

L. C. J. Holt. Well, how far your Lordship was concerned in these Papers, and whether you were going with them into *France*, is to be left, upon the Evidence that hath been heard, to the Consideration of the Jury.

L. Preston. But I humbly submit that.

L. C. J. Holt. Have you any more to say?

L. Preston. As to what I offer, that nothing has been proved in *Middlesex*, I hope your Lordship will take it to be a Point of Law, and then it ought to be argued; and I desire I may have Council.

L. C. J. Holt. No, 'tis a Matter of Fact only; but if you please, the rest of my Lords the Judges may give you their Opinion; for this is a Question upon a Supposition that your Lordship was guilty of a Design of going into *France*, and this with a Purpose to depose the King, and alter the Government; then the Question is upon such a Supposition that you were guilty of that Design, whether you were guilty in *Middlesex* or no?

L. Preston. My Lord, they have not proved that Design.

L. C. J. Holt. We do not say, it is taken for granted now, 'but 'tis a Question upon a Supposition. Now, my Lord, I'll tell your Lordship in short my Opinion, the rest of the Judges will tell you theirs: I am of Opinion, If your Lordship had such a Design to go with these Papers into *France*, and these Papers were formed by you, or you were privy to the Contents of them, then it is plainly proved, that you went into a Boat in the County of *Middlesex*, in order to carry on this Design, and that will make it a good Indictment, and here is a plain Overt-act of High-Treason in *Middlesex*.

L. C. J. Pollexfen. I am of the same Opinion; for your Fact as to this particular Point in Law stands thus: You are indicted of High-Treason in two Points; one is, For conspiring to depose the King and Queen, and alter the Government: And the other is, For aiding and assisting the *French* King, and his Subjects, declared Enemies, and in open War against the King and Queen, and to invite the Enemies of the Kingdom to invade the Kingdom. Now this Design, and this Help and Assistance, are written in these Papers; for they are Instructions for the carrying on of this Design. You, my Lord, are the Person that is charged to go with these Papers to help on this Design; you began your Journey in the County of *Middlesex*, for according to the Evidence, you took Water at *Surrey Stairs*, which is in the County of *Middlesex*, and every Step you made in pursuance of this Journey, is Treason, where ever it was: So then here is a sufficient Proof of a Fact in *Middlesex*.

L. Preston. That, my Lord, is a Point of Law, and I humbly desire your Lordship, that I may have Council in this Case. It is not proved by any Body, that I said I would go into *France*; and in the next Place, it is not proved that I had these Papers about me; there has been no Evidence given that I did take Water with an Intention to go with these Papers into *France*.

L. C. J. Holt. The Jury are to be Judges of that.

L. Preston. Then, my Lord, what have I done? I have not done any Thing within the Danger of any Statute upon which I am indicted; besides, my Lord, what I have to offer further is this, I think I ought to have 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 ruin'd upon a Supposition.

L. C. J. Holt. Has your Lordship any more to say?

L. Preston. All the Judges have not given their Opinion.

L. C. J. Holt. The rest will give their Opinions, if you desire it.

My Lord Chief Baron, what say you?

L. C. Baron. My Lord *Preston*, I am called upon, it seems, to give my Opinion in this Case, but this I take it must be left to the Jury, what Credit they will give to the Proof. Your Lordship makes a Question, as the Proof stands, whether here be any thing done in this County? here are Instructions given to the *French* King how to invade *England*, and carry on the War against us. These Instructions are contained in several Papers, and these Papers in a Pacquet are carried to the Smack, which Smack was hired to go to *France*. You are found taking Water at *Surrey Stairs*, which is in the County of *Middlesex*, in order to go to the Smack: You did go to the Smack; the Papers were taken in your Company, and were seen lying by your Seals; and the Witnesses swear, they believe some of them to be your Hand; you took care to desire to have them disposed of. Now how far the Jury will believe this Matter of Fact, that is thus testified, is left to them; this seems to be the Proof, and if the Jury do believe it, here is a plain Evidence of an Overt-act in the County of *Middlesex*.

L. Preston. I do insist upon it, with humble Submission, it is not proved that these Papers were taken upon me, or that I did take Water at *Surrey Stairs* to go to *France*.

L. C. Baron. That must be collected out of all the Circumstances; the Credit of which is left to the Jury.

L. C. J. Holt. All the rest of my Lords the Judges are of the same Opinion, as they tell me. Have you any more, my Lord?

L. Preston. I must submit.

L. C. J. Holt. Gentlemen of the Jury, My Lord *Preston* stands indicted for High-Treason, in imagining and compassing the Deposition, Death, and Destruction of the King and Queen; and for that Purpose, did write, or cause to be writ, several treasonable Papers and Letters, designed to go into *France*, and there to correspond with the *French* King and his Subjects, who are Enemies to the King and Queen; and to carry with him those treasonable Papers and Letters, containing a Project, and a formed Design how this Kingdom should be invaded by Foreigners.

There is another Treason in the Indictment mention'd, and that is for adhering to, and abetting the King's Enemies, there being open War declared between the King and Queen, and the *French* King.

You have heard, Gentlemen, a very long Evidence, Witnesses have been produced *viva voce*, and several Papers have been read to you; some of the Papers that have been produced, tho' they may seem mysterious and canting, yet they are not so very obscure and unintelligible, but if you consider them well, the Meaning of them will appear. Others of them are more express, and do plainly demonstrate a Design, that this
King

King and Queen should be deposed, and that there should be another Prince set upon the Throne, and restored to the Government of this Kingdom.

Gentlemen, There are two other Persons mentioned in the Indictment with my Lord; and tho' my Lord is only now upon his Trial, yet the Evidence which doth affect them, doth also concern my Lord.

You have heard how there was an Intention of some Persons to go to *France*, and how Mr. *Ashton*, one of the two others, that stands indicted with my Lord, did treat with one Mrs. *Pratt*, one of the Witnesses, to hire a Vessel for that Purpose, and it was by the Means of one Mr. *Burdett*, that lives in the City; they had a Meeting at *Burdett's* House, where they treated about the Price that should be given for the Hire of this Ship to go to *France*, but at that Time they did not agree. It was concluded, that the Woman and *Ashton* and *Burdett* should meet at the *Wonder Tavern*; but Mr. *Burdett* not being there, nothing was concluded upon them.

After that the Woman, Mr. *Burdett*, and *Ashton*, and *Elliott*, met at Mrs. *Burdett's*; the Woman insisted at first upon 150 *l.* After they had been treating for some time, the Bargain was made to go to *France* for 100 *l.*

Then the next Thing considered was, how this Money should be paid; by Agreement 93 Guineas, and 6 *d.* which made up the 100 *l.* was deposited in Mrs. *Burdett's* Hand; a Six-pence broken, one Part Mrs. *Burdett* had, and the other Part of the Six-pence Mr. *Ashton* had: And when either Mrs. *Pratt*, or the Master of the Vessel did bring back that Part of the Six-pence that *Ashton* had, to Mrs. *Burdett*, the Money was to be paid.

After this Agreement, they were appointed to go to the *Seven-Stars* in *Covent-Garden*, to the House of one Mr. *Rigby*; and there the Woman, Mrs. *Pratt*, and the Master of the Vessel, *Ashton* and *Elliott* met, and they were that Night to go away and to take Water at some Place near to go on Ship-board; and having stayed there till it was about ten a Clock at Night, then they went away into the *Strand*, and so into *Surrey-Street*, and took Water at *Surrey Stairs*.

But before that they came from Mr. *Rigby's*, some Persons went to *Surrey Stairs* to see for a Boat, and met with that Fellow that was here produced, who was a Sculler, and did hire him to go through the Bridge when the Tide served, and to carry some Gentlemen on Ship-board; they agreed with him for half a Crown, and he was to stay in an House near the Stairs until they came.

And at the Time appointed, Mr. *Ashton* and Mr. *Elliott*, and the Master of the Vessel, came to that Place, and my Lord *Preston* and his Man with them, to take Water. My Lord *Preston* was not at *Burdett's* House at the Hiring of the Ship, nor at Mr. *Rigby's*; but it is proved by the Master of the Vessel, that he took Water with the rest of them at *Surrey Stairs*, that he went with them on Ship-board, and was to go along with them.

Being on Board the Ship, they did appear to have some Apprehensions of Danger, and passing by a Man of War, my Lord *Preston*, his Man, and the other two went under the Quarter-Hatches, where they lay down to prevent themselves from being taken or discovered; and they hid another time when they came near *Graves-*

end, and coming up they seeing a Boat coming towards them, they hid themselves again. Captain *Billop*, who it seems, was sent to apprehend them, pretended he was to press Seamen, and when he came on Board the Smack, he said he would press the Mariners, who answered they had a Protection: But he being upon his Search, pulled up the Boards of the Quarter-Hatches; and there was my Lord *Preston* and the other Persons lying down: It was not a Place that was very proper for Gentlemen, or, indeed, for any Passengers, to repose themselves in; it was an uneasy Place, nobody could stand or sit upright in it; nay, there was no convenient Place for lying down, but they must lean upon their Elbows, which Posture those Gentlemen were in; so that their Purpose was plainly to conceal themselves, and their concealing themselves must be because of some Design they were about, which they would not have discovered.

They being taken out from under the Hatches, one of the Witnesses tells you, he saw a Pacquet lying there, and *Ashton*, pretending to fetch his Hat, went down, took it up, and put the Pacquet into his Bosom; and the Witnesses informing Captain *Billop* thereof, he caused *Ashton's* Coat to be searched, and from thence took the Pacquet, and a Piece of Lead tied to it, which was produced here in Court.

When they were bringing away in Custody, they seemed all of them to be very much concerned about this Pacquet; some of them, that is, *Ashton* and *Elliott*, would have had it thrown with the Lead over-board. My Lord *Preston* did not say so much, but complimented Captain *Billop* in this manner, He was glad he was fallen into the Hands of a civil Gentleman, a Person of Worth, and he should always acknowledge his Kindness, and would do him all the Service he could, if he would dispose of the Pacquet.

My Lord *Preston* was searched at that time, and Letters of no great Moment taken about him. *Ashton* and *Elliott* would have had Captain *Billop* to take those Letters which were taken in my Lord *Preston's* Pocket, and tie the Lead to them and have thrown the Pacquet over-board, and to report to the King and Council, That those Letters were the Pacquet that was taken with the Lead; and so have persuaded him to be false to the Trust that was reposed in him.

And *Ashton* and *Elliott* used many Expressions to induce him to that compliance; they told him the Government was unstable, and every Dog had his Day, and the Tie would turn; and that he would deserve very well if he would change Sides, and go with them where they were going; and that he had Opportunity to get any Preferment he would have

L. Preston. My Lord, I hope your Lordship observes that I said none of all this.

L. C. J. Holt. No, my Lord, I do not say you did; my Lord *Preston* did not say any thing of all this, but only about disposing of the Pacquet; that his Lordship spoke of to Captain *Billop*, and complimented him, and promised him Kindness if he would dispose of the Pacquet.

But, Gentlemen, as there was a Pacquet taken, so there were two Seals taken at the same Time, and in the same Place, which have been produced and shewn to you; they lay both of them upon the Ballast under the Quarter-Hatches, near the Pacquet: The one of them is the Seal of my

my Lord *Preston's* own Coat of Arms, the other Seal belongs to the Secretaries Office, which Office my Lord once held in the late Reign.

L. Preston. I beg your Lordship would be pleased to observe that the Papers were not taken upon me, and it can be no Treason to have Seals, I suppose.

L. C. J. Holt. Good my Lord, I will not do your Lordship any Wrong; I do not say that the Papers were taken about you, no nor the Seals; but only, that they lay upon the Ballast from whence the Pacquet was taken: And I say further, That these Seals are not denied by your Lordship to be your Seals; the one is your own Seal of your Coat of Arms which was taken at that Time, and so I do not your Lordship any Wrong, and by the Grace of God will not.

L. Preston. It is no Crime, I hope, to have Seals.

L. C. J. Holt. I do say, my Lord, the Papers were taken about *Ashton*, and not about your Lordship; but they lay upon the Ballast where the Seals were, and where your Lordship lay: But how far my Lord *Preston* is concerned in this Matter, is to be considered by you of the Jury by-and-by.

Now, Gentlemen, you have heard how earnest Mr. *Ashton* and Mr. *Elliot* were; one of them, to wit, *Elliot*, wish'd a Thunder-Bolt might strike the Boat under Water as they were coming back; and when they came through Bridge, he wish'd that *London-Bridge* had fallen upon them and knock'd them upon the Head.

L. Preston. But I hope that is not to lie upon me neither, for I did no such Thing.

L. C. J. Holt. No: But *Ashton* and *Elliot* did say these Things, and how the Case stands as to that in relation to your Lordship, is to be considered. It is proved, they afterwards gave Money to the Seamen, half a Crown apiece, to two of them, to say they were going to *Flanders*, and not to *France*.

Now, Gentlemen, hat my Lord was on Board this Vessel, that my Lord was under the Hatches, and that the Papers were taken in this manner, is beyond all Contradiction: So likewise that the Ship was hired for *France*; that my Lord took Water at *Surrey Stairs*, and was taken in this Vessel in that manner that you have heard.

The next Thing, Gentlemen, is about the Papers: I must tell you, though there are several of them that do seem mysterious, yet they are Papers that do shew a very great Design of Deposing the King and Queen, and a Purpose of altering the present Government.

But, Gentlemen, I will mention to you those Papers that are very plain, and leave you to consider what Construction is put upon those that are obscure. There is one Paper that seems to be Instructions and Heads for a Declaration, that is to say, That the King of *France* must not come with a Design to make an inire Conquest.

L. Preston. My Lord, with Submission to your Lordship, I hope you will please to remember and observe to the Jury, that Paper is not proved to be mine.

L. C. J. Holt. No, my Lord, I'll do your Lordship no Wrong, but I cannot speak all my Words at once.

L. Preston. I am sure you will not my Lord; but I beg leave to put your Lordship in Mind.

L. C. J. Holt. Well, then, Gentlemen, the Paper begins, *That the King's Declaration is to be formed in general Terms; that he will govern by the Laws; that they shall be the Rule of his Actions; that he will endeavour to settle Liberty of Conscience by a Law, and that whatsoever was done by him that gave any Occasion of Jealousy, shall be settled by Parliament. That the King hath given sufficient Proofs and Evidence of his not being willing to bring an Army of Strangers into the Kingdom, by refusing the Succours the King of France offered him, and that were even ready to be embarked upon the first Notice of the Prince of Orange's coming. That he brings such an Army only as is necessary for his own Defence, and securing such of his Loyal Subjects as should come to him; and that he will dismiss them as soon as he shall have rid the Nation of those Foreigners that had invaded us, and trampled upon the Laws.*

So that, Gentlemen, here is a Paper in this Pacquet, that has plainly laid open and proved the Design, and shews the Meaning of it was to seduce their Majesties Subjects from their Allegiance; it was to be in such general Terms, making general Promises, hoping thereby that People would be the more easily imposed upon to renounce their Allegiance to their present Majesties.

But, Gentlemen, the Declaration imports farther, that the Realm was to be invaded by Foreigners; and to palliate it, it is pretended, that Foreigners were only brought in to rid the Nation of Foreigners, and you know who are meant by that: So that this Project was only to colour a foreign Invasion; and this Declaration was to direct them how, and upon what Pretences they should invade this Kingdom.

Gentlemen, there is no manner of doubt but this is a treasonable Declaration, and if any Person had this in his Possession, and was going into *France* to carry, with an Intention there to make use of it, that is Treason, though it be couch'd under specious Pretences of restoring People to their Liberty: It was plainly a Design to invade *England* by a *French* Army.

L. Preston. My Lord, that Paper was not found about me.

L. C. J. Holt. No, no, my Lord, it was not; but, good my Lord, give me your Favour, I will certainly observe every Thing that is fitting; but I tell you I cannot do it all at once.

Then, Gentlemen, there is another Paper found in the Pacquet, that is said to be the Result of a Conference that was had between divers Lords and Gentlemen, as well *Tories* as *Whigs*, as they call them, to prove it possible to restore the late King by *French* Arms; and how this may be effected, were Proposals made: Yet still it was pretended to preserve the Protestant Religion, and the Civil Administration according to Law.

And that it might be brought to pass, the Credulous were to be imposed upon, and made to believe that the *French* King would not conquer *England* for himself; no, but he would conquer it for the late King; he would be at that vast Charge, that great Expence of Men and Arms to restore King *James*, and make no Profit of it himself.

And it was proposed how to seduce the People of *England* into a Belief of the *French* King's Kindness; he was to indulge the *English* Protestants in *France*, and let them have the Exercise of their own Religion there at their own Charges; and this to satisfy the *English* Protestants, that

that his Persecution of the *Hugonots* in *France*, was not out of Aversion to the Protestant Religion, but only because of their Antimonarchical and resisting Principles. So that they were proposing among themselves what they were to do to make the People believe the *French* King had no dangerous Design against our Religion and Liberties; and if they could meet with Persons to believe this, that was a probable Way thought upon in this Conference to get a great many Adherents to the *French* King, thereby this Invasion was to be facilitated, and the whole Project rendered more successful.

There is another thing, Gentlemen, in this Paper, and that is this; They complained of the Mismanagement of their Affairs at *St. Germain's*; that though they did earnestly desire the Restitution of the late King, yet there was always some foolish thing or other that came from *St. Germain's* that obstructed their Design.

What that foolish Thing is, I can't say, it does not appear; but whether it were not too great a Discovery of their Zeal for Popery, and the Advancement of the Popish Religion, is worth your Consideration.

And something is to be done for Satisfaction of the People as to that; and it is advised that there should be Seven or Nine, or such a Number of *English* Men, that should go over, and be received in Favour at *St. Germain's*, and they should be of the Council there, and these were to be Protestants; and that was to be a Colour and Pretence that the late King was reconciled to the Protestant Interest, because he chose Protestant Counsellors, and had received them at *St. Germain's*, and was advised by them.

This, says the Paper, will make the World believe, he is ours, and that we have gained him; which was to delude a great many of the People of *England*, that they should not be affrighted in case there should be such an Invasion of *England*, but invited rather, and encouraged to join with the *French* when they came.

But, Gentlemen, the three last Papers that have been produced to you, are Papers that do somewhat more nearly concern my Lord *Preston*.

The first Paper contains several Memorandums; It begins with *Lady D.* 2000 *l.* who that *Lady D.* is, I must leave it to you to imagine, tho' perhaps it may not be hard to guess.

It takes notice that the *English* and *Dutch* were like to join; and these Memorandums do also shew a Design and Purpose of something to be done for the Prevention of that Conjunction. They seem also to be Instructions to be made use of upon going into *France* to negotiate or transport some Matters of dangerous Consequence.

L. Preston. My Lord, I hope that your Lordship will observe, that these Memorandums are broken kind of Notes, incongruous and incoherent.

L. C. J. Holt. Ay, my Lord, they are so, they are but broken things; but I say still, they are Memorandums that were to be used for some Purpose: Now I leave it to the Jury to consider of the Matter of them: What can be plainer than what is there expressed? The *French* are to come in time, before the *Dutch* and the *English* join; they are to watch their Opportunity and come betimes, and they are to fight at the Chops of the Channel, and not to come so far as *Beachy*.

L. Preston. This is all but presumptive Evidence, my Lord.

L. C. J. Holt. I appeal to your Lordship if it was not in the Paper, and I appeal to the Memory of the Jury, whether I mis-repeat it or not.

The Paper mentions *Fennings* and *Strickland*, and *Trevannion*, that they were to come from *St. Malo's* in one Night; the King (meaning the late King) was not to be on board; and there were Ships to lie at *Newcastle*, to plague *London*: It is easy to understand what they meant. Among these Memorandums, it is made as a Remark, that the *London* Clergy are the worst. It gives an Account how *Portsmouth* was fortified, and *Gosport*, and what Number of Men were in them; and of the State and Condition of our Navy; what Rates our Ships were, and how many, and who were to be the Commanders.

L. Preston. I beg your Lordship to observe this is not Treason.

L. C. J. Holt. I shall tell you that, my Lord, by-and-by; I am now stating the Evidence.

Gentlemen, my Lord *Preston* insists upon it, that these Papers were not found about him: It is true, they were not, but it does not therefore follow, that they were none of his Papers: But you have three Witnesses, *Mr. Townsend*, *Mr. Bland*, and *Mr. Warr*, produced to prove these Papers to be my Lord's Hand; *Mr. Townsend* says, he was acquainted pretty well with my Lord *Preston's* Hand; he was one of his Clerks in the Office of the Wardrobe; he says, he has seen my Lord write several times, and does believe the Writing to be his Hand; and to the same Purpose says *Bland*; and *Mr. Warr* swears to one of the Papers, that he believes it to be my Lord *Preston's* Hand.

L. Preston. I hope your Lordship will please to observe to the Jury, that this is only a Proof of Similitude of Hands: no-body see me write them.

L. C. J. Holt. They only say they do believe it to be your Hand; no-body says they saw you write them; if I omit any thing, pray tell me when I have done.

Gentlemen, there are other Papers which have been produced and read, that are writ in Canting Terms, which yet plainly shew the general Design; they tell the Party, that Council are of Opinion, he has a very good Title; they hope he will appear himself, and if the Cause be well solicited, it may come to a Hearing before the End of *Easter Term*.

There is another Matter mentioned in another Letter which is under the Disguise of Trade, That the Goods must come before the first of *March*. And another of them says, that unless the Copper and the Linnen come before the Tenth of *March*, they should lose this Summer's Profit.

Gentlemen, what can be the Meaning of all this?

L. Preston. I know not indeed, my Lord.

L. C. J. Holt. In another of the Papers it is said, 'Tis thought our Fleet will be ready by *March* or *April*, but they believe not till *June*.

Truly, Gentlemen, I have not been able to take Particulars of every Letter, but I must leave it to your Observation; only there is one of them that makes Mention of acquainting my Lord with the Condition of the Writer, and Direction is therein given to speak to the Bearer; and what other Lord was there, but he, in the Company?

L. Preston.

L. Preston. I desire to observe, my Lord, that I was not the Bearer.

L. C. J. Holt. Truly, my Lord, I can't tell who was meant; I must leave it to the Jury to judge of that; but there was no other Lord in that Company.

L. Preston. I give your Lordship Thanks for observing that it was not proved that they were taken upon me before; but I beg your Pardon for interrupting of your Lordship.

L. C. J. Holt. Interrupt me as much as you please, if I do not observe right; I will assure you I will do you no Wrong willingly.

Now, Gentlemen, the Question is, in the first place, Whether this be Treason? and I told you before, without Question, if any Persons do go into *France* to negotiate such a Design as this, or do purpose to go into *France*, and do any Act in order thereunto, that is High Treason; and these Letters do import High Treason as great as can be committed; a Treason against the King and Queen, a Design to invade the Realm, to subvert the Government, to restore another Prince to the Throne by the Assistance of Foreign Force.

There was a Design to delude and impose upon a great many People; and those that would not be deluded into a Belief by these fair Pretensions of Friendship, they were to be subdued by an Army of Foreigners.

Then, Gentlemen, the next Question will be, how my Lord *Preston* is affected by this Evidence, and whether you have sufficient Proof from what has been offered, to satisfy you, that he is guilty of this Treason or no?

First, my Lord tells you, there has not been a clear Proof that these are the Papers that were taken; for, (saith he) they have been conveyed from Hand to Hand, and therefore possibly there might be some Alteration made in them. You, Gentlemen, are to consider, notwithstanding this Objection, whether the Identity of the Papers be not proved.

Captain *Billop* tells you, he took them, and in what Manner; and afterwards carried them to my Lord *Nottingham*, who laid them by for a little while upon his Table, and Captain *Billop* withdrew (that is part of my Lord's Objection) while my Lord *Nottingham* examined my Lord *Preston*: after that, my Lord *Nottingham* called in *Billop* again, and *Billop* swears the Pacquet was not opened, but remained intire in such manner as they were delivered to my Lord *Nottingham*; and so says my Lord *Nottingham*. Then Captain *Billop* saw my Lord *Nottingham* open it at that time, and he saw all these Papers every one put up again by my Lord *Nottingham*; so that he could not be deceived; and my Lord *Nottingham* delivered them to him, and he carried them to my Lord President, all sealed up with my Lord *Nottingham's* Seal: and my Lord President tells you he opened them, and brought them to the King, and had them back from the King; but they were never out of his Sight while the King read some of them, but he took them all, and brought them to the Cabinet Council, where my Lord *Sidney* received all these Papers that have been read, and marked them. You have my Lord *Sidney's* Oath that these are the Papers he had from my Lord President; you have my Lord President's Oath that he had them from *Billop*, sealed with my Lord *Nottingham's* Seal; you

have my Lord *Nottingham's* Oath that he had them from *Billop*; and *Billop* swears that they were taken in the Smack.

So that it is plain, if you believe this Evidence, that they are the same Papers. Besides, as to several of them, *Billop* marked them, and swears directly to them. If you believe these Witnesses, as you have no Reason, I think, to the contrary; it is plainly proved these are the very Papers which were taken from the Bosom of *Afston*, and taken up by him from under the Quarter Hatches in the Smack.

L. Preston. I beg your Lordship's Pardon for one thing.

L. C. J. Holt. My Lord, what say you, pray? Say what you will.

L. Preston. With humble Submission, there is one thing that I think the Jury ought to take Notice of, That when the Papers were sent from Mr. *Bridgman* to my Lord *Sidney*, they were sent by a Messenger.

L. C. J. Holt. My Lord, you are mistaken as to that Objection, for my Lord *Sidney* did not send them to Mr. *Bridgman* by a Messenger, but he delivered them with his own Hand, and after he had set his own Mark upon them; and Mr. *Bridgman* says they were never out of his Sight, he copied them all but two or three, the other Mr. *Poulney* copied in his Presence, and so he swears he re-delivered them to my Lord *Sidney*.

L. Preston. With humble Submission, my Lord, if I remember right, they were in a third Hand.

L. C. J. Holt. Never, never.

L. Preston. Did not my Lord *Sidney* say so, or Mr. *Bridgman*?

L. C. J. Holt. No, neither my Lord *Sidney*, nor Mr. *Bridgman* said so; I suppose the Jury are apprehensive of the Matter; I would not mislead them, I'll assure you, nor do your Lordship any Manner of Injury in the World.

L. Preston. No, my Lord, I see it well enough that your Lordship would not; I am for my Life, and beg your Lordship's Pardon for interrupting of you.

L. C. J. Holt. Gentlemen, the next thing is to consider, whether my Lord *Preston* be answerable for these Papers, or a Party in this Treason.

First, Gentlemen, I would have you to consider, that there was the hiring of a Vessel for *France*: It is true, my Lord *Preston* was not present at the Bargain; but you observe, that my Lord *Preston*, his Servant, *Afston*, and *Elliot* took Water at *Surrey-Stairs*, on purpose to go on board that Smack.

Now, Gentlemen, whether or no you can intend any other Ways than that my Lord *Preston* was privy in the Hiring of this Vessel, though he was not present at the hiring of it; for how should my Lord *Preston* be ready to take Water with them at *Surrey-Stairs*? Can you imagine my Lord came there by chance, and took a sudden Resolution? if you can imagine that he came only to go on Ship-board, without knowing the previous Design, truly you imagine a very great thing for my Lord's Advantage.

It is plain he went voluntarily, without Compulsion; truly, I think the Evidence is very strong to induce you to believe he was privy to this Design, and that he did know of hiring the Vessel.

L. Preston. I hope your Lordship will observe, at the same Time, that I was never seen before we took Boat.

L. C. J. Holt. My Lord, I have observed it, and I lay that Weight upon the Evidence that I think it will naturally bear, and no more; and leave it to the Jury to consider, whether your Lordship was privy to the Design or no, when they weigh the Circumstances of the Evidence together.

L. Preston. I hope I shall not be condemned upon Presumption and Argument.

L. C. J. Holt. What Weight the Evidence has they will consider.

And then, Gentlemen, there is another thing that I would observe; Why should my Lord *Preston*, a Noble Man, a Person of his Honour and Quality, put himself in such a Place as he was found in, and that twice? It must sure be out of an Apprehension of some Danger. As for the Seamen, they were secure enough; they were not frightened, because they thought they were protected, and my Lord *Preston* knew he was not liable to be prest; the Master of the Vessel tells you they were fearful, and therefore hid themselves in a Place they could not stand in, nor sit in, there was the Gravel and Ballast, it was uneasy to them, dangerous to their Health to be there.

Gentlemen, why do Men avoid the Light and put themselves under Covert, unless they have some Evil Design? Persons that are innocent seek not Obscurity.

The Seals were found there, and my Lord does not deny they were his Seals.

L. Preston. I do not deny that: I hope it is no Crime to have such Seals.

L. C. J. Holt. Ay but, says my Lord, that does not affect — because the Papers were not found about me, but were found about *Ash-ton*. Gentlemen, if you can imagine my Lord *Preston* had a different Design from the rest of the Company that were with him, then you may acquit my Lord, and find him Not Guilty. But it is left to you to consider whether he had not the same Design with them. Besides there's Mention made in one of the Letters, *my Lord*, and there was no other Lord but he; and here are Papers prov'd to be my Lord's own Hand, containing several of the Matters of which he stands indicted, and he would have had the Captain to have disposed of the Papers.

Now, Gentlemen, what Account does my Lord give you were he was going? It seems they did pretend at the Time they were taken, and they would have had the Master of the Vessel said, that their Design was for *Flanders*; but the Witnesses tell you positively, That the Vessel was hired for *France*.

Truly, Gentlemen, I must leave the Matter to your Consideration whether my Lord be guilty of this Design or Not Guilty.

There is another thing that my Lord has urged (for I would not willingly omit any thing material on the one Side or the other) he says his Indictment is laid in the County of *Middlesex*, but the Papers were not taken there, the Ship they went on Board lay at Anchor in *Surrey*; and when they were taken, it was in the County of *Kent*, and so there is no Proof of Treason in *Middlesex*.

Ay, but Gentlemen, give me leave to tell you, if you are satisfied upon this Evidence, that my Lord was privy to this Design, contained in these Papers, and was going with them into

France, there to excite an Invasion of this Kingdom, to depose the King and Queen, and make use of the Papers to that End, then every Step he took, in order to it, is High-Treason, wherever he went; his taking Water at *Surrey-stairs* in the County of *Middlesex*, will be as much High-Treason, as the going a Ship-board in *Surrey*, or being found on Ship-board in *Kent*, where the Papers were taken.

Gentlemen, I have failed of recollecting several of the Particulars of the Evidence, because they are many; and you will not depend upon my Recollection of Things so very incoherent as some Parts of the Evidence in the Papers are, but upon your own Notes and Observations.

If you do think, having heard this Evidence, That my Lord was not concerned in this Matter, that my Lord had no Design to go into *France* with these Papers, but that he was an utter Stranger to all these Things, then you are to Acquit my Lord. But if you believe my Lord was privy to, and knew of the Hiring of this Vessel, and that he went to carry on the Design contained in these Papers; and that he wrote some of these Letters, and with the others he was acquainted, then you are to find him Guilty.

L. C. J. Pollexfen. My Lord, if you please, I would observe one thing to the Jury.

L. C. J. Holt. Ay, by all means, my Lord.

L. C. J. Pollexfen. Gentlemen of the Jury, I shall say but a few Words to you, because indeed my Lord has summ'd up the Evidence very fully, for Matter of Law: I am fully of Opinion there never was a more black nor horrible Treason than is in this Plot that is now discovered; for I think *Englishmen* have no greater Enemies than the *French* and the *Papists*, and you see this is a Plot to bring in both; and therefore I think there was never any thing of greater Consequence to the Government and the Nation, than to have this Plot detected and punished; tho' perhaps never any thing was more improbable than this same Plot, that it should ever take Effect, whatsoever they promised to themselves, and their Desire of having it effected, might persuade them to the contrary.

But, Gentlemen, the thing that I would mention about the Matter before you now, is this; Here are three Papers, that by three several Witnesses, acquainted with my Lord's Hand-writing, are testified, as they believe, to be his Hand-writing; if so, then there is an End of all, for therein is a horrid deal of Treason contained. If these Instructions, these Memorandums, these Heads that were written down, were my Lord's, and he did intend to go with these in a Voyage towards *France*, that will be sufficient of it self, if there were nothing else in the Case, to maintain this Indictment.

But, Gentlemen, you have in the rest of the Papers that were taken, A great Character of the Bearer; that the Bearer had done great Things; that the Bearer could inform them fully of every thing; and there should be full and intire Confidence put in the Bearer, and a great many such Phrases.

But, says my Lord, I was not the Bearer, it was Mr. *Ash-ton* that the Papers were found about; it does not appear directly who the Bearer was; and they were not found about me.

Now, Gentlemen, pray let us look a little how this Evidence stands: Pray where was this

Bundle found? even upon the Gravel, where my Lord *Preston* and Mr. *Ashton* lay; there was it found, and my Lord's own Seal with it.

How, in the Name of God, came my Lord's Seals to be found with other Peoples Papers, if they did belong to any body else? How came they together in that Place? It may be, he had a mind to leave his Seals behind him, because they would discover his Quality. But why should my Lord *Preston* have all this Fear upon him? Why should two Men go and take a Ship for themselves and two others; and when they came to take Boat, take in my Lord and his Man, if they were not the two others that were designed? and this to be done at Night in the Dark? Why should my Lord be under such terrible Apprehensions, as to creep into a Hole so unfit for one of his Quality?

Why do you not hear from my Lord some good Account from what Occasion my Lord and his Man were going to *France*? Or whither else my Lord was really going? for some where or other it was plain he was going.

Gentlemen, no Man goes into an Enemy's Country without some Licence, unless he go upon some ill Design: Fear seldom is without some Guilt; and there appears, throughout the whole Management of the Story, that there was a great deal of Fear upon these Gentlemen.

Besides, afterwards, when he is taken, and the Letters taken with him in the same Company, you hear what Endeavours there were to suppress the Truth, even by my Lord's desiring to have the Pacquet disposed of; and my Lord's Man gave one of the Seamen half a Crown to say they were going to *Flanders*, not to *France*. I suppose the Man knew how unfit it was to be known that they were going to *France*: And my Lord's two Companions spared for no Pains to get the Pacquet thrown over-board; tho' all that my Lord said was what great Kindness he would do him when it lay in his Power, if he would dispose of the Pacquet; I suppose that is very easily intelligible.

Gentlemen, there is one thing which is mentioned in one of the particular Letters, that I desire particularly to observe to you, and that is all I shall say to you: Here is a Letter in my Hand that in divers Places has somewhat remarkable; it says, *Your Daughter and I must starve, if this Government can make us: That the Party did not repine at all for having lost all for your Sake, which your Favour had bestowed.* And in another Place this Letter doth say, *Your Daughter grows very tall, and very pretty, as I am told.* But that which I chiefly mention it for, is, it's twice mentioned, *My Lord will tell you all my Condition, how I have been used; and I have told my Lord my Condition: what I desire of you, he thinks very moderate.*

And pray consider and remember, that the first Article of my Lord's Paper, that is taken to be under my Lord's own Hand, there is Two thousand Pounds to the Lady *D*.

Now if any Body should put these together, do they lack any great Interpreter for? for my part I leave them to you.

Then in another Place, towards the End of the Letter, it is said, *Pray, Sir, ask my Lord how I have been used.*

Now this Letter being thus taken, and there is never a one of the rest that was a Lord, do

you think any of the rest was meant? I must leave it to you.

If my Lord *Preston* had produced any Testimony to prove his own good Carriage and Behaviour towards the present Government, it had been very much for his Advantage, and might have had great Weight with you; but when Things appear only in this manner as they do now, I must leave it to you.

Gentlemen, 'tis a great Matter, and of great Moment; if those that conspire against the Kingdom, against the Protestant Religion, and against the present Government, may do it with Impunity, it will be worth the Considering what the Consequence of that may be. Your own Consciences require you to do Right and Justice on both Sides; and if you are satisfied he is Not Guilty, you will find him so; if you are satisfied that he is Guilty, you will find him so.

L. Preston. My Lord, may I have the Liberty to say any thing before the Jury go out?

L. C. J. Holt. Your Lordship should have said what you had to say before: 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 we will dispense with it. What has your Lordship to say?

L. Preston. My Lord, I humbly thank your Lordship; I am not acquainted with such Proceedings.

L. C. J. Holt. My Lord, you know I permitted your Lordship to interrupt me as much as you wou'd, which was never done before in any such Case.

L. C. J. Pollexfen. It is contrary to the Course of the Court: But yet if you have any thing to say to the Court or the Jury, for this once we permit it.

L. Preston. Gentlemen of the Jury —

L. C. J. Holt. My Lord, what you have to say, pray direct yourself to the Court, that we may hear what it is.

L. Preston. My Lord, I only desire the Jury may be informed, that I am a Protestant, that I was baptized in the Religion of the Church of *England*, and have always lived in it, and hope to die in it. My Lord, 'tis true, things have been urged with Severity against me that are a little hard, in making that, which I hope will amount to but a Presumption, to be a Proof; 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 your Lordship observes, That that Letter is not directed to any body, and that is full of Cant as well as all the rest; Why should I be supposed to be the Bearer any more than either of the others, and they were found about one of them? But, my Lord, for the Reason of my going beyond Sea, it was this; I designed to go to *Flanders*, or any Place I could be driven to, and that ought not to be wondred at; for really 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, with a Design to live a retired Life, was imprisoned twice in the *Tower*, and proclaimed a Traitor in every Market Town, without any Indictment; and my Imprisonment tended greatly to the impairing my Health and my Fortune; all this made me very uneasy here: and, my Lord, I went under

under a fixed Resolution to go to *Flanders*, or any Place where I thought I could be quiet.

L. C. J. Holt. My Lord, your Lordship should have said all these Things before, for it is not the Course to reply upon the Court; if you had had any Thing to say, you know we heard you out of Course, and I let you interrupt me as much as you did think fit, though that has not been allowed at any Time before. But, my Lord, pray let me say one Thing more: Suppose your Lordship did think yourself hardly used, though I know not any Reason you had to think so: yet your Lordship must remember, it was in a Time of Danger that your Lordship was taken up before, and you had shewed your Dissatisfaction with the present Government, and therefore they were not to be blamed if they secured themselves against you; but if you had a Mind to retire into the Country, or to go Abroad, was *France* the only Country you could choose? A known declared Enemy's Country, at open War with the Government?

L. Preston. My Lord, I beg your Lordship's Pardon, if I give any Offence.

L. C. J. Holt. No, my Lord, you give me no Offence at all; but your Lordship is not right in the Course of Proceedings; I acquaint you with it not by Way of Reproof, but by Way of Information.

L. Preston. Then I hope the Gentlemen of the Jury will consider, that all that is alledged against me is but Presumption; my Life and Fortune, my Posterity and Reputation, are all at Stake; I leave all to the Jury's Consideration, and the God of Heaven direct them.

L. C. J. Holt. If you go on thus to reflect upon the Court, you will make the Court reflect upon you. The Jury hear how the Evidence has been stated; I think it has been done very impartially, and without any Severity to you: Why should you think we would press the Evidence further than it ought to go against you? You are a Stranger to most of us, and I am sure we do not desire your Life; but still we must take Care that Justice be done to the Government and the Kingdom, as well as to any particular Person; and 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 leave to the Jury's Consideration.

Then the Jury withdrew, to consider of the Evidence, and the Court adjourned for a little while, and returned in half an Hour; and the Jury came in, and were called over, and appeared.

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

Jury. Yes.

Cl. of Ar. Who shall say for you?

Jury. Our Foreman.

Cl. of Ar. Sir Richard Grabme, hold up your Hand (*which he did*) Look upon the Prisoner. How say you? Is he guilty of the Felony and High Treason whereof he stands indicted, or not guilty?

Foreman. Guilty.

Cl. of Ar. What Goods and Chattles had he?

Foreman. None at all that we know of.

Then the Verdict was recorded.

V O L. IV.

L. C. J. Pollexfen. I think, truly, Gentlemen, you have done according to your Evidence; and though it be a hard Case upon particular Men that have brought themselves into these Inconveniences, yet it is necessary Justice should have its due Course, or else there is no longer living for any Man in any Society or Government.

Then the Prisoner was carried back to Newgate, and the Court Adjourned till Monday Morning following at Seven o'Clock.

Die Lunæ, XIX Januarii, 1690.

The Court being sate, the Jury was called over, and the Appearance of those who answered Recorded. Then Mr. Ashton and Mr. Elliot were brought to the Bar; but Mr. Elliot was ordered to be carried back to Newgate, the King's Council resolving to try Mr. Ashton by himself.

JOHAN ASHTON, hold up thy Hand, [*Which he did.*] Those Men that you shall hear called, and Personally appear, are to pass between our Sovereign Lord and Lady our King and Queen, and You, upon your Trial of your Life and Death. If therefore you will challenge them, or any of them, your Time is to speak as they come to the Book to be sworn, and before they be sworn.

Mr. Ashton. Pray stay a little.

L. C. J. Holt. What say you, Mr. Ashton?

Mr. Ashton. My Lord, I humbly desire your Lordship will allow me the Benefit of Pen, Ink, and Paper.

L. C. J. Holt. Pray let him have Pen, Ink, and Paper.

Mr. Ashton. And likewise that you would give my Solicitor leave to be as near me as possibly he can, only to refresh my Memory, if I should forget any thing.

L. C. J. Holt. That is a Thing you cannot of Right demand, the other of Pen, Ink, and Paper, you may.

Mr. Ashton. My Lord, I shall acknowledge it as a very great Favour.

L. C. J. Holt. That is an Innovation that ought not to be; the Court cannot allow it.

Mr. Ashton. I acknowledge it a Favour, but if the Court thinks it not fit to allow it, whatsoever your Lordship shall order I readily submit to.

L. C. J. Holt. You shall have Pen, Ink, and Paper; and what is fit for the Court to do they will do it.

L. C. Baron. If the Witnesses say any thing that you do not hear, you must speak to the Court, and you shall have them say it over again.

Pen, Ink, and Paper was given to the Prisoner.

Cl. of Ar. Sir William Hedges, Knight.

(*He appeared.*)

Mr. Ashton. My Lord, I would not trouble your Lordship and myself with unnecessary Challenges; I intend to put myself with an intire Dependence upon the first Twelve Men that appear, be they who they will.

M m m 2

L. C. J.

L. C. J. Holt. What you please for that matter, you have your own Choice.

Mr. Ashton. Whoever they are, I submit to them; I know them not.

Cl. of Arr. Swear Sir *William Hedges.*
(Which was done.)

And so were the Eleven next succeeding in the Pannel; and the Names of the Twelve sworn follow.

Sir *William Hedges*, Knt.
John Wolstenholm, Esq;
James Boddington, Esq;
Thomas Johnson, Esq;
Ralph Bucknall, Esq;
Lucy Knightly, Esq;
Thomas Cutbbert, Esq;
John Herbert, Esq;
John Tully, Esq;
Thomas Smith, Esq;
William Withers, Esq; and
Daniel Thomas, Esq;

Then the Jury were numbered, and Proclamation made for Information and Evidence in the usual Manner.

Mr. Ashton. Gentlemen of the Jury, if you desire Pen, Ink, and Paper, I hope the Court will take care to provide them for you.

L. C. J. Holt. Ay, ay, let the Gentlemen of the Jury have Pen, Ink, and Paper.
(Which was done.)

Cl. of Arr. *John Ashton*, Hold up thy Hand.
(Which he did.)

Gentlemen, you that are sworn, look upon the Prisoner, and hearken to his Cause: He stands indicted by the Name of *John Ashton*, late of the Parish of *St. Paul's Covent-Garden*, in the County of *Middlesex*, Gent. For that he, together with Sir *Richard Grabme*, late of the Parish of *St Ann*, in the Liberty of *Westminster*, Baronet, who stands convicted of High Treason, and *Edmund Elliot*, late of the Parish of *St. James*, in the said Liberty, Gent. For that they, as false Traytors, &c. (Prout in the Indictment, *mutatis mutandis*) and against the Form of the Statute in that Case made and provided. Upon this Indictment he has been Arraigned, and thereunto hath pleaded *Not Guilty*, and for his Trial hath put himself upon God and the Country, which Country you are; your Charge is, to enquire whether he be guilty of the Felony and High Treason whereof he stands indicted, or not Guilty; if you find him Guilty, you are to enquire what Goods or Chattels, Lands or Tenements he had at the Time of the Felony and High Treason committed, or at any Time since; if you find him Not Guilty, you are to enquire whether he fled for it; if you find that he fled for it, you are to enquire of his Goods and Chattels as if you had found him Guilty; if you find him not Guilty, nor that he did fly for it, you are to say so, and no more, and hear your Evidence.

Mr. Knapp. May it please your Lordship, and you Gentlemen of the Jury; This is an Indictment of High Treason against *John Ashton*, the Prisoner at the Bar, and the Indictment, Gentlemen, charges him, That he, as a false Traytor against their present Majesties King *William* and Queen *Mary*, his Supreme and Natural Lord and Lady, not weighing the Duty of his Allegiance, did, upon the Twenty-ninth of *December* last past, together with Sir *Richard Grabme*, who stands convicted, and one *Edmund Elliot*, and

divers other ill disposed Persons, unknown to the Jury, did conspire, imagine, and intend to depose and deprive the King and Queen, and to bring them to Death and Destruction, and to subvert and alter the Government; and to cause War and Rebellion within this Kingdom against their Majesties; and to bring these Intentions and Purposes to pass, the Prisoner, with the rest of them, did prepare divers Notes, Papers, Letters, and Memorandums in Writing, which were to instruct the *French King*, and other Enemies of the King and Queen, of the Number of their Majesties Men of War, how they were mann'd, and the Names of the Commanders of several of them, and to inform them how the Castles and Forts of *Portsmouth*, *Southsea*, and *Gosport* were fortified, and how they might be surprized by the King's Enemies, and of the Times, Ways and Means how they might invade the Kingdom, in order to depose the King and Queen; and to procure and incite such an Invasion; and further to bring these Purposes to pass, the Prisoner, and the other Traytors, did secretly conceal, and detain in their Custody, several Bills of Exchange, for the Payment of Money to the King's Enemies, and the several Letters, Notes and Memorandums before mentioned, which were for the Purposes I before opened to you; and further, to bring these Purposes and treasonable Intentions to pass, they did for One Hundred Pounds hire and prepare a Ship, which was to carry them secretly out of this Kingdom into *France*, with an Intent there to deliver these Instructions, and Memorandums, and Bills of Exchange into the Hands of their Majesties Enemies; and did hire a Boat to carry them to the Ship, and did enter into it at *St. Clement Danes*, within your County, and rowed to the Ship, and went on board the Ship, and there with the Bills of Exchange, Notes, and Memorandums, they set sail to go to *France*, in order to deliver them to the *French King*, and other Enemies of the King and Queen; and the Indictment doth further set forth, that there hath, and still is, a War between the *French King*, and our King and Queen, and that he and his Subjects are Enemies to the King and Queen and their Subjects; and that during this War, the Prisoner together with the rest that were before named, were adhering to the King and Queen's Enemies in this War; and in pursuance thereof, did prepare such Letters and Instructions before opened, and had, and concealed in their Custody, and hired a Ship and a Boat, and went into the Ship, and set sail in order to go for *France*, to aid and assist the King's Enemies there with Money, Intelligence, and Counsel; and this is laid to be against the Duty of his Allegiance, against the Peace of the King and Queen, their Crown and Dignity, and against the Form of the Statute in that Case made and provided. To this he hath pleaded *Not Guilty*; if we prove him Guilty, you are to find him Guilty.

Mr. Serj. Thompson. May it please your Lordship, and you Gentlemen of the Jury, The Prisoner at the Bar stands indicted of a very heinous Offence, no less than High Treason, the greatest Offence that can be committed against any Human Law. You have heard the Particulars in the Indictment read. I will not trouble you with any Repetition, but go to open the Evidence according to the Steps that are obvious in the Case.
You

You have heard in general, the Design was to depose this King and Queen, which the Law expounds to be to bring them to Death and Destruction: You have heard it was to alter the Government, and cause a Rebellion in the Kingdom, and to bring in a foreign Power; and these are laid to be the Heads of the Offences that the Prisoner stands charged with.

Gentlemen, the first Step that was made in this Matter was by the Prisoner at the Bar; for there was one Mr. *Burdett*, which it seems had been one of his Acquaintance, and had undertaken to bring him acquainted with a Person that could furnish him with a Ship; and in order to that, one Mrs. *Pratt*, that had the Management of the Smack which belonged to her Husband, she, by *Burdett's* Means was brought to *Burdett's* House, where she met Mr. *Ashton*, the Prisoner at the Bar, and they had some Treaties about the Hiring of a Ship; the Purpose declared by the Prisoner then, was to hire a Ship to go to any Part of *France*, and he would give a considerable Reward for it; he said it was for himself and Three more. They did not come to any Conclusion about the Ship, but there was an Appointment made, to have the Master of the Ship to meet with them at the *Wonder* Tavern, in *Ludgate-street*; and in order to that, *Paseley*, that is the Master, and the Woman came there, and met with Mr. *Ashton*; but because Mr. *Burdett* was not there, they came only to this Proposal, One Hundred and Fifty Pounds was demanded for the Hire of this Vessel; but there being no Conclusion then made, they thought it better to do it at *Burdett's* House, and about a Day after they came to Mr. *Burdett's*, and then it happen'd that *Elliot*, one of the Persons that is indicted, but not one before you, came thither too; and at that Time it was agreed to give One Hundred Pounds for the Hire of the Ship. Ninety-three Guineas were deposited in Mrs. *Burdett's* Hands; and there was a Token pass betwixt them by the breaking of a Six-pence, one Part whereof was to lie with Mr. *Ashton*, and the other with Mrs. *Burdett*; and whenever the Master of the Vessel brought back the broken Piece of Six-pence that Mr. *Ashton* had, then she was to pay the Money, that being the Sign that they had attained their Ends, and were safely landed in *France*.

The next Step they take is this, they appoint to meet at the *Seven Stars* in *Covent-Garden*, thither the Master of the Vessel and the Woman were to come, and that was near the Time, that very Day that they designed to go down; and there was Mr. *Ashton* and Mr. *Elliott*, but the other Person did not appear as yet; there the Seamen were ordered to go along with them, and thence they went down to the Water-side, to *Surrey-Stairs*, and the Waterman was called, and in the mean time came my Lord *Preston* and his Man to them, and they four did go in that Boat, by the Direction of the Master, and were carried on Board his Smack.

After they came on Board (for I would note the particular Circumstances) they were very apprehensive of Danger, for they knew what they went about, their own Guilt gave them Reason of Fear, and when they came near a Man of War, which lay at Anchor in *Long-Reach*, in the River, they desired the Master to hide them, that they might be safe from any Search, and they were hid and put close under the Hatches for some time; afterwards, when they came to another Place of Danger, it was by the *Block-*

Houses at *Gravesend* (as they apprehended) there they desired to be hid again; and so they were put in that Place, where they were in very difficult Circumstances under the Hatches, and there they remained till a Pinnace, that had been sent to inquire after them, came and boarded this same Vessel.

Upon its boarding of them, the Captain made a Search, and found these Gentlemen, my Lord *Preston*, Mr. *Ashton*, and Mr. *Elliot*, and I suppose his Man also, all hid under the Hatches.

Then the next Thing which is observable, Gentlemen, and the great Matter that will shew where the Treason was, is this, There was a Bundle of Papers that was on Board, ready prepared, if they had not been surprized, but could have had an Opportunity for it, to have been cast over-board, and there was Lead fixed to it, to have sunk it, and Mr. *Ashton*, the Prisoner at the Bar, was the Person that concealed this Bundle of Papers, betwixt his Body and his Coat, and from thence it was taken by the Captain that took them.

When they were so taken, the Captain, according to his Duty, was bringing the Prisoners to *Whiteball*, they desired to go on Shore at *Gravesend*, but the Captain did not think that so fit, but carried them on Board the *George Frigate*, and then you will hear these Gentlemen did fall into a Treaty with the Captain to suppress these Papers; and one Instance I remember they did tell him, that since there were a Parcel of Papers that he had taken out of my Lord *Preston's* Pocket, he might take off the Lead and fix it to those Papers, and sink the others; and what should he have for it? They promised him great Rewards, they told him he might be a great Man, he had an Opportunity of making his Fortune; and when that would not do, they used many Threatnings to him, all which will appear in the several Circumstances that the Witnesses will tell you of.

I come, Gentlemen, in the last Place to shew you, That all the whole Conspiracy, all this Treason, did lie hid under this Bundle of Papers that were taken from Mr. *Ashton*, and so he might well be afraid of having them opened, for there you will find a formed Design to alter this Government by a *French* Power and Assistance; and they contain so many Particulars, that in regard I would not do the King's Evidence Injury on the one hand, nor the Prisoner on the other, I will forbear repeating the particular Instances.

Gentlemen, you will have all the Letters and Papers read; but in the General, I must needs say, you will find it manifest, that there is a black and wicked Conspiracy to introduce a foreign Power to establish the Protestant Religion, and that by a Popish Interest, and to settle our Laws, Liberties, and Properties, by a *French* Army. And let them pretend what they will, for the Protestant Religion, when you hear these Papers read, no-body will imagine it was to any other Purpose (if the Plot had taken Effect) but to have what Religion, what Laws the *French* King had pleased to impose upon us.

If the Prisoner be Guilty, Gentlemen, of these Matters, I know you will do your Duty; but if he be not Guilty, God forbid that you should find him Guilty.

L. C. J. Holt. Call your Witnesses, Brother.

Mr. Serj. Thompson. We begin with Mrs. *Pratt*.

She was sworn.

Sir *W. Wil.* Look you, Mrs. *Pratt*, here is another Gentleman at the Bar to be tried, against whom you are called as a Witness.

Mrs. *Pratt.* Yes, my Lord.

Sir *W. Wil.* Pray hear what we ask you. Pray do you give the Court and the Jury an Account, what Treaty you had with that Gentleman, about a Vessel to go to *France*, and what was done in it?

Mrs. *Pratt.* If it please you, my Lord, I was sent for to Mr. *Burdett's* House in *Queen-Street* by *Cheapside*, to know whether he could have a Smack to go for *France*; I told him yes, I could help him to one; he told me, there were two or three Gentlemen bound for *France*, as Merchants to fetch Silk, and I was at Mr. *Burdett's* two or three Times, and at last Mr. *Ashton* met me there.

L. C. J. *Holt.* Look upon the Gentleman, Is that he?

Mrs. *Pratt.* Yes, that is the Gentleman, and he met me there, and meeting with Mr. *Ashton*, he hired the Vessel; but first of all, he desired us to meet at the *Dog Tavern* upon *Ludgate-Hill*, to make the Bargain, and we did meet there, and were there about an Hour, or an Hour and a half, and Mr. *Burdett* did not come; and the next Morning, Mr. *Ashton* desired me to meet him at Mr. *Burdett's* again; and the next Morning I met at Mr. *Burdett's*, and there we made the Bargain for 100 *l.* and there was a Six-pence broke in two Pieces.

Mr. *Serj. Tremain.* Was the Hundred Pound paid?

Mrs. *Pratt.* Yes, but we agreed on the *Tuesday* Morning, and there was a Six-pence broken in two, and Mr. *Ashton* had both the Six-pences in his Hand, and the *Tuesday* Night the Hundred Pound was paid at Mrs. *Burdett's*.

Mr. *Sol. Gen.* Who was by?

Mrs. *Pratt.* There was one Mr. *Elliot*, and the Master of the Smack, and Mrs. *Burdett*.

Mr. *Serj. Tremain.* Did they pay the Money in Gold or Silver?

Mrs. *Pratt.* This Gentleman, Mr. *Ashton*, told the Money, there was 93 Guineas and a Six-pence, and Mr. *Ashton* gave one half of the broken Six-pence with the 93 Guineas, to Mrs. *Burdett*; and when the Master of the Vessel brought the other Half of the Six-pence, or I, either of us, we were to have the 100 *l.*

Sir *W. Wil.* Pray to what Place did they hire the Ship to go?

Mrs. *Pratt.* To *France*.

Sir *W. Wil.* Who hired the Ship?

Mrs. *Pratt.* That Gentleman.

Sir *W. Wil.* Who paid the Money?

Mrs. *Pratt.* That Gentleman, Mr. *Ashton*.

Sir *W. Wil.* To what Hand was the Money paid?

Mrs. *Pratt.* It was paid in Mrs. *Burdett's* Bed-Chamber, into her Hand.

Sir *W. Wil.* Who broke the Sixpence?

Mrs. *Pratt.* Mr. *Ashton*, that Day the Bargain was made.

Sir *W. Wil.* Who carried it away?

Mrs. *Pratt.* When the Money was paid, Mr. *Ashton* had one, Mrs. *Burdett* had the other Part.

Mr. *Serj. Tremain.* To which Part of *France* were you hired to go?

Mrs. *Pratt.* To any Part where they could touch.

Mr. *Serj. Tremain.* Pray did they give you any Note about any Thing?

Mrs. *Pratt.* Yes, they gave me one Note to meet at the *Dog Tavern*, and another to meet at the *Seven-Stars* in *Covent-Garden*.

Mr. *Serj. Tremain.* Who gave you the Notes?

Mrs. *Pratt.* Mr. *Ashton* and Mr. *Elliot*.

Mr. *Serj. Tremain.* Look upon that Note.

(Which she did.)

Mrs. *Pratt.* This to my best Remembrance Mr. *Ashton* wrote, I cannot well remember the Hand.

Mr. *Serj. Tremain.* Did Mr. *Ashton* desire to meet at the *Dog Tavern*?

Mrs. *Pratt.* Yes, and he did meet at the *Dog Tavern*; but *Burdett* did not come.

L. C. J. *Holt.* When did you meet at the *Dog Tavern*?

Mrs. *Pratt.* On the *Monday* Night before *New-Year's Day*.

L. C. J. *Holt.* When was the Money paid?

Mrs. *Pratt.* On *Tuesday* Night, at Mrs. *Burdett's*.

Mr. *Serj. Tremain.* After the Money was paid, what did you do the next Day?

Mrs. *Pratt.* Mr. *Ashton* ordered a Note to be written, to meet at the *Seven-Stars* in *Covent-Garden*, at one Mr. *Rigby's*.

L. C. J. *Holt.* At what Time were you to go to *Rigby's*?

Mrs. *Pratt.* A *Wednesday* Night.

L. C. J. *Holt.* But at what Time?

Mrs. *Pratt.* Some Time about Ten o'Clock, and we came there accordingly.

Mr. *Sol. Gen.* Who was with you at *Rigby's*?

Mrs. *Pratt.* There was the Master of the Vessel, Mr. *Ashton* and Mr. *Elliot*, and two Gentlemen more, that I never saw before nor since.

Sir *W. Wil.* I ask you again, who first treated with you about hiring this Vessel?

Mrs. *Pratt.* Mr. *Burdett* first treated with me about it.

Sir *W. Wil.* Who next?

Mrs. *Pratt.* Mr. *Ashton*.

Sir *W. Wil.* Who made the Bargain with you?

Mrs. *Pratt.* Mr. *Ashton*.

Sir *W. Wil.* Who paid the Money?

Mrs. *Pratt.* Mr. *Ashton*.

Sir *W. Wil.* What can you say more?

Mr. *Serj. Tremain.* Pray let me ask you, when you came to Mr. *Rigby's*, in what Manner did you go away from his House, and what was said at parting?

Mrs. *Pratt.* Mr. *Ashton* was not there himself, at first, but he and Mr. *Elliot*, and two other Gentlemen were there afterwards, and Mr. *Ashton's* Wife said something about Papers hove in a Hat at Court, and about somebodies being chosen; and one of the Gentlemen said, there was nothing in that, I was one that was chosen last Year.

Mr. *Serj. Tremain.* Did *Ashton* and *Elliot* go out together from Mr. *Rigby's*?

Mrs. *Pratt.* I did not see them go.

Mr. *Trevor.* Had you any Directions from Mr. *Ashton*, to send for a Hamper or a Trunk?

Mrs. *Pratt.* Yes, that was at Mr. *Burdett's* House.

Mr. *Trevor.* When was that Hamper and Trunk to be sent for?

Mrs. *Pratt.* On the *Wednesday* Night before we went to *Rigby's* House.

Sir *W. Will.* Do you know one *Wm Pafeley*?

Mrs. *Pratt.* Yes.

Sir *W. Wil.* Was he with them?

Mrs. *Pratt.* Yes, he was with them.

Sir *W.*

Sir *W. Wil.* What Occasion brought him thither?

Mrs. *Pratt.* I carried him to Mrs. *Burdett's* House.

Mr. *Trevor.* Pray did the Prisoner desire to see the Master of the Vessel, or speak with him?

Mrs. *Pratt.* Yes, and when I brought him, he said he liked him very well.

Mr. *Trevor.* What is the Master's Name?

Mrs. *Pratt.* *William Pafeley.*

Mr. Serj. *Tremain.* Had you any Discourse with Mr. *Ashton's* Wife after they went away?

Mrs. *Pratt.* We had little Discourse, only she gave me some Victuals and Drink; and she said she hoped I would not tell of her Husband.

Mr. Serj. *Tremain.* What else did she say?

Mrs. *Pratt.* She hoped God would deliver them out of the Lyon's Mouth.

Mr. Serj. *Tremain.* Did she say any Thing about Cock-crowing?

Mrs. *Pratt.* Yes, she said she thought she should have no good Luck, for the Cock crowed.

Mr. Serj. *Tremain.* Who was by in the Chamber when the Money was paid?

Mrs. *Pratt.* There was the Master of the Vessel by, and Mrs. *Burdett.*

Juryman. My Lord, I heard her say somewhat of some Papers, which I do not very well understand. Does she know of any Papers that the Prisoner had?

Mr. Serj. *Tremain.* That was only about the Two Notes.

L. C. J. *Holt.* She talks of Papers being shaken in a Hat, but nothing can be made of it.

L. C. J. *Pollexfen.* If you would ask her any Questions before she goes, now is your time to do it.

Mr. *Ashton.* My Lord, I desire she may stand up again. Mrs. I ask a Question, not so much in Kindness to myself, as Justice to another Gentleman. You say Mr. *Elliot* writ one of the Notes.

Mrs. *Pratt.* Yes, as I remember, it was that to meet at Mr. *Rigby's.*

Mr. *Ashton.* I do it to justify that Gentleman, I take that Note upon myself; and you say I hired the Ship, and Mr. *Elliot* was by.

L. C. J. *Holt.* Look you, Mr. *Ashton*, Mr. *Elliot* is not now upon his Trial, it concerns you only to ask such Questions as relate to yourself. What is said now concerning Mr. *Elliot*, goes for nothing against him.

Mr. *Ashton.* My Lord, I do it only to do him Justice.

L. C. J. *Holt.* But you are to ask Questions only for yourself.

Mr. *Ashton.* Remember, good Woman, you are upon your Oath; and have a Care of forswearing yourself; my Blood is at Stake.

Mrs. *Pratt.* I am sure I say nothing but the Truth.

Mr. *Ashton.* Did I ever speak to you of going to *France*?

Mrs. *Pratt.* Yes, you did.

Mr. *Ashton.* As I hope for Salvation I did not.

Mrs. *Pratt.* And another Thing you told me more, if I helped this well away, you would help me to the Earning of 1000 *l.* before *Lady-Day.*

Mr. *Ashton.* Gentlemen, as to what was said of that kind, of helping her to 1000 *l.* is no great Matter to the Thing in Hand; for if I was minded to go out of the Kingdom, it was necessary to use all Arguments I could, to persuade her to help me to go away.

L. C. J. *Holt.* Mr. *Ashton*, you must stay your time before you speak to the Jury; make your Observations upon the Evidence to yourself, you shall be heard at large all that you can say in your proper Time.

Mr. *Ashton.* I do assure myself, my Lord, of all the Favour that can be shewn to a Man in my Circumstances.

L. C. J. *Holt.* You shall have all that is just, I do assure you.

Mr. *Ashton.* My Lord, I am glad in the Circumstances I am in, that I am to be tried before your Lordship. But, good Woman, by Virtue of the Oath that you have taken, did I ever speak to you directly or indirectly of going to *France*?

Mrs. *Pratt.* Yes, and you asked for a Hole to hide what you might have occasion to keep secret.

Mr. *Ashton.* But I ask you about going to *France*; did I speak to you about going to *France*?

Mrs. *Pratt.* Yes, you did.

Mr. *Ashton.* Then, as I hope to be saved, I never spoke directly or indirectly of going to *France* to her.

Mrs. *Pratt.* You were not to go for *Holland* or *Flanders*, I am sure.

Mr. *Ashton.* Nay, I did take it for granted, that you did know before I met you, that we were to go to *France*; but I never spoke to you of it in my Life, that I am sure of; but I only urge this to let your Lordship know, that Woman has forgotten herself.

L. C. J. *Pollexfen.* Mr. *Ashton*, You will have all lawful Favour; but your Time for arguing upon the Evidence is not come.

Mr. Serj. *Thompson.* You must ask your Questions now, and make your Observations afterwards; you must reserve yourself for that, till after we have done.

Mr. *Ashton.* But then, my Lord, I shall have too many Things for my Memory to retain; and therefore I beg leave, as they occur to my Memory now, and as the Witnesses go along, to make my Observations.

Mr. Serj. *Tremain.* Mrs. *Pratt*, Pray, when the Vessel was hired, and you were told it was to go to *France*, what Persons did Mr. *Ashton* say were to go with him?

Mrs. *Pratt.* Three Persons he said were to go, but he did not name them.

Mr. Serj. *Tremain.* Then set up *William Pafeley.*

[Which was done.]

Sir *W. Williams.* What can you say of any for the hiring of a Vessel?

Pafeley. I did not know the Vessel was hired before I came thither.

Mr. Serj. *Thompson.* Prithee tell us what thou dost know.

Pafeley. The Woman came to me when I was at *Billingsgate*, and said I must go a little Way along with her; and as we were going, she told me it was to go to M. *Burdett's* in *Queen-Street*; and when we came there, *Elliot* and *Ashton* were not within: But by that time we had been there a little while in came Mr. *Ashton*, and presently after him Mr. *Elliot*; and Mr. *Ashton* bid the Woman give him the Money out of the Place where it was.

Juryman. My Lord, we do not hear him.

Sir *W. Williams.* Pray begin again, and speak out.

Pafeley. I met with this Woman at *Billingsgate*, and

and she told me I must go a little way along with her.

L. C. J. Holt. That Woman, name her.

Pafeley. Mrs. Pratt; and I went along with her, and askt her where she was going; she said up into *Queen-Street*: And coming to *Queen-Street*, we went to Mr. *Burdett's* Houſe, I was never there in my Life before. When I came there, *Ashton* nor *Elliot* were neither of them there; after a little while in came *Ashton*, and preſently after in came *Elliot*, and he went up Stairs into the Bed-chamber; and being in the Bed-chamber, they brought the Money out, rolled up in a half Sheet of Paper, ſet up an Edge, and told it out at the Window.

L. C. J. Holt. Who told it?

Pafeley. *Ashton* told the Money out; and after the Money was told, he pulled out two pieces of a Six-pence, and when he had pulled out the two pieces of a Six-pence, he gives one half to this Mrs. *Burdett*, and the other half he kept himſelf; and he bid her pay this ſame Money, when the other half Six-pence that *Ashton* kept, came to this Woman, to match that which ſhe had; and after the Money was told, we ſtaid but a ſmall while there, and came down Stairs; and when we came down Stairs we went down to *Billingsgate*. I think *John Fiſher* was there, and we carried away with us a Trunk and a Hamper; *John Fiſher* carried the Trunk, and another Man the Hamper; and after that we had carried the Things on Board, I came up to the Houſe again; and after I came up to the Houſe, they directed us to go to the *Seven-Stars* in the little *Piazza*, there was a Note written to direct us, which ordered us to go thither betwixt 10 and 11 at Night. When we came there, I think there was neither of them there preſent, but by that time we had been there a ſmall Space, in they both came and ſate down; and a Gentleman came in and ſaid the Cock crowed, and therefore they ſhould have no good Luck. And then they talked about Papers being coſſed in a Hat, I don't know whar, and in came two Gentlemen more, juſt before we went away, to ſee them; and after thoſe Gentlemen had ſeen them, they ſtaid but a little while. Says *Elliot* to me, Maſter, come along with me; ſo I went along with him, and we came to *Surrey-Stairs*, and on the Corner on the Left-Hand, there was an Alehouſe. He called the Waterman out of the Ale-houſe, and he bid me go before, and I went down; and by the Time that I had gotten down, the Waterman came and halled his Wherry to, and I went in, and by that time I was gotten to the Stern, down came *Aſhby* and *Elliot*, and my Lord, and his Man.

L. C. J. Holt. You mean *Ashton*, not *Aſhby*?

Pafeley. Yes, my Lord, that is the Man. And after they had got into the Wherry, and were ſeated, they bid the Waterman put off from Land, and ſo we went through Bridge; and after we were through Bridge, we got on Board the Smack, and they got into the Cabbin; and when they were got into the Cabbin, I called my Men, and bid them hale up the Anchor, and they did ſo; it proved to be but little Wind, but that Tide we got below half-way Tree, and were forced there to drop our Anchor, and ſtay till the next Morning: The next morning we weighed Anchor, and by that time it was Nine a Clock, we got to *Long-Reach*,

where lay the *George* Man of War, and there they hid.

Mr. Soll. Gen. And how was the hiding pray?

Mr. Pafeley. It was down in the Quarters under the Hatches.

Mr. Soll. Gen. Why did they hide?

Pafeley. We reckoned they would come on Board a Preſſing, and they bid me ſhew my Protection.

Mr. Serj. Tremain. Did they deſire to be hid?

Pafeley. Yes, and after we came by the *George* Man of War, they came up again, and remained afterwards in the Cabbin, till we came almoſt to *Graveſend*: A little before we came to *Graveſend*, they all hid again; and when they were hid, remained hid all, I think, but only *Elliot*, I think, he popt up; and they were reſolved to go eat their Victuals; but then I told them there was a Barge a coming, and ſo he went down again, and there they remained till they were taken, for the Barge was on Board preſently, and found them there.

Mr. Serj. Tremain. What kind of Place was it that they were hid in?

Pafeley. They could not ſit, nor ſtand upright in it, but lay all along, or leaned on their Elbows.

L. C. J. Holt. What did they lie upon there, pray?

Pafeley. There was Ballaſt, and ſlit Deal a-top of the Ballaſt.

Mr. Serj. Thompson. Well, what happened when the Captain came on Board?

Pafeley. When Captain *Billop* came on Board, Maſter, ſays he, you have got a Couple of ſtout young Men, I muſt preſs them, or to that Effect. I hope not ſo, Captain, ſaid I. Why what have you to ſhew, ſays he? I told him, I had a Protection. Let me ſee it, ſays he: So I ſhews him my Protection, and he looks in it. Well, ſays he, Maſter, I muſt look farther; and went to rights to the Place where they lay, and found them lying all together. After they were taken, and were come out, Captain *Billop* commanded them into his Boat, and commanded me and my two Men, to go into the Barge; afterwards he ſet his Man on ſhoar at *Hungerford* Stairs; and when we came to *Whiteball* Bridge, the Gate was not opened, and we ſtaid a little while at *Whiteball* Bridge; and when we came a Shoar, *Elliot* gave me half a Crown, and bid me ſay, when I came upon my Examination, that we were bound for *Flanders*, and not for *France*.

Mr. Serj. Tremain. Where were you bound for, pray?

Pafeley. They examined me in the Chamber, when they paid the Money, if I knew they went to *France*; and I told them, Yes, very well.

Mr. Serj. Thompson. Did they deſire you to go to any particular Port in *France*?

Pafeley. No, we were to touch at any Place we could.

Sir W. Williams. Did they mention any thing of *Flanders* to you?

Pafeley. No, they did not.

L. C. J. Holt. Did any body mention going to *France* to you?

Pafeley. Yes, they did. They ask'd me, whether I could carry them to *France* ſafe.

L. C. J. Holt.

L. C. J. Holt. Who did ask you that?

Pafeley, *Elliot* or *Ashton*, one of the two, I cannot directly say which; but if I be not mistaken, it was *Ashton*.

Mr. Serj. Tremain. When came you from *Rigby's* at the *Seven-Stars*? Who came away with you?

Pafeley. *Ashton* and *Elliot*.

Mr. Serj. Tremain. Did *Elliot* and *Ashton* both come out with you?

Pafeley. Yes, they did.

Mr. Serj. Tremain. And did they part after they were come out?

Pafeley. Yes, *Ashton* did go away from us presently after we were come out.

Mr. Serj. Thompson. When you came on Board, had you any Discourse with *Ashton* about going to *France*?

Pafeley. No, not that I remember.

L. C. J. Holt. Did you go on Foot from the *Seven-Stars*?

Pafeley. Yes.

L. C. J. Holt. And did they part after you come out?

Pafeley. Yes, they did.

L. C. J. Holt. And who went with you, did you say?

Pafeley. *Elliot* came with me.

L. C. J. Holt. Whither went *Mr. Ashton* then?

Pafeley. I cannot tell, my Lord.

Mr. Sol. Gen. What did he say to you when he went from you?

Pafeley. He bid me go along with *Elliot*.

L. C. J. Holt. Was *Mr. Ashton* there as soon as you?

Pafeley. Not quite; but by that time the Waterman had got the Boat to the Shore, and I in the Stern, they were all come down.

L. C. J. Holt. When *Ashton* came, who came along with him?

Pafeley. I saw them all upon the Stair-head; I was in the Boat when they came. I never saw my Lord, till he was upon the Stairs.

Juryman. My Lord, I desire to ask him, What the Sum of Money was, that was paid at *Burdett's*?

Pafeley. It was 93 Guineas and Six-pence.

L. C. J. Holt. Who brought it?

Pafeley. It was laid down in the Window.

L. C. J. Holt. But I ask you, who brought it?

Pafeley. I did see *Ashton* bring it; and lay it down in the Window, and he told it out, and put it up again, and gave it to *Mrs. Burdett*.

Juryman. My Lord, I desire to know what is the usual Rate to go to *Flanders*; what may a Smack and three Men deserve?

Pafeley. Truly I cannot tell, I never went upon my own account in my Life.

L. C. J. Holt. *Mrs. Pratt*, what say you, what is the usual Rate to go for *Flanders* or *Holland*?

Mrs. Pratt. I believe they may go for a matter of 20 *l.* or 30 *l.*

L. C. J. Holt. You hear them, Gentlemen; what they say?

Juryman. Yes; but, my Lord, he says, he gave them Notice the Barge was a coming: I desire to ask him, Did he know there was a Design to search him or no?

Pafeley. Sir, I knew that there was a Search for Seamen.

L. C. J. Holt. But did you know there was to

be a Search, in order to the taking these Gentlemen on Board you? For that is the Question, I believe, the Jury would ask you.

Pafeley. No, I did not know of it.

Mr. Sol. Gen. But you say; these Gentlemen desired to be hid?

Pafeley. Yes.

Mr. Sol. Gen. And you hid them according to their Desire?

Pafeley. Yes.

Mr. Serj. Tremain. Before you went on Board; had you any Discourse of hiding? Did they ask you for a Place to hide in?

Pafeley. Yes, they did.

Mr. Serj. Tremain. Who did?

Pafeley. *Ashton* and *Elliot* both ask'd if there were a Place in the Ship to hide them, and I told them, yes, there was.

L. C. J. Pollexfen. *Mr. Ashton*, will you ask him any Questions?

Mr. Ashton. My Lord, I desire to ask him this Question: Did we desire you to come and hide us, or did you desire us to go down?

Pafeley. You desired this of us, that if we saw any Man of War's Boat we would tell you, that you might be hid.

Mr. Serj. Tremain. Pray repeat that over again; did they desire you to give them Information when any Boat was coming, that they might hide, or did you desire them to hide yourself?

Pafeley. They desired it of me.

Mr. Serj. Thompson. Then set up *Charles Betsworth*.

Mr. Serj. Tremain. Before *Betsworth* is examined, I would ask *Pafeley* one Question? Was there any Coat left on Board you?

Pafeley. Yes, there were two Coats of the Waterman's left on Board, and I took them and lock'd them up.

Mr. Serj. Tremain. Is that the Man that own'd the Coats?

Pafeley. Yes, it is.

Sir W. Williams. Then, *Betsworth*, will you give an Account of what you know against the Prisoner at the Bar?

Betsworth. I cannot tell, my Lord, I never saw the Gentleman in my Life before, that I know of.

Sir W. Williams. Prithce hear, Friend, tell what you know of carrying any Gentlemen on Board the Smack.

Betsworth. If it please your Lordship, I was going Home from our Stairs about 7 or 8 a Clock in the Evening; that is, from *Surrey Stairs*, and a Gentleman called, *Sculler*. Said I to him, Sir, where do you go? Says he, As far as the *Tower*; said I, 'Tis against Tide, I cannot go; it will be Ten a Clock before it be high Water. Says he, Will you go with us at that Time? Said I, What will you give me? Will you give me half a Crown? then I'll carry you down, for I cannot stay out so late for nothing. Yes, says he, I will give it you. Then I came and brought my Boat to the Shore; he asked me then, What my Name was; I told him *Charles Betsworth*. Says he, Will you be sure to stay till we come? Yes, said I, if you will be sure to come; and if I be not here, I will be at such a House, an Ale-house, that was there by; the Sign of the *Swan*: So I staid, and carried a Fare or two over the Water; and about 11 a Clock comes a Gentleman down, and calls *Charles*, and I went out a

Doors down towards my Boat, and there comes one Gentleman down, and a kind of a Seaman, as I thought; and the Seaman went into the Stern, and the Gentleman sat down at the Back-board, and there was three Gentlemen more came down the Stairs into the Boat; one had a whitish Cloak, and the other a loose Coat; and they brought a Leather Bag that would hold about a Peck; so I put off with them, and rowed down the River, and all that I heard them say, was, when we came under the *Temple*, says one of the Gentlemen, When do you hear the King goes away? Says another of them, He goes away a *Tuesday*; and when we got through Bridge, one of the Gentlemen ask'd where the Vessel lay, and a Man in the Stern said, On *Southwark* Side, over-against the *Tower*; and when we came a little below *Battlebridge*, near *Pickle-Herring* Stairs, the Master said, There lies the Vessel, and it had a long Pendant and a Top-Sail loose; so they paid me before they came on Board, and when they were got a Board, away rowed I; and when I came to Land to take out my Sculls and Things, there I mist my Cloaths; and I rowed after them, thinking they could not be got far; but when I came to the Place where they went on Board, the Vessel was gone, and I rowed down as low as *Limehouse Reach*, and in *Blackwall Reach* I overtook a Vessel, which I thought was the Vessel. I ask'd them who they belonged to, and they said they came from *Horseleydown*, and I made answer, I brought two Fares on Board a Vessel at *Pickle-herring* Stairs, and had forgot to take my Cloaths that they had; they made Answer, I brought no Fare on Board them; so I rowed on farther beyond *Barkinshef*, and because there was no Wind, I thought none could have gone beyond that Place, and therefore resolved to row back again when it was Flood; and I rowed up to *Greenwich*, but could not meet with the Vessel; and I heard nothing of my Cloaths, till last *Friday* was Seven-night I had my Cloaths brought to me.

Sir *W. Williams*. Can you say this Gentleman, Mr. *Ashton*, the Prisoner at the Bar, was one of them that you carried on Board the Smack?

Betsworth. No, I know never a one of them.

Mr. Serj. *Tremain*. But you say the Persons that you took in at *Surrey* Stairs carried away your Cloaths with them?

Betsworth. Yes, Sir.

Mr. Serj. *Tremain*. Then I ask you, *Paseley*, is that one of the Persons that he brought on Board your Smack?

Paseley. Yes, he was.

Mr. Serj. *Tremain*. How many came on Board the Smack?

Paseley. Four; my Lord *Preston*, Mr. *Ashton*, Mr. *Elliot*, and my Lord *Preston's* Man.

Mr. Serj. *Tremain*. Did you take in your Pendant?

Paseley. Yes, I did.

Mr. Serj. *Tremain*. When did you take it in?

Paseley. As soon as we weighed Anchor.

Mr. Serj. *Tremain*. How came you to take it in?

Paseley. *Elliot* spoke to me take it in.

L. C. J. *Holt*. Did they mention how many were to go in the Smack?

Paseley. He said, there were three of them, not four, as I remember, that were to go.

Sir *W. Williams*. Will you ask him any thing, Mr. *Ashton*.

Mr. *Ashton*. No, Sir: But I desire the Woman may not go out of Court.

L. C. J. *Holt*. No, no; She shall stay.

Mr. Serj. *Thompson*. Then call *John Fisher* and *James Amonds*. (*Fisher stood up*.)

Sir *W. Williams*. Pray do you acquaint the Court and the Jury what you know of this Matter, whether you carried any Things on Board the Smack, and what, and who came on Board, and what hapned.

Fisher. My Lord, a matter of six Hours before they came on Board, my Master carried me a Shore, and brought me to Mr. *Burdett's* House, and gave me a Trunk, and I went with it, and another Man with a Hamper, and brought them on Board; and about 11 or 12 a Clock, my Master comes and brings Mr. *Ashton* and the other aboard; and he bid me go forward, and heave up the Anchor, and so I did, and we went down the River; but we could go but a little way because there was no Wind; and when we came to *Halfway-Tree*, the Tide turning, we were forced to cast Anchor again, and stay till the Morning; and in the Morning we weigh'd Anchor again, about 8 a Clock, and about 9 we came into *Long Reach*, where lay the *George* Man of War, and then Mr. *Ashton* and they hid; and when we came below them again, they came up again till we came almost near the *Block-Houses* at *Gravesend*, and there they hid again; and Mr. *Ashton*, I think, came up afterwards, and bid me go down to the Hamper, and fetch them up some Victuals for their Dinner, and I went down and fetched up some Beef, and Mr. *Ashton* took hold of it; and I took a Bottle of Wine or two out; and just before I brought all the Victuals up, the Barge was spied a coming to us; and then he went down again, and there they hid, and the Piece of Beef was a Top of them. Captain *Billop*, when he came near, waved his Hat, to bid us lie by; and we did lie by till he came up to us; and when he came up to us, says he, Master, you have gotten a Couple of good likely Men, worth the coming on Board for. Says the Master, I hope, Captain, you won't preis them. What have you to keep you clear? Says he, I have a Protection. Have you, says the Captain? Let me see it. So he shewed him the Protection, and he read both our Names in it. Then, says he, Master, I must look farther; and he went down to the Quarter-Hatches, and took them up just where they lay. First my Lord came out; and he searched them all, as they came out. Mr. *Elliot* came out next, and Mr. *Ashton* staid within, being the last Man. And after he had searched them, and done what he pleased, he got all the Papers and Writings; then he commanded us all to go into the Barge, and they came on Board the *George* Frigate in *Long Reach*. And at the Ship, Mr. *Elliot* came to us, and bid us say, we were going to *Flanders*. And after we came to *Whitehall*, Mr. *Ashton* gave me a half Crown Piece, and bid me say, we were bound for *Flanders*, and not for *France*.

L. C. J. *Holt*. Was that after they were taken, or before?

L. C. J. *Pollexfen*. When was the first time, that they would have you say, they were bound for *Flanders*?

Fisher. It was on Board the *George* Frigate in *Long Reach*.

L. C. J. *Holt*. Who was it that bid you say so?

Fisher.

Fisher. Mr. *Elliot* and Mr. *Ashton* both, in the Ship's Steerage, where they came to us.

L. C. J. Pollexfen. Where was the next Place, that they bid you say so?

Fisher. At *Whitchall* Bridge *Ashton* gave me a half Crown Piece, and bid me say so.

Juryman. Did he speak that aloud, or softly at *Whitchall*?

Fisher. He whispered it in my Ear.

L. C. J. Holt. Did they ever say they were bound for *Flanders*, till after they were taken?

Fisher. No.

Mr. Serj. *Tremain.* What manner of Place was this that they hid in?

Fisher. An ugly Hole, where a Man has no Room to lie along at Ease; he can neither stand upright, nor sit upright.

Mr. Serj. *Tremain.* Did you see the Waterman that brought them on Board?

Fisher. No.

Mr. Serj. *Tremain.* Was there any Waterman's Coat left?

Fisher. Yes, there was two.

L. C. J. Holt. But didst thou see the Boat?

Fisher. We were asleep when they came on Board, and the Boat was put off as soon as ever they came on Board.

Mr. Serj. *Tremain.* Then as soon as ever they were on Board, you got up the Anchor, and pulled in the Pendant?

Fisher. Yes. We immediately hove up the Anchor, and took in the Pendant.

Mr. Serj. *Tremain.* Did any Sculler hale you afterwards, as you were going down?

Fisher. Yes, as we were going down there did.

Mr. Serj. *Tremain.* What did you say to him?

Fisher. I was not steering then; but this other Man made Answer.

L. C. J. Holt. Mr. *Ashton*, Will you ask him any Thing?

Mr. *Ashton.* When I gave you the half Crown that you speak of, what did I say to you?

Fisher. You bid me when I came to be examined, say we were going to *Flanders*, and not to *France*.

Mr. *Ashton.* What did I say else?

Fisher. You bid me take that half Crown for to Night, to help to bear my Charges, and Tomorrow you would take farther Care of us.

Mr. *Ashton.* I told you, you were Prisoners now, and I gave you that, and told you I would take farther Care of you.

Fisher. You did not say we were Prisoners, but you said you gave me that to help bear Charges for that Night, and on the Morrow you would take farther Care of us.

Mr. Serj. *Thompson.* Then set up *James Amonds*.

Sir *W. Williams.* Are you sworn, Friend?

Amonds. Yes, Sir.

Sir *W. Williams.* Then let the Court and the Jury know what you can say in this Matter.

Amonds. My Lord, they came on Board about 11 or 12 a Clock at Night; I was asleep in the Cabbin, and heard a Boat coming aboard, and I turned out, and before I could get out of the Cabbin, they were got aboard, and I see no Boat, nor nothing. So says the Master, Go forward and heave up the Anchor; and after we had heaved up the Anchor, I goes into the Ship to tow the Vessel down, because there was no Wind, and we would not let the Vessel go foul on the Ships that were in the River, and a

little after we came on Board again; and when I came on Board again, they were all on Board, all Four. After that comes a Waterman, and I was at the Helm steering, and he called out to us! Oh! hoe, says he; did not I bring a Parcel of Gentlemen on Board this Smack? Not as I know of, said I. Says he, I carried a Parcel of Gentlemen on Board some Smack that had a Pendant out, and I know not where it is; they carried my Cloaths on Board with them. Said I, I know nothing of it, nor I did not; for I saw neither Waterman nor Boat; so away the Waterman goes, and we went down the River, and when we came to *Halfway Tree*, we came to Anchor, and my Master went and laid himself down, the Tide being almost done, and there being no Wind, and Mr. *Ashton* and they lay in the Cabbin; and says Mr. *Ashton* to me, Take Care of us now, and we will take Care of you hereafter; says he, we shall help you to many a Freight, and many a Pound. Ay, ay, said I, you will be taken Care of to be sure at Day-break, or when the Day comes on: About 8 a Clock, we hove up the Anchor again, and fell down as low as *Long Reach*, where the *George* Frigate lay; and when we came there, they went down to hide in the Quarter-Hatches. I steered it down still; and when we were got past that Man of War, the Hatches were taken up, and they came up again out of the Quarters, and sat in the Cabbin again, and we had a fresh Gale of Wind, and run down to *Gravesend* quickly, and when we came near the Block-Houses, said I, We are almost at the Block-Houses; then said they, We will go down and hide a little; and so they did till they were past there, then resolving to go to Dinner.

L. C. J. Holt. What time a Day was this?

Amonds. About 11 a Clock, as near as I can guess.

Mr. *Sol. Gen.* Well, they did go down to hide then, did they?

Amonds. Yes, they did go down and hide, and came up again, I am sure some of them; I heard some of them in the Cabbin.

Mr. *Sol. Gen.* Well, what followed?

Amonds. After they were gotten up, and past *Gravesend*, this Man was sent for Victuals for them, and so he fetch'd them some Roast Beef, and some other Things; and just as the Roast Beef was going into the Cabbin, said I, *Here comes a Barge off to Press*. So when I cried, the Barge was a coming, they took the Victuals down into the Quarters, and there lay they, and the Victuals a-top of them. And when the Barge came near us, the Captain waved his Hat to command us to lie by. Said I, *We must lie by, for the Barge is coming up to us*. And we clapp'd the Helm-a-lee, and lay by; and after we were laid by, the Barge came on Board us. Says the Captain of the Barge, *You have got a Couple of likely, good Men, Master*, said he. *Ay*, says the Master, *but I hope you won't press them*. Says the Captain, *Have you got any thing to keep you clear? Yes, if it please you, noble Captain, I have got a Protection*. I am sorry for that, says he, and comes on Board, for he staid all this time in the Barge; and smiling upon him, he comes on Board, and says he, *Come, let's see your Protection*. And the Master shew'd it him, and he read it. Says the Captain, *I must look a little farther*. And he goes into the Cabbin, and took up the Hatches, and

there lay all these Gentlemen. They were something longer in coming up than he would have them; so says the Captain to his Men in the Barge, *Come on Board, and see who is here.* And so some of his Men did come on Board; and, to the best of my Remembrance, my Lord was the first Man that came up: And when my Lord came up, the Captain run his Hands into his Coat Pockets, to feel for Papers, as I suppose; and my Lord desired the Captain to be kind, and take nothing away. Says he, *I'll take nothing but Papers; 'tis Papers I look for:* And he pull'd out a Watch, and gave it him again. After that, *Elliot* came out; and whether he found any thing upon Mr. *Elliot*, or no, I cannot tell. Mr. *Ashton* was the last that came up; and when he came up, a Waterman of the Captain's calls to him, and says, *That Gentleman that came up last has put something into his Bosom, but what I can't tell.* So the Captain took Mr. *Ashton* by the Arm, and turn'd him about; and, says he, *What did you put in your Bosom?* Says Mr. *Ashton*, *Nothing but my Handkerchief;* and pull'd out his Handkerchief, and shew'd him. Then the Captain put his Hand in, and pull'd out Papers, with a piece of Lead tied to them. And that is all that I saw.

Mr. Serj. *Tremain.* But tell us what happen'd afterwards.

Amonds. When that was done, the Captain commanded us all into his Barge; and I rowed, and some of the rest row'd, it being cold Weather, till we came up to *London.* After we came up to *London*, they did not say any thing to me, because I was a rowing till then. It seems they did give them some Money, but they gave me none, not till I came into *Whiteball;* and then my Lord's Man came to me, and call'd me a one Side; says he, *Here's half a Crown, will serve you to Night; and be sure, when you come to be examined, that you say, you were bound for Flanders, and not for France, and you will be taken farther Care of To-morrow.*

Mr. Serj. *Tremain.* What manner of Place is that Quarter-Hatches?

Amonds. They could neither fit, nor stand upright in it.

Mr. Serj. *Thompson.* What did they lie upon?

Amonds. There were three or four slit Deals that were laid over the Ballast, but it seems they had shuffled 'em on one Side when they were taken, for the Ballast lay open.

Mr. Serj. *Tremain.* Did the Waterman that brought these Men on Board you, leave his Coat there?

Amonds. I did not see the Boat, nor the Waterman; and therefore I am not able to say any thing about it.

Mr. Sol. Gen. How came the Pendant to be taken down?

Amonds. I can't tell that, I was in the Skiff when it was taken down.

Juryman. My Lord, I do not well understand how the Papers came to be taken away from Mr. *Ashton.*

L. C. J. Holt. He tells you, Mr. *Ashton* was seen to put his Hand with something into his Bosom; and being tax'd with it, he said it was his Handkerchief; and the Captain put in his Hand, and pull'd out a Bundle of Papers.

Juryman. Did he see *Ashton* take away the Papers from any other Place?

Amonds. No, an't please your Honour, I did

not see them till they were taken out of his Bosom.

L. C. J. Holt. Did you see Captain *Billop* take the Papers from out Mr. *Ashton's* Coat?

Amonds. Yes, I did.

L. C. J. Holt. Where were they before they spy'd the Barge a coming?

Amonds. If it please your Honour, I heard 'em talk; I thought they had been up, but it seems there was but one of 'em up when they said, the Barge was coming aboard: I was at the Helm, and heard 'em talk.

L. C. J. Holt. Then you knew nothing of these Papers, but when you saw them taken out of *Ashton's* Bosom?

Amonds. No, my Lord.

Sir *W. Williams.* If you will ask him any thing, Mr. *Ashton*, now you may.

Mr. *Ashton.* Pray, Friend, had not I been up first, and search'd before the Papers were taken?

Amonds. Not as I know of.

Mr. *Ashton.* Did not I go down into the Hold to take my Hat, and call to you, and desired that I might go down for my Hat?

Amonds. I can't tell; for when I saw the Papers taken from you, I was in the Stern; I was not down.

Mr. *Ashton.* Had not I been searched first?

Amonds. Not that I know of, till you were in the Stern.

Mr. Serj. *Thompson.* Then swear Captain *Billop.*

Which was done, he standing up by the Sheriff.

Mr. Serj. *Tremain.* Captain, I suppose you may be heard from that Place.

Mr. *Ashton.* My Lord, I desire the Witness may come down, else I shall not be able to distinguish what he says: It is the proper Place for him I think.

L. C. J. Holt. Let him come down.

Mr. *Ashton.* I humbly desire, my Lord, that the Witnesses may all be obliged to stay in Court.

L. C. J. Holt. Let them all stay.

Sir *W. Williams.* You are sworn, Sir: Are you not?

Capt. *Billop.* Yes, I am.

Sir *W. Williams.* Then, pray, will you give an Account where you took these Persons, how you took 'em, what you found, and how you disposed of it.

Capt. *Billop.* Must I begin from the Beginning?

Sir *W. Williams.* Yes; Tell your whole Knowledge, in Order of Time, as it fell out.

Capt. *Billop.* What, from the Time I went out?

Mr. Serj. *Thompson.* Make it as short as you can.

Sir *W. Williams.* Yes, you must tell all; for you speak now to a new Jury, and here is another Prisoner at the Bar to be tried.

Capt. *Billop.* The last of *December*, about Two a Clock, or between One and Two, my Lord of *Danby* came to me at one of the Doors of the House of Lords, and told me, his Father must speak with me; and he carried me up to my Lord *Lindsey's* Chamber; and in a little time my Lord President came there, and told me, he heard there were divers Persons that had Papers of dangerous Consequence, and were going to *France*, and desired me to use my Skill for my seizing

seizing and securing of the Papers. I began then to talk of what was proper for such an Undertaking; and I told my Lord, I thought the best way was to go to *Woolwich* or *Deptford*, and to take a Man of War's Pinnace with us: Upon that, my Lord of *Danby* being by, said, he knew of a Boat that he could have, which was my Lord Duke of *Grafton's*; and my Lady *Dartchels* had lent it him, and he would go and get it ready: Upon this my Lord President said, he would give me a Note of the Name of the Vessel, and where she went out; and likewise a Letter to another Person, that would instruct me farther, and shew me the Vessel; accordingly my Lord President gave me the Letter, and I went away to look for the Person, but could not find him. My Lord *Danby* came to *Tower-Wharf* himself with the Boat; and I left a Man there to bring me Word when the Boat came up at the Place where I was; and Captain *Stringer*, and Sir *Thomas Taylor* came there to me. After my Lord of *Danby* had told me what I had in the Boat, I told him, I thought there were not Arms enough; and therefore it were best to go to the *Tower*, to borrow some Arms from thence: When we came to the *Tower*, my Lord *Lucas* was not come in; and when I had staid a little time, he did come in: And when I had acquainted him with my Business, he sent for an Officer of the Guard, and there we borrowed some Arms, a Blunderbus of his, and a Carbine, and the like; and about a Eleven a Clock, or somewhat past, we put off from *Tower-Wharf*. It was Calm, and we rowed down towards *Gravesend*; and we went aboard a Vessel or two, but I was not willing to lose much time, because I was resolved to take them before they were gotten too far: So we rowed away for *Gravesend*, where I refreshed my Men, and afterwards went down into the *Hope*; and I did Judge that no Vessel that came from *London* that Tide could be a head of me. I went on Board several Vessels that lay in the River, in order unto the pressing of Men; and I went on Board all Sorts of Vessels, because I would give no Suspicion of what I was about; and having been on Board of several, I pressed two or three *Barkin* Men; and one particularly, that knew all the Vessels upon the River, and I made him to row very near to me, that I might talk to him; I had got the Names of a great many Smacks, and gave it out that I would press a Smack to carry for a Tender to my Ship, when the Fleet went out; and naming this Smack that I was to go search, I told him, *I heard such a Smack sailed well, and I had Thoughts of pressing her*; he told me, *She was old*; but said I, *She will serve a Summer well enough; and that is it I intend to press, if I can find her*. Says he, *I'll shew you her, I know her when I see her*; so we went on Board several Vessels as we went along. And as we were rowing along, before we came to the *Nest Point* by *Tilbury-Fort*, we saw several Smacks coming down the River; and when we came about the Point, the headmost Smack of all, the Fellow lookt out, and said, *Yonder is the Thomas and Elizabeth*. Then I called to one of my Men to wave, and bring them to lie by, which they did, and they lay by till I came on Board. When I came on Board; I saw two lusty Men stand by the Master; said I, *Master, you have got two good lusty Fellows that would serve the King; but I'll be kind and civil to you,*

I'll take but one. Says the Master, *I hope not so; for I have a Protection*; with that, I came on Board, and took his Protection in my Hand, and read it. As soon as I had read it, I ask'd him, *If he had no more Men upon Deck than what I saw?* He said, *No*. Then said I, *I must look a little farther*. And I went into the Quarters, and took up the Scuttle, and the Hatches, and I saw some Gentlemen lie. Oh, said I, *What a pretty Posture is this? Where are we a going? Gentlemen, you must turn out*. The first that came to hand was my Lord *Preston*; but I did not know him then, nor some time after I was in the Boat with him: So I took hold of him, and help'd him up; and when he was up, said I, *Sir, I must search you*. Says he, *I hope you will take nothing from me*. *Nothing*, said I, *but Papers*: So I searched all his Pockets; and as I found any Papers, I put them into my own Coat Pocket. And I took his Watch, and pull'd it out, and gave it him again: After that I had search'd him, came up Mr. *Elliot* the first Man, and the next was Mr. *Ashton*, who crowded up while *Elliot* came up, in his Night-Cap. *I think, Mr. Ashton, you had your Night-Cap on*. So Mr. *Ashton* goes down again, and puts on a Perriwig, I think; but coming up again, one of my Seamen sees him take something, and put it into his Bosom: He follows Mr. *Ashton* quick, and pulls me by the Coat; and, says he, *That Gentleman has got something in his Bosom*: So I took hold of him, and turned him round; said I, *Mr. Ashton, what have you got in your Bosom?* *Nothing*, says he, *but a Handkerchief*; and immediately he put his Hand into his Bosom, and pluck'd out the Handkerchief, and shew'd me. As soon as he had pulled out the Handkerchief, I put my Hand into his Bosom, and there I met with the Pacquet that had the Lead affixed to't; and pulling it out, I clapp'd it into my own Pocket; for I thought that was the Matter of Moment that I was to secure. So I ordered them to go into the Boat, and the Master of the Vessel to let go his Anchor; and two Men I left in the Vessel, whom I ordered to search, and to secure what they found till farther Order; and I left two Musquets with them. And after we were in the Boat, they desired to have something handed in, which I gave Order for, a Hamper, and a Night Bag; and away we put off from the Vessel, and rowed up; it was against Tide, and very cold Weather. In a little time Mr. *Elliot* called one of the Gentlemen, my Lord; then I whispered him, and ask'd him who that Lord was, and he told me, *It was my Lord Preston*. Then I saluted my Lord; and my Lord was pleased to say, he was very well satisfied they were fallen into the Hands of a Civil Gentleman. So rowing up against Tide, and it being a Westerly Wind, which blow'd very fresh, my Lord desired that I would let them stop at *Gravesend*, till the Tide turned, that they might refresh themselves. I begged his Pardon, and said, there was a Ship in *Long-Reach*, the *George* Frigate, and we would stop there; and I did not doubt, but I could command the great Cabbin for his Accommodation; and there he might have any thing that he wanted. My Lord seemed contented with it; but before we came on Board the Man of War, there happen'd a great deal of Discourse betwixt us of several Things.

Sir *W. Williams*. Pray repeat it, as well as you can remember; what Discourse happened?

Capt.

Capt. *Billop*. Truly, my Lord *Preston* being cold, and the Hamper standing by, says he, *Captain Billop, we have not eaten, we will eat, if you will.* And there was a piece of Beef at the Top of the Hamper, and Bottles of Wine; and I opened the Hamper, sitting fairest for it, and handed out the Beef, the Bread, and the Bottles; and after we had eaten what we would, my Lord ordered the rest to be given to the Men that were the Boat's Crew, and after we had done this, and taken out a Bottle or two, and shut up the Hamper again, my Lord *Preston* drank to me once or twice, and seemed very well satisfied and pleas'd with his Usage. He told me, he was sensible of my Civilities; and if ever it lay in his Power, he would not forget me. So we drank again, and talk'd again; but before we came to the Ship, my Lord *Preston* told me, that if ever it lay in his Power, he would be sure to make an Acknowledgment of the Civility I had shew'd him. And, to the best of my Memory, he had this Expression, *If there ever was any thing he could serve me in, he would do it with all his Heart, if I would but dispose of the Pacquet.*

Mr. Serj. *Trempton*. What would Mr. *Ashton* have had you done? What did he say to you?

Captain *Billop*. Mr. *Ashton* said, it would do me no good to injure so many Gentlemen; and desired me that I would throw the Pacquet over-board.

Mr. Serj. *Tremain*. What did he mean by so many Gentlemen?

Captain *Billop*. My Lord, I cannot tell, but that was his Expression.

Mr. Serj. *Tremain*. Who desired you to throw the Pacquet over-board?

Captain *Billop*. Mr. *Ashton* did several times.

Mr. Serj. *Tremain*. What did he say to you? What Arguments did he use?

Capt. *Billop*. My Lord, it was so many times over, and so much mixture of Discourse we had, that I am not able to tell the Particulars.

L. C. J. *Holt*. B. what Arguments did he use?

Captain *Billop*. I don't know that he used any more great Arguments, more than what I have told you already.

L. C. J. *Holt*. Say that again that you said before.

Captain *Billop*. He said, 'twould do me no good to injure so many Gentlemen. *Prithee, Captain Billop, says he, throw it over-board.*

Mr. Serj. *Tremain*. What did he say farther?

Captain *Billop*. I'll tell you, if you'll give me leave. Mr. *Ashton* did say, a little after this, with a great deal of Insinuation, *Captain Billop, What if you should turn about, and go along with us? No, Mr. Ashton, said I, that I cannot do.* Says Mr. *Elliot, Prithee, throw the Pacquet over-board.* This they did as we came up the River; and 'tis the most that I can remember, 'till we came on Board the *George*; and when we came on Board the *George*, *Elliot* called me into the Steerage, and desired me, of all Love, that I would dispose of the Pacquet: And he said, that now I had an Opportunity to make myself as Rich, and as Great as I would, and nobody could see it, if I did throw it away. While I was in the Ship, Mr. *Ashton*, my Lord, and Mr. *Elliot*, were with me in the Steerage. Said I, *I shall be taken notice of, to be whispering; pray forbear.* *Ashton* then spoke to me again, to desire me to throw the Pacquet over-board; by this time the Victuals was

handed in, and there we eat and drank, and my Lord smok'd a Pipe of Tobacco before the Tide turned; and when the Tide made, we went into the Boat again, and rowed up towards *London*, and they were using these Sorts of Arguments over and over again. And once Mr. *Elliot*, I think 'twas, to the best of my remembrance, told me, *Now you have it in your Power to make your Fortune, and may be as great a Man, and as rich a Man as you can desire.* And Mr. *Ashton* said some Words something to the same Purpose; *Prithee, said he, throw it over-board: What good will it do you?* So I refusing it, as I did many times, Mr. *Elliot* told me, that I might take the Letters that were taken in my Lord *Preston's* Pocket, and tie the Lead to them, and throw the Pacquet over-board. No, said I, Mr. *Elliot*, *Sure you would take the King's Council to be a very odd Sort of Men, that they cannot find out such a thing as this.* *Prithee, dear Billop, said he, throw it over-board;* many times whispering me in the Ear; and so did Mr. *Ashton* many times, saying, *You may do us a great Kindness in it.* And we drank, and had several Intermissions; and they at me again, and I denied them, and they desisted; and then they at it again: And Mr. *Elliot* then told me, *Prithee, dear Billop, throw it over-board.* Said I, Mr. *Elliot*, *If I should be so great a Villain to do such a thing, if ever it was your Day would you trust me again? Put it to be your own Case.* Says he, *You have Gentlemen to deal withal.* But, said I, *I will never put it into your Power.* Mr. *Elliot* seemed to be angry at this, and said, *Every Dog had his Day.* Said I, *I hope never to see it your Day: But I pray, forbear this Discourse; let me beg that of you; for I do not desire to be provoked to use you otherwise than as Gentlemen.* And after that, they never urged me more to throw the Pacquet over-board: But Mr. *Elliot* was angry, and very much disturbed, and wished a Thunderbolt might strike the Boat and sink it. So I brought them up, through *London-Bridge*, and they said no more about the Pacquet; but *Elliot* wished, that *London-Bridge* might have fallen on our Heads. At length I brought them to *Whitehall*; and I put my Man ashore at *Hungerford Stairs*, that he might get before, and give the Porter notice at *Whitehall-Bridge*, that he might open the Gate. I brought my Lord *Preston*, and the rest to the Bridge; and while I was arming my Men, to guard them up to my Lord *Nottingham's* Office, I suppose they then took the Opportunity to give the Men Money, getting near to them; I know nothing of that: But I carried them up to my Lord *Nottingham's*, and there I delivered them, and the Pacquet to my Lord. After some time, the Pacquet lay upon the Table, and my Lord *Nottingham* sends me for my Lord *Preston*. When my Lord *Preston* came in, I withdrew without bidding, and the Pacquet lay upon the Table unopen'd: And when my Lord *Preston* came out, I went in on myself, and the Pacquet lay in the same Place and Posture, and not opened. And I stay'd while Mr. *Ashton* was called in, and my Lord *Nottingham* asked him a great many Questions.

Mr. *Ashton*. Pray repeat those Questions, Captain *Billop*; and what Answers I made.

Captain *Billop*. Truly, my Memory does not serve me to remember all of them, and I was in a very uneasy Condition at that time, and would much

much rather have been in my Bed, than any where else: For the Night before I went down, I had a Plaister of *Spanish Flies* put to my Back, and they had raised a great Blister, and it had not been dressed so long, that the Napkin that was applied stuck so to it, that the Flesh was jagged, and I was in a great deal of Pain, so that I did not mind so much as I should have done at another time, what was said.

Mr. *Afhton*. But pray, Captain, remember as much as you can what pass'd.

Captain *Billop*. But I'll tell you what I remember; I remember my Lord *Nottingham* ask'd, who I took the Packet from? And you owned, I took it from you.

Sir *Will. Williams*. Pray, Mr. *Afhton*, give us leave to have done with him, and then you shall ask him what you please. Pray go on, Captain *Billop*.

Captain *Billop*. Then my Lord *Nottingham* sent for Mr. *Elliot* in, and ask'd him whither he was going? And he said for *Flanders*. My Lord asked him, what he was going there for? He said, He was going to seek his Bread; he was turned out of all at Home, and he had rather go Abroad to seek his Bread, than stay at Home to starve.

Mr. Serj. *Tremain*. Was this the Lead that you took fixed to the Packet?

Captain *Billop*. Yes, Sir; that is the Lead.

Mr. Serj. *Tremain*. Did you take that Lead, with the Pacquet, out of Mr. *Afhton*'s Bosom?

Captain *Billop*. This was tied fast to the Pacquet that was taken out of Mr. *Afhton*'s Bosom. These honest Men saw me take it.

Sir *Will. Williams*. Now, if you have a Mind to ask him any Questions, you may.

Mr. *Afhton*. Pray, Captain *Billop*, did not you search me before you took the Pacquet upon me?

Captain *Billop*. No, not that I remember.

Mr. *Afhton*. Had not you taken some other Papers from me before?

Captain *Billop*. No, Sir; I took none from you but the Pacquet.

Mr. *Afhton*. Pray recollect yourself, for, perhaps, my Life may turn upon it: You are as much a Witness for me, as for the King; you are to swear the Truth, and the whole Truth.

Captain *Billop*. And I will do you all the Justice I can, I will assure you.

L. C. *J. Holt*. Answer his Question, Captain *Billop*.

Mr. *Afhton*. Was not I the first Man that spoke to you after we came up?

Captain *Billop*. No, Mr. *Elliot* was the first Man that spoke to me, that I knew.

Mr. *Afhton*. Did not I ask you to give me leave to go down for my Hat?

Captain *Billop*. Truly, I don't remember that.

Mr. *Afhton*. Did not you reply, That the Man should go down and fetch my Hat?

Captain *Billop*. 'Tis likely I might, but I don't remember it.

Mr. *Afhton*. Had not you searched me then, and taken my Papers from me?

Captain *Billop*. No, Mr. *Afhton*; for, upon the Oath that I have taken, I took no Papers that I remember, but the Papers that I took out of my Lord *Preston*'s Pocket, and the Pacquet that I took out of your Bosom; for my Lord *Nottingham* ask'd me, if that Pacquet was all the Letters I

took? I told him no; and shewed him the Papers took out of my Lord *Preston*'s Pocket, and they proved to be of no Consequence, and my Lord *Nottingham* gave them me again, and I carried them to my Lord *Preston*.

Mr. *Afhton*. Did I not go down into the Hole for my Hat?

Captain *Billop*. I believe you might.

Mr. *Afhton*. And was it not after that, that you took the Papers out of my Breast?

Captain *Billop*. Yes, I believe it was.

Mr. *Afhton*. Where is your Man that called to you, and said, I put something in my Breast?

Captain *Billop*. Here he is, by me, if you would ask him any thing.

Mr. *Afhton*. You say, I spoke to you about disposing of these Papers: Pray, from the Time that we came into your Boat, before we came on Board the *George Man of War*, did I speak to you?

Captain *Billop*. Yes, of the Pacquet you did: You said, *What Good would it do me to injure so many Gentlemen?*

Mr. *Afhton*. There pass'd no more than general Discourse before we came on Board.

Captain *Billop*. Yes, Mr. *Afhton*, I'll tell you another Thing you put me in mind of. When you saw that, though you were so eager with me, nothing would prevail, you said, *I know Captain Billop, and have known him many Years; and nothing will prevail on him, if he have no mind to it: And I know, if he will serve us, he will serve us generously, and like a Gentleman.*

Sir *W. Williams*. Speak that again.

Captain *Billop*. He said, *I know Capt. Billop; if he will serve us, he will do it generously, and like a Gentleman.*

L. C. *J. Holt*. Who said so?

Captain *Billop*. Mr. *Afhton*.

Mr. *Afhton*. Did I speak to you to dispose of the Papers after we came from on Board the Ship? I suppose you remember it was cold, and the Tilt was call'd for, to be laid over us, and I fell asleep; and you know I never wak'd, nor spoke, till I came to *London-Bridge*.

Captain *Billop*. Yes, yes; we had the Tilt over us.

L. C. *J. Holt*. Pray speak your Questions out, that we may hear 'em, Mr. *Afhton*.

Captain *Billop*. Mr. *Afhton* did go to Sleep a while, but he had many times urg'd me, and spoke to me to throw the Papers over-board.

L. C. *J. Holt*. Who was it that told you, *Every Dog had his Day?*

Captain *Billop*. That was *Elliot*.

Sir *W. Williams*. Was there any Discourse about turning of the Tide?

Captain *Billop*. Mr. *Elliot* said, *You have now an Opportunity to make your own Fortune, and you may be as Great, and as Rich as you please; for 'tis impossible the Tide can run long this way.*

Mr. Serj. *Tremain*. Did Mr. *Afhton* say any thing about going along with them?

Captain *Billop*. Yes: You may remember, Mr. *Afhton*, that you said, *Come, go along with us, you may do as well there, or better than you do here.*

Mr. Serj. *Tremain*. Did he tell you where you were to go with 'em?

Captain *Billop*. No, Sir; nor I did not ask him the Question.

Mr. *Afhton*. Pray, When did you give my Lord *Nottingham* these Papers?

Capt.

Captain *Billop*. Do you mean that Bundle that I took out of your Bosom?

Mr. *Ashton*. Yes.

Captain *Billop*. As soon as ever I followed my Lord *Nottingham* into his Room, I pull'd 'em out, and gave 'em him.

Mr. *Ashton*. Did not you go out of my Lord *Nottingham's* Room, and give my Lord *Nottingham* some loose Papers?

Captain *Billop*. Yes.

Mr. *Ashton*. After this, was not my Lord *Preston* called in to be examined?

Captain *Billop*. Yes.

Mr. *Ashton*. How long was my Lord *Preston* in the Room while you were out?

Captain *Billop*. I can't tell very well.

Mr. *Ashton*. Pray, Sir, answer that Question.

Captain *Billop*. I believe it might be half a quarter of an Hour: I do not think it was much more.

Mr. *Ashton*. I believe you must remember some sort of Discourse that was betwixt you and Captain *Elliot*, even to a Quarrel almost. And did you not speak to my Lord *Nottingham's* Servants, to fetch your Hat out of my Lord *Nottingham's* Room?

Captain *Billop*. Yes, I do remember that.

Mr. *Ashton*. This must be a good considerable Time: It was all the Time that my Lord *Preston* was within with my Lord *Nottingham*, that you were out.

Captain *Billop*. Yes, it was.

Mr. *Ashton*. And all that while was not the Bundle of Papers out of your Sight?

Captain *Billop*. It lay upon the Table.

Mr. *Ashton*. Pray, answer my Question: Was it not out of your Sight?

Captain *Billop*. Yes, it was.

L. C. J. *Holt*. Yes, yes; it must be, for he was out of the Room.

Mr. *Serj. Tremain*. When you came into the Room, did you find the Papers in the same Condition?

Captain *Billop*. Yes, they were un-opened, except that my Lord had taken off the Lead, and a little Paper fell loose from the rest.

Mr. *Ashton*. Pray, take Notice of that, Gentlemen.

L. C. J. *Holt*. But pray don't infer more from thence than it will bear.

Mr. *Ashton*. It seems some of the Papers were taken out.

L. C. J. *Holt*. He does not say any such thing, that some of the Papers were taken out.

Mr. *Ashton*. He says, something was cut, and some Papers fell out.

Captain *Billop*. There was a little Paper or two tied to the great Pacquet.

L. C. J. *Holt*. What became of them?

Captain *Billop*. They were cut loose, but not opened.

Mr. *Ashton*. How can you tell they were not opened.

Captain *Billop*. Because I stood by when they were cut.

Mr. *Ashton*. But how can you tell that; for you see the little Papers taken, and they were loose from the others.

Captain *Billop*. They were taken from the great Bundle before I went out.

Mr. *Ashton*. Had not my Lord opened those Papers before you came in.

Captain *Billop*. No.

Mr. *Ashton*. How can you tell that?

Captain *Billop*. I tell you, as near as I can judge, they lay in the same Posture that I left them in.

Mr. *Ashton*. Was the Pacquet sealed when you took it?

Captain *Billop*. No; but it was tied. There were several Letters in it that were sealed; it was tied up very hard.

Mr. *Ashton*. I do not question but my Lord *Nottingham* will do me the Justice to say how long he was in the Room.

L. C. J. *Holt*. You must not comment, nor make your Observations till your proper Time.

Juryman. Pray, my Lord, I desire he may be asked, who was with my Lord *Nottingham* when my Lord *Preston* was there?

Captain *Billop*. There was nobody else then.

Juryman. Then 'tis not probable they were altered before Captain *Billop* came in.

Mr. *Ashton*. But I hope Probabilities shall not be Evidence to condemn any Man.

Juryman. Those two little Papers you speak of, were they severed from the Pacquet?

Captain *Billop*. I cannot tell whether they were or no; they seemed loose upon untying the Bundle.

L. C. J. *Holt*. Were they cut in your Presence?

Captain *Billop*. Indeed, my Lord, I cannot say, that I did see them cut.

Mr. *Ashton*. Pray take Notice of that, Gentlemen of the Jury.

L. C. J. *Holt*. They are Twelve honest Gentlemen, they will do you right.

L. C. J. *Pollexfen*. Observe what the Witness says; he says, That he does not remember that they were cut in his Presence, but he does not say they were not.

Mr. *Ashton*. If he does not swear they were, it is reasonable to conclude they were not cut in his Presence.

L. C. J. *Holt*. He says, the great Pacquet was not opened, the two little Papers were loose from the rest of the great Bundle.

Captain *Billop*. There might be two or three of them, less or more, I cannot tell.

Mr. *Serj. Thompson*. You will be farther satisfied in this Matter upon my Lord *Nottingham's* Evidence, I suppose.

Mr. *Serj. Tremain*. We have done with Capt. *Billop* for the present. Pray call *Johnson*.

(Who was sworn.)

Sir *W. Williams*. Were you at the taking of that Gentleman, and the other in the Smack?

Johnson. Yes, I was.

Sir *W. Williams*. Then pray give an Account of the Matter how it was.

Johnson. We went down in a Pleasure Boat, and went to the *Tower*, we set through Bridge against Tide, my Lord of *Danby* was with us; and when we came to *Tower Wharf*, there they went to the *Tower* for Arms, and we stayed till Ebbing Water, and rowed to *Gravesend*; and when we came to *Gravesend*, we went on Board several Ships, and I thought we were going a Pressing; and we stayed at *Gravesend* the Time of the Writing of a Letter, and then we went both into the Boat again, and rowed after a Smack that had gained of us, but that not being the Smack, we turned back again, and then it was

high Water: And when we came to the upper-end of the *Hope* we saw several Smacks coming, and there was a Fisherman on board that said, That was the Smack the Captain enquired after, that was coming down there; and when they came on board, the Captain said, there were two or three brave Men, and he hoped he could spare one of them: and the Master said, he hoped he would take none of them, because they had a Protection, which he shewed to the Captain. Then the Captain went in and bid me take some small Arms, and go on board with him, and told the Master he must look a little further; and the Boards were taken up, and I saw a great Piece of Roast-Beef, and under that, my Lord *Preston*, and Mr. *Elliot*, and this Gentleman, Mr. *Ashton*: My Lord *Preston* came up first, and Mr. *Elliot* next to him; and I see this Gentleman take up something and put it into his Bosom, and I told the Captain of it, and he asked him what it was, and he said, Nothing but his Handkerchief, and plucked out the Handkerchief; but the Captain put his Hand into his Bosom, and pulled out something else.

L. C. J. Holt. What was it?

Johnson. It was a Parcel of Papers tied up, with a Piece of Lead tied to it, for I came up close after him, and see him take it up.

Sir W. Williams. What else were there found with the Papers? was not there some Seals?

Johnson. That was afterwards; but when the Captain asked him what he had gotten in his Bosom, he pulled out his Handkerchief, and said, Nothing but his Handkerchief; but the Captain took the other Papers out of his Bosom, and so I went down, and there were the two Seals, and I took them up; and when I came up, *Elliot* had a pair of black Whiskers on, and he borrowed a Pair of Scissars and cut them off, and said, he should remember me again if ever he lived, he should know me by my Tooth being out. And coming up into *Long-reach*, *Elliot* was a cold, and got to the Oar and Rowed, and said, You row as if you were rowing to Prison; and he wished that a Thunder-bolt might drop into the Boat, and that *London-Bridge* might drop down upon his Head. And when we came up to *Whitehall* I stood a Guard over them.

Juryman. Did you see Captain *Billop* take the Packet of Letters from that Gentleman's Breast?

Johnson. Yes, I did.

Juryman. Did you belong to Captain *Billop*?

Johnson. Yes, I was one of the Boat's Crew.

Mr. Ashton. Had not I been up and searched before?

Johnson. Yes, I think you had been up before.

Mr. Ashton. And then you saw me take up the Pacquet off from the Ballast?

Johnson. Yes, I saw you take it out of the Ballast and put it into your Bosom.

Mr. Ashton. Gentlemen, I hope you will be pleased to take notice of that.

L. C. J. Holt. No doubt of it they will.

Mr. Ashton. Did not that Bundle of Papers that was taken out of my Breast, did not they lie near to the Place where the Seals lay?

Johnson. Yes, it lay just by them.

Mr. Serj. Thompson. Pray set up Captain *Billop* again
(which was done.)

When you brought these Papers to *Whitehall*, Captain *Billop*, who did you deliver them to?

Captain Billop. To my Lord *Nottingham*.

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Mr. Serj. Thompson. After he received them, what did he with them?

Captain Billop. After he had examined all these Gentlemen, he went to opening of the Papers, and he desired me to stay in the Room till they were opened, which I did; and my Lord looking on some of the Papers said, If this Pacquet had gone, we had quickly been visited by the *French*. With that I took them up, and look'd into them. My Lord said, I might look into as many Papers as I pleased; but I was very uneasy, and full of Pain, and had more mind to be gone, and be a Bed, than looking into Papers; but several of the Papers I did look into, and several I put my Mark upon; and the next Day at the Council, what of them I did know, I did put my Mark upon.

Mr. Serj. Thompson. After my Lord *Nottingham* had perused them, what did he do with them?

Captain Billop. My Lord put them up in a Cover, and tied them with a Piece of Twine, and put his Seal upon them, and gave them me, and desired me to carry them to my Lord President; which I immediately did, and, without stopping, carried them to my Lord President.

Mr. Ashton. When was this, Sir? Was it that very Night that we were brought to *Whitehall*?

Captain Billop. Yes.

Mr. Serj. Tremain. Then we must desire my Lord *Nottingham* to be sworn.

The Earl of Nottingham Sworn.

Mr. Serj. Thompson. Will your Lordship please to give the Court an Account how these Papers came to your Lordship, and how your Lordship disposed of them.

Earl of Nottingham. Captain *Billop* came to my Office——

Mr. Ashton. I humbly desire your Lordship would please to speak louder; for I cannot hear your Lordship, and I fear the Jury cannot.

Earl of Nottingham. I speak as loud as ever I can, but I have a great Cold.

L. C. J. Holt. You may hear my Lord very well, if the Court be but silent.

E. Nottingham. Captain *Billop* brought to me a Pacquet tied about with a Packthread, to which there was a Piece of a Leaden Pipe fixed, in which Pacquet there was stuck in another Paper; I think there was but that one besides the Cover, but what it was particularly I do not remember: this Pacquet was laid upon the Table while he was by; and I called in my Lord *Preston*, not being willing to make him stay, and after I had some Discourse with my Lord, to examine him what Account he could give of these Proceedings; then I called in yourself, Mr. *Ashton*, and Captain *Billop* was by also, but the Pacquet so tied with the Packthread, I cut open in *Billop's* Presence with a Pair of Scissars; the same Papers that were in that Pacquet, together with the little Paper that was stuck in, I tied up; I am sure I sealed them in a Sheet of Paper, and gave them back again to Captain *Billop* to carry them to my Lord President.

Sir W. Williams. Captain *Billop*, you have already declared, that all you received from my Lord *Nottingham*, you carried to my Lord President.

Captain Billop. All the Papers that I received from my Lord *Nottingham*, just as I received them, sealed with my Lord's Seal, I went directly to my Lord President's, and gave them him.

Sir W. Williams. Pray, my Lord, did your Lordship deliver to Captain *Billop* all the Papers that you received from him?

Earl of Nottingham. My Lord, all the Papers that Captain *Billop* brought to me, that were in the Pacquet (for he brought some Letters that he took out of my Lord *Preston's* Pocket, that were of no Consequence) but all the Papers that were in the Pacquet, I delivered back to Captain *Billop*, sealed as I received from him, and no more, and no others; for the other Letters, they being from my Lord *Preston's* Children, and not relating to the Publick, I gave them to him to give my Lord *Preston* again.

Mr. Ashton. My Lord, I humbly beseech your Lordship to tell the Court how long my Lord *Preston* was with your Lordship in the Room.

E. Nott. Truly I am not able to tell you particularly how long it was, I believe it might be about a quarter of an Hour, or scarce so much.

Juryman. Was there no body with your Lordship, when Captain *Billop* was out, but only my Lord *Preston*?

E. Nott. No, not that I know of.

Mr. Ashton. My Lord, I have one Favour more to beg your Lordship, I humbly pray your Lordship will please to tell the Court and Jury what Answer I gave to your Lordship, when you asked me how I came by those Papers.

E. Nott. As near as I remember, the Account that you gave of them was, That you went down again after you were come up, as you said, to fetch your Hat; and that when you did go down into the little Hole to fetch your Hat, you brought up these Papers with you.

Mr. Ashton. My Lord, this was the Account I did give. Now this very well corresponds with that Man's Evidence, that says he saw me take up the Papers and put them into my Breast.

L. C. J. Holt. He does say so, and this does all very well agree.

Mr. Sol. Gen. Now we desire my Lord President would be pleased to be sworn.

The Lord President sworn.

Mr. Serj. Thompson. Pray, my Lord, will your Lordship please to declare to the Court what Papers Capt. *Billop* brought to your Lordship, and how your Lordship disposed of them?

L. President. Captain *Billop* did bring me a Pacquet tied with a Packthread, and that was sealed with my Lord *Nottingham's* Seal, I knew it to be his Seal; and he told me, that my Lord *Nottingham* commanded him to bring the Pacquet to me. I opened the Pacquet, and perused all the Papers; it was very late, and I locked them up till Morning, and I then carried those very Papers to the King, and in the King's Closet, at *Kensington*, the King read some of them, and in my Sight, for I never parted from the King, but was by all the while: The King put up all the Papers again, and commanded me to call a Cabinet Council, and to let them be delivered there to the Council; accordingly I did deliver them Paper by Paper, and they were all marked there by my Lord *Sydney*, who is here present; and they were then delivered into the Hands of my Lord *Sydney*.

L. C. J. Pollexfen. Will you please to ask my Lord any Questions, *Mr. Ashton*?

Mr. Ashton. My Lord, if your Lordship will be pleased to pardon me, I would ask your Lordship, Did any of your Lordship's Servants, or Family read any of these Letters?

L. President. No, not one.

Mr. Ashton. Were they locked up where any of your Lordship's Secretaries, or Servants could come to them?

L. President. No, I lock'd them up in a strong Box in my Closet.

Mr. Ashton. My Lord, I only desire this Favour further of your Lordship: Your Lordship, at the Committee of the Council was pleased to ask me, how I came by those Papers; I presume you may remember, and I pray your Lordship to declare, what Answer I gave.

L. President. Truly, *Mr. Ashton*, to tell you Truth, I do not remember the Particulars; I remember you denied every Thing; I can only say that, in the general; but what you said in particular I cannot remember.

L. C. J. Pollexfen. Do you put my Lord in mind if you can; see whether he does remember it.

Mr. Ashton. My Lord, I only desire to ask my Lord President, whether I did not tell him I went down, after I had been search'd, into the Hold, and there I see the Papers lie, and brought them up, and put them into my Breast; they were no sooner in my Hands but Capt. *Billop* had them in his; for the Man called and said, This Gentleman has something in his Breast, and the Captain put in his Hand and pulled it out.

L. President. Truly, *Mr. Ashton*, I do not remember the Words that you used, but remember you said something to which I made answer, What makes it matter, They were found upon you, and taken out of your Bosom, do you look to it how you came by them. I do not remember what you said, for I cannot remember particular Words, but I believe you might say some such thing.

Mr. Sol. Gen. Then, pray, my Lord *Sydney*, will you be pleased to be sworn.

The Lord Sydney sworn.

Mr. Sol. Gen. Will your Lordship be pleased to declare what Papers you received from my Lord President?

L. Sydney. At the Cabinet Council my Lord President delivered a Pacquet of Papers, I received them every one there, and mark'd them, and put them into my Pocket.

Mr. Serj. Tremain. Did your Lordship deliver them to any Person afterwards?

L. Sydney. The next Day, or the Day after, I gave them to *Mr. Bridgman* to copy out, and he delivered them back to me again.

Mr. Sol. Gen. Pray, my Lord, give me leave to ask this Question—

Mr. Serj. Thompson. Your Lordship had mark'd them before you delivered them to *Mr. Bridgman* to copy?

L. Sydney. Yes, I mark'd them at the Council Table, at my Lord *Nottingham's* Office.

Mr. Sol. Gen. My Lord, those Papers that you mark'd, were the same Papers that my Lord President brought, and delivered in at the Council?

L. Sydney. Yes, the very same.

Juryman. My Lord, shall we have Leave to ask my Lord *Sydney* a Question?

L. C. J. Holt. Ay; what is it?

Juryman. Pray, my Lord, did the Pacquet come to you sealed? That which was taken from this Gentleman, was it sealed when it came to you?

Mr. Sol. Gen. No, it had been opened by my Lord *Nottingham*, and my Lord President.

L. C. J. Holt. Sir, you are under a Misapprehension of the Matter. My Lord *Nottingham*, after he had opened them, sealed them up again, and delivered them to Captain *Billop*; Capt. *Billop* carried them sealed to my Lord President; my Lord President opens them, and lays them up; they were never out of his Possession; he carries them to the King; the King read some of them in his Lordship's Presence; he delivers them at the Cabinet Council to my Lord *Sidney*; and my Lord *Sidney* swears he read them there, marked them, and when he had done, put them in his Pocket.

Mr. Sol. Gen. My Lord *Sidney*, will your Lordship be pleased to look upon these Papers, and see if these be Part of them.

L. Sydney. I know them very well, I have read them ten Times, I marked them at the Council, and that is my Mark.

Mr. Sol. Gen. Pray, my Lord, are those two Papers that you have in your Hand, Two of those Papers that my Lord President delivered at the Cabinet?

L. Sydney. Yes, that they are.

Mr. Sol. Gen. My Lord President, will you please to look upon them.

(Which his Lordship did.)

L. President. These are two of the same Papers that Captain *Billop* brought me.

Mr. Sol. Gen. Now we shall desire to have them read; but give me leave to observe to you, That one of them is a Copy of the other; only in the one some Words are written short, that are written out at length in the other.

Juryman. Pray, my Lord, I desire to ask, are they of the same Hand?

Mr. Sol. Gen. No, they are of different Hands.

Mr. Serj. Thompson. Pray, Gentlemen of the Jury, take Notice, and observe these Papers, for there is a great deal of Matter of great Moment in them; for you cannot expect the King's Council should repeat every thing that is in so many Papers as we shall read; it is impossible we should take Notice of all.

L. C. J. Holt. Or I either, therefore pray, Gentlemen, observe what is read, for I shall be able only just to state the Evidence to you.

Mr. Ashton. My Lord, I hear them say, one of those Papers is a Copy of the other; I desire, the Original may be read, and not the Copy.

Mr. Serj. Thompson. Who knows which is the Original?

L. C. J. Holt. Look you, Mr. *Ashton*, we don't know which is the Original, or which is the Copy, they are both found together, they contain the same Matter, and the same Words: It may be you can tell which is the Original.

Mr. Serj. Thompson. You may look upon them your self, and tell us which is the Original, if you please.

Mr. Ashton. That is very well observed, Sir. That is throwing Water upon a dead Mouse. Then I desire both of them may be read.

Mr. Sol. Gen. Indeed, Mr. *Ashton*, I think there is a particular Reason why you should not desire to have the Copy read, because least it should prove to be your own Hand-writing.

Mr. Ashton. Pray, let both be read.

Cl. of Peace reads. The Result of a Conference —

Mr. Serj. Tremain. Pray attend, for this is the Scheme of the whole Work.

Cl. of Peace reads. The Result of a Conference, &c.

And the other was likewise read as before.

L. C. J. Pollexfen. Pray let Mr. *Ashton* see that Paper.

The Paper was handed to Mr. Ashton, being one of the Papers before read.

L. C. J. Pollexfen. Mr. *Ashton*, look upon that same Paper a little, satisfy your own Mind a little whose Hand that Paper is in. Look upon it well, I would have you be satisfied about it. Look particularly upon the latter Part of it.

Mr. Ashton. My Lord, I have looked upon it, I have seen it all.

L. C. J. Pollexfen. Come then, give it me back again, and think of it a little in your own Heart.

Mr. Sol. Gen. My Lord *Sydney*, pray, will your Lordship look upon this Paper.

L. Sydney. This is one of the Papers that was, among the rest, delivered by my Lord President; at the Cabinet.

Mr. Sol. Gen. Pray shew it my Lord President; What says your Lordship to it?

L. President. This was one of the Papers I gave my Lord *Sydney*, and was brought to me in the Pacquet by Captain *Billop*.

Cl. of Peace reads. That the King would return with a Design of making an entire Conquest of his People —

Mr. Serj. Thompson. Pray, my Lord, give me leave, before it be read, to acquaint the Jury what this is, that they may make the better Observations upon it. This, Gentlemen, is the Heads of a Declaration that was intended to be published when the *French* came; and you will see what it is when it is read. Pray observe it.

Cl. of Peace reads. That the King will return, &c. As before.

Mr. Serj. Tremain. The next Paper is an Account which they had taken with them of the Force of the Kingdom, of the Ships, particularly how many in Number, what Rates, what were in Repair, what out of Repair, and what a Building. Pray shew it my Lord *Sydney*.

L. Sydney. This is another of the Papers that I received from my Lord President, and marked at the Cabinet.

Mr. Serj. Thompson. Then shew it my Lord President.

L. President. This is one of the Papers that were in the Pacquet that Captain *Billop* brought me.

Clerk of the Peace reads.

Mr. Sol. Gen. Pray, my Lord *Sydney*, look upon these Papers, and tell where your Lordship had them.

The Papers were shewn both to the Lord President and the Lord Sydney.

L. C. J. Holt. My Lord President says he received them from Captain *Billop*, and gave them to my Lord *Sydney*; and my Lord *Sydney* says, they are the same he received from my Lord President.

Juryman. Are those the Papers that have been read, my Lord?

Mr. J. Eyres. No, but they both say the same, as to those that have been read.

Juryman. Then pray, my Lord, what are those Papers that are going to be read?

Mr. Serj. Tremain. These are two Letters, Gentlemen, that are written, giving an Account how the Affairs in *England* stood with reference

to the Persons Concerns that they are written to ; and there is a particular Passage in one of them, How their young Master prevailed in his Interest, and got Ground of his Adversaries. If you observe them, you will easily understand what is meant by them.

Clerk of the Peace reads. This is directed for Mr. Redding, New-year's Eve, Though the Bearer of this, &c. *As before.*

Clerk of the Peace reads. This is directed for Mrs. Redding. As it is impossible for me to express, &c. *As before.*

Mr. Sol. Gen. Now we desire my Lord Sydney, and my Lord President would look upon these Papers.

Juryman. My Lord, I desire the former Part of that last Letter may be read again.

Which was done.

L. Sydney. These I had from my Lord President.

L. President. And I had them out of the Pacquet that Capt. Billop brought me.

Mr. Serj. Tremain. If your Lordship please, I will open them to the Jury. Here are two Letters, in one of them there is an Account given, that they were heartily sorry they were disappointed, and that they had not been here already, but hoped they would be here as fast as they can; that the Match was concluded, the Settlement prepared, and no doubt but the Daughter's Portion would be well secured, if they would come quickly.

Clerk of the Peace reads. Dec. 31, 1690. 'Tis directed for Mrs. Charlton. I must not let this Bearer depart, Madam, &c. *As before.*

Mr. Serj. Tremain. That Letter tells you that the Daughter's Portion would be well secured; this that we now produce will tell you, how it shall be raised. It says, the old Tenants are weary of their Master, and a little Matter, if he would but appear in *Westminster-Hall*, would redeem the Estate; and the Cause might be brought to a final Hearing before the End of *Easter Term*, if they make haste, and it were well solicited.

Clerk of the Peace reads. This is directed for Mr. Jackson, Dec. 31, 1690. The Bearer hereof will give you, &c. *As before.*

Mr. Sol. Gen. We must desire my Lord President, and my Lord Sydney, would be pleased to look upon these Papers.

L. President. I received these from Capt. Billop in the Pacquet, and gave it to my Lord Sydney.

L. Sydney. These are some of the Papers I had from my Lord President.

Mr. Serj. Tremain. The Letters we now produce to be read, seem to be written by a Man that was involved in a great Trade, that had great Projects in his Head, and drawn many Schemes in his own Brain how to carry on the Trade; he directs what Sort of Wares he would have sent, what was proper for their Markets, that he had got many a new Customer, and hoped they should not be disobliged; that all must be sent before the First of *March*, at least before the Tenth, or the whole Summer Profits would be lost

Clerk of the Peace reads. 31 Dec.—

L. C. J. Holt. Read the Superscription first.

Cl. of the Peace. There is no Superscription, my Lord, at all.

L. C. J. Holt. Well, read on.

Clerk of the Peace reads. Dec. 31. The Interruption of the former Correspondence had a very ill Effect many ways, &c. *As before.*

Mr. Serj. Tremain. Gentlemen, doubting that Letter might not be pressing enough, here is another to the same Effect.

Clerk of the Peace reads. Dec. 31. It is a Presumption incident to those that are any ways upon the Spot, &c. *As before.*

Mr. Serj. Tremain. One would imagine this Letter were written by some Person that used to talk Cant, that he is so ready at it.

Mr. Sol. Gen. Pray, my Lord President, what says your Lordship to these Papers?

L. President. These two Letters were in the Bundle that Captain Billop delivered to me, and I delivered them to my Lord Sydney.

L. Sydney. These are some of the Papers I had from my Lord President, at the Cabinet.

Mr. Serj. Tremain. That first of these Papers is a Letter wherein the Party gives an Account of his own Condition here, and how he would venture to bring about what was desired.

Cl. of the Peace reads. 31 Dec. 1690. Was my Condition more desperate and uneasy than it is, &c. *As before.*

Mr. Serj. Tremain. This little Paper was inclosed in the other.

Cl. of the Peace reads. I beg, &c. *As before.*

Mr. Serj. Tremain. Now shew this Paper to my Lord President, and my Lord Sydney.

Which was done.

L. C. J. Holt. My Lord President, and my Lord Sydney swear the same for this Paper, as for the rest.

Mr. Serj. Tremain. This Paper shews they were going about a Deed that they did not desire to have known; 'tis a Key how to explain their Meaning.

Clerk of the Peace reads. For Mrs. Anne Russell, &c. *As before.*

Then three other Papers were shewn to, and sworn by the Lord President, and the Lord Sydney, to be Part of the same Papers.

Mr. Serj. Tremain. The Papers that we are going to read are these. Gentlemen, here is a Letter of Recommendation in behalf of one Mr. Orbinet, which is a Name, they pretended of some Person that was at *Paris*, or to go there, and 'tis written by one Mr. Dellivere, to his Correspondent there; and he tells him, the Bearer had something to disclose to him, and that he might have an entire Confidence in him: but the Letter of Recommendation alone, without a Sum of Money, they reckoned would meet with a bad Welcome in *France*, and therefore they take 500*l.* with them, and here are two Bills to pay it.

Then Mr. Humphrey Levermere was sworn to interpret them, being in French, (which he did) and read them as in the former Trial.

Juryman. Were these Bills found in that Pacquet?

Mr. Serj. Tremain. Yes, Yes; they are sworn to by both those Lords.

Mr. Sol. Gen. Now, pray, my Lord, will you please to look upon these Papers?

The Lord President and Lord Sydney both testified, That those were Part of the Papers.

Mr. Serj. Thompson. This next Paper that we give in Evidence is very short. It seems to be a Table for the Memory of the Person that was to carry it? They are short Heads for the Memory, consisting of a great many Particulars; You will make your Observations upon them, and what Judgment you think fit of them.

Mr. Serj. Tremain.

Mr. Serj. *Tremain*. My Lord, I desire to take Notice of these Papers that we are now going to read; you will observe these Things in them, which are worth your remarking, Gentlemen; because these Papers that we now read to you, are of themselves sufficient to prove every Article in the Indictment: For these Papers give an Account of the Ships, their Number and Force, the Forts of the Kingdom, how they are Manned, how they may be Surprized, where the *French* Fleet should Fight, where they should Assault us, how they should hinder the *Dutch* and *English* Fleets from joining, what Number of Soldiers would be sufficient, and what Number of Ships in *Newcastle* to plague the City of *London*, how to manage this whole Affair; and it gives Characters of the Clergy of *England*, and particularly of the City of *London*, and says, they are the worst of Men.

Mr. Serj. *Thompson*. No; Brother, 'tis the worst of all the Clergy.

L. C. J. *Holt*. Come read them.

Clerk of the Peace reads. Lady D. 2000 l. &c.
As before.

The Jury desired to see the last Papers, and had them delivered to them.

Mr. Sol. Gen. Then we rest it here, to see what the Prisoner will say to it.

L. C. J. *Holt*. Mr. *Ashton*, the King's Council have done their Evidence for the King, what have you to say for yourself?

Mr. *Ashton*. My Lord, I humbly desire to know of your Lordship, whether all the Letters are read, that were read at the Trial of my Lord *Preston*?

L. C. J. *Holt*. What is that material to you, whether they be or not?

Mr. *Ashton*. My Lord, I am informed that there were several Letters, that particularly name my Lord, implying him to be the Bearer, and I desire those Letters may be read.

Mr. Serj. *Thompson*. With all my Heart, if you do desire it, it shall be read, we do not think it material.

Mr. *Ashton*. I do desire it; it will be plain, I believe, from hence, that I could know nothing at all of this Matter; and if your Lordship please, my Lord, to observe it, three or four of these last Papers, as Mr. Serj. *Tremain* observed, were the Ground-Work of all this Business, which refers to *Portsmouth* and *South-Sea*, and some other Papers; these I think, with Submission, were proved to be the Hand of another Gentleman, and I desire it may be proved again to the Jury, by which I think it will be plain, that they do not affect me.

L. C. J. *Holt*. Look you, Mr. *Ashton*, it is not proved to be your Hand, nor pretended to be so.

Mr. *Ashton*. But positively proved to be another's Hand, as I am informed, and 'tis that which Mr. Serj. *Tremain* observed, was the Ground-Work for carrying on the whole Design. I presume the Witnesses are in Court that proved 't then, and I hope your Lordship will be so kind as to let it be proved now; they did prove it to be another Person's Hand upon a Trial not long ago.

L. C. J. *Holt*. If you have a Mind to call any Witnesses to prove the Papers to be another's Hand, you may call them.

Mr. *Ashton*. I hope the King's Witnesses are now in Court that did prove them to be his

Hand-writing, and they'll prove it now I suppose.

L. C. J. *Holt*. If you have a Mind, you may call them, they have not a Mind to produce them for the King.

Mr. *Ashton*. I know not where they are, my Lord. Pray Mr. *Aaron Smith*, be you so kind as to call them.

L. C. J. *Pollexfen*. You should have sent and Subpoena'd them to be here.

Mr. *Ashton*. Mr. *Warr* is there, my Lord, I desire he may be ask'd the Question; and I believe Mr. *Blane* is in the Court, pray let him be ask'd.

L. C. J. *Holt*. Mr. *Warr*, you are called by the Prisoner, as a Witness, to prove my Lord *Preston*'s Hand.

Mr. *Ashton*. Mr. *Warr*, Mr. *Townsend*, and Mr. *Blane*, I desire may be all ask'd.

L. C. J. *Holt*. Mr. *Ashton*, you have insisted upon it, that these Papers were my Lord *Preston*'s own Writing.

Mr. *Ashton*. My Lord, I do insist upon it, to know whether they were not proved to be his Hand.

Mr. Serj. *Tremain*. Yes, they were so, 'tis agreed.

Mr. Serj. *Thompson*. We do grant the King's Witnesses proved, that they did believe them to be my Lord *Preston*'s Hand.

L. C. J. *Holt*. The King's Council do admit, that these three last Papers were not your Hand, but they admit them to be my Lord *Preston*'s Hand, and 'tis very well done of them to admit it; so that now 'tis to be taken for granted, that those three last Papers were my Lord *Preston*'s Hand.

Mr. *Ashton*. Then, my Lord, I desire the Substance of those Papers may be the more press'd upon the Jury, because Mr. Serj. *Tremain* observed that the whole Design in the Scheme of it lay in those Papers, and they are not my Hand, but another's; and for what is in them, I know nothing, nor am concern'd.

L. C. J. *Holt*. What have you farther to say, Sir?

Mr. Sol. Gen. You mentioned another Letter which you did desire should be read.

Mr. *Ashton*. Ay; two or three where my Lord is nam'd.

Mr. Sol. Gen. This is the Letter I suppose you mean, the Clerk shall read it.

Clerk of the Peace reads. Sir, I vow to you, I do not repine at having lost all for your Sake, &c.

(As before.)

Mr. *Ashton*. Gentlemen, I hope you will observe, in that Letter my Lord is call'd the Bearer; and it tells that he brings Papers with him, by which it is plain, that you cannot imagine I could know any thing of these Papers. And, Gentlemen, it has not appeared by any Evidence that has been given, that I knew any thing more, than that they were unfortunately found upon me: But with Submission, I believe there is another Letter, if I am informed right, wherein my Lord is named, and called, my Lord the Bearer.

Mr. Sol. Gen. Sir, I do assure you now, we have to my Observation, read every Letter, and every Paper, that was read on *Saturday*.

Mr. *Ashton*. Mr. Solicitor, I am satisfied, for I am confident you would not affirm it if it were otherwise.

L. C. J. Pollexfen. There is not any Letter that says my Lord the Bearer, but my Lord will give you an Account, so and so; the Bearer will tell you these and these Things; will you have it read again? You shall if you will.

Mr. Ashton. I am unwilling to take up your Lordship's time, unless the Jury desire to have it read again.

Juryman. Pray, my Lord, when that Letter was read on *Saturday*, how was it construed by the Court? How did they take it then?

L. C. J. Holt. We did take it then, because my Lord was mentioned, that he might possibly be the Bearer.

L. C. J. Pollexfen. It is very probable, and so it was understood then, that the Lord mentioned in the Letters was my Lord *Preston*, and so that my Lord was the Bearer that could give an Account of the Countess's Condition; and in the Beginning of those Papers that are of my Lord's Hand, there is mentioned so much Money for the Lady *D—*, which is my Lady *Dorset*, I suppose, that is there meant, and that writ that Letter.

Mr. Ashton. No, my Lady *Dorchester*.

L. C. J. Pollexfen. *Dorchester*, I cry your Mercy; and it is probable the same Reason is a Reason still to make it believed that my Lord *Preston* was meant.

Mr. Ashton. I think my Lord Chief Justice was pleased to observe, as I have been informed, in giving his Charge to the Jury, that these Papers, some of them naming my Lord, must be meant of my Lord *Preston*, there being no other Lord but he; and he likewise gave another Reason; says he, They lay by my Lord's Seals that were produced, and therefore it was plain, they could not be *Ashton's* nor *Elliot's*.

L. C. J. Holt. No not so, but my Lord might be concern'd, because my Lord's Seals were there where the Papers were found.

Mr. Ashton. I am wrong inform'd, if those were not the Words my Lord Chief Justice *Pollexfen* used.

L. C. J. Pollexfen. What do you say were the Words? If you will repeat them, I'll tell you as near as I can.

Mr. Ashton. Your Lordship seem'd to infer, That my Lord being nam'd, and the Bearer in the same Paper, that of Consequence that must be my Lord *Preston*, and the Papers must be his; and you did give another Reason for it, to inforce it, that the same Man that saw me take them up, saw them lie by the Seals, which were proved to be my Lord *Preston's*, from whence your Lordship did say, it is plain they were my Lord *Preston's*, and that *Ashton* or *Elliot* could not be concerned in them.

L. C. J. Holt. You mistake that matter, sure there was not any such Word said, for that Evidence that tended to convict my Lord *Preston*, did by no means tend to acquit you; the Question then was, How far my Lord *Preston* was concerned; my Lord insisted upon it, says he, They were not taken from me, but from *Mr. Ashton*; there the Question was not about you.

Mr. Ashton. I humbly hope, my Lord, you will forgive me for insisting upon these Matters, because I am for Life.

L. C. J. Pollexfen. I would do you all the Right I can, I assure you, *Mr. Ashton*; but certainly there was no such Thing said as you have mentioned.

Mr. Ashton. My Lord, I do not question but you will do me Right, and I thought so, when I chose the Jury out of the first that appeared, without challenging any.

L. C. J. Holt. Well, Sir, pray go on to your Defence.

Mr. Ashton. My Lord, my own Defence will be very weak upon the Whole, for I am very illiterate and unskill'd in the Laws, but where I do fail of taking Advantage, to observe what may be for my Advantage, I hope your Lordships will be so kind to me, as well as just (I may call it) to yourselves, being upon your Oaths, as to take notice of it. My Lord, in the first Place —

Mr. Serj. Tremain. Before *Mr. Ashton* proceeds, I would observe one Word in a Letter that has been read, which is one of these Papers; it says, *I say nothing of another Gentleman that takes Opportunity to see those Parts, but he has shewn a Zeal and Sincerity in the Affair equal to most.*

Mr. Serj. Thompson. You hear, Gentlemen, that there is notice taken of another Person besides the Bearer.

Mr. Ashton. Pray, my Lord, is it any Consequence that I must be the Person that must be meant, or that I must know what the Contents of the Letter was, There was another besides me, and so it is not plain who was meant; or if I were the Man meant in this Letter, it must not therefore follow that I must know of it.

Mr. Serj. Tremain. I did not mention it as a Proof that you were the Person meant, but only to shew that there was another Person besides my Lord taken notice of in them.

L. C. J. Holt. I must confess, I think *Mr. Ashton* observes right, it does not concern him, for as well as he was there, there was another, and it is uncertain whether it relates to him or the other, and so it signifies nothing at all; that's my Mind. Pray go on, *Mr. Ashton*.

Mr. Ashton. My Lord, upon the Whole I have this to observe; first as to my Business of going into *France*, I must ingenuously own it, though I protest to you I never own'd it or named it to the Woman, though she had sworn it, but yet I do now. My Design was to go to *France*, and I had very great and good Reason for it, I think; I had endeavour'd all Ways I could in the World to procure a Pass to go to *France*; 'tis very well known, I did Business under Lieutenant-General *Worden*, that died half a Year ago; his Accounts are now depending, and such Accounts as may be prejudicial in some Points to his Family, to whom I have always own'd, and must, a great Obligation, and would be very glad upon all Occasions to serve it, and all the Branches of it: This was not the Whole nor the only Design I had in going thither, but I had likewise some Business of my own, I have a considerable Sum of Money owing me, if it be necessary to prove it, I can prove it by a Bond from a Person that is there; a great Sum it is, a very considerable one to me at least. And, my Lord, I did think if I did not go myself, it was impossible for me to do any thing in that Affair, and that was the true and only Reason of my Design in going to *France*, having been out of Hopes of getting any other Convenience otherways; this was not a Design just now formed, as if I were just now upon some Plot concerning the Publick, but it has been my Design ever since Lieutenant-General

Worden died, and he upon his Death-bed ingaged me to do it; and I once went down, hoping to have gone from *Dover*, and there I was apprehended and taken. And, my Lord, I have used all manner of Endeavours to go other ways, but they have always failed me, and this way I hoped would have taken: My Lord, I do own I did hire the Boat, and I did pay the Money; but with Submission, I think that is not any manner of Treasonable Act, my Lord; perhaps it is an ill Act, but it does not amount in the least to Treason going to the King's Enemies, suppose I went upon that account, that is no manner of Treason in the World; carrying Papers to the King's Enemies, except it be proved that I was privy to them, and knew the Contents of them, if Lawyers inform me right, is not Treason; then what remains? 'Tis true, I must own the Papers were found upon me, and I believe there is nobody that has heard the Evidence that has been given, but must readily conclude, that I found them in the Place where the Seaman says I took them up; and besides, my Lord, there is not any manner of Proof so much as aim'd at by the King's Council in all their Evidence, that I was privy to any one of these Papers; so that, my Lord, I think there is very little proved upon me at all: I had the Misfortune to be taken in this Company that was going where these Papers were taken, it's true, but they have not attempted to prove that I was privy to, or knew any thing of them at all, nor that I was more concerned than that they were taken in my Stomach; this is all I have to observe upon the Whole: As to the Business of the Indictment, there are great and grievous Aggravations in it, and such as I am not able to comprehend the Meaning of, the Words confound me; and therefore I humbly desire your Lordship to tell me upon what Statute I am indicted.

L. C. J. Holt. I'll tell you, Mr. *Ashton*, you are indicted upon the 25th of *Edward* the Third, for conspiring, compassing and imagining the Death of the King and Queen, and for that Purpose going to *France*, and endeavouring to incite the *French* King to invade the Kingdom, and telling him how he should do it, and letting him know in what State and Condition the Kingdom was, and how fit to be invaded.

Mr. *Ashton*. Pray, my Lord, is that at all proved upon me?

L. C. J. Holt. That is the Question that the Jury are to judge of upon the Evidence that has been given.

Mr. *Ashton*. As to that of Compassing the Death of the King and Queen, I am ignorant of Dealings in Law; but I conceive there are several Species of Treason mentioned in that Act of the 25th of *Edward* III. and as to the imagining the Death of the King, that's only to be proved by some Overt-Act: Now I think nothing at all has been proved of any open Act conducing to prove the Imagination or Compassing the Death of the King or Queen, no manner of Consultation or Treasonable Act at all; and therefore, my Lord, I do not see that there is any great Matter that is proved upon me, and I hope you are of that Opinion too.

L. C. J. Holt. Mr. *Ashton*, that you may not go away with a Mistake, any that design'd the Deposition of the King and Queen, and the Invasion of the Kingdom, which is proved by any Overt-Act, is sufficient to prove that they compass and imagine the Death of the King and Queen.

Mr. *Ashton*. I presume it may be so, I believe that may be the Construction of the Law.

L. C. J. Holt. And I make no question but those that you have consulted with have told you as much.

Mr. *Ashton*. Truly as to Council, my Trial has been as hard as ever Man met withal.

L. C. J. Holt. Why do you say so, Mr. *Ashton*? the Court has not been hard upon you.

Mr. *Ashton*. My Lord, I do not complain of the Court, but as to the matter of Time, I had Notice by that Gentleman, Mr. *Bale*, to prepare for my Trial, and that was on *Friday*, and not before.

L. C. J. Pollexfen. *Friday* was Sevensnight, you mean, I suppose.

Mr. *Ashton*. Yes, I do mean *Friday* was Sevensnight, I was then a close Prisoner, I had not the Opportunity or Liberty of seeing any Christian Soul; I spake to him then, and told him, Mr. *Bale*, this is very short Notice, pray be so kind as to move my Lord that I may have Council; truly he was civil enough, and said, he would do all he could; says he, Will you give me the Names of your Council? So I gave him the Names of four, and of a Solicitor; but I never heard more of him in the Matter: I did with all my Industry and Skill give my Friends notice, but I was under great Difficulty, for I had not the Liberty of Pen, Ink, nor Paper, nor a Man to send upon a Message, on *Saturday*; I gave my Friends notice of it upon *Sunday*, which was no very good Day for Business, they applied themselves to my Lord *Sydney*, whose Favour and Kindness I shall always own as long as I live; he gave me all the Dispatch possible, and got me an Order to see my Wife that Day, though it was *Sunday*; the next Day I made Application to have my Council come to me, that was *Monday*; he with the same Readiness procured that: but it was *Tuesday* in the Afternoon before I could see any living Soul but my Wife; and some of the Council that I desired, would not readily come to me, and it was *Wednesday* before I did see any Body of them, and so I had but *Wednesday* and *Thursday* to consult with them in. On *Friday* I was brought here, and I endeavour'd to procure a Copy of the Pannel, that I might inform myself of the Characters of the Men that were to be my Jury; and, my Lord, I would desire you to give me leave to clear one Point, which through Inadvertency slipt from me about the Time that I desir'd to send to enquire about the Jury. I did not mean, as was apprehended, to send to them to take them off, but I only meant to enquire after their Characters; this was done upon *Friday*; I had not a Copy of the Pannel till last *Friday*, when we were Arraigned in Court, it was Two of the Clock before the Pannel was given us, it was between Three and Four when we came to *Newgate*; we were to come upon our Trial the next Morning by Eight of the Clock; so that before the Copies could be transcribed for us, there were left but six Hours for us to enquire into the Morals of so many Men, of whom some lived eight, some ten, some fifteen Miles out of Town; for my Part I was not able to enquire after any one, and that your Lordship may think, by my taking the first Twelve that appear'd, and believing myself innocent of this Matter, I resolv'd to put myself upon my Trial by any twelve indifferent *English* Men; I only beg
if

if I have omitted any Thing in reference to myself, or misbehaved myself with respect to the Bench, that you would please to set me right, and consider that I stand here for my Life; and to grant me your Pardon for any thing wherein I have offended your Lordships, to whom, and to the Jury, I refer my Cause; only I beg leave to call two or three Witnesses, I know it hath been allowed before in such Cases, to give some short Account of my Life and Conversation, because it hath been reflected upon me that I was a Papist, because I designed to go into *France*; but I believe there is not any Man, whose Devotion to the Protestant Religion establish'd by Law, is greater than mine hath been, or to whom that Religion is dearer than to myself.

L. C. J. Holt. You are not accused of any such thing; nobody pretends you are a Papist: but call whom you will.

Mr. Ashton. Pray call *Dr. Bury*, *Dr. Lake*, *Dr. Fitz-Williams*, and *Dr. Davenant*. There is *Dr. Fitz-Williams*; I beg the Favour of you, *Dr. Fitz-Williams*, to give the Court an Account of your Acquaintance with me, and particularly about my Religion.

Dr. Fitz-Williams. Will your Lordship give me leave, my Lord?

L. C. J. Holt. Ay; Come, what do you know of *Mr. Ashton*.

Dr. Fitz-Williams. I suppose, my Lord, that he calls me in as a Witness to his Religion, and to his Morality, I think so; with my Lord's Permission I will give the truest Testimony I can: I have known him for some time, he used to be frequently at the Service of the Church in the Protestant Part of the Family at *St. James's*, where I was Chaplain; during the Time I was there, I observed him to be a frequent Receiver of the Holy Communion; and, as far as I could observe, lived answerable to what he professed to be, a sincere Member of the Church of *England*, and a serious Christian. For his Sincerity and Zeal for the Protestant Religion, I can give this Instance, he had an Aunt that had a Relation to that Family, one *Mrs. Du-pee*, who he thought did warp a little towards Popery, and he desired me, about five Years ago, to have recourse to her, and desired to know if she were dissatisfied with any Point of Religion in the Church of *England*, in Communion with which she lived visibly, and I would do my Endeavour to satisfy her; as I do not doubt but I could. She was desirous to know who was the Person that sent me: I told her I came of my own Head in the greatest Part; but I suppress'd the Interposition of *Mr. Ashton* for several Reasons, and told her, I had great Suspicion of her inclining the other Way; and I had great Reason for it, because of her Husband, who was a Papist, and the great Resort of Popish Priests to their Lodgings. She told me then, She was satisfied in every thing, and if she had any Dissatisfaction she would send for me to give me an Account. Some Months after I came to *St. James's* to wait, and observing her to be more than usually before from Prayers in the Chapel, I went to her, and asked her the Reason: She told me, it was because she was making some Linnen for her Master *King James*, which was to be made in haste: But she then designed to go for *Flanders* quickly; and *Mr. Ashton* about that Time, or two or three Days after, told me his Aunt was gone to *France*, and spoke it with very

great Concern, and that he believed, under the Pretence of calling over her younger Son, she was gone to declare herself a Papist, and he was very much troubled at it. This I know for his Zeal for the Protestant Religion.

L. C. J. Holt. When was this, Doctor?

Dr. Fitz-Williams. This was, my Lord, about five Years ago.

Mr. Ashton. That is, as to the Business of my Aunt I suppose; I know not how he comes to mention it, but as to my Life and Morals, you can give a later Account.

Dr. Fitz-Williams. My Lord, I have Administred the Sacrament to him.

L. C. J. Holt. What Questions do you farther ask him, *Mr. Ashton*? or can you say any more, Doctor?

Dr. Fitz-Williams. No, my Lord, I can say no more, but that he received the Sacrament about half a Year ago.

Mr. Serj. Thompson. We have not objected any thing, as to his Religion, at all.

Mr. Ashton. But I know it has been a Reflection that has gone about of me, that I am a Papist, therefore I beg leave to prove my Religion and Conversation.

L. C. J. Holt. Nay, call whom you will, you shall not be hindered, take what Course you please.

Mr. Serj. Tremain. Pray, Doctor, you say he has received the Sacrament lately; when was that, and where?

Dr. Fitz-Williams. It was at *Ely Chapel*, within this six or seven Months.

L. C. J. Pollexfen. Have you been lately conversant with him?

Dr. Fitz-Williams. Truly, my Lord, I have not been very lately.

L. C. J. Pollexfen. Pray what have you heard him say concerning his Affection to *King William* and *Queen Mary*?

Dr. Fitz-Williams. I do not remember any thing at all of that.

L. C. J. Pollexfen. Have you heard him say any thing to the contrary?

Dr. Fitz-Williams. No, I cannot remember that.

Mr. Serj. Tremain. What have you heard him say about his Affection to *K. James*?

L. C. J. Holt. Do not ask him that; there may be a Snare in that Question.

Juryman. You say, Doctor, that he received the Sacrament six Months ago in *Ely Chapel*; Did you deliver the Sacrament to him there?

Dr. Fitz-Williams. No, I did not.

Juryman. Pray, Doctor, were the Prayers that were used at that Time altered, as they are now in the Common-Prayer-Book?

Dr. Fitz-Williams. I cannot say they were.

L. C. J. Pollexfen. Did you ever see him drink *King James's Health*?

Dr. Fitz-Williams. I do not use to drink Healths, I came here only to do an Office of Justice and Kindness to *Mr. Ashton*, to testify about his Religion and Conversation.

Mr. Serj. Tremain. But answer the Question, Did you ever see him drink *King James's Health*?

Dr. Fitz-Williams. I cannot remember I ever did.

Juryman. Was *King William* and *Queen Mary* pray'd for in those Prayers?

Dr. *Fitz Williams*. I cannot say they were.

Mr. *Just. Eyres*. But the *Juryman's* Question was, Whether King *William* and Queen *Mary* were pray'd for? And whether the Prayers were as they are now altered?

Dr. *Fitz Williams*. My Lord, I say, I don't remember there were any Names mentioned, as the Prayers are now altered.

Mr. Serj. *Tremain*. That's very well.

Dr. *Fitz Williams*. I did neither read the Prayers, Sir, nor administer the Communion at that Time.

L. C. J. *Pollexfen*. But you were not at the Prayers, as they are now altered, I perceive.

Dr. *Fitz Williams*. Yes, I have several times.

Mr. Serj. *Thompson*. Not with that Gentleman, Mr. *Ashton*.

Dr. *Fitz Williams*. But I have been an hundred times at the Prayers, as they are now altered.

Mr. *Ashton*. I desire Dr. *Lake*, who is there upon the Bench, that he may be asked what he knows of me.

Mr. Serj. *Tremain*. But I have one Question to ask of Dr. *Fitz Williams* before he goes.

L. C. J. *Holt*. What will you ask him?

Mr. Serj. *Tremain*. I would ask you, Sir, one Question. Have you taken the Oaths to this King and Queen?

Dr. *Fitz Williams*. No, I have not, Sir, that's my Unhappiness; but I know how to submit, and live peaceably under them.

Mr. *Ashton*. But there is one Dr. *Lake* that has taken them, he'll give you an Account what he knows of me.

Dr. *Fitz Williams*. If any one can say I have done or acted any thing against the Government, I will readily submit to be punished for it.

L. C. J. *Holt*. Well, Dr. *Lake*, what say you?

Dr. *Lake*. My Lord, I have known Mr. *Ashton* above these sixteen Years, we liv'd together in the same Family several of them; I always observed him to be a Person of exemplary Piety, and singular Devotion; he duly came to the Prayers of the Church twice a Day, and to the Sacrament once a Month; he has taken Occasion, that I know, several times, both at St. *James's* and at *Edinburgh*, to testify his Zeal against Popery: and I am apt to think, that he has suffered sometimes for doing so.

Mr. *Ashton*. Dr. *Bursh*, Pray, as to my Religion, I beg you to give an Account what you know of me; particularly something you may remember of me, of my perhaps Over-heat against Popery.

Dr. *Bursh*. My Lord, I have long known Mr. *Ashton*, the Prisoner at the Bar, and, till within these two Years, frequently conversed with him; and while I did so, I believed him a good Protestant, and I have so many Instances of it, and particularly before some upon whom his Fortune depended; but as to any thing of late, I can say nothing, because our Conversation has ceased.

Mr. Serj. *Thompson*. Dr. *Bursh*, have you known any thing of Mr. *Ashton's* Conversation for two Years past?

Dr. *Bursh*. No, Sir.

L. C. J. *Holt*. Have you any thing more, Mr. *Ashton*?

Mr. *Ashton*. No, my Lord, I have nothing more, unless your Lordship desire any thing more of this Nature.

L. C. J. *Holt*. Call whom you will.

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Mr. *Ashton*. Here is one Mr. *Tomlinson*.

L. C. J. *Holt*. Come, what say you, Sir?

Mr. *Tomlinson*. My Lord, I waited upon Major General *Worden* when he was sick, and there read the Prayers of the Church, and Mr. *Ashton* was a constant Attender upon the Publick Prayers at the Visitation of the Sick, and was very devout; that's all I can say.

L. C. J. *Holt*. When was this?

Mr. *Tomlinson*. It was in the Sickness of Major Gen. *Worden*.

L. C. J. *Holt*. How long ago was that?

Mr. *Tomlinson*. It was about half a Year ago.

L. C. J. *Pollexfen*. Were those Prayers as they are altered now, or not?

Mr. *Tomlinson*. It was only the Visitation of the Sick, and the Collect for the Morning, and Collect for the Evening, because the General's Sickness was such, that he could not bear long Prayers.

L. C. J. *Holt*. Sir, have you been acquainted with the Prisoner any time?

Mr. *Tomlinson*. About eight Months.

L. C. J. *Holt*. Have you any more Witnesses, Mr. *Ashton*?

Mr. *Ashton*. No, my Lord.

L. C. J. *Holt*. Then I would have you to answer me this one thing; Why were you so desirous, and used such Importunity, that the Papers should be thrown overboard?

Mr. *Ashton*. My Lord, that is a Point I ought to have spoke to, to clear my self.

L. C. J. *Holt*. It seems material, and I would not have it forgot, if you can answer it.

Mr. *Ashton*. I humbly thank your Lordship, and whatsoever my Fate is, I cannot but own I have had a fair Trial for my Life, and I thank your Lordship for putting me in mind.

L. C. J. *Holt*. And take this other thing with it, Why did you desire Captain *Billop* to go along with you where you were going?

Mr. *Ashton*. He has sworn it, my Lord, that I did so, but as I hope for Salvation, if I were to die immediately, I do not know that I spoke to him of any such thing; How was it possible that I should prevail with him? or how was it likely that I should force him to go along with us, when he had about twelve or fourteen Men with him armed, and we unarmed?

L. C. J. *Holt*. Nay, it was not forcing, it was but persuading him to go.

Mr. *Ashton*. My Lord, I do not know any thing of it, I'll assure you; but as for endeavouring to persuade him to throw the Pacquet overboard, I must own I did endeavour to persuade him to it; and, I do presume, there is no body in Court, that had been engaged with a Person so unfortunate, that would not have done the same thing for any common Friend, not knowing what the Contents of those Papers were, seeing them in that Posture, especially when I saw some body else so near me, so uneasy and concern'd to have them seen.

L. C. J. *Holt*. Then, Mr. *Ashton*, there's another thing which you open'd, which I would have you prove; you say you were to go into *France* upon the Affairs of Col. *Worden's* Family; first you say Col. *Worden* had a great Account to make up; how will you make that out?

Mr. *Ashton*. My Lord, if your Lordship please, I will prove here in Court, though it is a sort of Surprise upon me, that there is a great Account

count depending; I believe I may appeal to Mr. *Solicitor* himself, who knows that there is a Petition in the House of Commons, now depending, from the Queen's Tradesmen and Debtors, whom she owed 68000*l.* She did assign the Arrears of some growing Rents for the Satisfaction of this Debt; but the King and Government have not thought fit to let it be applied to her Use, or to the paying of those Debts she assign'd it to. Nay, it has gone farther, I can appeal to several Persons, there is one Man by Chance in the Court, that I believe does know that I promised and engaged, and actually have paid a great Part of this Debt; for believing that the Money was good upon the Assignment, I have actually paid some of these Men out of my own Pocket, and perhaps more than became me to venture; I think it may very well call my Discretion in Question.

L. C. J. Holt. Who will you have called, Mr. *Ashton*?

Mr. Ashton. My Lord, here is Mr. *Spalding*.

L. C. J. Holt. That the late Queen does owe People Money, that I believe is true.

Mr. Ashton. Pray, Mr. *Spalding*, will you give the Court an Account, whether there is any Money due from the Queen to you?

Mr. Spalding. My Lords, and you Gentlemen of the Jury, I have a Debt due to me from the late Queen, as her Coach Harness-maker; it is 470*l.* or something thereabouts, and Mr. *Ashton* has paid me Part of this Debt; this I do own.

Mr. Serj. Tremain. Pray, how long have you been acquainted with Mr. *Ashton*, Sir?

Mr. Spalding. A dozen Years, Sir.

Mr. Serj. Tremain. Have you any Intimacy with him?

Mr. Spalding. He and I have been very well acquainted.

Mr. Serj. Tremain. Have you seen Mr. *Ashton* write at any time?

Mr. Spalding. Yes, I have.

Mr. Serj. Tremain. Do you know his Hand?

Mr. Spalding. Yes, I think I do.

L. C. J. Pollexfen. Pray how came Mr. *Ashton* to pay you that Part of your Money?

Mr. Spalding. I press'd Mr. *Ashton*, and told him my Necessities, and he did advance me this Money.

L. C. J. Holt. How much did he advance?

Mr. Spalding. Almost 400*l.*

L. C. J. Pollexfen. When was it he paid it you?

Mr. Spalding. Almost a Year ago.

L. C. J. Holt. Did he pay it out of his own Pocket?

Mr. Spalding. I believe so.

L. C. J. Holt. I believe so; or was it Money that he had returned to him?

Mr. Spalding. I believe it was out of his own Pocket, my Lord.

L. C. J. Holt. Why do you believe so?

Mr. Spalding. Truly I believe it was out of his own Packet.

L. C. J. Pollexfen. Pray who was to repay him?

Mr. Spalding. About that very Time we were petitioning the House of Commons, that we might have our Debts secured, and our Money out of the Arrears of Rents due to the late Queen, according to her Assignment; and we so far press'd the Matter, that there was a Clause inserted into the Bill for the securing of our Debt; but upon the next Day, or the Day following, the Parliament was Prorogu'd.

L. C. J. Pollexfen. Which way did he expect to be repaid?

Mr. Spalding. I'll tell you which way, I suppose, my Lord.

L. C. J. Pollexfen. Did he not tell you which way?

Mr. Spalding. No, he never told me.

L. C. J. Pollexfen. Mr. *Ashton*, did you never tell him how you should be repaid?

Mr. Ashton. My Lord, I hoped to be repaid, and concluded I should, out of the Arrears of Rent in the Tenants Hands.

L. C. J. Holt. But you are very kind to pay Money out of your own Pocket upon such Hopes.

Mr. Serj. Tremain. Pray, Sir, will you look upon that Paper; do you know the Hand?

Mr. Spalding. No, Sir, I do not.

L. C. J. Holt. I suppose he did compound with you.

L. C. J. Pollexfen. This does shew an extraordinary Kindness towards some sort of People.

Mr. Ashton. If he discounted the Interest to the Time that we reckoned it would be paid, you know that Prejudice would be to him, and not to me; it may, indeed, prove a Prejudice at last, if the Debt be not paid, because the Receipt is Conditional: if it be not allowed him, she shall discount to me again.

L. C. J. Pollexfen. Was there no Money return'd over from the Queen, K. *James's* Queen that was?

Mr. Ashton. No, my Lord, directly nor indirectly, not one Penny. I believe they are not in a Condition to return Money.

L. C. J. Holt. Well, Mr. *Ashton*, what have you more?

Mr. Ashton. I have nothing more to say, I submit my Cause to your Lordship.

L. C. J. Pollexfen. Look you, Mr. *Ashton*, as to some Things that you have mentioned, First, there's nobody questions but you are a Protestant; nay, as far as I discern, so they are all that are concern'd in this Matter. The whole Design shews, that they are all so careful of the Protestant Religion, that they Design to restore and establish it by the King of *France*; so that it appears they are all Protestants concern'd in this Project.

Mr. Ashton. Pray, my Lord, who is it that proposes that?

L. C. J. Pollexfen. The Papers that were carrying to *France*, Mr. *Ashton*, you have heard them read.

Mr. Ashton. I hope, my Lord, that no doubtful Insinuations or Suggestions are to affect me?

Mr. Serj. Tremain. There is a Gentleman that was called to by the Prisoner, it may be, he knows his Hand; pray, Dr. *Fitz Williams*, look upon that Paper, you have been acquainted with him many Years, do you know his Hand?

Dr. F. Williams. No, Sir, I do not know his Hand, I never did see him write; I cannot say I ever received a Letter from him.

Mr. Ashton. I entirely submit my Cause to your Lordship and the Jury.

L. C. J. Holt. Then you have done, Mr. *Ashton*?

Mr. Ashton. Yes.

Mr. Just. Eyres. Mr. *Ashton*, because you cannot reply again upon my Lord Chief Justice, after he has summed up the Evidence; there's another

another thing that I would put you in mind of, that you may give an Answer to it. Captain *Billop* swears, before the Papers were found upon you (and it seems to stick upon you) when he was informed by the Seamen, that you had put something in your Bosom, and he ask'd you what it was, you said nothing but your Handkerchief: Now, if you knew not what was in the Papers, how came you to deny you had any thing in your Bosom?

Mr. *Ashton*. For the same Reason that I would have endeavoured to have had them thrown over-board; out of Kindness to the Person with whom I happened to be taken.

L. C. J. *Pollexfen*. Consider, Mr. *Ashton*, what a strange many Things you run upon: First, you would have it believed, that you had a mind to go into *France* upon your own Account.

Mr. *Ashton*. I do own that.

L. C. J. *Pollexfen*. Next then, that you hired a Vessel for you and *Elliot*. Why would you have *Elliot* to go with you into *France*?

Mr. *Ashton*. I would not have him, he desired the Favour of going.

L. C. J. *Holt*. Who desired my Lord *Preston* to go, or did he desire to go with you?

Mr. *Ashton*. I had not seen Mr. *Elliot* of three Months before I went into the City to hire the Boat.

L. C. J. *Pollexfen*. Why would you have my Lord *Preston* go with you?

Mr. *Ashton*. Why would I have my Lord *Preston* go with me? My Lord, I hop'd to have got my Passage free with a Person of my Lord's Quality.

L. C. J. *Holt*. Then you hired this Vessel for my Lord *Preston*?

Mr. *Ashton*. No, my Lord.

L. C. J. *Holt*. Was it my Lord's Money, or your own that you paid?

Mr. *Ashton*. The Money I paid; but how I should be repaid I cannot tell.

L. C. J. *Holt*. Would you, for your own Convenience, pay a Hundred Pounds for a Boat to go to *France*, and yet hope to get your Passage free by taking in my Lord *Preston*?

Mr. *Ashton*. Truly, my Lord, I cannot tell, how it would have been; at the utmost, we could but have paid our Share of it.

L. C. J. *Holt*. But you can tell me if you will; I ask you, how it was agreed amongst you?

Mr. *Ashton*. Truly, my Lord, as I hope to be saved, I cannot tell.

L. C. J. *Holt*. Then there is another Thing, Why did you desire one of the Seamen to say, That you were to go to *Flanders*, and not to *France*, and give him Half a Crown to say so?

Mr. *Ashton*. I presume, your Lordship knows that it is a Fault, though it be not a treasonable Fault, to go into *France*.

L. C. J. *Pollexfen*. But, Mr. *Ashton*, Truth is the thing that we are enquiring after; and, that is the Thing we would have prevail, and I hope shall in all Cases: If you are not guilty, we hope it will prevail of your Side? if you are guilty, we hope it will prevail on the other Side. Now how likely is it that you should get into this same Company by chance, without a previous Agreement? you sent something from *Burdet's*, a Hamper, and a Trunk, and afterwards some other Things went from *Rigby's*, who is your Father-in-law.

Mr. *Ashton*. No, There was nothing at all carried from Mr. *Rigby's*.

L. C. J. *Holt*. Yes; the Leather Bag, I believe. But another thing is this, That, if it be possible, you will do well to give an Answer to, Why did you enquire for a hiding Place? Why did you ask the Master of the Ship, whether there was a convenient Place to hide in?

Mr. *Ashton*. As to that Matter, my Lord, I had heard of divers People, that actually had Passes, and were going to *Flanders*, yet were stopped and brought to Town again. I believe my Lord *Nottingham* has bail'd many a One, and your Lordship knows it to be so, and has bailed many yourself; and therefore I had great Reason, upon that Account, to endeavour Secrecy as much as I could.

L. C. J. *Pollexfen*. Mr. *Ashton*, as I remember, you said yourself, you were once before a going over, and had the Misfortune to be stop't: now to venture a second Time without a Pass, was something strange. Why had you not gone and applied yourself to the Secretary for a Pass?

Mr. *Ashton*. I had made all the Application I could to my Lord *Nottingham*, I cannot say in my own Name, because I was sure before-hand, I should be denied; but I did by others Hands endeavour to have got a Pass to have gone into *Flanders*, because it was of extraordinary Consequence to me, as I tell your Lordship, to go quickly.

L. C. J. *Holt*. If you had such an Occasion to go, and had made it out to the Secretary, and given Security, you might have got it sure.

L. C. J. *Pollexfen*. One Word further, Why should you be so much concerned to have these Papers thrown over-board?

Mr. *Ashton*. Perfectly out of Friendship, and had I been travelling with your Lordship, or any Man else, that had been so unfortunate, I would have done the same.

L. C. J. *Pollexfen*. Well, have you any more to say for yourself?

Mr. Serj. *Thompson*. Mr. *Ashton*. Call what Witnesses you will, and speak as long as you will for yourself, you shall be heard at large.

Mr. *Ashton*. Mr. Serjeant, I thank you heartily, I have no more at present.

L. C. J. *Holt*. Then the King's Counsel desire to speak a Word to the Jury.

Mr. Serj. *Thomp*. May it please your Lordship, and you Gentlemen of the Jury: It falls out to be my Duty to sum up the Evidence that has been given. I opened the Cause at the Beginning to you, and I opened it at large, and many Particulars there were mentioned, and truly, I do not think we have failed in the Proof of any one; I know you are Men of that Observation, that I need not, nor shall take upon me to repeat all the particular Circumstances; but as near as I can, I shall touch upon the Heads of the Evidence, and do it with as equal Regard to my Duty, and as much Tenderness to the Prisoner, as any one can do.

Gentlemen, in the first Place, you see what the Indictment is for; 'tis for a High-Treason of a very Great Nature, no less than the Depositing the King and Queen, and Subverting this Government, and that by a *French* Power and Interest: if inviting an Invasion, and giving an Account of the Weakness, and where the Strength of the Government lay, carrying Papers to sollicite the *French* to come, and to incite this Nation into Rebellion, that so they might depose

depose this King, and set up the late King *James* again: If these be High-Treason, as doubtless they are, then Gentlemen, how far forth the Prisoner at the Bar had a Share in it, I must refer to you from what we have proved.

He is the Man, it seems, that made the first Step, for you may remember it was proved, that he met this Woman at *Burdet's*, in the City, for the Hiring of this Ship, and after two or three Meetings more, they come to a Conclusion, and 93 Guineas and Six-pence are deposited to make up 100 *l.* which was the Price agreed upon, and that was actually paid by Mr. *Ashton*; this is sworn to be so.

The next Thing is, to what Purpose this Money was paid, and the Ship hired, that is directly sworn, it was to carry Mr. *Ashton*, and two or three more of his Friends, not naming of them, and they were to go for *France*, one of the Witnesses says, to any Port in *France*, it was not directly declared to what Part. This, I say, was the Purpose for which the Money was paid, and the Vessel hired, and this was to carry you, Mr. *Ashton*, and two or three more Friends of his into *France*.

It is true, Mr. *Elliot* afterwards did meet Mr. *Ashton*, and I think was by at the Bargain making, or at leastwise, when the Money was paid; I will not be positive in that, because I would do him no Wrong, he being to make his Defence hereafter.

Mr. *Ashton*. No, he was not by, I made the Bargain my self.

Mr. Serj. *Thompson*. Then afterwards I remember one Circumstance; when he hired this Ship, he was to hire a Ship that had a Place to hide in, and so he must needs know upon what Design, I say, by that he must needs know, that there was a Matter of great Moment which he was to transact, for he was to have such a Ship as he might hide in.

After this Ship was hired, then they met in *Covent-Garden*, and there they take Order with the Man to go down with them to the Stairs, where the Waterman was called; indeed Mr. *Ashton* did part from them in the Way, but presently after came to them at the Stairs, and there came my Lord *Preston* and his Man, who, together with *Elliot*, that was there before, I think before, all embark'd in the Boat, and were carried to the Ship, and made all the Haste away they could for *France*.

When they were there, and came to a Place of Danger, near a Ship of War, there was Care taken, according as they had enquired of the Master of the Ship before, that they should be hid, and hid they were.

Afterwards, when they were past that Danger, when they came to the Block-House at *GraveSEND*, there they thought fit to hide again, and did so, and there they concealed themselves, till they were surprized in that Place by Captain *Billop*.

My Lord, after such Time as Captain *Billop* had surprized them, he tells you, how he came down after this Smack, you see what happened; my Lord *Preston* first came up, and after he had searched my Lord *Preston*, *Elliot* came up, and he was searched, and after Mr. *Ashton* was once come up, he went down to fetch his Hat, and there was seen to take up this Bundle of Papers, and

there the Papers upon Search, were found in Mr. *Ashton's* Breast.

This being so found in his Breast, you have heard what Applications were made by this Gentleman, to get these Papers cast over-board, and what Promises were made to the Captain, and what Likelihood there was of making his Fortune, if he would go along with them, or throw away the Pacquet.

You hear, Gentlemen, that after they came to *Whitehall*, one of the Men swear, that this Gentleman gave them Money, that they should say, they were not hired for *France*, but for *Flanders*.

These, Gentlemen, are the several Circumstances, that do appear in this Case, which shew the mighty Care and Diligence that was used to get these Papers suppressed that had been thus taken, or to get them again into their own Custody, and that is a Matter that shews how far this Gentleman was concerned in this Design; and taking all these Things together, I think there can no greater Evidence be given, that Mr. *Ashton* was in this Contrivance, that he was concerned in the Message, that he was to be sent, and all this Business that was to be done, was as much Guilty, as my Lord *Preston*, who now stands convicted for it.

And the Court will tell you, Gentlemen, there are no Accessories, in Treason, all are Principals; though it be not actually proved, that this Gentleman did know all these Papers what they were, yet in Case he hired a Ship for himself and the Lord, whose Papers they were, to go in, and take such Notice of the Papers, as to take Care of them, to suppress and conceal them, that is an Evidence of his Knowledge of the Importance of them? and if so, he will be equally Guilty of the High-Treason.

L. C. J. Holt. I doubt that.

Mr. Serj. *Thompson*. My Lord, I would not willingly press any thing further, than the Nature of the Thing will bear.

L. C. J. Holt. Pray, go on, Brother, we are only talking among ourselves.

Mr. Serj. *Thompson*. The next thing is this, that is to be considered, That after such Time as these Papers came to be laid open, what is it that appears among them? Truly I shall not take upon me to repeat so much as the Substance, much less the Particulars of the several Papers; but, I must say, that there does appear to be a formed Design of Subverting the Government, of deposing this King and Queen, and of bringing us all into War, Rebellion and Blood-shed, all this under a Pretence of Establishing the Protestant Religion, and our Legal Government again (tho' I can see no Means they had to depend upon for it) but by a Popish Interest, and a *French* Power; and how far that is possible, or probable, to promote such an End, by such Means, I leave to your Consideration.

Gentlemen, you have heard all the particular Papers read; here was the Resolution of a Consult and Conference, where this Project was designed; here were Heads of a Declaration, that was to be framed to make the Credulous believe, what mighty Things should be done upon their New Revolution: you see, what Letters have been produced, and cannot but easily apprehend what is the Import and Meaning of them. I resolve, as I said, not to mention the Particulars, but

but there is scarce one Line among them, but what is Treason, for it all tends to this Purpose and Design, to depose the King, and alter the present Government.

Now upon the whole Matter, Gentlemen, what this Gentleman has said, I confess to me seems strange; he said indeed at first, that he had no Defence at all, or that which was very weak, and so it should seem the Truth was, for you see what his Defence has been.

He says, That he went into *France*, that he owns that he was going thither; but what was it to do? it was to settle some Accounts with the Family of Colonel *Worden*, and to receive a Sum of Money that was owing to him by a Person there.

Gentlemen, if the Design had so much Innocency in it, certainly he might have had a Pass, at least, there was no need of hiring a Vessel at such an extravagant Rate; there was no Necessity of hiding in this secret manner, and no Necessity of impossible Suggestions, and proffering Great Rewards for the disposing of, and concealing these Papers.

Gentlemen, You will remember many Particulars more, which have not slipt your Observation; I shall not take upon me to repeat them, but leave them to your Consideration.

Only this I must say, That this is a Treason of a very high Nature, a Treason to depose a King that has ventured all he had, even his Life has been in Danger, and his Blood has been spilt to establish this Government, and our Religion, and our Laws, and yet it seems there are Men that think this may be better done by a Popish Interest and *French* Power, which I think nobody of either Wisdom or Honesty can imagine, or will ingage in, and therefore I leave it to your Determination.

L. C. J. Holt. Gentlemen of the Jury, you understand, that Mr. *Ashton* is now tried for High-Treason; it is mentioned in the Indictment, to be for conspiring the Death, and deposing of the King and Queen, and for that Purpose, he did endeavour to go into *France*, and to carry divers Proposals in Writing, and several Memorials to shew how this Kingdom might be invaded by the *French*.

To prove this, the Evidence that has been produced and given by the King's Council has been long, and consists of two Parts, Witnesses *Viva Voce*, they have told how Mr. *Ashton* designed a Voyage to *France*, and that he hired a Ship for that Purpose, and several Papers were taken out of his Bosom.

In the first Place, the Witnesses tell you, that about the latter End of *December* last, Mr. *Ashton* and Mr. *Elliot* came to *Burdett's* House, where they met with Mrs. *Pratt*, and *Burdett* having before that spoken to her about a Smack that she called the *Thomas* and *Elizabeth*.

Then there was a Meeting appointed between her and Mr. *Ashton* at the *Wonder* Tavern, where they did treat and debate about the Hire of it; afterwards they came back to *Burdett's* again, and there the Agreement was made betwixt the Woman and Mr. *Ashton*, the Prisoner at the Bar, to have a Hundred Pounds. Ninety-three Guineas and Six-pence was fetch'd down by Mr. *Ashton*, and told out, and deposited in the Hands of Mrs. *Burdett*; then there was a Six-pence broken, and one Part Mrs. *Burdett* had, and the other

Part Mr. *Ashton* had, and when either the Master, or Mrs. *Pratt*, should bring the Part of the Six-pence that Mr. *Ashton* kept, to Mrs. *Burdett*, the Hundred Pounds was to be paid.

And this Agreement being made, 'tis positively sworn; that they did ask, whether there was a hiding Place in that Vessel? an Answer was made, There was one, and thereupon a Note was given, that the Master and Mrs. *Pratt* should go to the *Seven-Stars* in *Covent-Garden*.

Upon *Wednesday* Night, they went there according to the Directions, where meets *Ashton* and *Elliot*, but before that, there was a Boat hired at *Surrey* Stairs to carry them down to the Ship through Bridge, over-against the *Tower*, but the Tide not serving till about Ten a Cock at Night, they had agreed with a Waterman for half a Crown to carry them, and he was to stay till the Tide served. And when they went out from *Rigby's* they parted, *Elliot* and the Master went together, Mr. *Ashton* did not go with them, but came near about the same time to *Surrey* Stairs, where they took Water.

Being aboard, it was observed that all these Gentlemen were very timorous, and seemed to be much frightened at the Sight of any Vessel, from which there was any Apprehension of their being taken notice of; and therefore they went down under the Quarter-Hatches, which is a Place very inconvenient for such Persons, where none could stand or sit upright, but they were forced to lie upon the Boards, or upon the Ballast.

It seems some Intimation was given, that some Gentlemen had an Intention to go into *France* to prosecute some Treasonable Design: And Captain *Billop* being employed to pursue them, which he did in a Pinnace, when he came near the Vessel where they were, he called to the Vessel, and under pretence of pressing Seamen, he went on Board: The Master of the Vessel said he had a Protection from the Admiralty; so that there was no Cause for them to fear pressing, nor indeed was there any for Gentlemen to fear it, they being not liable to be pressed.

When the Captain came near the Ship, and declared his Intent of coming on Board, these Gentlemen were gone under the Quarter-Hatches again; Captain *Billop* coming on Board, and speaking about pressing of the Men, and saying, There was a Couple that would make good Seamen for the King; the Master shewed his Protection, and then the Captain said he would search further in the Ship, and so he did, and then he pulls up the Boards, and there he finds all these Gentlemen, who were called up one after another, and search'd by the Captain.

Gentlemen, There is one of the Witnesses tells you, that when they were come up, he saw a Pacquet that lay in this very Place under the Quarter-Hatches, unto which was tied a piece of Lead, which Mr. *Ashton* takes up, and puts in his Bosom, with which the Captain being acquainted, Enquiry is made by him, what Mr. *Ashton* had there? Mr. *Ashton* said it was his Handkerchief, and nothing but that which he pull'd out: But Captain *Billop* puts his Hand in his Bosom, between his Coat and his Body, and takes out the Pacquet, and carried these Gentlemen on Board the *George* Frigate, where they stayed till the Tide served to bring them to *Whitehall*.

But before they came on Board the Frigate, Mr. *Ashton* was very importunate with him to throw this Pacquet into the Water; when they were on Board the *George* Frigate, and in the Cabbin alone, they continue their Importunity.

Now, say they, we have you here, and you are alone, pray will you throw this Pacquet over-board; and particularly Mr. *Ashton* said it would do the Captain no good to injure so many Gentlemen, and Mr. *Elliot* would have persuaded the Captain to take the Lead that was tied to the Pacquet, and tie it to some Letters that were taken out of my Lord *Preston's* Pocket, and throw the Pacquet over-board; and then have informed the King and Council, that those Letters was the Pacquet taken out of Mr. *Ashton's* Bosom: But the Captain very honestly rejected all their Motions of that kind.

Truly, Gentlemen, my Memory will not serve me to repeat all the Particulars, but I question not your Notes will bring them to your Minds. Mr. *Elliot*, it seems, was so mightily concerned at their being taken with these Papers, that when they shot *London-Bridge*, he wish'd the Bridge might have fallen upon them and knock'd them on the Head; and, when they were got through, he wish'd a Thunder-bolt would fall down into the Boat and sink them: That, indeed was Mr. *Elliot*, and not Mr. *Ashton*; but Mr. *Ashton* was as much concerned about disposing of the Pacquet as Mr. *Elliot*.

At *Whitehall* this Pacquet is opened, and you have several Papers produced in Evidence, and read to you; you have heard what Evidence has been given, that these are the very Papers that were in the Pacquet thus taken.

First of all Captain *Billop* tells you he carried them to my Lord *Nottingham*, and that they lay there in his Office; he withdrew, indeed, while my Lord *Nottingham* examined my Lord *Preston*, but the Pacquet was not opened in the Interim, but there was only a Paper stuck on the Out-side, that my Lord had taken off before the Captain returned into the Room, and there the Pacquet remained intire. He says, my Lord *Nottingham* opened the Pacquet and put up all the Papers that were in the Pacquet in his Presence into a Cover again, and sealed them up with his Seal. My Lord *Nottingham* says positively, he did put up all the Papers that were in the Pacquet again, all and no more, except the Cover, and that he sealed up and delivered it to Captain *Billop*.

Captain *Billop* says, he took these very Papers from my Lord *Nottingham*, and as he received them, carried them without opening to my Lord President.

My Lord President says, he lock'd them up, unopen'd, in a close Cabinet in his Closet-Room, where nobody comes; there they were that Night, and the next Day he carried them intire to the King, and some of them were read by the King, in the Presence of my Lord President; and they were all taken away again by his Lordship, no more nor no less; and, my Lord President brought them all to the Cabinet Council, where they were read, and were delivered to my Lord *Sydney*.

My Lord *Sydney* swears, These Papers now produced, are the same Papers he had from my Lord President; and my Lord President swears, That they are the same he received by *Billop* from my Lord *Nottingham*, and my Lord *Sydney* mark'd them.

So that there can remain no Doubt of these being the same Papers, that were contained in the Pacquet, that was taken out of the Bosom of Mr. *Ashton*.

Then, as to the Matter of the Papers, I think it is plain, beyond all Contradiction, that the Import of them is Treasonable: They shew a Design of invading the Kingdom by a foreign Force, and of Deposing the King and Queen from the Government, and of setting the late King upon the Throne.

It is agreed, as it is mentioned at a Conference, between several Noblemen and Gentlemen, that were of the *Whig* and *Tory* Party, as they call them; that the late King was to be restored, though by a *French* Power.

It was impossible for them to effect it, by going plainly to Work, and saying in plain Words, the *French* should invade us. It was to be done in this manner.

The *French* King must pretend by all Means to be our Friend, and a Mediator betwixt the late King, and the People of *England*, and this was out of Design, plainly, to get a Party of the Kingdom to join with them; the most credulous and inconsiderate Sort of People; who when they shall be seduced into a Belief of the *French* King's great Kindness, it was not doubted but there would be a Conjunction between them and the *French* Forces, to restore the late King.

And to procure such a Persuasion in the People, the *French* King was to shew himself kind to the *English* Protestants, to appear and act another Part than he had formerly done; he was to permit them the Exercise of the Protestant Religion, thereby to persuade many, that his Persecution of his own Subjects, the Hugonots, was not out of any Aversion to the Protestant Religion, but only to their Antimonarchical and Resisting Principles.

Then an Inconvenience is to be removed; for they complain, that they are too full of Bigotry at *St. Germain's*, and too bare-fac'd: For they make an open Profession of Popery, and speak truly what they do intend; but say they, if they will have the Design take Effect, they must be more Close and Secret; For the Folly and Bigotry at *St. Germain's* was a very great Obstruction. Therefore, they proposed, that some Persons might be substituted as Agents to correspond here, that understood the Temper of the Nation, and what would easiliest prevail with the People: And a Model was to be framed at *St. Germain's*; the Protestants are to be seemingly caressed, Seven or Nine to be of the late King's Council, that so we might believe, that he was ours in Interest again, and that we have a Relation to him.

And if Things were carried with such Cunning and Subtlety, they hoped to delude a great many People over into the Interest of the late King; but, if they went bare-faced, it would cause such great Jealousies, that they must totally despair of Success.

Yet they did not hope by these Artifices to obtain so many Friends here, as might have been sufficient to accomplish their Design; and therefore they must have recourse to a foreign Force, particularly a *French* Force. For says one of the Papers, *Use Foreigners to expel Foreigners*; that is, *Use French* to expel *Dutch* Foreigners, who are our Allies, and are falsely accused by them to have trampled upon the Rights and Liberties of the Nation.

There

There is one Argument used to encourage People to assist the *French* in the Invasion of their own Country, which I cannot omit; namely, *That as soon as the French, with a considerable Expence of Men and Money, had restored the Protestant Religion, the late King to the Crown, and the People to their Liberties, that he would withdraw all his Forces, and reap no Profit or Advantage by his Success.* I must confess, this carries so little of Persuasion in it, that it is ridiculous to think thereby to impose upon any Number of Men; but notwithstanding the Weakness of their Arguments, it is apparent they were in good earnest; the Papers give an Account to the *French*, in what State and Condition our Forts were, *Portsmouth not mann'd with above 500, and Gosport how weakly fortified.*

It was a happy Juncture between this and the first of *March*, when Advice is given to make use of the Opportunity: For Men cannot give, but Men may use Opportunities, and something was to be done forthwith, and the Goods must be got in Readiness, particularly Linnen, and the Copper, are mentioned, which are mysterious and dark Expressions, and you may put a Construction upon them as well as I; for they are written in a Style of Trade, as if they were a Correspondence between two Tradesmen, and the Linnen and the Copper are ordered to be brought before the 10th of *March*.

But however obscure some of these Expressions are, there are others that are more plain, *That the French Fleet must be out in April at farthest, and are to come before the Conjunction between the English and the Dutch, and Jennings, Strickland, or Trevannian are to come from St. Malo's in one Night, and to fight the English Fleet in the Chops of the Channell, and not to come so high as Beachy, where they came the last Year.*

And there is an Account given, in what Condition and State our Navy was, how many Ships, what Rates, how mann'd, and who the Officers; and then as the *French* were to be in Readiness to come in *April*, so they say our Fleet was not to be out till *June*.

Gentlemen, there are a great many other Particulars; but these are enough, nay half of them were enough to make any Man Guilty of Treason, that was concerned in them, or that had a Hand in carrying or making use of them.

Besides, there are other Letters which can import nothing, but the Writer was of the late King's Interest; one directed to Mr. *Redding*, the other to Mrs. *Redding*; and these were to go to *France*, to let them know how zealous he was in his Duty, and how the Interest of the young Master increased. The Letters have these Expressions; *That tho' the Family were decreased, yet our Interest is increased, which is yours, and I speak in the Plural Number, because I speak the Sentiments of my elder Brother, and the rest of our Relations, and desire them to believe they were zealous and cordial in their Duty to Mr. Redding.* Now what Interpretation you will make of this, I'll leave to you.

Then there is another Letter to Mrs. *Charlton*, and another to Mr. *Jackson*, and divers other Things that have been read, and among the rest, have been read the Heads of a Declaration at large, shewing what should be done, and what Methods should be taken in order to the restoring the late King, and deposing this.

And there is also mention made in a Paper, how divers Persons, who were to be pardoned,

as particularly, *all Justices of the Peace actually in Commission, are not to be excepted; Outlaws are to be pardoned; Chimney Money to be taken away; and all that come in within one and twenty Days, are to be forgiven.*

So that it is plain these Letters import a Design to depose the King and Queen, and the Kingdom to be invaded by Foreigners; only a little to colour the Matter, nor to lose the Pretence of a Protestant Interest altogether, there was to be 5 or 6000 *Swedes* to be made use of in the Invasion.

Gentlemen, if there was a Design of an Invasion, be it by Papists, or by Protestants, if any Act was done tending thereunto, it is High-Treason within the Statute of 25 *E. III.* For purposing and intending to depose the King and Queen, manifested by any Overt-Act, hath been always held to be High-Treason.

This, Gentlemen, is the Sum and Substance of the Evidence that has been giving against the Prisoner at the Bar.

Mr. *Ashton* says for himself, It is true, saith he, my Design was to go to *France*. I was so unfortunate as to have the Papers taken about me. I did take them up; but, says he, it is not at all proved that any one of the Papers that are now produced are my Hand: which is true: There is no such Proof.

The next thing is, that Mr. *Ashton* being ask'd, What Occasion he had to go to *France*? he says, He had formerly a Relation to Col. *Worden*, and did transact, and had the Management of his Affairs, which were very great. Col. *Worden* died half a Year ago, and he enjoin'd him upon his Death-Bed to go into *France* about settling some Accompts of his, and he was desired by the Family of Col. *Worden* so to do.

This Mr. *Ashton* alledges; but he has not proved it. 'Tis very strange, that if Mr. *Ashton* was to go to *France* to negotiate that Affair for Col. *Worden's* Family, none of that Family should be produced to prove, that Col. *Worden* gave him such Directions, or that the Family desired him to go into *France* upon that Account.

Then Mr. *Ashton* hath endeavoured to give another Reason for his Voyage into *France*: he affirms, he had some Affairs of his own with relation to the late Queen; he was concerned for her, and she did owe Monies here, and he paid several Debts to Tradesmen, particularly 400*l.* she owed to the Coach Harness Maker; and he having paid it, went over to reimburse himself: The Tradesman was produced, and he says, Mr. *Ashton* did pay the Money a Year ago; but whether Mr. *Ashton* had Effects from the late Queen, or paid it out of his own Pocket, does not appear; Mr. *Ashton* says, he paid it out of his own Pocket, which is very extraordinary, that he should be so kind to pay what he was not obliged to pay, and have no Security to reimburse himself.

So that, Gentlemen, you had best consider whether there be any thing at all said or proved, that can justify Mr. *Ashton's* going to *France*, or whether there be any good Reason offered for it.

Then *Ashton* has called Witnesses to prove, that he was always a Protestant, though he did live in a Popish Family, where they did encourage Papists and discountenance Protestants; for which he had the Ill-will of those he did depend upon.

Gentlemen, all that is agreed, and it is not a Question in this Case, whether Mr. *Ashton* be a Protestant, or a Papist; but the Question is, Whether he be guilty of High-Treason? from which the being a Protestant does not secure a Man.

But, Gentlemen, if Mr. *Ashton* had no Knowledge upon what Design the other Persons were to go into *France*, though he had actually gone into *France*, it had been a Crime in this Juncture of Affairs, yet not High-Treason; but to go into *France*, and carry a treasonable Scheme of a Design, and Project of an Invasion, that is Treason.

Now the Question is, Whether Mr. *Ashton* went with such a Purpose or not, you are to consider; I would not lead you into any Strain of the Evidence, but only state it how it stands. It is plain he was concerned all along in hiring the Smack, and as the King's Council observed to you, the Price was something extraordinary; they were to pay 100*l.* for the Voyage, to which was added some Encouragement to the Woman, that if she performed this Voyage well, she might get 1000*l.* before *Lady-Day*, and the Money was paid by Mr. *Ashton*, and he was taken aboard the Vessel.

Mr. *Ashton* was much concerned to secure the Papers, by taking them out of the Place where they lay upon the Ballast under the Quarter-Hatches; and after they were taken out of his Bosom, he was very importunate, and so often, with Captain *Billop* to throw them over-board.

And why should he be so earnest and concerned, unless he very well knew, and was acquainted with the Contents of those Papers?

And he gave one of the Seamen 2*s.* 6*d.* to say, They were bound for *Flanders*: Unless it was a Matter of great Importance he went about, and that was not fit to be known, why should he deny it, or labour to have it concealed? An 100*l.* to be paid for this Voyage, was, upon a joint Account, as well for my Lord *Preston*, as for Mr. *Ashton* and *Elliot*; Mr. *Ashton* did pay the Money, and he does not make it appear whose it was.

Gentlemen, it rests upon you to consider the Evidence you have heard, whether it is sufficient to induce you to believe Mr. *Ashton* was going into *France* with these Papers to carry on the Design of Deposing the King and Queen, and Invading the Kingdom: If you are not satisfied in your Consciences that he is guilty, then find him not guilty: On the other Side, if you are satisfied that he is guilty, I do not question but you will find him so.

L. C. J. Pollexfen. Look you, Gentlemen of the Jury, My Lord has rightly repeated and stated the Evidence to you; I shall only say but a very few Words to it.

Mr. *Ashton*, as at first he did, so in his Defence has complained of a very speedy Trial, and would insinuate something of Favour that he might find for that Reason. It does appear he had Notice of his Trial sufficient, and had Time enough to prepare for it: But there is one Thing extraordinary has happened to his Advantage, which I would desire may be taken Notice of. If he had been tried on *Saturday*, perhaps he had had more Reason to complain than now he has; for he has now (and you see he uses it, and wisely enough too) the Advantage that happened to him upon my Lord *Preston*'s Trial; and has had Time since *Saturday* to prepare for this Day's

Work; so that there is no hard Point upon him as to that Matter, but he has had pretty good Fortune therein.

Next he does insinuate, that he is a Protestant; Gentlemen, the Law does not distinguish between a Protestant Traytor, and a Papist Traytor; if he has committed such an Offence, as by the Law is High Treason, the Law does not distinguish, nor may we. And Protestants may serve Papists Designs, though they do not directly intend it. Therefore the Evidence to prove him a Protestant is nothing before you; for the Matter is only, whether he be guilty of this Crime or not.

In the Trial of my Lord *Preston*, then the Labour was, that my Lord was not the Man that was concerned, as the Bearer of this Pacquet of Letters or Writings wherein the Treason is contained; but then it was Mr. *Ashton*, the Pacquets were found about him; but now it is not Mr. *Ashton*, but my Lord *Preston*, and this is now the Question before you, that he stands upon.

But if so be they were all concerned in the Carriage and Transporting of this Business, then they are all alike guilty of Treason, and therefore they cannot shuffle it from one to another.

Now there appears some Reason why they would not all agree to be tried together; for now it is but turning it from my Lord *Preston* upon *Ashton*, and Mr. *Ashton* upon my Lord *Preston*, and *Elliot* upon either of them, and so by this Means all might escape, if this were sufficient to serve their Turn.

But the Question before you is, Whether all these Persons are not all in all equally concerned? and 'tis the Evidence that must be your Guide and ours: for it is not Mr. *Ashton*'s Affirmation, that he had Business to go into *France*, and he happened unluckily to fall into these Mens Company, that will be a sufficient Excuse, unless he prove it.

It had been an easy Matter for him to have proved, if he had been going into *France* upon Business for Colonel *Worden*; but at length that is turned off, and then the Pretence for going is, to recover some Money he had owing to him there, and that he had payed for another Person. Had he Papers of Instructions of this kind? Had he any one Witness of this Thing?

The Merchandize that he carried out with him is of another Import. Where were the Notes or Bonds that he was to recover? Where is the Accompt that he had to make up with any body beyond Sea? There is no Manner of Evidence of any such thing.

Next, Gentlemen, do but consider, if the Man were so innocent as he would insinuate, as if he had not gone with the rest upon this Errand, how came the Man to have so heavy a Concern upon him? Why should he go to take up these Papers, if they were not his Brats? Why should he clap them in to his Bosom, if he knew nothing what was in them? Why was his Concern so great to have them thrown over-board?

Gentlemen, if you expect that the Hearts of Men should be proved otherwise, than as Men guess by one another's Meanings, by their Actions, 'tis impossible to convict any Man of a Crime; for if his own Affirmation shall be a Defence, he will never want a Defence to keep himself from being convicted: But that is not what the Law gives Credit to; it must be Proof and Evidence that

that you are to judge upon. But of all he pretends to, he proves nothing.

How came he acquainted with my Lord *Preston*? Sure he was a Man sufficiently known in the World? Why should he go with him and Mr. *Elliot*? Are they not all known? Are they not Persons of the same Disposition, and much in the same Employment?

He had been taken a little before, he says himself, and was hindred from going; and he had strange ill Luck, if there was nothing else in the Business than what he pretends.

Gentlemen, in short, if you do find by the Evidence, that he was going upon a good and an honest Design, and that he knew nothing of the Danger that was in these Papers, and that these Persons were in, by reason of these Papers, and yet would go about to have these Papers concealed; and endeavour to have them thrown away, without knowing what was in them: These are Evidences that will be good for you to go by, if you have any such; but to take his Affirmation, because he says it, when he proves nothing, that is no Evidence to go by.

I leave it to you, as my Lord has done. If you are satisfied upon the Evidence that he is guilty; I doubt not you know, and will do your Duty, and will find him so; and if you have no such Evidence, or any to prove the contrary, that he is not guilty, then you ought to find him so too.

Mr. *Ashton*. I beg your Pardon for one Word.

L. C. J. *Holt*. What would you say?

Mr. *Ashton*. My Lord, I shall reckon it a particular Favour, if you will pardon me one Word, after your Lordship has given the Charge.

L. C. J. *Holt*. Well, what say you?

Mr. *Ashton*. I think, with Submission, that there is no Proof I knew, or was privy, to the Contents of any of these Papers.

L. C. J. *Pollexfen*. Pray, Mr. *Ashton*, shew any Man any Reason, if you can, why did you go down and catch up these Papers, if you did not know what was in them? they might be for your Advantage to be shewn, for any thing you pretend to know.

Mr. *Ashton*. I did it for my L. *Preston*'s Sake, whose Hand was proved, and he stands convicted as the Bearer of those Papers.

Mr. J. *Eyres*. But you forgot one thing that was plainly proved, Mr. *Ashton*, that when you importun'd Capt. *Billop* to throw away the Papers, you used this as an Argument, *It would do him no good to injure three honest Gentlemen*.

Mr. *Ashton*. I did not say so, my Lord, that I know of, tho' indeed he has sworn it.

L. C. J. *Holt*. Look you, Mr. *Ashton*, you have been heard as long as you did desire to speak, and were ask'd over and over again, whether you had any more? You are not now saying any new Matter; if you could urge any thing that had been omitted, which made for your Advantage, I believe the Court would indulge you, tho' it be against the Course.

Mr. *Ashton*. My Lord, I say there is nothing under my Hand, there is no Privy proved; Does Supposition condemn a Man? And is there any thing but Supposition against me? There is not my Hand proved in any of the Papers. I beseech your Lordship and the Jury to observe that.

L. C. J. *Holt*. Your being in the Company, and being so concern'd, and importunately en-

deavouring to have them thrown overboard; the Hiring the Vessel to go with these Treasonable Papers to an Enemy's Country, and the Papers found about you, is Fact proved, and is left to the Gentlemen of the Jury to consider of.

Mr. *Ashton*. But does all this amount to more than Suspicion?

L. C. J. *Holt*. Look you, Mr. *Ashton*, if you speak after we have charged the Jury, you will give us an Occasion of speaking to answer you; the Gentlemen of the Jury are Men of Understanding; they have very well observed the Evidence, and I perceive they have been very extraordinary intent upon it; they will be able to make a right Judgment, no Question, of it.

Mr. *Ashton*. All that I desire, is; there is nothing proved upon me, of my knowing what was in these Papers.

Mr. J. *Eyres*. And there is that which is very considerable too, that 'tis plain, what you say about Col. *Worden*'s Account, is but a Pretence; for when you were search'd, there was not one Paper, nor one bit of Account found about you, nothing but this Bundle of Treasonable Papers and Letters.

Mr. *Ashton*. My Lord, I humbly beg you will observe what is for me, as well as what is against me.

L. C. J. *Holt*. Gentlemen of the Jury, do you think you shall stay out any time. The Court desires to know it, because they will order themselves accordingly.

Juryman. My Lord, we do not know till we come together.

L. C. J. *Holt*. Nay, take your own Time, only the Court would comply with your Convenience in the Adjournment.

Then the Jury withdrew, and the Court adjourn'd for half an Hour, and when they were returned, the Jury came in to give their Verdict, and being called over, answered to their Names.

Cl. of Arr. Gentlemen, are you all agreed of your Verdict;

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. Our Foreman.

Cl. of Arr. *John Ashton*, hold up thy Hand. Which he did. Look upon the Prisoner; How say you? Is he guilty of the High-Treason whereof he stands indicted, or not Guilty?

Foreman. Guilty.

Cl. of Arr. What Goods or Chattels?

Foreman. None that we know of.

Maj. *Richardson*. Look to him, he is found guilty of High-Treason.

Cl. of Arr. Then hearken to your Verdict, as the Court has recorded it. You say, That *John Ashton* is guilty of the High-Treason whereof he stands indicted, but that he had no Lands nor Tenements, Goods nor Chattels, at the Time of the High-Treason committed, nor at any time since, to your Knowledge, and so you say all?

Jury. Yes.

L. C. J. *Pollexfen*. Gentlemen, I think truly you have gone according to your Evidence, which the Law requires you to do, and that it is which will preserve us all. And tho' it be truly a Thing that falls hard upon the particular Men that are concerned in such Things; yet notwithstanding we must have more Consideration of the general Good and Preservation, and the Support of the Government, and that the Law have its due

Course,

Course, than of any particular Man's Case, as to the hard Point of it: we must look to these Things, or there will be no living in the World.

Sir *W. Hedges*. My Lord, we humbly desire of your Lordship, that we may be dismiss'd from further Attendance this Sessions.

L. C. J. Pollexfen. Ay.

Cl. of Arr. Gentlemen, you are dismiss'd, and the Court thanks you for your Service.

Then the Court adjourn'd for an Hour, and then the Lord Mayor and Deputy Recorder, with several of the Justices and Aldermen, returned into the Court, and after Proclamation for Silence, Order was given to bring the Lord Preston, and Mr. Ashton to the Bar. Which was done. The Lord Preston standing without the Bar, and Mr. Ashton within.

Cl. of Arr. Sir *Richard Grabme*, hold up your Hand. *Which he did.*

John Ashton, hold up your Hand. *Which he did.*

My Lord *Preston*, you stand convicted of High Treason, for conspiring the Death of the King and Queen's Majesties, for adhering to the King's Enemies, and endeavouring to subvert the Government: What can you say for yourself, why the Court should not proceed to give Judgment against you of Death, according to the Law?

Lord *Preston*. 'Tis true my Lord, the Jury have found me guilty of the Treason assigned in the Indictment. My Lord, it is a Treason of a very heavy and black Nature, 'tis of such a Nature, that if I had been conscious to myself to have deserved, I should be very willing to undergo that Judgment that is like presently to pass upon me. It is to endeavour to bring in the King of *France* to conquer and invade this Kingdom; 'tis a Thought I always abhorred; I love my Religion, my Family, my Country too well to attempt or endeavour any such thing; I must appeal to your Lordship, though now perhaps it is too late, whether the Treason that is laid against me has been perfectly proved; for in the Case of proving Hands, and particularly in the Case of Colonel *Sydney*, it was disallowed that Comparison of Hands should be Evidence; there ought to be at least one, if not two, Evidences to prove the Writing of it. My Lord, I know this is too late, I should have offered this to the Jury before, but being in the Crowd, and in great Disorder by standing so long, I had not Strength or Ability enough to urge it as I should. I have nothing more to say in the Case, but submit to that Judgment that the Law has assigned.

Mr. *D. Recorder*. My Lord *Preston*, your Lordship knows the Proceedings of the Law in such Cases; there is no averring against the Verdict of the Jury; they have found your Lordship guilty, and the Law says, that Judgment must be given upon you according to that Verdict.

Lord *Preston*. Mr. *Recorder*, I do not aver against the Verdict. I own it is too late; I should have offered it before, and I must submit to the Judgment of the Law.

Cl. of Arr. *John Ashton*, hold up thy Hand. *Which he did.*

You are in the same Case with the Prisoner last before you. What can you say for yourself, why Judgment should not be given against you to die according to Law?

Mr. *Ashton*. My Lord, I would humbly desire I might have a Sight of my Indictment; I have some Reason, perhaps, to believe that I am found

guilty upon an Erroneous Indictment; and if it be so, I would desire to have Council to argue the Errors of the Indictment.

Mr. *D. Recorder*. You have heard it twice read in *English*, and once in *Latin*, and that is all that is allowed to any one in your Case; I never knew the Record of any Indictment shewn to any Prisoner at the Bar.

Mr. *Ashton*. Suppose there be any Error in it?

Mr. *D. Recorder*. I am not to suppose any such thing; if there is any, it has been read to you, assign it, and the Court will consider of it.

Mr. *Ashton*. If I can assign the Errors in the Indictment, may I have the Advantage of it then?

Mr. *D. Recorder*. If there be Errors, you will have the Advantage of them, if you will assign them; if there be none, you can have none.

Mr. *Ashton*. Then I say, if there be Words in the Indictment, that there are no such Word in Nature, then, Sir, I am told it is a Vicious and Erroneous Indictment, and that is enough to viciate the Indictment.

Mr. *D. Recorder*. No such Words in Nature? It is hard to tell what you mean by that; perhaps there are Terms of Art in the Law, which, though you are not acquainted with, we are.

Mr. *Ashton*. Then there are such Words in Nature.

Mr. *D. Recorder*. That is an insensible Expression, *Words in Nature!*

Mr. *Ashton*. I am informed that even a Letter in an Indictment is enough to viciate it, or if it be false *Latin*, that will make it an Erroneous Indictment.

Mr. *D. Recorder*. No, that is not so; but if you will tell me what that Letter is, I'll tell you what I say to it; it may, or it may not be material.

Mr. *Ashton*. We know it was lately disputed in a Case of this Nature at this Place, and I am informed the Court were of Opinion, if it had been in the Body of the Indictment, it had been an Error.

Mr. *D. Recorder*. If you please to tell me wherein the Error in your Indictment consists, I may be able to give you a good Answer to it, or you will have the Advantage of it.

Mr. *Ashton*. I say it consists in this; the Word *Cymba* is written with an *S* in the Indictment, whereas it should be with a *C*.

Mr. *D. Recorder*. How do you know it?

Mr. *Ashton*. It is no matter how I know it; I have some Reason to know it, it may be.

Mr. *D. Recorder*. Mr. *Hardesty*, look upon the Record.

Mr. *Ashton*. With Submission, that is an Error, for there is no such Word as *Cymba* with an *S*.

Cl. of Arr. It is a long Indictment; will you please to ask him where about it is?

Mr. *D. Recorder*. Mr. *Ashton*, will you tell me where 'tis written?

Mr. *Ashton*. In the Indictment, when you come to speak of *Cymba* a Boat.

Mr. *D. Recorder*. By the Sound I cannot distinguish whether it be *S* or *C*.

Mr. *Ashton*. Sir, I hope you will do me the Justice to examine the Indictment itself.

Mr. *D. Recorder*. The Clerk is looking upon it: how is it, Mr. *Hardesty*? Is it with an *S* or a *C*?

Cl. of Arr. It is with a *C*.

Mr. *D. Recorder*. The Clerk has read it, and he certifies me it is in both Places with a *C*. which is true *Latin*.

Mr. *Ashton*

Mr. *Ashton*. Is it in all Places with a C ?

Cl. of *Arr*. I have look'd in two Places, and 'tis right; I'll look further, if you please

Mr. *Ashton*. Pray do, *Which he did*.

Cl. of *Ar*. It is with a C in all Places.

Mr. *D. Recorder*. The Clerk tells me it is the same, and right in every Place, and he has look'd over all the Indictment, as to the Matter.

Mr. *Ashton*. Then, Sir, I submit to it.

Mr. *D. Recorder*. Make Proclamation for Silence. *Which was done*.

Mr. *D. Recorder*. My Lord *Preston*, or rather Sir *Richard Grakme*, and Mr. *John Ashton*, Ye have been Indicted, Arraigned, and Convicted of High-Treason against their present Majesties King *William* and Queen *Mary*, whom God preserve. Ye have had a long, a fair, and favourable Trial, as any Persons that ever have been tried at this Bar.

The Jury that has passed upon your Lives and Deaths has convicted you; and the Court are now to do their last Act, which is to pronounce that Sentence that the Law does inflict upon such Crimes as ye stand convicted of.

It is a great Trouble to me to pronounce a Judgment that is so heavy upon you; but I must say, the Evidence that has been given against you, was so clear, and, I suppose, not only convincing to the Twelve Men that tried you, but to all By-standers, that I can do it with that Satisfaction that becomes one who is intrusted with the King's Justice, that the Law may obtain, and that there should be no Interruption of Justice. And the Sentence that the Law has declared should be pronounced in this Case, is this:

That Ye do respectively go to the Place from whence Ye came; from thence to be drawn upon a Sledge to the Place of Execution, to be there hanged up by the Neck, to be cut down while Ye are yet alive, to have your Hearts and Bowels taken out before your Faces, and your Members cut off and burnt, Your Heads severed from your Bodies, Your Bodies divided into four Quarters, Your Heads and Bodies respectively to be disposed of according to the King's Will and Pleasure; and the Lord have Mercy upon your Souls.

Then the Prisoners were conveyed away to *Newgate*, the Place from whence they came.

Lord *Preston* obtained a Pardon; but Mr. *Ashton* was executed on the 28th of *January*.

THE Queen having remitted that Part of Sentence, as to Drawing and Quartering, he went in a Coach, with two Divines, to *Tyburn*, where he was executed, and his Body given to his Relations to bury. He delivered this Paper to the Sheriff.

Mr. *Sheriff*,

Having observed, that the Methods of making Speeches at the Place of Execution, were not always attended with the designed Successes; and thinking it better to employ my last Minutes in Devotion, and Holy Communion with my God, I have prepared this Paper to leave in your Hands, as well to assert my Principles, as to testify my Innocency.

As to my Religion, I profess, by God's Grace, to die in the Faith into which I was baptized,

that of the Church of *England*, in whose Communion (nothing doubting of my Salvation, thro' the Merits of my Saviour) I have always thought myself safe and happy. According to her Principles, and late much esteemed Doctrine (tho' now unhappily exploded) I have regulated my Life; believing myself obliged, by my Religion, to look upon my rightful, lawful Prince (whatever his Principles were, or his Practices might be) as God's Vicegerent, and accountable, (if guilty of Male-Administration) to God only, from whom he received his Power; and always believing it to be contrary to the Laws of God, the Church, and the Realm, upon any Pretence whatsoever, to take up Arms against him: And let all the World take Notice in this Belief I die. But I have more particular Obligations to the King, my Master, whom I had the Honour to serve, and received many signal Favours from him, for 16 Years past; so that Gratitude (a Thing not much esteem'd at this Time) as well as Duty and Religion, commanded the utmost Service I could pay him. And when I had these Considerations, That we were born his Liege Subjects; That we had solemnly professed our Allegiance, and often confirm'd it with Oaths; That his Majesty's Usage, after the Prince of *Orange's* Arrival, was very hard, severe, and (I may say) unjust; and, That all the new Methods of settling this Nation, have hitherto made it more miserable, poor, and more exposed to foreign Enemies; and, That the Religion we pretend to be fond of preserving, is now much more than ever, likely to be destroyed: There seemed to me no Way to prevent the Impending Evils, and save these Nations from Poverty and Destruction, but the calling Home our injur'd Sovereign; who, as a true Father of his Country, has (notwithstanding all his Provocations and Injuries,) a natural Love and Tenderness for all his Subjects. And I am so far from repining at the Loss of my Life, that had I Ten thousand, I should rather think myself obliged to sacrifice them all, than omit any just and honest Means to promote so good and necessary a Work. And I advise and desire all my Fellow-Subjects to think of their Duty, and turn to their Allegiance, before the severe Judgments of God overtake 'em for their Perjury and Rebellion: But certainly the Good and Interest of these Nations, abstracted from all other Considerations, will e'er long convince them of the Necessity of doing it.

Having thus frankly declared my Principles, I know the Inference will be, that I have acted accordingly, and consequently, that I am now justly condemn'd: But, as I ingenuously own the Inference, so I as positively deny the Consequence; for whatever my Inclinations, or Actings have been, yet, as to the Matter I was sentenced to die for, I declare myself innocent. And I will appeal, even to the Judges themselves, whether or no, upon my Trial, there appeared the least Proof that I knew a Tittle contained in the Papers; but Presumptions were with the Jury thought sufficient to find me guilty, tho' I am told I am the first Man that ever was condemned for High-Treason upon bare Suspicion or Presumption; and that contrary to my Lord *Coke's*, and other eminent Lawyers Opinions. The Knowledge of my own Innocency, as to the Indictment and Charge against me, was That that arm'd me with so much Assurance, and occasioned my casting my Life upon the first twelve Men of the Pannel, without challenging

challenging any. But tho' I have, I think, just Reason to complain of the severe Charge given by the Judges, and hard Measure I have received; not to mention my close Imprisonment, the hasty and violent Proceedings against me, nor the Industry us'd in the Return of fitting Persons to pass upon me; the denying me a Copy of the Pannel, &c.

Yet, as I beg for Pardon and Forgiveness at the Hands of God, I do most heartily pray for, and forgive them, and all my Enemies, all the World; nay, even that Judge and Jurymen who did so signally, (contrary to common Justice) expose themselves to destroy me. But let the Will of God be done, I rely wholly upon his Mercy, and the Merits of my blessed Saviour, for Salvation; I do chearfully and intirely resign myself into his Hands, as into the Hands of a faithful Creator, in sure and certain Hopes of a happy Resurrection.

Bless, protect and strengthen, O Lord God, my good and gracious King and Master: In thy

due Time let the Virtue, Goodness, and Innocency of the Queen, my Mistress, make all their Enemies blush, and silence the wicked and unjust Calumnies that Malice and Envy have raised against her. Make her and these Nations happy in the Prince of *Wales*; whom, from unanswerable and undoubted Proofs, I know to be her Son. Restore them all, when thou seest fit, to their just Rights, and on such a Bottom as may support and establish the Church of *England*, and once more make her flourish, notwithstanding what she hath received of late from her prevaricating Sons. Forgive, forgive, O Lord, all my Enemies; bless all my Friends; comfort and support my dear afflicted Wife, and poor Babes; be thou a Husband and a Father to them; for their Sakes only I could have wished to have lived; but pardon that Wish, O good God, and take my Soul into thy everlasting Glory. *Amen.* (a)

J. Ashton.

(a) See State Trials, Vol. VIII. p. 464, 465.




CXLIX. *The Trial of HENRY HARRISON, at the Old-Bailey, for the Murder of Andrew Clenche, Doctor of Physick, April 6. 1692. 4 W. & M.*

Wednesday, April 6. 1692.

Judges present { Lord Chief Justice *Holt*,
Lord Chief Baron *Atkins*,
Mr. Justice *Nevil*.

THE Keeper of the Prison of *Newgate*, did, according to Order of the Court, being then late, bring up the Body of *Henry Harrison*, Gent. to the Sessions-House in the *Old-Bailey*, *London*, who being at the Bar, was Arraigned upon an Indictment of Felony and Murther, found that Day by the Grand Jury for the City of *London*, in Manner following:

Cl. of Arr.  *Enry Harrison*, hold up thy Hand. Which he did. You stand Indicted by the Name of *Henry Harrison*, late of *London*, Gent. for

that you, not having the Fear of God before your Eyes, but being moved and seduced by the Instigation of the Devil, the fourth Day of *January*, in the third Year of the Reign of our Sovereign Lord and Lady, King *William* and Queen *Mary*, of *England*, &c. about Eleven of the Clock in the Night of the same Day, with Force and Arms, &c. at *London*, viz. in the Parish of *St. Peter, Cornhill*, in the Ward of *Lime-street*, in *London* aforesaid, being in a certain Coach with one *Andrew Clenche*, Doctor of Physick, and a certain Man yet unknown, in and upon the said *Andrew Clenche*, in the Peace of God, and of our Sovereign Lord and Lady the King and Queen, then and there being, violently, feloniously, and of your Malice before-thought, did make an Assault. And that you

the said *Henry Harrison*, with the Help and Assistance of the said Man unknown, with a Pocket Handkerchief, with a Coal in the same, being put, of the Value of Two-pence, about the Neck of him the said *Andrew Clenche*, then and there feloniously, voluntarily, and of your Malice before-thought, did put, fasten and bind; and that you the said *Henry Harrison*, with the said Handkerchief with the Coal aforesaid in it, by you the said *Henry Harrison*, with the Help and Assistance of the aforesaid Man unknown, about the Neck of the said *Andrew Clenche* then as aforesaid, put fastened and bound, him the said *Andrew Clenche*, then and there with Force of Arms, &c. Feloniously, Voluntarily, and of your Malice before-thought, did choak and strangle, by Reason of which Choaking and Strangling of the said *Andrew Clenche* by you the said *Henry Harrison*, with the Handkerchief aforesaid, with the Coal as aforesaid put in it, he the said *Andrew Clenche* instantly died: So that you the said *Henry Harrison*, with the Help and Assistance of the said Man unknown, him the said *Andrew Clenche*, the said fourth Day of *January* in the Year aforesaid, at the Parish and Ward aforesaid, in Manner and Form aforesaid, feloniously, voluntarily, and of your Malice before-thought, did Kill and Murther, against the Peace of our Sovereign Lord and Lady the King and Queen now, their Crown and Dignity.

How say you, *Henry Harrison*, are you Guilty of this Felony and Murther whereof you stand indicted, or not Guilty?

Mr. Harrison. Not Guilty in Thought, Word nor Deed.

Cl. of Arr. Culpriest, How will you be tried?

Mr. Harrison.

Mr. *Harrison*. By God and my Country.
Cl. of Ar. God send you a good Deliverance.
 Then the said Mr. *Harrison* was taken away from
 the Bar by the Keeper of Newgate.

And afterwards the same Day, about Eleven of
 the Clock in the Morning, the said Henry *Harrison*
 was brought to the Bar, and he desired
 the Court that he might then be tried, which
 was granted, and those Persons who were
 return'd upon the Jury were called over twice,
 and their Appearances recorded.

Cl. of Ar. You Henry *Harrison*, These Men
 that you shall hear call'd, and Personally do
 appear, are to pass between our Sovereign Lord
 and Lady the King and Queen, and you, upon
 Trial of your Life and Death; if therefore you
 will challenge them, or any of them, your Time
 is to challenge them as they come to the Book to
 be sworn, and before they be sworn.

L. C. J. Holt. Mr. *Harrison*, you may chal-
 lenge such of the Jury as you shall think fit be-
 fore they be sworn.

Then the Jury was called and sworn, and then
 were counted; and the Twelve sworn were these
 whose Names follow:

J U R O R S.

<i>John Roll</i>	<i>John Lawford</i>
<i>Nathaniel Houlton</i>	<i>Nicholas Wildeboaire</i>
<i>Michael Pindar</i>	<i>Robert Williamson</i>
<i>James Hulbert</i>	<i>William Merriden</i>
<i>Joseph Howe</i>	<i>Thomas Simpson</i>
<i>Richard Chewne</i>	<i>Thomas Pakeman</i>

Then Proclamation for Information and Evidence
 was made as is usual.

Mr. *Harrison*. My Lord, I have made no
 Challenges, because I do believe the Jury to be
 honest Men.

Cl. of Ar. — Henry *Harrison*, Hold up thy
 Hand. (Which he did.)

Gentlemen, you that are sworn, look upon the
 Prisoner, and hearken to his Cause. He stands
 indicted by the Name of Henry *Harrison*, late of
London, Gent. &c. [he reads the Indictment.]
 Upon this Indictment he hath been Arraigned,
 and thereunto hath pleaded Not Guilty; and for
 his Trial hath put himself upon God and his
 Country, which Country you are. Your Charge
 is to inquire whether he be Guilty of this Felony
 and Murder whereof he stands indicted, or Not
 Guilty. If you find that he is Guilty, you are
 to inquire what Goods and Chattels, Lands or
 Tenements he had at the Time of the Felony and
 Murder committed, or at any time since. If you
 find him not Not Guilty, you are to inquire whe-
 ther he fled for it. If you find that he fled for it,
 you are to inquire of his Goods and Chattels, as
 if you found him Guilty. If you find him Not
 Guilty, nor that he did fly for it, you are to say
 so, and no more; and hear your Evidence.

Mr. *Darnell*. — My Lord, Mr. *Harrison's*
 Agents or Friends have, since the last Sessions,
 made or conveyed away a young Man that was
 a Principal Evidence against him.

L. C. J. That is a very ill Thing, and if it be
 prov'd, it will no way conduce to Mr. *Harrison's*
 Advantage.

Mr. *Harrison*. My Lord, I know nothing of
 it. But, my Lord, one of my Witnesses, that
 would have been material for me, is lately dead,
 Sir *Edward Hungerford's* Son.

Mr. *Darnell*. May it please your Lordships,
 and you Gentlemen that are sworn: I am of
 Council for the King and Queen against the
 Prisoner at the Bar, who stands indicted for the
 Murder of Dr. Andrew *Clenche*, which was as bar-
 barous a Murder as any that hath been commit-
 ted in this Age. And considering it was done in
 the Dark, I think there will be given as clear an
 Evidence of it against Mr. *Harrison* the Prisoner,
 as can be expected. And that it was upon
 this Occasion; One Mrs. *Vanwicke* a Widow (be-
 tween whom and Mr. *Harrison* there was a great
 Kindness) prevailed with Dr. *Clenche*, to whom
 she was indebted Twenty Pounds, to lend her so
 much more as would make it up One hundred
 and Twenty Pounds, and to take a Mortgage of
 a House of hers in *Buckingham-Court* near *Charing-
 Cross* for his Security; and Mr. *Harrison* was pre-
 sent with Mrs. *Vanwicke* at the lending of the rest
 of the Money, and executing of the Mortgage,
 as he was wont to be at the Management of her
 Affairs; but when the Time came that it was to
 be repaid, the Doctor could not get his Money,
 and Mrs. *Vanwicke* having but an Estate for Life
 in the House, and having long delayed the Doctor,
 he brought an Ejectment for the recovering of
 the House, upon which the Prisoner came to
 Dr. *Clenche*, and abused him with very scurrilous
 Language, and his Passion growing higher, he
 laid his Hand upon his Sword, and would have
 drawn it, and if it had not been for one Mr. *John-
 son*, 'twas thought he would have kill'd the Do-
 ctor at that time; so that the Doctor desired Mr.
Johnson to take the Business upon himself, and
 to act in his own Name, he was so much afraid
 of him. And it will be proved further to you,
 that at another time the Prisoner said, That Dr.
Clenche was a Rogue and a Villain, and deserved
 to have his Throat cut. And some time after this,
 Mrs. *Vanwicke* would have borrowed some more
 Money of the Doctor, but he refused to lend
 it her, whereupon she acquainting the Prisoner
 with it, he said, Leave him to me (Madam) I'll
 warrant you, I'll manage him; he is a Rogue,
 and deserves to have his Throat cut. And after-
 wards, about St. *Thomas's* Day last, the Prisoner
 went to Mrs. *West* the Tenant, who dwelt in
 the House mortgaged to Dr. *Clenche*, and desired
 of Mrs. *West* to have some Money for Mrs. *Van-
 wicke*, and it should be discounted in Part of the
 then next *Christmas* Rent. But the said Mrs. *West*
 refused to pay him any, telling him, that she and
 her Husband were forbid by Dr. *Clenche* and
 the Ground Landlord, to pay any more to Mrs.
Vanwicke, and thereupon the Prisoner expressed
 his further Malice against the Doctor, and said,
 He is a great Rogue, and a Villain, and deserves
 to have his Throat cut, and will not die in his
 Bed. And, Gentlemen, soon after the Prisoner
 began to put his malicious Design against the
 Doctor in Execution, and the Method he took
 was first to change his Lodgings; for on the Day
 before *Christmas Eve* last, he took new Lodgings
 at one Mr. *Garway's* in *Threadneedle-Street*, near
 the *Old Exchange*, attended by a Foot-Boy, pre-
 tending himself to be a Parliament-Man, and
 that he was just then come out of the Country,
 and lay in his Lodgings there every Night, until
 the first Day of *January* following, but lay out
 that Night, and the two next Nights following.
 And whilst he lodged at this Mr. *Garway's* this
 Matter happen'd, which does conduce somewhat
 towards

towards the Discovery of this Murder; One Evening the Prisoner being in his Chamber there, and one Mrs. Jackson, the Daughter of Mrs. Garway, making a Fire for him, he did take out his Handkerchief, and held it before the Fire to dry it, which she took great Notice of, because it was coarse and dirty, and not fit for his Quality (as she thought) it being made of ordinary Indian Stuff, like her Mother's Maid's Apron. And Gentlemen, this very Handkerchief was the same with which the Murder was committed, and this Mrs. Jackson will swear it to be the same; for it is a very remarkable one, and it will be produced to you. And we shall shew you further, That on the third Day of *January* (being the Day before this Murder was committed) he caused a sham Letter to be left for him at his Lodgings at this Mr. Garway's, as written from a Friend of his that was sick in the Country, earnestly pressing him to come quickly down to him: And we shall prove, that the same Evening, he being with Mrs. Vanwicke in *Woodstreet-Compter*, did again threaten Dr. Clenche, and said, That he was a Rogue, and he would have his Blood. And upon the Fourth Day of *January* last, he again changed his Lodgings, and took new ones at one Mr. Jones's a Cane-Chair-Maker in *St. Paul's Churchyard*, and there he pretended himself to be a Country Gentleman, just then come out of *Cumberland*, and brought in a Portmanteau Trunk thither: And the same Day he sent a Letter to Mrs. Garway, where he had lodged before, acquainting her, That he was gone out of Town for a Week or ten Days. And, to give you farther Satisfaction, we shall prove, that upon the same fourth Day of *January*, in the Night of which this unfortunate Gentleman was murder'd, the Prisoner was at one Mr. Robert Humston's Lodgings at the *Golden Key* in *Fleetstreet*, over-against *Fetter-Lane* End, at near Nine of the Clock at Night, and being ask'd by Mr. Humston to stay and sup with him, he said, he could not, for he had been about earnest Business that Day, which was to be done that Night, and that a Gentleman stayed for him in the Street, to go with him about it, and so he went away. And soon after, about Nine of the Clock the same Night, two Men standing in *Fleet-street*, at *Fetter-Lane* End, call'd for a Coach, and ask'd the Coachman if he knew Dr. Clenche, who dwelt in *Brownlow-street* in *Holborn*; and the Coachman reply'd, he did know the Street, but not the Doctor: whereupon they went into the Coach, and ordered him to drive to the End of *Brownlow-street*; and when they came thither, one of them called to the Coachman, and bad him go to Dr. Clenche's, and tell him, that two Gentlemen in a Coach, at the End of the Street, desired him to go with them to a Patient that was very sick; which the Coachman did. And he found the Doctor in his Night-Gown and Slippers, and just a going to Bed; but he immediately dressed himself, and went to them into the Coach. And it fell out very happily for the further Discovery of this Murder, that while this Coach stood at the End of *Brownlow-street*, a young Gentlewoman standing at her Door near it, and fancying that while the Coachman went on the Errand, the Gentlemen would slip out of the Coach (I think they call it *Bilking*) she watch'd them. And a Lamp that lighted cross *Holborn*, over-against *Brownlow-street* End, and another about the Middle of *Brownlow-street*, gave such a

Light into the Coach, that she plainly saw one of the Men that sat in it, and see him look out of the Coach after the Coachman, and heard him swear at the Coachman, because he made no more Haste in going to the Doctor's House; and she is very certain that the Prisoner at the Bar is the same Person that look'd out of the Coach, and that did swear at the Coachman, and is more confident of it from the Remarkableness of his Voice. For she hearing of this Murder, and remembering these Circumstances, she went to *Newgate* to see the Prisoner, and hearing his Voice in another Room, before she saw him, she declared to the Persons that were then with her, that the Voice she then heard, was the Person's Voice that she saw look out of the Coach, and that did swear at the Coachman; and afterwards, when she came into the Room where the Prisoner was, though with several other Men, she pointed to him as the Person, and she hearing him then speak again, declared to the Persons with her, that both by his Voice, and by his Countenance, she knew him to be the same Man. And, my Lord, after those Gentlemen had gotten the Doctor into the Coach, one of them called to the Coachman, and bad him make haste and drive them to *Leaden-Hall-Market*, and when they were come within *Holborn-Bars*, one of them called to the Coachman, and bad him drive faster; whereupon the Coachman drove them very fast through *Holborn* to *Leaden-Hall-Market-Gate*; and when he came there, one of them bad him drive to the *Pye* without *Aldgate* (before which Time, without Doubt, the Murder was committed upon the Doctor, for his Hat was found next Morning in *Holborn*, near *Fetter-Lane* End; but the driving so long about after, is supposed to be done, lest the Doctor might recover); and when they were come without *Aldgate*, one of them ordered the Coachman to ask there for one *Hunt* a *Chyrurgeon*; which he did, and being answered, that no such Person was there, he ordered the Coachman to drive back again to *Leaden-Hall*, and when they came there, one of them called the Coachman, and gave him three Shillings and Six-pence, and bad him go into the Market there to one *Hunt* a Poulterer, and buy them a Couple of Fowls, but the Coachman could not find any *Hunt* a Poulterer; but however he bought a Couple of Fowls for three Shillings, and when he came with them to his Coach, the two Gentlemen were gone, and the Doctor left in the Coach, murder'd, with a Handkerchief tied fast about his Neck, with a Coal in it (which will be proved to be the Prisoner's Handkerchief.) Besides, there was a Boy in the Street there, who took Notice of the Coachman's being sent of an Errand, and saw the two Persons come out of the Coach in great Haste, and he going towards the Coach before they went out of it, one of them did swear at him to be gone, and of him the Boy took most Notice, and was as positive as any Man can be to the Person of one that he never saw before, that the Prisoner now at the Bar was one of them, and was the Person that did then swear at him; but this Witness is spirited away, and cannot be heard of, although he hath been described in the *Gazette*, and diligent Search and Enquiry has been made after him. But we have his Examination upon Oath before the Coroner; and we must submit to the Court how far that shall be admitted as Evidence.

Gentlemen, we will call our Witnesses, and if they prove all this Matter, I believe every Man here will be satisfied that the Prisoner at the Bar is guilty of this base Murder.

Mr. Darnel. Pray call and swear Mr. George Wigmore. (Who was sworn with others.)

Mr. Darnel. Pray, Mr. Wigmore, tell my Lord and the Jury what you know of any Money that was lent by Dr. Clenche, and to whom.

Mr. George Wigmore. May it please your Lordship, there was a Draught of a Mortgage from Mrs. Vanwicke to Dr. Clenche, made by a Gentleman of Grays-Inn, for the Sum of One hundred and twenty Pounds, and I ingross'd it; and I paid by the Doctor's Order, above threescore Pounds of the Money, and the rest of it was satisfied before; and upon Sealing of the Mortgage for the Money, Mr. Harrison, and one Mr. Rowe, fell out about their Dividend of the Money, and called one another ill Names; and Mr. Rowe produced a Bill of what he had done and laid out for Coach-hire, and other Things for Mrs. Vanwicke, and Mr. Harrison and he had high Words about it, and called one another Rogues; so I told them, if they could not agree, I would put the Money up again, and carry it Home; but Mrs. Vanwicke and they did agree at last, and sealed the Mortgage, and I paid the Money; and Mrs. Vanwicke, and Mr. Harrison took out twenty Pounds of the Money; and paid it to Mr. Rowe; and after Mr. Rowe was gone, they desired me to go with them to the Young Devil Tavern, and they both used hard Expressions there against Mr. Rowe.

L. C. J. Who was the Mortgage made to?

Mr. Wigmore. My Lord, it was made to Dr. Clenche for One hundred and twenty Pounds.

Mr. Harrison. Pray, Sir, will you tell the Jury how much Money the Gentlewoman had, and if Mr. Rowe had not stept between me and her, I had not been in Question.

Mr. Wigmore. Mrs. Vanwicke acknowledged that the Money I paid her, made up One hundred and twenty Pounds.

L. C. J. What did you hear the Prisoner say against Dr. Clenche?

Mr. Wigmore. My Lord, I do say that he was very troublesome to the Doctor.

L. C. J. Were there any Reproaches cast upon the Doctor at that Time?

Mr. Wigmore. No, my Lord, only upon Rowe, because he was a Trustee.

Mr. Darnel. Did you hear him say any thing against the Doctor?

Mr. Wigmore. Indeed I cannot particularly say.

L. C. J. He is upon his Oath, and he is sensible and understands the Question.

Mr. Wigmore. He did say very ugly Words, and when I met him afterwards in the High-Way, he was very huffy, and I thought he would have drawn his Sword upon me.

L. C. J. What did he say of the Doctor?

Mr. Wigmore. I cannot say particularly what he said.

L. C. J. Stand down.

Mr. Darnel. Call Mr. Thomas Johnson. (Who was sworn, and stood up.)

Mr. Darnel. Sir, Pray give the Court an Account what you know concerning this Matter.

Mr. Johnson. My Lord, I believe I shall say nothing that Mr. Harrison will contradict; I was Attorney for Dr. Clenche between him and Mrs. Vanwicke, and I sued Mr. Rowe, that was bound

with Mrs. Vanwicke, in a Bond to perform Covenants for Re-payment of the Money lent her by Dr. Clenche upon Mortgage; and I advised the Dr. and told him, Don't let us trouble the Tenant, but let us take Rowe first; and I sued Rowe, and had him arrested, and after some time, I saw that the Mortgage must do our Business, for Rowe could not pay the Money; whereupon I caused a Declaration in Ejectment to be delivered against Mrs. Vanwicke's Tenant of the House mortgaged by her to Dr. Clenche, and then Mr. Harrison came to me, and he expressed himself against the Doctor after a strange rate, and laid his Hand upon his Sword; so, my Lord, I said to him, What a Fool do you make of yourself? must none go to Law, but they must ask your leave? I suppose Mr. Harrison cannot deny this. Then Mr. Harrison preferred a Petition to the Lords Commissioners of the Great Seal for Mrs. Vanwicke, and thereby suggested to their Lordships, that she was wronged in the Purchase, and in the Mortgage Money, and that twenty Pounds of it was a former Debt of her Husband's; and he finding she could have no Relief before them without Payment of the Mortgage Money, he grew troublesome; yet says I, Mr. Harrison, What she hath done, I cannot help, but if she would pay the rest, I told him I would abate her twenty Pounds, and the Interest Money also.

Mr. Darnel. Pray, Sir, did the Doctor desire you to act for him in your own Name, because he had no mind to meet with Mrs. Vanwicke and the Prisoner?

Mr. Johnson. The Doctor did find himself too deeply concerned with them, and he did not care to have to do with them; whether it was that he was afraid of his Life, I cannot say; but he said to me, Pray, Sir, go on, I will put all into your Hands, and I will trust you with all the Affair, and let them come to you, and not trouble me, own it to be your own; and I told him I feared none of them, and the Doctor gave out, That he had made over all to me, although he had not, and upon this, I fear, comes this unfortunate Business, and the Doctor's Lady must look after it herself.

L. C. J. What did he say when he had laid his Hand upon his Sword in your Study?

Mr. Johnson. He said the Dr. had cheated the Widow, and he said, That he would be revenged on him, as near as my Memory will serve me; I suppose he will not deny it; whether he did this in a Passion, or to affright the Doctor or no, I cannot tell.

L. C. J. Was that before you offered to abate the twenty Pounds?

Mr. Johnson. It was before I offered to abate it.

Mr. Harrison. How long was it before Dr. Clenche was murdered?

Mr. Johnson. I think it was about a Fortnight, or three Weeks, or a little more.

Mr. Harrison. I never threatned the Doctor in my Life, but I said, Rowe had been a Villain, and a Cheat, and he and Rowe were the Men, and I shall make it appear that the Dr. never wrong'd the Widow.

L. C. J. How came Rowe to be intrusted or concerned with the Money?

Mr. Johnson. My Lord, Mr. Cornelius Vandiman-ker, a Merchant, gave a Legacy of five hundred Pounds to the Widow Vanwicke and her Children, and

and Mr. *Rowe* was a Trustee on the Purchase, and had by that the Management of the Affair.

Mr. *Darnell*. Call Mr. *George Howard*.
(*Who being sworn, stood up.*)

Mr. *Darnell*. Mr. *Howard*, Give the Court an Account of what you know concerning the Prisoner's threatening Dr. *Clenche*.

Mr. *Howard*. My Lord, I was at *Joe's* Coffee-house near *Warwick-House* in *Holborn*, some considerable time before Dr. *Clenche* was murdered, where Mr. *Harrifon* used several very virulent Expressions against Dr. *Clenche*; among others, one was, That he was a Rogue and a Rascal, and deserved to have his Throat cut. Mrs. *Vanwicke* was then in Company, and they both said, That they then came from Dr. *Clenche's*.

Mr. *Darnell*. You are sure he said that Dr. *Clenche* deserved to have his Throat cut?

Mr. *Howard*. Yes: He said, That Dr. *Clenche*, deserved to have his Throat cut.

Mr. *Harrifon*. Who was I talking to?

Mr. *Howard*. You were talking to Mrs. *Mary Sheriff*.

Mr. *Darnell*. Call Mrs. *Mary Sheriff*.
(*Who was sworn, and stood up.*)

Mrs. *Sheriff*. My Lord, Mrs. *Vanwicke* came to my House with Mr. *Harrifon*, and desired me to go with her to Dr. *Clenche's* House; and when we came there, she desired him to let her have Twenty Pounds more, and he said, No; If his House were full of Money, he would not lend her any more, so long as she kept Mr. *Harrifon* Company, for he would spend it; and he advised her to be a Gentleman's House-keeper, and he would help her to a Place; and told her withal, That she owed him One hundred and twenty Pounds, for which he would take One hundred Pounds; and we left Mr. *Harrifon* behind us at my House, and did not take him with us, because we were afraid he might anger the Doctor, and fall out with him; so when we came back, Mr. *Harrifon* asked Mrs. *Vanwicke*, what Dr. *Clenche* said; Why, says she, he said, That he will not lend me any more Money while I keep you Company, for you will spend it, and that I must go to Service. To Service! said Mr. *Harrifon*, God damn him, have a Person of your Quality go to Service! he deserves to have his Throat cut; let me alone, I'll manage him as never any Man was managed; and so away they went together.

Mr. *Harrifon*. Did not you say, That as you hop'd to be saved, that I was innocent of the Thing?

L. C. J. She does not accuse you of doing the Fact, but gives an Account of some Expressions that passed from you.

Mrs. *Sheriff*. You were always talking against Dr. *Clenche*, and you said, God damn him, he was an old Rogue, and that Mrs. *Vanwicke* was almost starved to Death.

Mr. *Harrifon*. *Rowe, Rowe*, I meant, my Lord.
(*The Prisoner then being in a Passion.*)

L. C. J. Mr. *Harrifon*, do not fall into a Passion; it may be more to your Advantage in the making your Defence, if you keep your Temper.

L. C. J. Witness, what were the Words that he said against Doctor *Clenche*?

Mrs. *Sheriff*. Why, he speaking of Doctor *Clenche*, said to Mrs. *Vanwicke*, God damn him, would he have a Person of your Quality go to Service! he deserves to have his Throat cut;

Well, Madam, says he, be contented, I'll manage him as never any Man was managed.

Mr. *Harrifon*. What had you for your Swearing?

Coroner for the King and Queen. Witness, he asketh you, If you had any thing for your Swearing against him?

Mrs. *Sheriff*. No, I had nothing, neither have I need of any thing? I had not so much as my Coach-hire.

Mr. *Darnell*. Call Mrs. *Elizabeth West*.
(*Who was sworn.*)

Mr. *Darnell*. Mistress, give an Account to the Court, what you know about the Prisoner's coming to demand Rent of you, and what passed.

Mrs. *West*. May it please your Lordship, this Gentleman, the Prisoner, came to me two or three Days before St. *Thomas's* Day last, and desired me to give him some Rent for Mrs. *Vanwicke*, and I told him I had no Power to pay him, because I was warned by Dr. *Clenche* to pay no more; says he to me again, Dr. *Clenche* and *Rowe*, are great Rogues, and great Villains. Sir, says I to him again, I believe that the Doctor is a very honest Man: No, says Mr. *Harrifon*, he is a great Villain, and he will never die in his Bed; which of them he meant, Mr. *Rowe* or Dr. *Clenche*, I cannot tell. And Mrs. *Vanwicke*, and Mr. *Harrifon*, a little time before that, pressed me to let them have some Shop Goods in Part of her Rent, to grow due, and she made great Complaint, that her Children were ready to starve, and I then told them, that Mr. *Johnson* had fore-warned me to pay more Rent to Mrs. *Vanwicke*, and if I did, I should pay it again; and therefore I would not pay any more Rent to her, or deliver her any Goods, until she had agreed with Mr. *Johnson*; and then Mr. *Harrifon* said, that Mr. *Johnson* was a great Villain and a great Rogue, and that they had all combined together to cheat the Widow. And Mr. *Johnson* being at my House, Mrs. *Vanwicke* fell upon him in a great Rage, and said, she would tare his Throat out, and laid hold on him, and Mr. *Johnson* got from her, and went away in great Hatte. And the last time I saw Dr. *Clenche*, I pressed very hard upon him, to let Mrs. *Vanwicke* have more Money; and the Doctor said, that she would never do any good with it, for she spent it all upon Mr. *Harrifon*; and I wished him to let her have twenty Pounds more, and he said, That he advised her to go to Service, and that he had wished her to a Service of Twenty Pounds a Year, and she abused him for it.

L. C. J. What Cloaths had the Prisoner on?

Mrs. *West*. My Lord, he had an old Threadbare black Cloth Suit of Cloaths on, which looked very shabby.

Mr. *Harrifon*. What Religion are you of, Mistress?

Mrs. *West*. I was born and bred a Protestant.

Mr. *Harrifon*. I believe you are a Papist, and will swear any thing; you keep Roman Catholics in your House, they have murdered Dr. *Clenche*, for ought I know.

L. C. J. Did Mr. *Harrifon* ever lodge in your House?

Mrs. *West*. No, my Lord, I have none but Persons of Quality lodge in my House, and they belong to the present Government.

Mr. *Darnell*. Call Ann *Watson*.
(*Who was sworn.*)

Mr. *Darnell*.

Mr. Darnell. Pray, tell my Lord and the Jury, what you know of Mr. *Harrison's* taking of Lodgings at Mr. *Garway's* House, and when it was?

Anne Watson. He came about six a Clock at Night, the Day before *Christmas-Eve* last, to my Master's, Mr. *Garway's* House, and told us, that he was newly come out of the Country; and lodged there that Night, and so he did until and upon the last Night of *December*; and on the first Day of *January* he went out, and staid out that Night; and on the *Sunday*, the third of *January* last, at Night, he came again with a Person with him, and fetch'd away his Portmanteau-Trunk and Things, and paid for his Lodging; and in his Absence there was a Letter left for him, which I gave him, and he said, it came out of the Country, and that he had a Friend sick in the Country, and did intend to go down to see him, being one from whom he expected a Legacy, and he left that Letter on the Kitchen Window, and on the *Monday* after, being the fourth Day of *January* last, he sent a Letter, signifying he was gone out of Town.

(Then the Letter was produced, marked with the Penny-Post Mark.)

Mr. Darnell. Who knows Mr. *Harrison's* Hand? Mr. *Johnson*, take that Letter and look upon it, and tell the Court if you think it to be Mr. *Harrison's* Hand.

(Mr. Johnson takes the Letter and looks upon it.)

Mr. *Johnson.* My Lord, I believe it to be Mr. *Harrison's* Hand.

Mr. Darnell. My Lord, I desire that the Letter may be read.

L. C. J. Mr. Clerk of the Peace, read the Letter; and the Subscription first.

(Clerk of the Peace reads.)

To Mrs. Garraway, at the Hand and Apple in Threadneedle-Street, near the Royal-Exchange, Present.

Mrs. Garraway,

I AM sorry it should be such an Inconveniency to you, as it is. I have left with your Maid, Three half Crowns, and if it is not enough, I will give you more. I am gone out of Town for a Week or Ten Days, and as soon as I come again, I will wait on you; which is all till I see you, from

Your Friend,

4th Jan. 1691.

and Servant,

H. Harrison.

Mr. Darnell. Call Mr. *Henry Garway* and his Wife. (Who were called and sworn.)

Mr. Darnell. Mrs. *Garway*, take that Letter, and look upon it, and tell the Court, when you received it.

Then she takes the Letter which was produced, and read as before, and looked upon it.

Mrs. *Garway.* My Lord, I received this Letter on *Monday* the 4th Day of *January* last.

L. C. J. *Watson*, when did he leave the Lodgings, say you?

Anne Watson. He went away the first of *January* last, about nine a Clock in the Morning, and returned not that Night, but on the second of *January* last, he was at my Mistress's Shop again (as my Mistress told me) and he came about five a Clock on the next *Sunday* Night (being the third of *January* last) with a Person

with him, to my Master's House, and fetch'd away his Portmanteau-Trunk and Things, and left Three Half Crowns with me for his Lodgings, which I gave to my Mistress.

Mr. Darnell. Call Mrs. *Catherine Jackson.*

(Who was sworn.)

Mr. Darnell. Pray, tell my Lord and the Jury, what you know concerning Mr. *Harrison's* coming to lodge at Mr. *Garway's*, and when he went away, and what you know of any Handkerchief he had.

Mrs. *Jackson.* He came on the Day before *Christmas-Eve*, to lodge at my Father's, Mr. *Garway's* House, and lodged there several Nights, and went away the third of *January* at Night, with his Things, but was absent some Nights between his coming and going away, and whilst he lodged there, I observed a Handkerchief in his Hand, as I was making a Fire for him in his Chamber, and the more, because he had said he was a Parliament-Man, and I thought it more like a Seaman's Handkerchief, than a Parliament-Man's, and our Maid had an Apron of the same kind of Stuff.

(Then the Handkerchief was produced in Court by the Coroner, and the Coal in it, wherewith Dr. Clenche was strangled.)

Mr. Darnell. Mrs. *Jackson*, I desire that you would look upon that Handkerchief, and tell the Court what you know of it.

Mrs. *Jackson.* This is the Handkerchief that I saw Mr. *Harrison* hold to the Fire, when I was making of it in his Chamber, or very like that Handkerchief, for I observed it to be very like my Mother's Maid's Apron.

(Then a Piece of the Maid's Apron was produced, and they being compared, were very like.)

Mr. *Harrison.* Did you hear me say, I was a Parliament-Man?

Mrs. *Jackson.* Yes, I heard you say so.

Mr. *Harrison.* Perhaps, you might hear my Boy say so.

Mrs. *Jackson.* Your Foot-Boy said, you were a Parliament-Man: And you said so yourself.

Mr. Darnell. Call Mr. *Garway* again.

(He appeared.)

Mr. Darnell. Where is the Letter you receiv'd from Mr. *Harrison*, since he was a Prisoner?

L. C. J. What do you say about a Letter that came to your House from the Prisoner?

Mr. *Garway.* My Lord, I had this Letter from him last *Saturday*, directed to my Wife, and I believe it to be his Hand.

(He produceth the Letter.)

Mr. Darnell. My Lord, I desire that the Letter may be read.

L. C. J. Read the Letter, Mr. *Tanner.*

(Clerk of the Peace reads.)

To Mrs. Garraway, at the Hand and Apple in Threadneedle-Street, behind the Royal-Exchange, Present.

Mrs. Garraway,

I Was informed Yesterday, that you are to appear against me at next Sessions. I am sure, you never heard me mention Dr. Clenche, in all your Life; and if you do, it will look like Malice. My Lord Chief Justice is sensible of the Wrong done me. This is all from

Your Servant,

Henry Harrison.

L. C. J.

L. C. J. Mr. Harrison, Did I ever tell you, That I was sensible of it?

(To which he made no Reply.)

Mr. Darnell. Call Mr. John Cartwright.

(Who was sworn.)

Mr. Darnell. I would have you declare, what you heard Mr. Harrison say, concerning Doctor Clenche.

Mr. Cartwright. My Lord, upon the Third of January last, Mr. Harrison came to Woodstreet Compter; it was on a Sunday in the Evening, about Five or Six a Clock, I was standing in the Gate, and I let him in. As soon as he came in, he asked how poor Mrs. Vanwicke did; says he, She hath been wronged of Five Hundred Pounds within these 12 Months: Then I let him into the Court, and he went into her Chamber; and about half an Hour after, I was sent by my Master, to require some Chamber-rent of Mrs. Vanwicke, and I heard Mr. Harrison and she at high Words, and in a great Passion, and I heard Mr. Harrison swear, God damn his Blood, he would be reveng'd of that Rogue, and named Clenche or Winbe, I cannot tell which, and he would have his Blood, ere it were long.

Mr. Harrison. Where were you?

J. Cartwright. My Lord, I was at the Chamber-door, and there was no Body on that Side of the House, but Mr. Harrison, Mrs. Vanwicke, and my self.

Mr. Darnell. Call Mrs. Mary Jones.

(Who was sworn.)

Mr. Darnell. Now, my Lord, I will call one to prove, where he took a new Lodging, the very Day the Murder was done.

L. C. J. Cartwright, was that in Mrs. Vanwicke's Chamber that you heard him swear so?

Mr. Cartwright. Yes, my Lord, in her Chamber, and none was with her, but he only.

Mr. Darnell. You, the last Witness Mrs. Jones, when did Mr. Harrison come to lodge at your House?

Mrs. Jones. He came on a Monday.

Mr. Darnell. What Day of the Month was it?

Mrs. Jones. I can't tell what Day of the Month, for I did not set it down.

Mr. Darnell. Was it the Monday before he was taken?

Mrs. Jones. Yes, it was the Monday before.

Mr. Darnell. Whence did he pretend to come?

Mrs. Jones. He said, That he was come out of the Country, and had formerly lodged in Fleet-street, and that where he had lodged formerly, they had left off House-keeping, and were gone into the Country.

L. C. J. Where is your House?

Mrs. Jones. In St. Paul's Church-Yard, at the Sign of the Golden-Ball.

Mr. Darnell. Call James Howseman.

(Who was sworn.)

Mr. Darnell. Do you tell what you know, about Mr. Harrison's being at Mr. Jones's House.

Howseman. My Lord, he came in about Eight a Clock at Night, and brought a Porter with him, and a Portmanteau Trunk; and after that, the Porter went out a little before him, and then he followed him, and went out after.

Mr. Darnell. Did you hear him say, from whence he came?

Howseman. No, I did not.

Mr. Darnell. Call Anne Evans.

(Who did not appear.)

Mr. Darnell. Then call Mr. Robert Humston.

(Who was sworn.)

Mr. Darnell. Mr. Humston, I desire you will give the Court an Account of Mr. Harrison's being at your House that Night Dr. Clenche was murdered.

Mr. Humston. My Lord, I met Mr. Harrison on Monday the 4th of January last, and he told me, he was going to the Compter, to a Gentlewoman that was much oppressed, and that he wanted Money to get her released; upon which, I gave him some Money, and after some Discourie, I desired him to bring home my Gown, that I formerly let him, and seemed angry with him, for that he had several times promised me to bring it home, but had failed therein; and thereupon he promised, that I should have it that Night: And that Evening about Nine of the Clock, he came to my Lodgings, and brought home my Gown, and when he came, I asked him, if he had gotten Mrs. Vanwicke released: And Mr. Harrison answered, No. Upon which, I blamed him for neglecting an old Friend; and Mr. Harrison excused it, telling me, That he had met with some Persons upon earnest Business, which prevented him. And then I asked Mr. Harrison to stay and sup with me, but he refused it, saying, That he had been about extraordinary Business that Day, which must be done that Night, and that a Gentleman stay'd in the Street for him, and they two were going to do it.

L. C. J. Where do you live? And how long stayed he at your House?

Mr. Humston. I lodged then at the Golden-Key in Fleet-street, over against Fetter-lane End: He came to my Lodgings about Nine of the Clock at Night, and stayed there but a little time.

L. C. J. What manner of Cloaths had he on?

Mr. Humston. My Lord, he had a Cloak on, but I cannot tell what Cloaths he had under it, he brought my Gown up under his Cloak.

Mr. Darnell. Swear Esther King.

(Who was sworn.)

Mr. Darnell. Do you know what time Mr. Harrison was at Mr. Humston's Lodgings?

Esther King. It was on Monday the fourth Day of January last, about Nine of the Clock at Night, as near as I can guess, the Shop was shut up, and I let him out.

Mr. Darnell. Where was it?

Esther King. At the Golden Key in Fleet-street, over again Fetter-lane End.

Mr. Darnell. What Cloaths had he on?

Esther King. I cannot tell well, but he had a Cloak on, I do not know what Cloaths he had on besides.

Mr. Harrison. Was it Eight or Nine a Clock?

Esther King. It was near Nine, as near as I can guess.

Mr. Darnell. Swear John Sikes the Coachman.

(Which was done.)

Mr. Darnell. Give an Account to the Court what you know about carrying two Men in your Coach, and how you found Dr. Clenche murdered.

John Sikes. My Lord, on the 4th of January last, being Monday, I was at the Play-House, and there I took up a Man and a Woman, and carried them into the City; so I brought the Gentleman back again, to the Green-Dragon Tavern in Fleet-street; and then, he said, he would pay me by the Hour; he said, That it was but much about Nine a Clock. Then I left him

him, and was driving up the Street towards the *Temple*, and two Men stood in *Fleet-street*, about *Fetter-lane* End, and they asked me, if I knew Dr. *Clenche*, who dwelt in *Brownlow-street* in *Holborn*? I told them, That I did not know Dr. *Clenche*, but I knew the Street. So they went into my Coach, and one of them bad me drive thither, and I did, and stopt at the Street's End; because the Gate at the other End was shut, so that I could not turn my Coach: And one of them bid me go and tell the Doctor, That there were two Gentlemen in a Coach at the Street's End, that would desire him to go with them to see one that was not well. The Doctor asked me, If I could tell who they were? Or, who it was, that he was to go to? I told him, that I could not tell. The Doctor was in his Night Gown and Slippers, and he dressed himself: and when he came to the Coach, one of them removed from his Place, and gave him the hinder Part of the Coach, and told him, That they had a Friend, that was not well: And one of them bad me drive to *Leaden-Hall-Market*; and when I came about *Holborn-Bars*, one of them called to me, and asked me, Why I drove so slowly? And bid me drive faster; so I drove fast, and came to *Leaden-Hall*: And then one of them bad me drive to the *Pye Tavern* without *Aldgate*, and there ordered me to stop. And when I had stopped there, one of them called to me, and told me, That I need not stir out of my Coach-Box; but call to the Boy at the Tavern, and ask for one *Hunt* a Chyrurgeon, which I did do: And when the Boy came to me again, he said, there was no such Man. Then one of them bad me drive back again to *Leaden-hall*; and in the Time I staid there, and turned my Coach, *Aldgate* was shut; and when I came to the Gate, one of them gave Six Pence to the Watch, and the Gate was opened, and I drove to *Leaden-hall Gate*. And when I came there, I stopped again, and one of them gave me half a Crown, and bad me go and buy a Fowl of one *Hunt* a Poulterer; but after I had gone a little way from the Coach, he called me again, and said, Here, Coachman, you had as good take another Shilling, and buy a Couple: so I went, and bought a Couple of Fowls, but could find no such Poulterer as *Hunt*; so I bought them of another, and I gave three Shillings for them. And when I came back to the Coach-Side, I found Dr. *Clenche*, (as I thought) sitting against the Fore-seat, with his Head against the Cushion: I pull'd him, and cryed, Master, Master, for I thought he had been in Drink, but I could not get one Word from him; and then I went to the Watch, who were near; and when they came, we found him Strangled, with a Handkerchief about his Neck, and a Coal in it, plac'd just upon his Wind-Pipe, but the other two Men were gone.

L. C. J. Had one of the two Men a Cloak on?

J. Sikes. I cannot remember that.

L. C. J. What kind of Habit had he? Had he black Cloaths on?

J. Sikes. My Lord, I cannot tell justly what Cloaths he had on?

L. C. J. You have heard him speak. What said he?

J. Sikes. My Lord, he never spoke to me; it was the other Man.

Mr. *Harrison*. What kind of Man was the other? Was he less than I, or taller?

J. Sikes. He was taller than you, with his own Hair.

Mr. *Darnell*. Can you be positive that the Prisoner at the Bar is one of those two Persons?

J. Sikes. My Lord, one of those two Persons had a Perriwig on, of a light coloured Hair: And I do verily believe, that the Prisoner at the Bar is the same Person; I cannot be positive he is one of them, but as near as I can judge of a Man whom I have seen but once, he is one of them.

Mr. *Harrison*. My Lord, I desire your Lordship to observe the Time that he took the two Men up, and what Time it was they ran out of the Coach.

L. C. J. Coachman, what Time was it that they left your Coach?

J. Sikes. About half an Hour past Ten, and it was about a quarter of an Hour past Nine, when I took them up.

Mr. *Darnell*. Pray let's ask the Coachman one Thing more. Coachman, look upon that Handkerchief, do you know it, and where did you see it?

The Handkerchief was produced by the Coroner.

J. Sikes. I do believe that it is the same Handkerchief that was about Dr. *Clenche's* Neck when he was found murdered.

L. C. J. Call the Coachman again. Hark you, In what Posture did you find Dr. *Clenche* when you came back to your Coach?

J. Sikes. My Lord, he was sat in the Bottom of the Coach, leaning on one Side, with his Head against the Cushion.

L. C. J. Was a Handkerchief then about his Neck?

J. Sikes. Yes, my Lord, I untied this Handkerchief, and this is the same; and here is the Coal that was lapt in it: it was lapt in the Middle of it, and it laid just against the Doctor's Wind-Pipe.

Mr. *Darnell*. Call Mr. *Rebone* and Mr. *Marriot*.
(*Who were sworn.*)

Mr. *Darnell*. Mr. *Rebone*, tell what you know concerning the Handkerchief, and how you found the Doctor.

He takes the Handkerchief, and looks on it.

Mr. *Rebone*. This Handkerchief was about the Doctor's Neck, and the Coal in it, and it lay just upon his Wind-Pipe, when I saw him dead in the Coach. The Coachman came to Mr. *Marriot's* House, and ask'd for a Constable, and we went to the Coach-Side, and there we found him lying along; and we took him, and carried him to the *Bull Inn*, and there he was let Blood on the Arms, and the Chyrurgeon took about half a Spoonful of Blood out of his Right Arm; and he was let Blood on the other Arm, but that did but just trickle down, and we could not get him to Life again; and we found a Silver Ink-horn in his Pocket, and that, and the rest of his Things, were secured. This is all I can say to the Matter.

Mr. *Darnell*. Call Mrs. *Eleanor Ashbolt*.
(*Who was sworn.*)

Mr. *Darnell*. Pray tell my Lord, and the Court, what you know of any Persons you saw in a Coach at *Brownlow-street* End, that Night Dr. *Clenche* was murdered.

Mrs. *Ashbolt*. May it please your Lordship, I went out of an Errand for one Madam *Arwel*, a Gentlewoman who lodges at my Mother's House,

house; and coming home again, I saw a Coach stop at *Brownlow-street* End, between Nine and Ten a Clock at Night, and the Coachman went to the side of the Coach: And one in the Coach bad him go to Dr. *Clenche's*, and tell him, That there were two Gentlemen stayed for him in a Coach; and as he went up the Street, he went slowly, and looked back two or three times: Whereupon, one of the Persons leaned out of the Coach, and did swear at the Coachman to make Haste; and I went round the Coach, and could discern Mr. *Harrison's* Face; and I stayed, and saw Dr. *Clenche* go into the Coach, and one of them gave his Place to the Doctor.

Mr. *Darnell*. Why were you so curious, Mistress, and what did you observe further?

Mrs. *Afbolt*. I thought they might give the Coachman a Slip. I well observed Mr. *Harrison*, but do not know the other Man. There were two Lamps burning, one in *Brownlow-street*, and the other in *Holbourn*, over against the End of *Brownlow-street*, and they lighted quite through the Coach; and the Men pulled themselves backwards, when they saw me look on them: It was that Night that the Doctor was murdered. I went to *Newgate* afterwards. Madam *Clenche* desired me to go and see Mr. *Harrison*; and when I came to *Newgate*, it seems, he was writing Letters, so I staid before I went into the Room: And there were two Men with me, and Mr. *Harrison* was talking very loud; said they to me, Who is that speaks now? Why, says I, it is one of the Persons that was in the Coach when Dr. *Clenche* was murdered.

L. C. J. Who are those two Men that were with you?

Mrs. *Afbolt*. One of them was one Mr. *Jones*, a Coachmaker in *Holbourn*, and the other was Madam *Clenche's* Coachman.

L. C. J. Did you know the Prisoner, when you saw him in *Newgate*, to be one of them that were in the Coach?

Mrs. *Afbolt*. Yes, I did; I knew him to be the same Man, as soon as I saw him: And he changed Countenance, as soon as he saw me.

Mr. *Harrison*, My Lord, This Woman is certainly hired by the Villains that are against me. Pray, ask her, my Lord, Why she did not make a Discovery sooner?

L. C. J. Mistress, What say you to that?

Mrs. *Afbolt*. I acquainted Madam *Arnwell* what I had seen and observed, and she told Madam *Clenche*, after last Sessions; and then she desired me to go to *Newgate*, to see Mr. *Harrison*, and I went accordingly; and I should have told it to Madam *Clenche* sooner, but my Mother was loth I should be concerned about such a Thing.

Mr. *Darnell*. My Lord, we have some Witnesses who can give your Lordship an Account, that one of our Witnesses, whom I mentioned to your Lordship before, is spirited, or withdrawn from us, by a Gentleman that said he came to him from the Prisoner, and desired him to be kind to the Prisoner; which Witness is since absent, and not to be found: his Name was *Andrew Bowfell*, a Youth, and an Apprentice to one Mr. *Tims*, a Shoemaker.

L. C. J. You must prove upon him, that he made him keep away.

Mr. *Darnell*. Call *Barnabas Smith*.
(Who was sworn.)

Mr. *Darnell*. Give my Lord and the Court an Account, what you know of this Matter.

Mr. *Smith*. My Lord, This *Andrew Bowfell*, which the Council for the King speaks of, was sent to *Leadenball-street* of an Errand, to the *Bull-head* Alehouse there. And as he was going along, a Gentleman met him, and asked him, if he was not an Evidence against Mr. *Harrison*: And being told by the Boy that he was, he desired him to be kind to him; and pulled out a Piece of Money, and offered it him, desiring him to be kind to Mr. *Harrison*. Upon which the Youth replied, That he owed him Nothing, and Nothing he would take. Then the Gentleman told him, That he would come again another Time, and send for him near to his Master's. So the Boy said, and told me: And said further, That if he could have gotten him to have gone to the *Bull-head* Alehouse, he would have seized him.

Mr. *Darnell*. What is become of the Boy?

Mr. *Smith*. Truly, we do not know what is become of him, we never heard of him since the sixth Day of *March* last.

Mr. *Darnell*. Call his Master, Mr. *Richard Tims*.
(Who was sworn.)

Mr. *Darnell*. Tell my Lord, and the Court, what you know of this Matter, and what is become of your Apprentice, *Andrew Bowfell*.

Mr. *Tims*. My Lord, He went away from me on the sixth Day of *March* last; he was inticed away by three Soldiers that Night, and on the Morrow-morning one of them came and demanded his Coats, Shirts, and Neckcloths: Says I to him, Who sent you, and who is your Captain? and he answered, why, Captain *Harris*: He huffed, and said, That if I would not give him the Cloaths, he would send his Officer; and then I told the Soldier, I would have him before a Justice of the Peace, so he went away, and never came to me again: And I could never hear of my Apprentice since, tho' I have made great Enquiry after him.

L. C. J. Did your Servant tell you of any Money that had been offered him by the before-mentioned Gentleman?

Mr. *Tims*. No, my Lord; he did not tell me, but he told Mr. *Smith*, the Witness that was last examined, as he told me.

Mr. *Darnell*. My Lord, I desire that *Andrew Bowfell's* Examinations before Mr. *John Browne*, the Coroner of *London*, upon Oath, may be read.

Which being proved by the Coroner, were directed to be read.

Clerk of the Peace reads. 12. Januarii, 1691.

Andrew Bowfell, Servant to *Richard Tims*, Shoemaker, sworn and examined touching the Death of *Andrew Clenche*, Doctor in Physick, deceased, saith, that he, this Informant, being sent to Mr. *Parker's*, at the *Bull-head* Alehouse in *Leadenball-street*, on Monday last was Se'nnight, being the Fourth of this instant *January*, between the Hours of Ten and Eleven of the Clock in the Evening, saw a Coach standing against *Leadenball-Market*; and heard some Person that was in the Coach say, Make Haste: And this Informant says, that, according to the best of his Remembrance, he heard him talk of a Poulterer's. And this Informant says, That soon after the Coachman was gone into the Market, this Informant saw two Persons go out of the Coach, one whereof had, as this Informant believes, a black Coat on; and that this Informant saw the same Person, as soon as he came out of the Coach, sling a Cloak over him: and then both the Persons went through the

the *Market* on the West Part. And this Informant saith, That this Informant going to look into the Coach, the Person that had the Cloak on him, cry'd Damn him; and this Informant saith, That he, this Informant, thereupon going away, went to Mr. *Parker's*, and told them, that two Persons had cheated a Coachman, or to that Effect.

And. Bowfell being further Examined the 23d Day of *January*, 1691. touching the Death of *Andrew Clenche*, saith, That he hath seen *Hen. Harrison*, now a Prisoner in their Majesties Gaol of *Newgate*, and believes he was one of the Persons that came out of the Coach at *Leaden-ball*, a little after Ten of the Clock at Night, on *Monday* the 4th of this Instant *January*; and believes he knows him by his Voice. And soon after, this Informant understood that the said *Andrew Clenche* was murder'd in a Coach, being the same Coach which the said *Harrison*, and another Person unknown, a little before went out of.

L. C. J. Mr. *Harrison*, What have you to say against that which hath been proved against you? what Defence can you make?

Mr. *Harrison*. My Lord, I did attend Dr. *Clenche* about a Mortgage that was made him by Mrs. *Vanwicke*, and Dr. *Clenche* did pay one Hundred Pounds, but this Gentlewoman would pay, or allow *Rowe* but Fifteen Pounds, and we did not know how to get the Money from *Rowe*, so we petition'd the Lords Commissioners about it, which was above Six Months before Doctor *Clenche* was murder'd; and Mr. *Fairbeard* wonder'd that I would put Doctor *Clenche's* Name into a Petition with such a Rogue as *Rowe*; and I do positively say, That I had not seen Doctor *Clenche* in a Month before, and if Doctor *Clenche* had died in his Bed, it had been the same thing to me; and, my Lord, Mr. *Johnson* and I had never any angry Words between us; and I have the Report in Chancery, which I had from Sir *John Heskings*, which I will read, if your Lordship pleases.

L. C. J. Let's see it.

Which was handed to the Lord Chief Justice, sitting on the Bench.

Mr. *Harrison*. My Lord, that is the Original, which if your Lordship pleases to remember, I had *Rowe* before you twice about it; and it is *Rowe* that hath been the Rogue, and therefore what Occasion had we to be angry with Doctor *Clenche*?

Then the Report was perus'd by the Lord Chief Justice, and return'd to him.

L. C. J. Mr. *Harrison*, this will do you no good, not being to the present Purpose; therefore proceed in your Defence.

Mr. *Harrison*. Now, my Lord, I have some Witnesses to prove where I was at the Time that the Coachman says the Murder was done. Crier, call *Thomas Turner* a Porter, and Mr. *Maccaffee*.

Who appeared, but were not sworn, and examined apart, at the Request of Mr. Darnell, the King's and Queen's Council.

Mr. *Harrison*. My Lord, I shall prove by these Witnesses, that I was elsewhere when the Coachman said he took up those two Men, a little after Nine o'Clock. Pray, Mr. *Turner*, give an Account to the Court, what time it was I called you to carry my Trunk.

Tho. Turner. My Lord, I was, about Seven of the Clock in the Evening, the 4th Day of *January* last, at the *Two Kings* and *Key* in *Fleet-street*,

over against *Salisbury-Court*; and I was told, That a Gentleman at *Joe's Coffee-house* in *Salisbury-Court*, wanted a Porter; and I presently went to him thither, and it was this Mr. *Harrison*; and he bad me take up his Trunk, which I did, and carried it to the *Two Kings* and *Key*, and he went with me; and he asked me to get some Linen wash'd for him against the next Day at Noon; and he gave me some Linen, which I carried to my Wife to wash for him, and return'd to him again presently; and I went with him from thence, and carried his Trunk to his Lodgings in *Paul's Church Yard*; and when I had deliver'd his Trunk, I left them there; and then it was about Eight of the Clock at Night.

L. C. J. At whose House was it you deliver'd the Trunk?

Thomas Turner. My Lord, it was at Mr. *Jones's* House in *Paul's Church Yard*.

L. C. J. And did he stay within?

Thomas Turner. No, my Lord, he went out presently after me.

L. C. J. Were you any where else with him that Night, besides at the Places you have mentioned?

Tho. Turner. No, my Lord.

Mr. *Harrison*. My Lord, I will prove that Mr. *Humston* mistakes an Hour.

Mr. *Humston*. I cannot mistake an Hour, because the Shop is shut up about Nine a-Clock, and it was shut when you came first to my Lodgings.

Mr. *Harrison*. My Lord, there stands in Court one *Thomas Johnson*, Apprentice to Mr. *Pemmel*; he can tell what time a Night it was I came to Mr. *Humston's*, he let me in? I desire he may be call'd.

Mr. *Darnell*. Swear *Thomas Johnson*.

(Who was sworn.)

L. C. J. What time of the Night was it that Mr. *Harrison* came to speak with Mr. *Humston*, on that Night Dr. *Clenche* was murder'd?

Tho. Johnson. My Lord, on the 4th of *January* last at Night, Mr. *Harrison* came to my Master's House, and knock'd at the Door; and I went to the Door, and open'd it, for I had shut up the Shop; and he ask'd me if Mr. *Humston* was within? And I told him, he was: And he came in, and went up to Mr. *Humston's* Chamber; and it was then about Nine of the Clock, as near as I can guess.

L. C. J. Where is your Master's House?

Tho. Johnson. My Lord, it is the *Golden Key* in *Fleet-street*, over against *Fetter-lane* end.

Mr. *Harrison*. Pray call *Adam Maccaffee*, Mr. *White*, Mr. *Carden*, and *John Allen*.

Who appeared. And Mr. Maccaffee stood up.

Mr. *Maccaffee*. Upon *Monday* the 4th Day of *January* last, the Prisoner was at my House, and stay'd from Nine a-Clock till past Eleven, and play'd at Cards with one Mr. *Baker*, and one Mr. *White* and his Wife; and he stay'd till it had struck Eleven a-Clock.

L. C. J. Where is your House, Sir?

Mr. *Maccaffee*. My House is in *Chancery-Lane*, over against *Serjeants-Inn*.

L. C. J. Did he tell you where he had been before?

Mr. *Maccaffee*. He said, That he had been towards the City, and was very cold.

L. C. J. Did he say any thing of Mr. *Humston*?

Mr. *Maccaffee*. No, my Lord.

Mr. *Darnell*. Pray what Room were you in? Did you play at Cards in the Kitchen?

Mr. *Maccaffee*.