess of Cleveland's.

Counsel. Why was this marriage kept private?

Villars. Because Mr. Fielding took the lady to be Mrs. Delean, and she pretended to be afraid of disobliging her father, who had part of her fortune in his hands.

Mr. Just. Powel. How long was it before it was discovered?

Villars. It was not discovered till the latter end of May, or the beginning of June.

Counsel. Can you tell how it came to be discovered?

Villars. Mrs. Wandsworth sent to Mr. Fielding for money, and then he found she was not a woman of that fortune he took her to be; and Mr. Fielding took Mrs. Streights into a closet, at the Duchess of Cleveland's, and sent for me thither, and would have his pre-

sents returned him; and he beat me, and asked me if that was a fit wife for him? and he took a steel thing in his hand, and said, if I would not unsay what I had said of his marriage with Wandsworth, he would slit my nose, and he would bring two blacks, and one of them should hold me upon his back, and the other should break my bones.

Mr. Fielding. Did I ever appear in public with Mrs. Wandsworth?

Villars. No, never.

Mr. Fielding. How came I to send such mean presents to a person of Mrs. Delean's quality?

Villars. I am sure such presents were sent, and that he really married Mrs. Wandsworth, for Mrs. Delean.

Mr. Just. Powel. When was the first time you acquainted the Duchess of Cleveland with this matter?

Villars. The present Mrs. Fielding told me, that Mr. Fielding beat her in Whitehall-lodge, and said, she should have occasion to bring me upon my oath to prove her marriage; and I went with Mrs. Fielding to the Duke of Grafton, and told him, I was sure Mr. Fielding was married to her on the 9th of November before.

Mr. Just. Powel. Was this before any parting between the Duchess of Cleveland, and Mr. Fielding?

Villars. It was about a fortnight or three weeks before the difference between Mr. Fielding and the Duchess of Cleveland.

Mr. J. Powel. Why did you not apply yourself to Mr. Fielding for your reward?

Villars. I was to have no reward; Mrs. Streights, indeed, left such word at my lodging, but I had no promise of it from Mr. Fielding.

Mr. Fielding. What reward did the Duchess of Cleveland promise you?

Villars. I never saw the Duchess of Cleveland, nor was ever promised any reward.

Sir J. Montague. Now we shall prove, that Mr. Fielding married the Duchess of Cleveland, after he was thus married to Mrs. Wandsworth.

Mr. Fielding. I do not deny my marriage to the Duchess of Cleveland.

Mr. Searle deposed, that the beginning of Michaelmas term,

1705, Mr. Fielding came to him to Doctors'-commons, and desired him to search for Mr. Delean's will, and it was read over to Mr. Fielding, and he desired a copy of it, and he came again a few days after, and had a copy of it.

Mrs. Delean deposed, that about Bartholomewtide was twelve-month, Mr. Fielding came to her house in the country, and desired a sight of the gardens; that the butler came up and acquainted her that Mr. Fielding was below, and he came under the character of a major-general; that she had no acquaintance with Mr. Fielding, and did not see him herself, but a lady in court saw him out of the window, and Mr. Fielding, it seems, took her for herself.

Counsel. Did not Mrs. Villars come to you with a message, that the Duchess of Cleveland and Mr. Fielding desired to see your gardens?

Mrs. Delean. She did so, some little time after Mr. Fielding had been there, I believe.

Counsel. Did Mrs. Villars use to cut your hair?

Mrs. Delean. No; her mistress did.

Counsel. Who received the letter from Mr. Fielding?

Mrs. Delean. Some of the servants; I was then at my father's, and had left orders that they should take in no letters, but such as came from my relations. Here is the lady that saw him out of the window.

Bouchier deposed, that on the 29th of October was twelve-month, being the Lord-Mayor's day, he went with Mr. Fielding to the Lord-Mayor's show, and they stood at Mr. Fielding's, a linen-draper's, in Cheapside, and he saw Mrs. Villars in the balcony there; that in the evening Mrs. Villars and a lady came to Mr. Fielding's lodgings, and soon after Mr. Fielding came in, and complimented the lady, and asked her if she loved singing, and Margaretta was sent for, and sung two songs, and Mr. Fielding having treated them with a bottle of wine and a plum-cake, the lady and Mrs. Villars went away in a mourning-coach that waited for them, and the lady was in a mourning dress; that some time after, his master ordered him to be at home, and get clean sheets for the bed, wax candles, and sconces, and fires in both the rooms, and said some ladies would be there at night, and ordered the deponent, if he was not at home when they came, to tell them he would be there presently; that the ladies came accordingly, and soon after Mr. Fielding came, and went up to them, and directed the deponent to bespeak a dish of pickles, and Mr. Fielding went out again, and came back in a hackney-coach, with a priest with him, in a long gown, a long beard, and a fur cap, who belonged to the emperor's envoy; that then they went to supper, and when supper was over, Mr. Fielding ordered the deponent to fetch water, salt, and rosemary, and he brought water and salt, but could get no rosemary, then the deponent was ordered down, and Mr. Fielding, the priest, and the ladies, were locked in three quarters of an hour, after which, the deponent was called up to fill some wine, and he per-

ceived a ring upon the lady's left thumb, which she had not before supper; that the priest went away, and presently after Mr. Fielding ordered the sheets to be taken off his bed, and laid upon the other bed for Mrs. Villars; that Mrs. Villars put the lady to bed in Mr. Fielding's bed, and in the morning the deponent was called to make a fire, and he saw Mr. Fielding and the lady in bed together, and when the lady was up, she went away in a hackney-coach; that about a fortnight after, Mrs. Villars and the lady came to his master's lodgings again, and supped and lay there, and he saw his master and the lady in bed together the next morning, and the lady and Mrs. Villars went away in a hackney-coach; (this was about the 25th of November,) that soon after this, the deponent understood, by the Duchess of Cleveland's servants, that Mr. Fielding was married to the Duchess, and Mr. Fielding ordered the deponent to bring his cap, gown, and slippers, to the Duchess of Cleveland's house, and to attend the next morning with clean linen, his wig, &c. : that about the 5th of December, Mr. Fielding bid him get his lodgings in order again, for he expected Mrs. Villars and the lady there, and accordingly they came, and the deponent was sent to the Duchess of Cleveland's for Mr. Fielding's night-gown, cap, and slippers, and Mr. Fielding and the lady lay together again that night, and the next morning the lady went away in a hackney-coach.

Counsel. Was you at Epsom with Mr. Fielding?

Bouchier. I was with him there, and went to Waddon with him, and Mr. Fielding walked in Mrs. Delean's gardens.

Thomas Sone deposed, that Mr. Fielding bought a ring of him, about a year since, and ordered the posy to be *Tibi soli*, and the deponent engraved it, while Mr. Fielding took a turn or two; and delivered it to him.

Wilkins deposed, that he was present when Mr. Fielding bought the ring of Mr. Sone, and ordered the posy to be *Tibi soli*.

(Here the ring was produced, and the goldsmith deposed, it was the same he sold Mr. Fielding; and a proctor being sworn, deposed, that it was the same ring which Mrs. Fielding (alias Wandsworth) brought to Doctors'-commons. Then three loving and affectionate letters which Mr. Fielding wrote to his wife, were read in Court.)

Mr. J. Powel. Mr. Fielding, now is the time to make your defence.

Mr. Fielding. My Lord, Mrs. Villars is the only positive evidence against me, and she has forsworn herself, in swearing she cut Mrs. Delean's hair, for Mrs. Delean herself says she never cut it; and I can prove that Mrs. Villars has been in Bridewell, and received the correction of the house, and, therefore, I think she is not fit to give evidence in this Court: and as to this Mrs. Wandsworth, whom they set up, I shall show she was married to one Bradby.

Mr. J. Powel. Mrs. Villars is a bad woman, no

doubt, in that she imposed this woman upon you for a woman of quality; but her evidence is well supported by circumstances, and bids fair for a proof that you were married to this woman; but if you can prove that Mrs. Wandsworth was married to another man at the same time, it will be to the purpose.

Elizabeth Basset deposed, that her father in-law was clerk of the Fleet-prison, and kept the register of the marriages there, but her father having been sick, the deponent had the register in her keeping the last year; and that about two or three months ago a woman came to the deponent's house, and said there was a marriage in the book, of one Lilly Bradby and Mary Wandsworth, and offered the deponent a piece of money, if she would strike it out of the book.

Counsel. Is this the woman that made you this offer?

Mrs. Basset. I will not swear to the woman, I never saw her but that time, but I believe it is.

The certificate of the marriage read.

Lilly Bradby married to Mary Wandsworth, the 28th of October, 1703. The man of St. James's, the woman of St. Margaret's, Westminster.

Mr. Rescorloe deposed, that he went with Mr. Longford, by the Attorney General's order, and searched the books in the Fleet, to find this marriage of Lilly Bradby with Mrs. Wandsworth; that the woman who gave her evidence, brought them this very book, and they found no such entry as she now shewed; and she told them, that there was no other book, nor had any such certificate been entered, and she said, a man and a woman had been to search for it a fortnight before: that they searched the month of October very strictly, and the deponent took particular notice of the blank where this certificate was now entered, and that this must be the very book, because he then observed, the year 1705 was put before the year 1704, as it appeared to be here.

The Jury having withdrawn for some time, brought Mr. Fielding in GUILTY: but the Court suspended the judgment, till next sessions, and accepted bail for Mr. Fielding's appearance.

The next sessions, on the 15th of January, Mr. Fielding appeared, and it being demanded, what he could say, why judgment of death should not pass upon him? he prayed the benefit of his clergy, which was allowed; and he produced the queen's warrant to suspend the burning in the hand; and was admitted to bail.

Her Grace the Duchess of Cleveland having also instituted a cause of nullity of marriage, against the said Mr. Fielding, by reason of a former marriage with the said Mary Wandsworth, in the Arches Court of Canterbury, she proceeded to obtain the sentence of the said

Court; and accordingly, on the 23d of May, 1707, the Right Worshipful Sir John Cook, Knt. Doctor of Laws, official Principal of the said Court, judicially sitting in the great hall of Doctors' Commons, in the presence of the Duke of Grafton, the Duke of Northumberland, the Earls of Litchfield, Sussex, and Jersey, and the Lord Quarrender, and also of the respective proctors of her Grace the Duchess of Cleveland, and of Mr. Fielding, did, at the petition of her Grace's proctor, read and promulge his definitive sentence in Latin, viz. *In Nomine Domini, Amen, &c.* Wherein, after process and grounds on which the sentence is founded is recited, he concluded, We do pronounce, decree, and declare, that the said Most Noble Lady, Barbara Duchess of Cleveland, was, and is, free from any bond of marriage with the said Robert Fielding, and had and hath the liberty and freedom of marrying with any other person.

Mr. Fielding, by his proctor, then renounced all benefit of appeal from this sentence; and the gold ring, and seven letters, that had been exhibited on the part of the Lady Duchess, were re-delivered to her, the letters being first registered in Court.

TRIALS

FOR

PRETENDED WITCHCRAFT,

In the 16th and 17th Centuries.

IN the present century, every reader of ordinary intelligence feels pity for his ancestors, who, previously to the 18th century, believed in the alleged feats of witches, and the powers of witchcraft. His scorn will, however, be as senseless as their faith, if it be unsupported by correct reasons, and if he himself should, in other forms, and under other names, give credence to any doctrines which are of the nature of the supernatural action of witchcraft. Before we scoff, let us beware that we do not ourselves recognize the very same principle,—that such principles, though different in external appearance, are not professed and honoured as wisdom, even in our own times,—and that by analogies, descending through society, they do not infest, in other forms, the faith of all the lower classes.

It was the radical error of witchcraft, that conjuration, or its supposed effects, were believed to be produced on material bodies, without adequate, or even any mechanical, means. Our experience and better knowledge lead us, however, to determine that this is an absurdity; and, if we reason on the subject, this principle must be the ground on which we are to reject witchcraft. If we found our rejection on no better reason than the general assertion of its absurdity and imposture, we are open to become its dupes whenever any plausible appearances justify its existence; but if, on an admitted principle, we know that material effects can never take place but by adequate proximate causes, then we are fortified against witchcraft, and its entire family of superstitions, by a general test of truth, applicable to all circumstances.

If we dream, or imperfectly sleep, and then infer that our unwilling thoughts portend good or evil, we know

that there is no mechanical connexion between those dreams and the events, and consequently are bound to conclude that the association is absurd.

If a man touch another, and thereby pretend to cure any disease—as scrofula, we infer imposture, because the touching has no mechanical connexion with the diseased organs which cause the scrofula.

If we assume that bodies attract bodies, or push one another from their opposite sides, where neither of them are, we believe in the principle of witchcraft; for there is no mechanical connexion between the bodies themselves calculated to produce any such effect.

If, on the same principle, we believe that the earth pushes down a heavy body towards its own centre, that the distant moon pushes up the waters of the sea, that the earth and moon push each other from their opposite sides towards one another, or that the sun and planets do the same, we believe in the principle of witchcraft; for all motion is in the direction of the impulse received, and, in all those cases, the impulse is assumed to be given where the alleged cause does not exist, and is not present to act. Yet we must blush to own, that this great principle of witchcraft is considered as the sublimest wisdom, even of our times, though adequate mechanical causes may be easily assigned for the whole of the phenomena.

If in gaming we conceive there are lucky seats, lucky packs of cards, or lucky dice, we admit the principle of witchcraft, or the existence of effects without adequate mechanical causes.

If we believe in any sympathies, or coincidences, not mechanical, and materially connected, we believe in the principle of witchcraft.

If we believe that any combinations of cards, planets, sediments of tea-cups, lines of the hand, or entrails of animals, foretel any future events, we give credit to the principle of witchcraft; for, between the said combinations and the events, there is no mechanical connexion of cause and effect.

This list might be extended further, as to ghosts and spirits of the inert and decomposing dead, to popish miracles, to many other principles adopted by modern philosophers, as caloric, latent heat, &c., to distant signs and omens of death, to charms, to mental fore-

bodings, &c. &c.; but either these are too ridiculous for observation, or they yield too readily to the general principle that no effect can take place on matter, or be perceptible by our senses, without some adequate, proximate, intervening, material cause.

While any of these things are believed, the believers are in their faith as absurd as those who believed in witchcraft; and they are not justified in reviling either the statutes which recognized that art, nor in abhorring their cruel application. Even Matthew Hopkins ought, in them, to find an apologist; for it was an error in the philosophy of the age, in which the greatest mathematicians, and most respected philosophers, concurred,—as Bacon, Digby, Kepler, Hooke, Newton, Boyle, &c. &c. and in which their followers concur, with zeal, even to our own time. The history of Hopkins is not, therefore, the history of a criminal, but of an unthinking mind; and, like Shakespeare, in this respect, he was the dupe of the prevailing faith of his unenlightened age.

In all these cases, the parties believing have been deluded by the machinery with which the errors have been associated; by those unexplained phenomena of mind which, in sleep, produce dreaming,—by the imposing character of royalty,—by a pretended association of mathematics with the absurd fancy about attraction,—by the doctrine of chances involved in the intricacies of calculation,—by actual phenomena, whose causes are not comprehended,—by the delusions of religion,—and by misapplications of faith, convenient in other respects.

Gaule, a celebrated writer on witchcraft, gives the following account of the initiation of a witch:—

“The convention for such a solemn initiation being proclaimed (by some herald imp) to some others of the confederation, on the Lord’s day, or some great holy day or chief festival, they meet in some church near the font or high altar, and that very early, before the consecrated bell hath tolled, or the least sprinkling of holy water; or else very late, after all services are past and over. Here the party, in some vesture for that purpose, is presented, by some confederate or familiar, to the prince of devils sitting now on a throne of infernal majesty, appearing in the form of a man (only labouring to hide his cloven foot.) To whom, after bowing, and homage done in kissing, &c. a petition is presented to be received unto his association and protection; and first, if the witch be outwardly Christian, baptism must be renounced the party must be re-baptized in the devil’s name, and a new

name is also imposed by him ; and here must be god-fathers too, for the devil takes them not to be so adult as to promise and vow for themselves. But above all, he is very busy with his long nails, in scraping and scratching those places of the forehead where the sign of the cross was made, or where the chrism was laid. Instead of both which, he himself impresses or inures the mark of the beast, the devil's flesh brand, upon one or other part of the body, and teaches them to make an oil or ointment of live infants, stolen out of the cradle (before they be signed with the sign of the cross,) or dead ones stolen out of their graves; the which they are to boil to a jelly; and then drinking one part, and besmearing themselves with another, they forthwith feel themselves imprest and endowed with the faculties of this mystical art. Further, the witch (for his or her part,) vows, (either by word of mouth, or peradventure by writing, and that in their own blood,) to give both body and soul to the devil, to deny and defy God the Father, the Son, and the Holy Ghost, but especially the blessed Virgin, convitiating her with one infamous nick-name or other; to abhor the word and sacraments, but especially to spit at the saying of mass; to spurn at the cross, and tread saints' images under feet; and, as much as possible they may, to profane all saints' reliques, holy water, consecrated salt, wax, &c. To be sure to fast on Sundays, and eat flesh on Fridays, not to confess their sins however they do, especially to a priest: to separate from the Catholic church, and despise God's vicar's primacy: to attend his nocturnal conventicles, sabbaths, sacrifices: to take him for their God, and worship, invoke, obey him, &c.: to devote their children to him, and to labour all that they may to bring others into the same confederacy. Then the devil, for his part, promises to be always present with them, to serve them at their beck. That they shall have their wills upon any body; that they shall have what riches, honours, pleasures, they can imagine. And if any be so wary as to think of their future being, he tells them they shall be principalities ruling in the air; or shall but be turned into imps at worst. Then he preaches to them to be mindful of their covenant, and not to fail to revenge themselves upon their enemies. Then he commends to them (for these purposes,) an imp or familiar, in the shape of dog, cat, rat, mouse, weasle, &c. After this they shake hands, embrace in arms, dance, feast, and banquet, according as the devil hath provided in imitation of the supper. Nay, oft-times he marries them ere they part, either to himself, or their familiar, or to one another, and that by the Book of Common Prayer (as a pretender to witch-finding told me in the audience of many.) After this they part, till the next great conventicle, or Sabbath of theirs, which meets thrice in a year, conveyed as swift as the winds from remotest parts of the earth, where the most notorious of them meet to reintegrate their covenant, and give account of their improvement. Where they that have done the most execrable mischief, and can boast of it, make most merry with the devil; and they that have been indiligent, and have done but petty services in comparison, are jeered and derided by the devil, and all the rest of the company. And such as are absent, and have no care to be assigned, are amerced to

this penalty, so to be beaten on the palms of their feet, to be whipt with iron rods, to be pinched and sucked by their familiars till their heart blood come, till they repent them of their sloth, and promise more attendance and diligence for the future."

There are very faint traces, if any of witchcraft in this country prior to the Reformation. Magic, sorcery, astrology, and apparitions, were not uncommon. Hubert, Earl of Kent, was accused (A. D. 1232,) of drawing royal favour to himself by sorcery, and stealing from the King's jewel-house a stone that would make a man invisible. About thirty years after, Roger Bacon was twice summoned to Rome to give an account of his conjurations. The story of King Duffus, of Scotland, and his sweating sickness, caused by the roasting of a waxen image, in the tenth century, is probably apocryphal, and if not, might yet be merely magic. The minions of the Duchess of Gloucester, in the reign of Henry VI., seem to have only pretended to astrological prediction: as was also the case with Friar Hopkins, who is said to have died of grief at having brought his patron, the unfortunate Duke of Buckingham, to the scaffold, and with those whose tricks had a like lamentable result to Lord Hungerford. Sorcery was imputed to Jane Shore, by Richard III. and afterwards to several Lancasterians, including the Countess of Richmond, and Dr. Morton, afterwards Archbishop of Canterbury.

In 1541 an act was passed, the first in our laws, against conjuration, witchcraft, sorcery, and pulling down crosses. It is supposed to have been designed against the Reformers, and was repealed in the first of Edward VI. though there was a direction, in *Cranmer's Articles of Visitation*, two years after, to inquire after "any that used charms, sorcery, enchantments, witchcraft, soothsaying, or any like craft, invented by the devil;" which was renewed in Elizabeth's reign, with the addition "especially in the time of women's travail."—There were several trials for conjuration and astrology in the early part of this reign, and the Countess of Lennox, with four others, was condemned for treason, for inquiring how long the Queen would live. But, in 1562, a new statute against witchcraft was enacted, more lenient than that of James, which followed, as it only visited the first conviction with pillory; and from

this time the offence was on the increase, till that sapient monarch signalized the first year of his reign by making it felony to suckle imps, &c. and then the mischief rapidly mounted to its height, which it attained by the aid of that "vigour beyond the law," which the triumphant fanatics afterwards put forth, in the abundance of their zeal and wisdom.

In this statute (which was repealed March 24, 1736,) the description of the offence, or offences, which were made felonious, runs thus:—

"One that shall use, practise, or exercise, any invocation or conjuration of any evil or wicked spirit, or consult, covenant with, entertain or employ, feed or reward, any evil or wicked spirit, to or for any intent or purpose; or take up any dead man, woman, or child, out of his, her, or their grave, or any other place, where the dead body resteth; or the skin, bone, or other part of any dead person, to be employed or used in any manner of witchcraft, sorcery, charm, or enchantment; or shall use, practise, or exercise any witchcraft, &c. whereby any person shall be killed, destroyed, wasted, consumed, pined, or lamed in his or her body, or any part thereof: such offenders, duly and lawfully convicted and attainted, shall suffer death."

Another clause enacts, for professing to find hidden treasure, and lost or stolen goods; or to procure unlawful love, or to injure cattle or goods; or to hurt or destroy human beings, though the purpose be not effected; for the first offence, a year's imprisonment and pillory, and for the second, death.

In the same year (1603) the convocation made the following canon:—

"That no minister or ministers, without license and direction of the bishop, under his hand and seal obtained, attempt, upon any pretence whatsoever, either of possession or obsession, by fasting and prayer, to cast out any devil or devils, under pain of the imputation of imposture or cozenage, and deposition from the ministry."

In the course of the fifty years following the passing of this act, besides a great number of single indictments and executions, we meet with much of such extensive dealing as the following: In 1612, fifteen indicted at Lancaster, and twelve condemned; 1622, six tried at York; 1634, seventeen condemned in Lancashire; 1644, sixteen executed at Yarmouth; 1645, fifteen condemned at Chelmsford, and hanged; in the same and following year, about forty at Bury in Suffolk, twenty more in the county, and many at Huntingdon; and, according to

the estimate of Ady, some thousands were burnt in Scotland.

At length popular hatred rendered the existence of a reputed witch so miserable, that they even courted death. A striking case of this sort is mentioned in *Satan's Invisible World Discovered*, by Sinclair. Several witches were arraigned at Lander in 1649, and all condemned to the stake, except one. Before the time of execution, this woman sent for the minister and other witnesses, and made the usual confession of a covenant with the devil. Its sincerity was suspected, and she was strenuously urged to revoke it, but she persisted, and was sentenced to suffer with the rest. Being carried forth to the place of execution, she remained silent during the first, second, and third prayer, and then perceiving that there remained no more, but to rise and go to the stake, she lifted up her body, and, with a loud voice, cried out:—

“ Now all you that see me this day; know, that I am now to die a witch by my own confession, and I free all men, especially the ministers and magistrates, of the guilt of my blood. I take it wholly upon myself, my blood be upon my own head. And as I must make answer to the God of Heaven presently, I declare I am as free of witchcraft as any child: but being delated by a malicious woman, and put in prison under the name of a witch, disowned by my husband and friends, and seeing no ground of hope of my coming out of prison, or ever coming in credit again, through the temptation of the devil, I made up that confession, on purpose to destroy my own life, being weary of it, and chusing rather to die than live.”

She was then executed, amid the tears of the spectators.

Besides several general defences against witches, of which the most popular was the horse-shoe, still to be seen nailed to many a threshold in the country, there were many ways of detecting and averting their machinations, of which the following is a specimen from Scott:

“ To find out a witch:—In die dominico sotularia juvenem axungia seu pinguedine porci, ut moris est, pro restauratione fieri perungunt: and when she is once come into the church, the witch can never get out, untill the searchers for hir give hir express leave to depart.

“ To be utterlie rid of the witch, and to hang hir up by the haise, you must prepare an image of the earth of a dead man, to be baptized in another man's name, whereon the name, with a character, must be written; then must it be perfumed with a rotten bone, and then these psalmes read backward: Domine,

Dominus noster, Dominus illuminatio mea, Domine exaudi orationem meam, Deus laudem meam ne tacueris: and then burie it, first in one place, and afterwards in another.

“Another charme to find her that bewitched your kine. Put a pair of breeches upon the cowe’s head, and beate hir out of the pasture with a good cudgell upon a Fridaie, and she will runne right to the witche’s dore, and strike thereat with hir hornes.

“Another, for all that have bewitched anie kind of cattell. When anie of your cattell are killed with witchcraft, haste you to the place where the carcase lieth, and traile the bowels of the beast unto your house, and drawe them not in at the doore, but under the threshold of the house into the kitchen, and there make a fier, and set over the same a gredirion, and thereupon laie the inwards or bowels; and as they wax hot, so shall the witche’s entrailles be molested with extreme heat and paine. But then you must make fast the doores, least the witch come, and fetch awaie a cole of your fier: for then ceaseth hir torment. And we have knowne, saith M. Mal, when the witch could not come in, that the whole house hath been so darkened, and the aire round about the same so troubled, with such horrible noise and earthquakes, that except the doore had beene opened, we had thought the house would have fallen on our heads.”

Any one who reads the names of the first Councils of the Royal Society, will see how little credit is due even to any philosophy emanating from such credulous persons. Among them were, Digby, the patron of all the conjurors of the age, and inventor of the famous sympathetic powder; Aubrey, who wrote a grave book on witches and ghosts; Ashmole, the patron of Lilly, and open abettor of astrology, and its train of superstitions,—all contemporaries of Newton, who, himself, lost much time in search of the philosopher’s stone, in studying the mystical works of Bœhmen, and in expounding the Apocalypse. Even Sir Jonas Moor, the patron of Flamstead, and the latter also, were famous for their skill in astrology, and they studied astronomy chiefly in subserviency to it. The profound KEPLER wrote much on the same subjects; and DR. DEE, the best mathematician of his day, was involved through life in the various mysteries of divination and foretelling,—affording a proof that mathematics effect little towards enlightening the mind on general subjects. To this day, almost every village in England has its haunted house, its church-yard ghost, its reputed witch, and its cunning man, or teller of fortunes; and numberless are the local absurdities which result from the immobility of faith in them.

THE WARBOIS WITCHES—1593.

One of the most infamous perversions of evidence occurred in the trial of the witches of Warbois, before Mr. Justice Fenner, at Huntingdon, in 1593. An old man, his wife, and daughter, were accused of bewitching the five children of a Mr. Throgmorton, several servants, the lady of Sir Samuel Cromwell, and other persons. A confession was obtained, indirectly, from the old woman, who was about fourscore years old, by persuading her to repeat a charm, in a form prescribed to her, on which the children, who were the principal witnesses, immediately came out of the fits, which, as they pretended, were occasioned by her arts. To obtain similar proof, such as it was, against the old man, the judge told him on his trial, "that if he would not speak the words of the charm, the court would hold him guilty of the crimes he was accused of." After some browbeating, he did repeat it, when the child's fit ceased, and the judge exclaimed: "You see all, she is now well, but not by the music of David's harp; and the poor fellow was condemned, as was his daughter upon similar evidence. Some bystanders urged the latter to plead pregnancy as a means of saving her life, or, at least, of deferring her fate. She indignantly replied, "that she never would; for it should never be said, that she was both a witch and a ——."

They were all executed, and their goods, which were of the value of forty pounds, being escheated to Sir S. Cromwell, as lord of the manor, he gave the amount to the mayor and alderman of Huntingdon, for a rent-charge of forty shillings yearly, to be paid out of their town lands for an annual lecture upon the subject of witchcraft, to be preached at their town every Lady-day by a Doctor or Bachelor of Divinity, of Queen's College, Cambridge.

MATTHEW HOPKINS,

THE WITCH FINDER.

ABOUT the year 1640, the Eastern countries formed an association for the prosecution of witches; and one Hopkins received the public appointment, under the law of witch-finder, with a reward of twenty shillings for every detection. The inquisition became terrible; and during twenty years, from the age of Laud to the Restoration, this man's activity in his vocation led to the premature death of thousands, by drowning and burning. James had promulgated an ordeal, or test of innocency, that water, because used in baptism, could not drown a witch. This was adopted by Hopkins, and every one charged, or suspected, was tied by the hands and feet, and thrown into a river or pond. If they sank in the water of baptism, they were presumed innocent; but, as means of recovery were not then adopted, they often perished during the experiment; and, if from any struggle they did not sink, they were presumed guilty, and were burnt at the stake.

Hopkins was so proud of his skill and success, that he has recorded his exploits in a pamphlet, which he published, adorned with effigies of himself and of different imps.

The following extract from his book is at once ludicrous and horrible:—

“The discoverer never travelled far for it; but, in March, 1644, he had some seven or eight of that horrible sect of witches, living in the town where he lived, (a town in Essex, called Manningtree,) with divers other adjacent witches of other towns, who every six weeks, in the night, (being always on the Friday night,) had their meeting close by his house, and had their several solemn sacrifices there offered to the devil, one of which this discoverer heard speaking to her imps one night, and bid them go to another witch, who was thereupon apprehended, and searched by women, who had for many years known the devil's marks, and found to have some marks about her which honest women have not; so, upon command from the justice, they were to keep her from sleep two or three nights, expecting in that time to see her familiars; which, the fourth night, she called in by their several names, and told them what shapes, a quar-

ter of an hour before they came in, there being ten of us in the room. The 1st she called was 1. *Holt*, who came in like a white kitling. 2. *Jarmara*, who came in like a fat spaniel, without any legs at all; she said she kept him fat, for he sucked good blood from her body. 3. *Vinegar Tom*, who was like a long-legged greyhound, with an head like an ox, with a long tail and broad eyes, who, when this discoverer spoke to, and bade him go to the place provided for him and his angels, immediately transformed himself into the shape of a child of four years old, without a head, and gave half a dozen turns about the house, and vanished at the door. 4. *Sack and Sugar*, like a black rabbit. 5. *Newes*, like a polecat. All these vanished away in a little time. Immediately after, this witch confessed several other witches from whom she had her imps, and named to divers women where their marks were, the number of their marks and imps, and imps' names, as *Elemauzer*, *Pyewacket*, *Peckin the Crown*, *Grizzel*, *Greedigut*, &c. which no mortal could invent; and upon their searches, the same marks were found, the same number, and in the same place, and the like confessions from them from the same imps, (though they knew not that we were told before,) and so peached one another thereabouts that joined together in the like damnable practice, that in our hundred in Essex, twenty-nine were condemned at once, four brought twenty-five miles to be hanged, where this discoverer lives, for sending the devil, like a bear, to kill him in his garden; so by seeing divers of the men's marks, and trying ways with hundreds of them, he gained this experience, and, for aught he knows, any man else may find them as well as he and his company, if they had the same skill and experience.

"The devil's policy is great, in persuading many to come of their own accord to be tried, persuading them their marks are so close they shall not be found out; so divers have come ten or twelve miles to be searched, of their own accord, and hanged for their labour."

Hopkins's active coadjutor, was John Sterne, of Laws Hall, near Bury St. Edmonds, formerly of Manningtree, who gives the following account of one of their discoveries:—

Mr. Hopkins and myself went together to Elizabeth Clarke, of Manningtree, in Essex, who had been kept three days, and three nights under a guard, and when I had asked her, who she accused as witches, we were going away, but she said to us, "If you will stay, I will shew you my imps, for they are ready to come." Then said Mr. Hopkins, "Besse! will you do us no harm?" "No," said she, "what! do you think I am afraid of my children? you shall sit down:" so we did, where she appointed us; then one of the company, who was appointed to be with her that night, said to her, "Besse, I asked you a question of late, but you answered not;" then she said, "what is it?" He replied, "tell the truth, has not the devil had the use of your body?" She said, "why should you ask me such a question?" He answered, "I desire to know the truth, and no otherwise." Then she fetched a deep sigh, and said, "It is true:" then said Mr. Hopkins, "In what manner and like-



MATTHEW HOPKINS.





ness came he to you?" she said, "like a tall, proper, black-haired gentleman, a properer man than yourself;" and being asked which she had rather lie withal, she said the devil; and so particularized every thing, and how he came in, and his habit, and how he lay with her, and spake to her, and she then affirmed this to be truth, and so presently fell a smacking with her lips, and called "lought," two or three times, which presently appeared to us at eight, (for there were six which were appointed to be with her that night before we went,) in the likeness of a cat; for she told us before in what shapes they would come, and so that presently vanished: then she called again, as before, "Jarmara!" then appeared another like a red or sandy spotted dog, with legs not so long as a finger, to our perceivance, but his back as broad as two dogs, or broader of that bigness, and vanished: after that she called more, as before, by several names, which came in several shapes, one like a greyhound, with legs as long as a stag's, another like a ferrit, and one like a rabbit; and so in several shapes they appeared to us, till there were some seven or eight seen; some by some of us, and others by other some of us; then I asked her "if they were not all come (for there were more come than she spake of)?" She answered, "that they came double, in several shapes, but said, one was still to come, which was to tear me in pieces." I asked her, "why?" She said, "because I would have had her tried by swimming, and told me, that now she would be even with me;" and so told in what manner it should come, black, and like a toad, and so afterwards it did come, as the rest averred that saw it, &c.

In July, 1645, at the sessions held at Chelmsford, several informations concerning witches, and their practices, were taken before Sir Harbottel Grimston, and Sir Thomas Bowes; among which were some of Hopkins's, as follows:—

The information of Matthew Hopkins of Manningtree, Gent. Taken upon Oath before us, the 25th of March, 1645.

This informant saith, that the said Elizabeth Clarke, alias Beddingfield (suspected for a witch as aforesaid, and whose mother and some others of her kinsfolk, did suffer death for witchcraft and murder,) being by appointment of the said justices, watched several nights, for the better discovery of her wicked practices; this informant came into the room, where the said Elizabeth was watched, as aforesaid, the last night, being the 24th of this instant, March, but intended not to have staid long there; but the said Elizabeth forthwith told this informant, and one Mr. Sterne, there present, if they would stay, and do the said Elizabeth no hurt, she would call one of her white imps and play with it in her lap; but this informant told her they would not allow of it; but that staying there a while longer, within a quarter of an hour after, there appeared an imp like to a dog, which was white, with some sandy spots, and seemed to be very fat and plump, with very short legs, and forthwith vanished away: and the said Elizabeth said the name of that imp was Jarmara; and immediately there appeared another imp, which

she called Vinegar Tom, in the shape of a greyhound, with long legs; and the said Elizabeth then said, that the next imp should be a black imp, and should come for the said Mr. Sterne, which appeared, but presently vanished; and the last that appeared was in the shape of a polecat, but the head somewhat bigger; and the said Elizabeth then told this informant, that she had five imps of her own, and two of the imps of the old bedlam West, (meaning one Ann West, widow, who is now also suspected to be guilty of witchcraft,) and said, sometimes the imps of the old bedlam sucked on the said Elizabeth, and sometimes her imps sucked on the old bedlam West; and the said Elizabeth, farther told this informant, that Satan would never let her be at rest, or quiet, till she did consent to the kitling of the hogs of one Mr. Edwards of Manningtree, and the horse of one Robert Taylor, of the same town.

Hopkins, however, spoiled the trade at last, and not only by his cruelties brought a scandal upon it, which it never recovered, but got himself into some peril. Hutchinson says, that he "went on searching and swimming the poor creatures, till some gentlemen, out of indignation at the barbarity, took him and tied his own thumbs and toes as he used to tie others, and when he was put into the water, he himself swam as they did. This cleared the country of him." Butler has alluded to this catastrophe:—

"Hath not this present parliament
A ledger to the devil sent,
Fully empowered to treat about
Finding revolted witches out?
And has not he, within a year,
Hanged three score of them in one shire?
Some only for not being drown'd:
And some for sitting above ground
Whole nights and days upon their breeches,
And feeling pain, were hanged for witches;
And some for putting knavish tricks
Upon green geese and turkey chicks,
Or pigs that suddenly deceased
Of griefs unnatural, as he guessed,
Who after proved himself a witch,
And made a rod for his own breech."—*Hudibras*.

These atrocities were useful in opening the eyes of the people; but Hopkins at length fell a victim to his own temerity.

For the celebrated trial of Rose Cullender, Amy Duny, and others, before Sir Matthew Hale, at Bury St. Edmunds, in 1662, see vol. ii. p. 213.

THE SALEM WITCHES.

At the latter end of the year 1691, Mr. Paris, pastor of the church in the village of Salem, in America, had a daughter of about nine years of age, and a niece of about eleven, afflicted with unaccountable distempers, as physicians that were consulted thought, and one of them judged they were bewitched. Mr. Paris had an Indian man-servant, and his wife an Indian woman, who confessed, that without the knowledge of their master and mistress, they had taken some of the afflicted persons' urine, and mixing it with meal, had made a cake, and baked it, to find out the witch, as they said: after this, the afflicted persons cried out of the Indian woman, named Tituba, that she pinched, pricked, and grievously tormented them, and they saw her here and there where nobody else could, and could tell where she was, and what she did when she was absent from them; these children were bitten and pinched by invisible agents; their limbs were racked and tormented, and miserably contorted, &c. Tituba was examined; who confessed, the making of that cake; and said, her mistress in her own country was a witch, and had taught her some means to be used for the discovery of a witch, and for preventing of being bewitched.

The justices at Salem examined the afflicted and accused together; and upon the examination, Tituba confessed that she was a witch, and that she, and the other two accused, did torment and bewitch the complainers; and that these, with two others, whose names she knew not, had their witch-meetings together; relating the times when, and places where they met, with other circumstances.

Upon this, Tituba, Osburn, and Good, were committed to prison, on suspicion of acting witchcraft. Soon after, these afflicted persons complained of others afflicting them in their fits; and the number of the afflicted and accused began to increase; and, upon examination, more confessed themselves guilty of the crimes they were suspected of, the number of confessors at length amounting to fifty: the justices, judges, and others concerned, used all conscientious endeavours to do what was right, according to former precedents in England, in the like cases. The matter was carried on

chiefly by the complaints and accusations of the afflicted, and by the confessions of the accused, condemning themselves and others: yet experience shewed, that the more were apprehended, the more were still afflicted; and the numbers of the confessors increasing, did but increase the number of the accused; and the executing of some, made way for the apprehending of others: for still the afflicted complained of being tormented by new objects, as the former were removed; so that those that were concerned, were amazed at the number and quality of the persons accused, and feared innocent persons suffered: and henceforth, the juries generally acquitted such as were tried, fearing they had gone too far before, and all were set at liberty, even the confessors.

About the end of the year 1692, one Joseph Ballard at Andover, whose wife was ill, and afterwards died of a fever, sent to Salem for some of those accusers, to tell him who afflicted his wife.

Mr. Dudley Bradstreet, a justice of peace in Andover, having granted out warrants, and committed thirty or forty persons to prisons, for the supposed witchcraft, at length refused to issue any more warrants; soon after which, he and his wife were accused; for he was said by them to have killed nine persons by witchcraft, and found it his safest course to make his escape.

Nineteen persons being now hanged, and one pressed to death, and eight more condemned, in all twenty-eight; about fifty having confessed themselves to be witches, of which, not one was executed; about one hundred and fifty were in prison, and above two hundred more were accused, the special commission of Oyer and Terminer was closed; after which, six women, who had confessed themselves to be witches, gave under their hand, that they did it only in compliance with their nearest friends, who told them it was their only way to escape.

SUFFERERS FOR PRETENDED WITCHCRAFT IN SCOTLAND.

ALISON PEARSON.—1588.

ALISON PEARSON in Byre-hills, Fifeshire, was convicted of practising sorcery, and of invoking the devil. She confessed that she had associated with the queen of the fairies for many years, and that she had friends in the court of England, who were of her own blood. She said that William Simpson, late the King's smith, was, in the eighth year of his age, carried off by an Egyptian to Egypt, where he remained twelve years; and that this Egyptian was a giant: that the devil appeared to her in the form of this William Simpson, who was a great scholar, and a doctor of medicine, who cured her diseases: that he has appeared to her, accompanied with many men and women, who made merry with bagpipes, good cheer, and wine: that the good neighbours attended, and prepared their charms over the fire; that the herbs of which they composed their charms, were gathered before sunrise; and that with these they cured the bishop of St. Andrews of a fever and flux. She underwent all the legal forms customary in cases of witchcraft, *i. e.* she was convicted and condemned, strangled and burned.

JANET GRANT AND JANET CLARK.—1590.

Janet Grant and Janet Clark were convicted of bewitching several persons to death, of taking away the privy members from some folks, and bestowing them on others, and of raising the devil.

JOHN CUNNINGHAME.—1590.

It was proved against John Cunninghame, that the devil appeared to him in white raiment, and promised, that, if he would become his servant, he should never want, and should be revenged of all his enemies: that he was carried in an ecstasy to the kirk of North Berwick, where the devil preached to him, and many others, bidding them not to spare to do evil, but to eat, drink, and be merry; for he should raise them all up gloriously

at the last day: that the devil made him do homage, by kissing his ———. That he (the prisoner) raised the wind on the king's passage to Denmark: that he met with Satan on the king's return from Denmark; and Satan promised to raise a mist, by which his majesty should be thrown upon the coast of England; and thereupon threw something like a football into the sea, which raised a vapour.

AGNES SAMPSON.—1591.

Agnes Sampson in Keith, a grave matron-like woman, of a rank and comprehension above the vulgar, was accused of having renounced her baptism, and of having received the devil's mark; of raising storms to prevent the queen's coming from Denmark; of being at the famous meeting at North Berwick, where six men and ninety women, witches, were present, dancing to one of their number, who played to them on a Jew's harp. It was charged in the indictment, that the devil was present at this meeting, and started up in the pulpit, which was hung round with black candles; that he called them all by their names, asked them, if they had kept their promises, and been good servants, and what they had done since the last meeting: that they opened up three graves, and cut off the joints from the dead bodies' fingers, and that the prisoner got for her share two joints and a winding sheet, to make powder of to do mischief: that the devil was dressed in a black gown and hat; and that he ordered them to keep his commandments, which were, to do all the ill they could, and to kiss his ———.

At first Agnes denied the accusations brought against her by the king's majesty and the lords assembled; but being ordered to prison to undergo the torture, she returned to her judges in a frame of mind suitable to make the following confession, which is given in the words of Glanvil:—

Confession of Agnes Sampson to King James, then of the Scots.

'Item, Fyled and convict for sameckle as she confessed before his majesty, that the devil in man's likeness met her going out in the fields from her own house at Keith, betwixt five and six at even, being alone, and commandit her to be at North Berwick kirk the next night. And she past then on horseback, conveyed by her good-son, called John Cooper, and lighted at the kirk-yard, or a little before she came to it, about eleven hours at even. They danced along the kirk-yard; Geilie Duncan plaid to them

on a trump; John Fien mussiled led all the rest; the said Agnes and her daughter followed next. Besides, there were Kate Grey, George Moilis's wife, Robert Grierson, Katherine Duncan Buchanan, Thomas Barnhill and his wife, Gilbert Macgil, Joh. Macgil, Katherine Macgil, with the rest of their complices, above an hundred persons, whereof there were six men, and all the rest women. The women made first their homage and then the men. The men were turned nine times widdershins about, and the women six times. John Fien blew up the doors, and blew in the lights, which were like mickle black candles, sticking round about the pulpit. The devil startit up himself in the pulpit like a mickle black man, and every one answered "Here." Mr. Robert Grierson being named, they all ran hirdie girdie, and were angry: for it was promised he should be called Robert the Comptroller, alias Rob the Rower, for expriming of his name. The first thing he demandit was as they kept all promise, and been good servants, and what they had done since the last time they had convened. At his command they opened up three graves, two within, and ane without the kirk, and took off the joints of their fingers, toes, and neise, and parted them amongst them: and the said Agnes Sympson got for her part a winding-sheet and two joints. The devil commandit them to keep his commandments, which were to do all the evil they could. Before they departed, they kissed his breech; the record speaks more broad, as I noted before. He had on him ane gown and ane hat, which were both black; and they that were assembled, part stood and part sate: John Fien was ever nearest the devil, at his left elbock: Graymaical keped the door."

The King now branded Agnes and her gang as a body of "extreme liars;" when, taking him a little aside, "she declared the very words which passed between the king's majesty and the queen at Upslo, in Norway, on the night of their marriage; whereat the king wondered greatly, and swore by the living God, that he believed all the devils in hell could not have discovered the same, and gave the more credit to what she afterwards declared."

The above confession had its natural effect upon a weak mind. James, who before wavered in his belief, now became an advocate for the truth of the *damnable* doctrine of witchcraft; and in the third chapter of the second book of his *Dæmonologie*, has made a kind of paraphrase on the above deposition.

Cummer, go ye before; cummer, go ye;
If ye will not go before, cummer, let me!—

These are the words said to have been sung by Agnes Sampson, and two hundred of her associates, when they landed from their riddles or cives, and danced a reel on

the shore of North Berwick, when on their way to hold their unhallowed meetings in the church.

“Moreover, Agnes confessed, that at the time his majesty was in Denmarke, shee being accompanied with the parties before specially named, tooke a cat and christened it, and afterward bound to each part of that cat the cheefest part of a dead man, and several joyntes of his bodie; and that in the night following the said cat was convayed into the middest of the sea by all these witches, sayling in their riddles or cives, as is afore-said, and so left the said cat right before the town of Leith, in Scotland; this doone, there did arise such a tempest in the sea, as a greater hath not been scene. At another time John Fien, attempting to catch a cat for that purpose, she proving too nimble, he was carried about in the air after her in a wonderful manner.”—

Thus sung the Witch of Keith; anon she sat
Revelling with Satan.

Glanvil thus continues his relation. Agnes sailed “with her fellow witches in a boat to a ship, where the devil caused her to drink good wine, she neither seeing the mariners nor the mariners her. But after all, the devil raised a wind whereby the ship perished.”

JOHN FIEN.

There shone the sorcerer Fien, of potent power,
The key-keeper of the air's artillery.

John Fien, (alias Cunningham, alias Doctor Fian,) master of the school of Saltpans, in Lothian, as well as Agnes Sampson, belonged to the East Lothian company. —“That which is observable in John Fien,” says Glanvil, “is, that the devil appeared to him, not in black, but in white raiment; but proposed as hellish a covenant to him, as those fiends that appear in black. As also lying dead two or three hours, and his spirit tane, (as the phrase in the record is); his being carried or transported to many mountains, and, as he thought, through the world, according to his own depositions. His hearing the devil preach in a kirk in the pulpit, in the night by candle light, the candle burning blue. That in a conventicle, raising winds with the rest, at the king's passage into Denmark, by casting a cat into the sea, which the devil delivered to them, and taught them to cry *Hola*, when they first cast it in. His raising a mist at the king's return from Denmark, by getting satan to cast a thing like a foot-ball (it appearing to John like a wisp,) into the sea, which made a vapour or

reek to arise, whereby the king's majesty might be cast upon the coast of England. His hearing the devil again preach in a pulpit in black, who after pointed them to graves, to open and dismember the corpse therein; which done, incontinently they were transported without words. His opening locks by sorcery, as one by mere blowing into a woman's hand while he sate by the fire. His raising four candles on the luggs of an horse, and another on the top of the staff of his rider in the night, that he made it as light as day; and how the man fell down dead at the entering within his return home," with several other charges similar to those mentioned in Agnes Simpson's indictment.

Geillies Duncan, who was his accuser, confessed that he was their clerk or register, and that no man was allowed to come to the devil's writings but he. "After thraving of the doctor's head with a rope, whereat he would confess nothing, he was persuaded by faire means to confesse his follies, but that would prevail as little," till, at length, by dint of exquisite torture, he was compelled to confess any thing; and was then strangled and burnt on the Castle-hill of Edinburgh, Jan. 1591.

"Most of the winter of 1591," says Spotswood, "was spent in the discovery and examination of witches and sorcerers. Amongst these Agnes Sampson, commonly called the Wise Wife of Keith, was the most remarkable." She confessed, that the Earl of Bothwell had moved her to inquire what should become of the king, &c. Richard Graham, another notorious sorcerer, who was apprehended at the same time, made the like accusation against Bothwell.

Barbara Napier was convicted, May 8, 1591, for consulting Agnes Sampson, to give help to Dame Jean Lyon, Lady Angus; for which she was worried at a stake, and burned to ashes!

EUPHAN M'CALZEANE.—1591.

Euphan M'Calzeane was a lady possessed of a considerable estate in her own right. She was the daughter of Thomas M'Calzeane Lord Cliftonhall, one of the senators of the College of Justice, whose death in the year 1581, spared him the disgrace and misery of seeing his daughter fall by the hands of the executioner. She was married to a gentleman of her own name, by whom she

had three children. She was accused of treasonably conspiring the king's death by enchantments; particularly by framing a waxen picture of the king; of raising storms to hinder his return from Denmark; and of various other articles of witchcraft. She was heard by counsel in her defence; was found guilty by the jury, which consisted of landed gentlemen of note; and her punishment was still severer than that commonly inflicted on the weyward sisters; she was burned alive, and her estate confiscated. Her children, however, after being thus barbarously robbed of their mother, were restored by act of parliament against the forfeiture. The act does not say that the sentence was unjust, but that the king was touched in honour and conscience to restore the children. But to move the wheels of his majesty's conscience, the children had to grease them, by a payment of five thousand merks to the donator of escheat, and by relinquishing the estate of Cliftonhall, which the king gave to Sir James Sandilands of Slamanno.

As a striking picture of the state of justice, humanity, and science, in those times, it may be remarked, that this Sir James Sandilands, a favourite of the king's, *ex interiore principis familiaritate*, who got this estate, which the daughter of one Lord of Session forfeited, on account of being a witch, did that very year murder another Lord of Session in the suburbs of Edinburgh, in the public street, without undergoing either trial or punishment.

PATRICK LAWRIE.—1605.

Among many acts of witchcraft, for which Patrick Lawrie was committed to the flames, there were his consulting with, and receiving from the devil a hand-belt; in one end of which 'appeared the similitude of four fingers and a thumb, not far different from the claws of the devil;' his bewitching Bessie Sands' corns, and taking the whole strength and substance out of them for ten years successively; his enchanting certain milk cows, which thereby, instead of milk, yielded nothing but blood and matter; and his curing Elizabeth Crawford's child, which, for eight or nine years, had been afflicted with an incurable disease.

MARGARET WALLACE.—1620.

Margaret Wallace was tried before the circuit Court of Justiciary. The Duke of Lennox, the Archbishop of Glasgow, and Sir George Erskine of Innerteil, sat as assessors to the judges, and an eminent counsel was heard in behalf of the prisoner. She was accused of inflicting and of curing diseases by enchantment; but it was not specified what spells she employed. It was libelled against her, that on being taken suddenly ill she sent for one Christian Graham, a notorious witch, who afterwards suffered a capital punishment, and that this witch transferred the disease from the prisoner to a young girl: that the girl being thus taken ill, her mother was advised by the prisoner to send for Christian Graham, who answered, that her confidence was in God, and she would have nothing to do with the devil or his instruments; the prisoner replied, "that in a case of this sort Christian Graham could do as much as God himself; and that without her aid, there was no remedy for the child:" but the mother not consenting, the prisoner, without her knowledge, sent for Christian, who muttered words, and expressed signs, by which she restored the child to health, &c. Her counsel urged, that the indictment was by much too general; that it ought to have been specified, not simply that she did enchant, but also by what kind of spells she performed her incantations: that supposing Christian Graham to have been a witch, and that the prisoner when taken ill consulted her, still he was entitled to plead that the prisoner consulted her on account of her medical knowledge, and not for her skill in sorcery: that as to the blasphemous expressions, however well they might found a trial for blasphemy, they by no means inferred the crime of witchcraft; and he quoted many authorities from the civil and canon laws. He farther challenged one of the assizers, because one of the articles charged against the prisoner was her having done an injury to his brother-in-law. The whole defences were repelled by the judges; and the jury found the prisoner guilty.

ISOBEL YOUNG.—1629.

Isobel Young, in East Barns, was accused of having stopped, by enchantment, George Sandie's mill, twenty-nine years before; of having prevented his boat from

catching fish, while all the other boats at the herring-draive, or herring-fishery, were successful; and that she was the cause of his failing in his circumstances, and of nothing prospering with him in the world: that she threatened mischief against one Kerse, who thereupon lost the power of his leg and arm: that she entertained several witches in her house, one of whom went out at the roof in likeness of a cat, and then resumed her own shape: that she took a disease off her husband, laid it under the barn floor, and transferred it to his nephew, who, when he came into the barn, saw the firloot hopping up and down the floor: that she used the following charm to preserve herself and her cattle from an infectious distemper, viz. to bury a white ox and a cat alive, throwing in a quantity of salt along with them: that she had the devil's mark, &c. The defences for the prisoner were over-ruled. Is it needful to add, that she was convicted, strangled, and burned!

This most incredibly absurd and iniquitous doctrine, of repelling defences because contrary to the libel; this system of legal murder, was, (says Mr. Arnot,) till the present century, a received maxim of criminal jurisprudence in Scotland.

About this time a warlock drove a lucrative trade, called Sandie Hunter (alias Hamilton), whom it is said the devil nick-named Hattaraick. He was originally a knolt herd in East Lothian, and was famous for curing diseases both in man and in beast, by words and charms. Wherever Hattaraick went, none durst refuse him alms. One day he came to the gate of Samuelston, when some friends after dinner were taking to horse. A young gentleman, brother to the lady, switched him about the ears, saying, "You warlock carle, what have you to do here?"—whereupon the fellow went away grumbling, and was heard to say, "You dear by this ere it be long." After supper the gentleman took horse and departed, and crossing Tyne water to go home, he passed through a shady piece of haugh called the Allers. What he saw there he would never reveal; but next day he was in a high state of delirium, and had to be bound. The Lady Samuelston hearing of this said, "Surely the knave Hattaraick is the cause of this trouble, call for him in all haste." When the warlock came, "Sandie," says she, "What is this you have done to my brother William?"—"I told him," replied he, "I should make him repent of his striking me at the yait lately." She giving the rogue fair words, and promising him his sack full of meal, with beef and cheese, persuaded the fellow to cure him, which was speedily effected. When Hattaraick came to receive his wages, he told the lady her brother would shortly leave the country never to return; upon which, she caused him to make a disposition of his property to the defrauding of his brother

George. After the warlock had pursued his lucrative calling for some time, he was apprehended at Dunbar, taken to Edinburgh, and burnt on the Castle-hill.

ALEXANDER HAMILTON.—1630.

Alexander Hamilton (if we may trust his judicial confession,) met the devil in the likeness of a black man, riding on a black horse. Hamilton renounced his baptism, and engaged to become the devil's servant, from whom he received four shillings sterling. When he wanted an audience of his infernal majesty, he was instructed to beat the ground thrice with a fir-stick, and say, 'Rise up, Foul Thief;' and accordingly the devil used to obey the summons, and appeared in the shape of a raven, a cat, or a dog, and gave responses. The devil instructed him how to be revenged of his enemies; also, how to cure and transfer diseases; and further, gave him a spell, by which he killed the Lady Ormestone and her daughter, in revenge of the lady's having refused him the loan of a mare, and having called him nicknames. Lastly, he declared he had many meetings with the devil, from whom he once got a severe drubbing for not keeping an appointment.

JOHN NEIL.

John Neil was charged with taking off and laying on diseases, the former of which he sometimes effected by making the sick person's shirt be washed in a south-running water. With giving responses concerning the time and manner of people's death. With holding consultation with the devil, and witches, on Coldinghim Law, how to compass the death of Sir George Home of Manderston. That the result of their deliberation was the getting an enchanted dead foal and putting it in Sir George's stable, under his stoned-horse's manger; also a dead hand enchanted by the devil, which they put in Sir George's garden; and that by these means he contracted a grievous disease, of which he could not be recovered, till the dead foal and dead hand were discovered and burned. No pleading, no deposition of witnesses, no confession of the prisoner is recorded; but the jury found the usual verdict, and the usual sentence was pronounced by the Court.

JANET BROWN, AND OTHERS.—1640.

An act and commission of parliament was passed on the 12th of July, and another on the 7th of August,

1649,* constituting Sir James Melville of Raith, Alexander Orrock, of Orrock, Robert Aytoun, of Inchdarnie, and certain baillies of Burntisland, judges, with powers to try certain persons for the crime of witchcraft. Janet Brown was first brought before them. She was charged in the indictment with having held a meeting with the devil appearing as a man, at the back of Broomhills, who was at a wanton play with Isabel Gairdner, elder, and Janet Thomson; and he vanished away like a whirlwind.—With having there renounced her bap-

* The following is the expence of burning a witch in Scotland in this year:—

The account is a voucher of a payment made by Alexander Louddon, factor on the estate of Burncastle, the proprietor being then a minor and infant. It is entered in the factor's books thus:

“Mair for Margarit Dunhome the time she was in prison, and was put to death, 065 : 14 : 4.”

Count gifin out be Alexander Louddon in Lystoun, in ye yeir of God 1649 yeiris, for Margrit Dollnounge in Burncastell.

Item, in the first, to Wm. Currie and Andrew Gray for the watching of hir ye space of 30 days, inde ilk day, xxx sh inde - - -	xlvi lib Scotts
Item mair to Jon Kinked for brodding of her	vi lib Scotts
Mair for meat and drink and wyne to him and his man - - - - -	iiij lib Scotts
Mair for cloth to hir - - - - -	ij lib Scotts
Mair for twa tare treis - - - - -	xl sh Scotts
Item mair for twa treis, and ye making of them, to the warkinen - - - - -	iiij lib Scotts
Item to ye hangman in Hadingtoun, and fetchin of him, thrie dollores for his pens, is - - -	iiij lib Scotts
Item mair for meit and drink and wyne for his intertinge - - - - -	iii lib Scotts
Item mair for ane man and twa horss, for ye fetchin of him, and taking of him hame agane - - -	xish Scotts
Mair to hir for meit and drink ilk ane day, iiij sh the space of xxx dayes, is - - - - -	vi lib Scotts
Item mair to ye twa officers for yr fie ilk day sex shilline aught pennes, is - - - - -	x lib Scotts
Summa is iiij scoir xiiij lib xiiij sh	

Ghilbert Lauder.

Um. Lander Bilzaurs.

Takin of this above written some twentie-seaven pundis Scotis ql the said umql Margrit Dinham had of her ain.

92 : 14 : —

27 : — : —

65 : — : —

tism, upon which the devil sealed her as one of his, by a mark on the right arm, into which Mr. James Wilson, minister of Dysart, in presence of Mr. John Chalmers, minister at Auchterderran, thrust a long pin of wire into the head and she was insensible of it. And the like experiment was tried in presence of Mr. Dalgliesh, minister at Cramond, &c. The prisoner, and two other women, were convicted, condemned, and executed in one day.

Within a few days after, other three miserable women arrived at the last stage of a common journey in those days of superstitious ignorance, viz. from the parson of the parish to the criminal judges, and from the criminal judges to the executioner. They were arraigned before the same tribunal, on the hacknied charge of meeting with the devil. One of them, Isobel Bairdie, was accused of taking up a stoup, *i. e.* a flagon, and drank, "and the devil drank to her, and she pledging him, drank back again to him, and he pledged her, saying, Gram-mercie, you are very welcome." In each of the three indictments, it is added, that the prisoner had confessed, in presence of several ministers, baillies, and elders. And it appears from the verdict of the jury, that these inquisitors were produced before the Court, to prove the extrajudicial confessions of the miserable prisoners, who had already been harassed, perhaps out of their senses, or rendered weary of life by the persecutions of brutish ignorance, and diabolical cruelty.

The jury found the prisoners guilty of the said crime of witchcraft, and that they deserve to die therefore, but referring the manner of their death to the said judges their determination. The judges ordained them to be taken that same afternoon to the place of execution, and there to be strangled at a stake and burned.

THE SAMUELSTON WITCHES.

The lands of Samuelston were so much infested by the "weird sisters" in 1661, that John, Earl of Haddington, to appease his tenants, was under the necessity of presenting a petition to his majesty's commissioner, for the purpose of getting them tried by a court of judicature. The following extract from this commission shows, that the arts of darkness continued to be practised by numerous bodies to the no small terror of the lieges:—

“Edr, 3d Apryll 1661.

COMMISSION FOR JUDGEING OF WITCHES, &c. IN SAMUELSTON.

To the Right Hon. His Maties Commissioner, his Grace, and the Lordis, and Others of the Parliament appoyntit for the Articles.

The humble petition of **JOHNE EARL OF HADINTOUN**,
SHEWETH,—That upon severall malefices committit of late within and about my landis of Samuelstoune, thair being severall persones suspect of the abominable sin of witchcraft, apprehendit and searched, the markes of witches wer found on thame in the ordinarie way. Severallis of thame haif made confessioun, and haif dilatit sundrie others within the saidis boundes, and haif acknowledged paction with the devile. Thair names are these, Elspet Tailyeor in Samuelstoune, Margaret Bartilman, Mareoun Quheitt, Jonet Carfrae. These haif made confessioun alreadie. Otheris they haif dilatit as partakeris of the same cryme with thame, viz. Christiane Deanes, Agnes Williamse. Thes are dilatit be the former, and the markes ar found on thame, quha ar lykwayes apprehendit, otheris ar lykwayes dilatit by thame, namelie, Helene Deanes, George Milnetowne, Patrik Cathie, Anna Pilmure, Elizabeth Sinclair, Margaret Baptie, Jonet Maissone, and Margaret Argyle, Elspeth Crawford. Thes ar dilatit be the former confessing, bot ar not as yet apprehendit nor searched. And trew it is, that throw the frequencie of the said sin of witchcraft, in the saidis boundes, my hail tenentes there threatnes to leave my ground without justice be done on thes persones. And becaus the lawes ar now silent, this sin becomes daylie more frequent. Also, thair (ar) two otheris persones apprehendit for thift in the foresaid boundes, quhom I haif intertained in prisone, within the tolbuith of Hadingtoun, upon my awin chaarges thes ten weikis bygane, within the tolbuith of Edinburgh, upon my own chaarges.”

The Lord Commissioner and Lords of the Articles, after hearing the petition, granted a commission for putting to death such of the above persons as were found guilty of witchcraft by confession, and for trying others, which was to have been put into execution.

A few years had only elapsed, when, to appease the ravings of superstition, another race of ill-fated women were doomed to the faggots. In 1677, Elizabeth Moodie, a poor hypochondriac servant-woman, in Haddington, was imprisoned as a witch, and (as usual) made confessions, and accused others. The account of her imprisonment is mentioned in the council records of the burgh.—20th April, 1677. “The whilk day, John Sleich, your. being commissionat to consult my Lord Advocat anent Elizabeth Moodie, imprisoned as a witch, judged it convenient that the prisoner should confess

before a fenced court, and to subscribe before two notars and four witnesses, whilk accordingly is done,—and she delated oysr, the councill ordaines them to be apprehended and (examined,) refers the way thereof to the magistrates.

“The counsell appoints John Sleich, yourr. to be their commissioner to go to Edinburgh with the confessions and delations of the witches, and obtain from the secret councill commissions for trial and assisse.”

The concluding part of these barbarous proceedings are detailed in *Lord Fountainhall's M.S.*—“There is one Margaret Kirkwood, (says he) in Hadington, that hangs hirsselfe; some say she was so strangled by the devill and witches. The same happened on a Sunday, in the afternoon: shee hes a serving woman in the church, called Elizabeth Moodie, who makes some disturbance and noise during the sermon, and numbers till shee reach fifty-nine, which was her mistress's age, and then cryes, the turne was done, which was found to be the very instant in which her mistresse was making away hirsselfe: upon this being apprehended and examined, shee denied till shee was searched and pricked; and after the alledged marques were found upon hir, shee confessed hirsselfe to be a witch, (*shee was burnt for it in the beginning of June, 1677!*) and the particular circumstances of it, as I heard her acknowledge them. The said Margaret Kirkwood, who hanged hirsselfe, being wealthie, there were severalls who put in for the gift of her escheat, amongst others the toune of Hadington.”

ISOBEL ELLIOT, AND NINE OTHER WOMEN.—1678.

Isobel Elliot and nine other women were tried for witchcraft in one day. The articles of indictment against all of them were pretty much the same. Those exhibited against Isobel Elliot were as follows: that about two years ago she staid at home from the kirk at the desire of her mistress, who was a witch, when the devil had a meeting with the prisoner, her mistress, and two other witches; that he kissed the prisoner, baptised her on the face with an waff of his hand like a dewing, and offered to lie with her, but forbore because she was with child; that after she was kirked the devil often met her,

and had carnal copulation with her. The prisoner and the other nine miserable women underwent all the legal forms incident to their unhappy situation among that deluded and barbarous people. They had been prosecuted by his Majesty's advocate; they judicially acknowledged their guilt, were convicted by the jury, condemned by the judges, and burned by the executioner,—for having had carnal copulation with the devil.

IMPOSTOR OF BARGARRAN.—1696.

Some years after, an impostor appeared, in the character of a person tormented by witches, Christian Shaw, daughter of John Shaw, of Bargarran, a gentleman of some note in the county of Renfrew. She is said to have been but eleven years of age; and her challenging one of the house-maids for drinking, perhaps for stealing, a little milk, which drew on her an angry retort, was the prelude to a complicated and wonderful scene of artifice and delusion, of fanaticism and barbarity.

In the month of August, 1696, within a few days after her quarrel with the house-maid, the girl was seized with hysterical convulsions, which in repeated fits displayed that variety of symptoms which characterize this capricious disease. To these, other appearances were speedily added, which could only be attributed to supernatural influence, or to fraud and imposition. She put out of her mouth quantities of egg-shells, orange-pill, feathers of wild, and bones of tame fowl, hair of various colours, hot coal-cinders, straws, crooked pins, &c.

She spoke as follows to the chief of her alleged tormentors, Catherine Campbell, with whom she had the quarrel, and who, to use the language of those times, was not discernibly present: "thou sittest with a stick in thy hand to put into my mouth, but through God's strength thou shalt not get leave: thou art permitted to torment me, but I trust in God thou shalt never get my life. I will let thee see, Katie, there is no repentance in hell. O what ailed thee to be a witch! thou sayest it is but three nights since thou wast a witch. O, if thou would'st repent, it may be God might give thee repentance, if thou would'st seek it, and confess; if thou would desire me, I would do what I could, for the devil is an ill master to serve," &c. &c.

When the sheriff-depute of the county, accompanied

by a macer of justiciary, came to apprehend some of the persons whom her diabolical malice had accused, and were actually in her presence, she addressed an imaginary and invisible correspondent thus: "Is the sheriff come? is he near me?" (Then stretching forth her hand, as if to grope, and the sheriff putting his hand into hers, she proceeded :) "I cannot feel the sheriff; how can he be present here? or how can I have him by the hand, as thou sayest, seeing I feel it not? Thou sayst he has brown coloured clothes, red plush breeches, with black stripes, flowered muslin cravat, and an embroidered sword-belt: thou sayest there is an old gray-haired man with him, having a ring upon his hand; but I can neither see nor feel any of them. What are they come to apprehend the gentlewoman? is this their errand indeed?"

The clergy were the foremost to embrace the cause of a disciple that was engaged in more than spiritual warfare with the grand enemy. Clergymen, by rotation, attended the afflicted damsel, to assist the minister of the parish, the family of Bargarran, and other pious Christians, in the expiatory offices of fasting and prayer. A public fast was ordained by authority of the presbytery.

On the 19th of January, a warrant of Privy Council was issued, which set forth, that there were pregnant grounds of suspicion of witchcraft in the shire of Renfrew, especially from the afflicted and extraordinary condition of Christian Shaw, daughter of John Shaw of Bargarran.

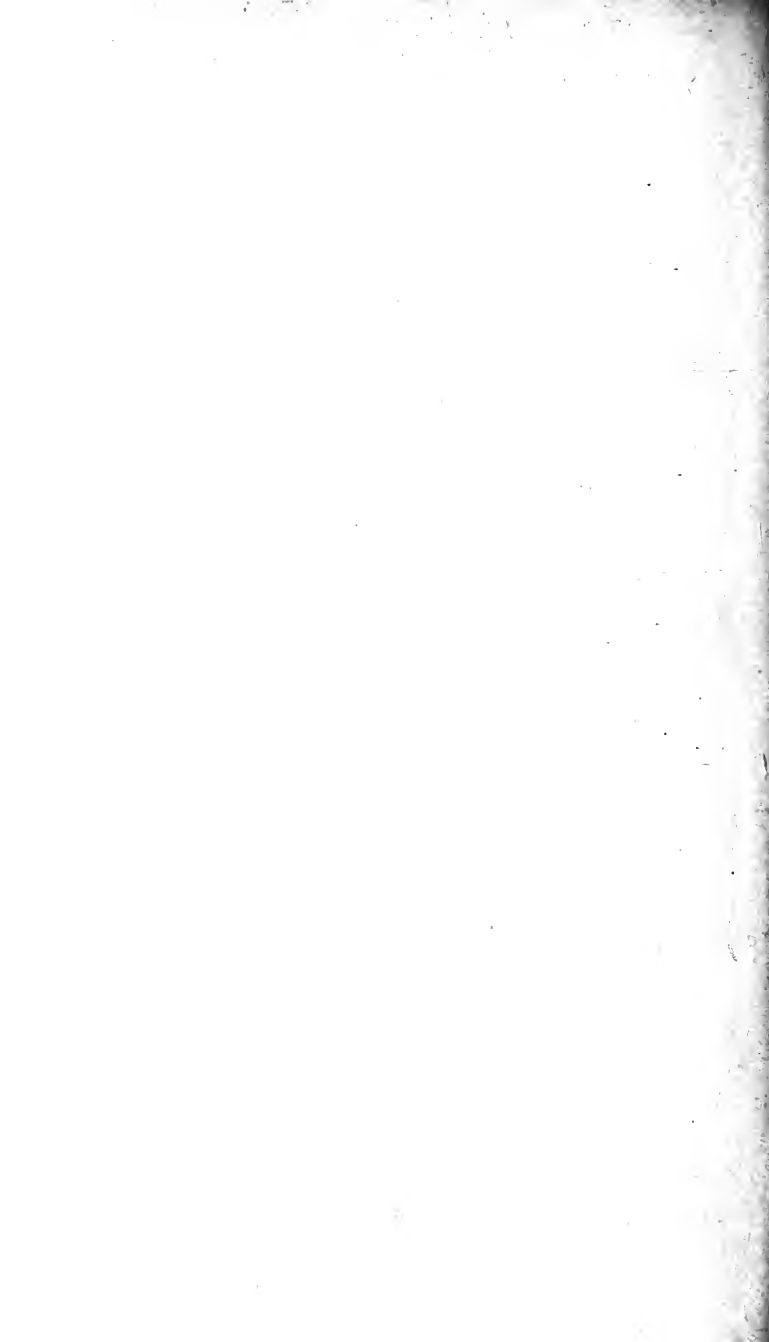
In the report which was presented on the 9th of March, the commissioners represented that there were twenty-four persons male and female suspected and accused of witchcraft, and that further inquiry ought to be made into this crime. Among these unhappy objects of suspicion, it is to be remarked, that there was a girl of fourteen, and a boy not twelve years of age. Agreeable to this report a new warrant was issued by the Privy Council, to take trial of, judge, and do justice upon the foresaid persons; and to sentence the guilty to be burned or otherwise executed to death, as the commissioners should incline.

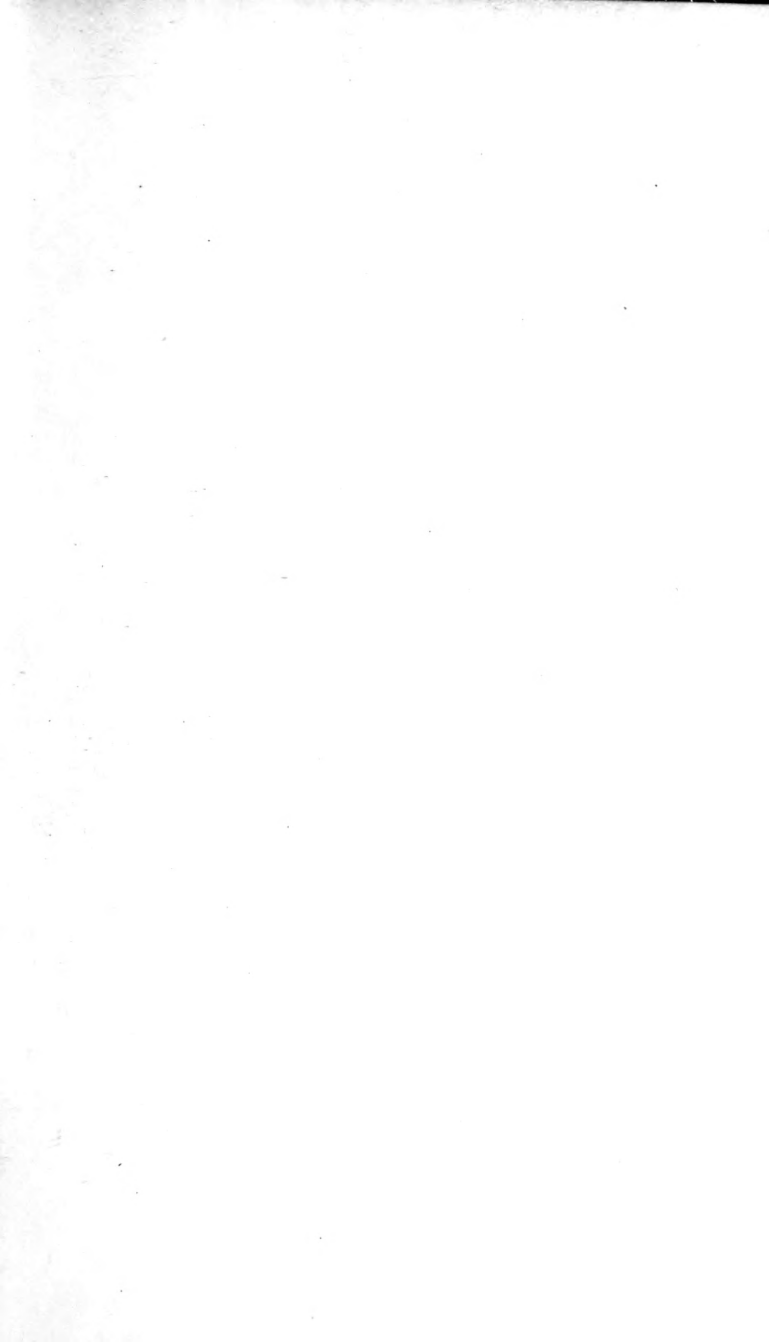
The commissioners, thus empowered, were not remiss in acting under the authority delegated to them. After

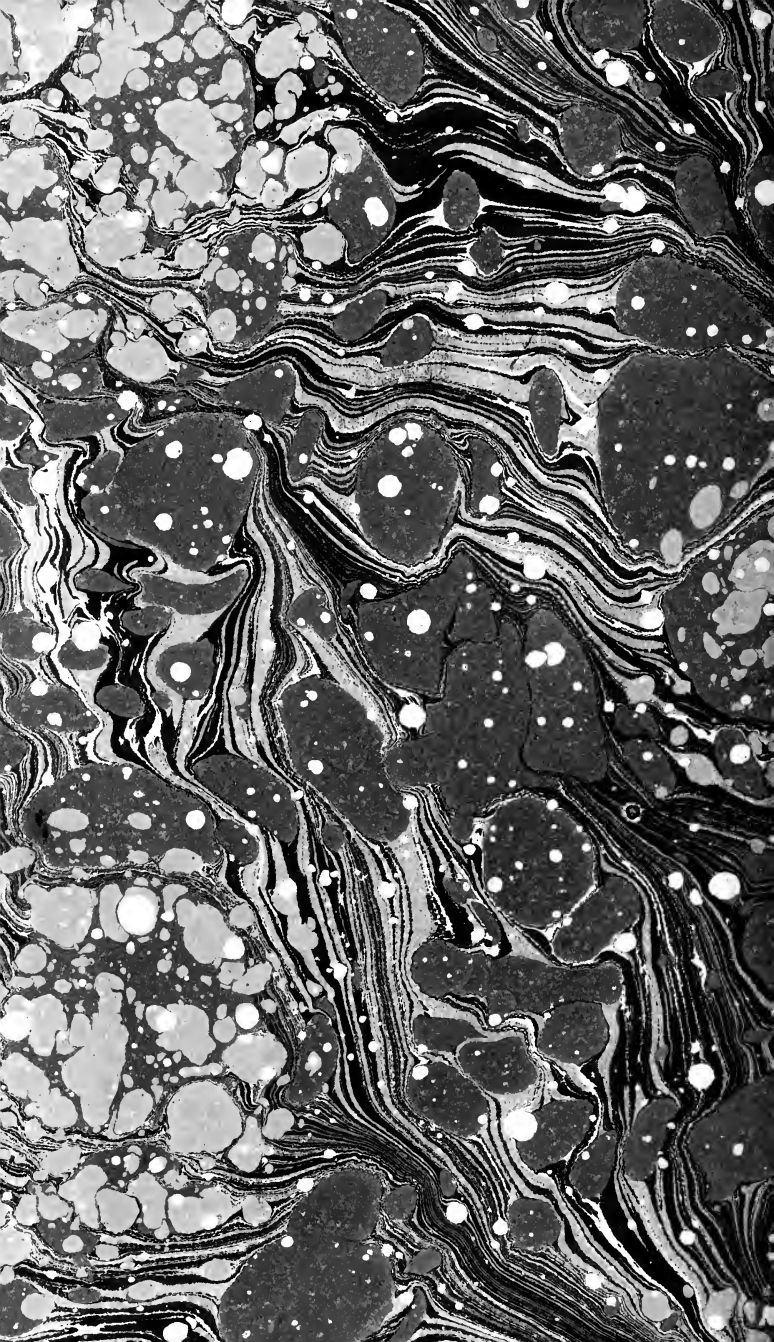
twenty hours were spent in the examination of witnesses, who gave testimony that the malefices libelled could not have proceeded from natural causes, and that the prisoners were the authors of these malefices—after five of the unhappy prisoners confessed their own guilt, and criminated their alleged associates—after counsel had been heard on both sides, and the counsel for the prosecution had declared, that he would not press the jury with the ordinary severity of threatening an assize of error; but recommended to them to proceed according to the evidence; and loudly declared to them, that although they ought to beware of condemning the innocent, yet if they should acquit the prisoners, in opposition to legal evidence, they would be accessory to all the blasphemies, apostacies, murders, tortures, and seductions, whereof these enemies of heaven and earth should hereafter be guilty. After the jury had spent six hours in deliberation, seven of those miserable persons were condemned to the flames.

The last person who was prosecuted before the Lords of Justiciary for witchcraft in Scotland, was Elspeth Rule, who was tried before Lord Anstruther at the Dumfries circuit, on the 3d of May, 1709. No special act was charged against her; the indictment was of a very general nature, that the prisoner was habit and repute (that is, generally holden and deemed) a witch; and that she had used threatening expressions against persons at enmity with her, who were afterwards visited with the loss of cattle, or the death of friends, and one of whom run mad. The jury, by a majority of voices, found these articles proved, and the judge ordained the prisoner to be burned on the cheek, and to be banished Scotland for life.—The last person who was brought to the stake in Scotland for the crime of witchcraft, was condemned by Captain David Ross, of Little Daan, sheriff-depute of Sutherland, A.D. 1722.

END OF VOL. III.







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