

Fellow is, I would have been my own Executioner, and not have expected my Sentence at this Bar.

L. C. J. Do you know him well?

Bedlow. Very well, both him and his Father; his Father is an *Oxfordshire* Gentleman.

Anderson. Now I think I shall prove the Rogue perjurd: Is my Lord Chief Baron in the Court?

Court. Yes, he is.

Anderson. Why then my Father has the Honour to be well known to his Lordship, who knows this to be false.

*L. C. Baron.** No, no, Mr. *Bedlow*, he is a Gentleman's Son of Quality in *Lincolnshire*.

L. C. J. You are mistaken, you are mistaken, his Father is a *Lincolnshire* Gentleman.

Anderson. And yet this Rogue is upon his Oath; but indeed all his Life is full of such Mistakes.

Bedlow. I don't know, my Lord Privy-Seal's Nephew told me so.

L. C. J. But what say you to him, as to his being a Priest?

Bedlow. I have heard him say Mass.

L. C. J. Did you ever receive the Sacrament from him?

Bedlow. Never. But I have seen him administer the Sacrament, and he was in a Priest's Habit.

L. C. J. Where?

Bedlow. I think it was at the *Venetian* Resident's; I am sure it was at some of the Ambassadors Houses.

Anderson. This Matter is so unlikely, I know not what to say to it.

Mr. Just. Pemberton. Will you ask him any Questions?

Anderson. Upon my Salvation I never saw him before.

Mr. Just. Dolben. It is a strange thing, that you should take upon you to say upon your Salvation you never saw him: How many might come into a Room, and you not see them while you are at Mass?

L. C. J. He might see you, tho' you did not see him: He might come in, and you not see him.

Mr. Just. Atkins. Is that any Argument, or any thing to the Purpose, or does that contradict the Evidence? Does the Minister, or ought he to know all his Congregation whilst he is in preaching?

Anderson. I never saw him, I say. My Lord, I'll give you but one Argument, which is call'd *Argumentum congruentie*.

Mr. Just. Jones. Will you ask him any Questions?

Anderson. To what Purpose will it be for me to ask him?

Bedlow. When he was first taken I was not stirring; but while I was making ready they told me there was one suspected to be a Priest. I heard him speak in the next Room, and I knew his Voice, and said, That is Mr. *Anderson*. I pretently knew his Tongue before I saw him.

L. C. J. You knew him very well then?

Bedlow. I never had any great Converse with the Man: When he was taken they asked me, If I knew any thing of this Man about the Plot? I told them, No; but he was in Orders from the

Church of *Rome*, for I heard him say Mass at such a Place. He told me, said he, I have been in Orders, but I revok'd them, and turned Protestant.

Mr. Belwood. Set up Mr. *Praunce*. Pray, Sir, tell what you know.

Praunce. My Lord, I have heard him say Mass several times at *Wild-House*; and he hath given the Sacrament there, and I have seen him take Confessions —

L. C. J. How often?

Praunce. Several times.

L. C. J. Then you know him very well?

Praunce. Yes, very well.

Anderson. I never saw him in my Life.

L. C. J. But he hath seen you.

Anderson. My Lord Chief Justice, I will bring Witnesses to prove, That I did never say Mass at *Wild-House*, nor went to the Chapel: For some (forsooth) would needs have me to have been Excommunicated for writing for the King's Temporal Jurisdiction over all his Subjects (independent of the Pope) as appears by a Letter of the Bishop of *London* on my behalf to Sir *Clement Amiger*.

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

Praunce. Seven Years.

L. C. J. How often have you seen him say Mass?

Praunce. A dozen times.

Anderson. It may seem strange that I should have the Impudence to deny what this worthy Gentleman says. Mr. *Praunce*, dare you say you know me?

L. C. J. Why, were you never there?

Mr. Just. Jones. Well, well, will you ask him any Questions?

Anderson. Who did I give the Sacrament to?

Praunce. A whole Rail-full hath been at the Sacrament at a time; several People I have seen receive it from him.

L. C. J. Did he deliver the Sacrament to you?

Praunce. No, he did not, I commonly received at *Somerset-House*.

Mr. Serj. Strode. We have done, my Lord.

Mr. Just. Jones. The King's Counsel have done with their Evidence, and now you may say what you will.

Anderson. My Lord Chief Justice, may I speak now?

L. C. J. Yes, you may.

Anderson. My Lord, all the World knows me, and I am known to most of the dignified Clergy in *England*: My Lord Bishop of *London*, and Dr. *Lloyd*, and the Bishop of *Durham* sent to me to tell me, that if they knew of my Trial they would be here. My Lord, I have lain under an ill Censure for Scribbling and Writing against the Temporal Power of the Church of *Rome*. I never said Mass in any Popish Church, I am confident, these ten Years; that I have said Mass, I won't deny. I would not tell a Lye to save my own Life; nay, nor would I tell a Lye to take away the Life of the greatest Villain upon Earth; no, not that Rogue [*Pointing to Dangerfield.*] But, my Lord, I protest there is not one Word true that hath been sworn against me, but what Dr. *Oates* hath said concerning my saying Mass. Oh! my Lord, I would not deny it if I were to be hang'd presently; and is not that a great Evidence of my Innocence and Sincerity?

But

* William Mountague, Esq;

But this does not prove that I am guilty of what I am accused for; for I am indicted upon a Penal Statute, and three things must be proved strictly to bring me within that Law: First, that I am an *Englishman*—

L. C. J. 'Tis proved you are an *Oxfordshire* Man.

Anderfon. No, my Father is *Lincolnshire*, and my Lord Chief Baron knows him.

L. C. Baron. I do know a Gentleman of that Name there.

Bedlow. I was told he was *Oxfordshire*.

Mr. Just. *Dolben*. He speaks himself to be an *Englishman*. All the World knows it by your Speech.

Anderfon. I know my Father is so.

L. C. J. Why do you deny it your self?

Anderfon. 'Tis one thing to deny it, and another thing to have it proved so: I am not to prove it, they are.

L. C. J. He says you are so.

Anderfon. He talks like a Parrot: These things are to be proved strictly; no Man's Life is to be taken away by Presumption; which is but a Conceit in Law, and ought not to overthrow that Maxim of Law, that Penal Laws ought to be taken most strictly in favour of the Prisoner: And I ought to be proved, *ad literam*, within the Law; and that according to the Statute made since his Majesty's happy Restoration, by two lawful Witnesses; and not only by two lawful, but by two credible Witnesses too. I suppose the Gentlemen of the Jury being apprized of these my Exceptions to these Witnesses, notwithstanding give Credit to them, whom perhaps they would not trust for 6d. in their Shops, and make themselves their Compurgators; and, as in waging Law, do take it upon their Conscience, that what these Rogues say is true.

L. C. J. So they do.

Mr. Just. *Dolben*. If these things are not well proved nothing will be proved.

Mr. Just. *Atkins*. Have you any Witnesses that you would call?

Mr. Just. *Pemberton*. If you will call any, you may.

Anderfon. How shall I call them, when I did not know of my Trial?

* *Sir George Jefferies*. Mr. Recorder*. If you will send for any Witnesses the Court will stay, if they be to any thing material.

Anderfon. My Lord, I have against this Gentleman, Mr. *Dangerfield*, almost all the Prisoners of the *King's Bench* for Witnesses.

L. C. J. Call them, and name them.

Anderfon. Mr. *Adderly*, Mr. *Puller*, who can say that I never drunk a Pot of Ale with this Man while he was there.

L. C. J. Who would you send for?

Anderfon. Those Persons, to prove that I had a Grudge and Prejudice against this Man, and that I desired to be removed to *Newgate* for that very Reason.

Mr. Just. *Dolben*. But the Question is, Whether you be a Priest, or no? And you can't send for any one that knows you, but will say, That he hath taken you for a Priest all along.

Anderfon. But still it is but a Presumption, not a Proof.

Mr. Just. *Dolben*. The Jury is to be Judge of that, how far that goes.

L. C. J. What do you expect for Proof?

Do you imagine there should be no Proof to convict you upon that Statute, unless we produce some Witnesses that actually saw you take Orders?

Anderfon. Yes, I suppose so, my Lord, because Penal Statutes are to be taken strictly.

L. C. J. Look you then, How vain would you make a Statute of *England*, the Laws of your Country? How idle a Thing were it to expect any Possibility of Proof, such as to convict a Priest, if this be the Interpretation of the Law, That no Man should be convicted by a Jury upon this Statute, but one against whom two Witnesses should swear they saw him take Orders? Where can we find such a Witness?

Anderfon. Admit that this Law were thus evaded, yet there would be no Inconvenience, and I would prove it to your Lordship by Authority: It was the Opinion of all the Judges, delivered about nine Years ago to the King and Council, upon a Question about Laws against the *Romish* Recusants; they all agreed, That this Law was only made *in terrorem*.

Mr. Just. *Pemberton*. Look you, Sir, you must not talk so, it is not to be permitted.

Mr. Just. *Dolben*. Will you go to Arraign the Judges here?

L. C. J. No, no; the King's Counsel did very honestly and prudently upon that Matter: For said Sir *John Keiling*, 'Tis very true, our Kings have not, since this Law was made, put the Statute in Execution unto Rigour, 'till you your selves occasioned it: But still the Law was a good Law, and absolutely necessary at its making, as necessary as the Preservation of the Queen's Life, and the Quiet of her Dominions; and now it is become as necessary for the Preservation of the Protestant Religion, which all your Arts are employed to undermine; and more necessary again, for the Preservation of our King's Life, against which your Contrivances are so bent.

Mr. Just. *Pemberton*. Do you think that you shall be heard here to dispute against the Law, and say it was no matter for the Law, it is a void Law; and scandalize the Judges, that they gave it for their Opinion, that it was only *in terrorem*?

Anderfon. No, I dispute for the Law.

Mr. Just. *Pemberton*. You must employ your Time otherwise, if you intend to be heard.

Anderfon. Then this is that I require; I desire these things may be proved: First, That I am an *Englishman*, and then I took Orders from *Rome*, and then that I abode here contrary to the Statute, which Things in this Penal Statute must be proved.

L. C. J. You have, upon the Matter, proved the First your self in your Appeal to my Lord Chief Baron, that he knew your Father, who is a *Lincolnshire* Man.

Anderfon. I might be bred and born beyond Sea, tho' my Father was so.

L. C. J. If you will give no Proof to the contrary, a little Proof will serve the Jury's Turn, hearing you speak, and knowing your Father was a *Lincolnshire* Man.

Anderfon. No Negative can be sworn; they must prove the Affirmative.

L. C. J. That will turn the Proof upon you to the contrary.

Mr. Just.

Mr. Just. Atkins. A reasonable Proof against you, with such Probability, will put it upon you to disprove it.

Mr. Just. Pemberton. Look you, *Mr. Anderson*, if you have any Witnesses to call for, or send for, the Court will give you Leave to stand by a little and send for them; but if you continue to argue in this manner, the Court will give their Directions to the Jury.

L. C. J. But, *Mr. Anderson*, the Court will do you all the Justice that can be expected. If you have any material Witnesses to be sent for, the Court will have Patience till they come; but then you must be sure they are material Witnesses, for we will not go to lose time upon a bare Surmise. If it be only to prove this Negative, that *Mr. Dangerfield* was never in your Company in the *King's Bench*, it will signify nothing, for there are three Witnesses without him.

Mr. Just. Pemberton. Have you any Witnesses to prove that you were born beyond Sea, or any thing that is material, we will stay for them.

Mr. Just. Ellis. There is nothing now in question, but whether you be an *Englishman* and a Priest; and if you can prove that you are not so, you say well. But I think you deny not now but that you are a Priest, only you would have us prove that you are an *Englishman*. Your Speech betrays you, and there is so much Evidence against you, that I have not heard in any Case as I know of. And all your Witnesses will be to little Purpose.

Anderson. Only this I desire to observe, That I have been a Man always countenanced by the best of Kings, and his Privy-Council; and if the Parliament had not been dissolved, I had been protected by the Parliament: Now, I say, if your Lordships think me worthy of any Consideration (as I have been a Man that have given several Testimonies of my Loyalty, and Obedience to the Government) I desire your Lordships would please to stay till you know the King's Pleasure.

L. C. J. You know where you must apply your self for that; we are barely upon our Oaths, and so is the Jury too, to try the Fact, whether you be a Priest; and this I will tell you, and I must say to you, I dare appeal to your own Consciences, whether this Issue, your being a Romish Priest, is not as plainly and evidently prov'd to the Satisfaction of all Mankind, as any thing can be?

Anderson. But it is all by Presumption still.

L. C. J. Well, Gentlemen of the Jury, the Matter that he insists upon, are two things; First, says he, You have not prov'd me to be an *Englishman*, and yet at the same time he appeals to such as knew his Father to be an *English Gentleman*; and his Language, his Tongue betrays him. 'Tis true, some kind of Evidence is to be given, that he is an *Englishman*, he himself tells you, that he is born of *English Parents*; but 'tis a foreign Matter, that he should be born beyond Sea. And if it were so really, then it comes on this side; if he can produce any Witness, he says something; otherwise we leave it to you, whether you are not satisfied in your Consciences, by hearing him speak, and understanding who his Father was, that he is an *Englishman*. The next thing is for his being a Priest: I do not know, nor can there be expected a plainer Proof than this that hath been given, because he doth those

Acts which none but a Priest amongst them does; he says Mass, he consecrates the Sacrament, he takes Confession, he gives Absolution, and all this proved by four Witnesses.

Anderson. That the Clerk does at Mass, he gives Absolution.

L. C. J. Does or can any but a Priest Absolve?

Oates. My Lord, the Clerk, he that serves at Mass at that Time, gives *pro forma* Absolution to the Priest, without which, the Priest cannot approach to the Altar; after he hath made a general Confession for the whole Congregation, the Clerk absolves the Priest, that he may absolve the Congregation.

L. C. J. Well, the Fact is plain upon you; we must never expect to convict a Priest upon this Statute, if such Proof is not sufficient.

Mr. Just. Dolben. He does acknowledge that *Dr. Oates* hath heard him say Mass.

L. C. J. Go on to the next.

Mr. Belwood. The next we will try, shall be *James Corker*, [*With whom the Jury was charged, as with the other.*]

Mr. Belwood. May it please your Lordship, and you Gentlemen of the Jury; *James Corker*, the Prisoner at the Bar, stands Indicted for High-Treason, for that being born within the King's Dominions, and made a Priest by Authority from the See of *Rome*, did traiterously come and abide in *England*, contrary to the Law. To this he hath pleaded Not Guilty.

L. C. J. Well, call your Witnesses.

Mr. Serj. Strode. *Dr. Oates*, *Mr. Bedlow*, and *Mr. Praunce*. [*Who were all sworn.*] *Dr. Oates*, pray tell my Lord, and these Gentlemen, what you know of this *Mr. Corker's* being a Priest.

Oates. My Lord, he hath said Mass at *Somer-set-House*; and before the Proclamation and Declaration in 1674, made against the Catholics, he was one of the Queen's Priests, he is a *Benedictine Monk*, and he hath said Mass at *Somer-set-House*; and I have heard him say Mass at the *Savoy*.

L. C. J. In a Priest's Habit?

Oates. Yes, I have seen him in a Monk's Habit.

Corker. When.

L. C. J. Have you ever seen him give the Sacrament?

Oates. Yes, I received the Sacrament from him my self.

L. C. J. Where?

Oates. In the *Savoy*.

L. C. J. Did he consecrate the Sacrament?

Oates. Not that that I received; I cannot say whether he did or no.

L. C. J. Do any Administer the Sacrament but Priests?

Oates. They are in Orders first. And 'tis against the Laws of the Church for any but Priests to do it.

L. C. J. None use to do it but Priests, do they?

Oates. I cannot tell; but he that I took it from, I always took to be a Priest: Besides, I saw his Patent to be Bishop of *London*; and they don't use to make them Bishops before they be Priests.

L. C. J. Did he shew it you?

Oates. I saw it.

Mr. Just.

Mr. Just. *Atkins*. From whom was that Patent?

Oates. It was from the See of *Rome*.

Mr. Just. *Atkins*. Under what Seal was it?

Oates. I can't tell that; but I remember that I saw the Patent.

L. C. J. Well, will you ask him any thing?

Corker. When was it that you heard me say Mafs?

Oates. The first time that I heard him say Mafs is near upon three Years ago; and then I heard him say Mafs about the last Winter was two Years.

L. C. J. How often have you heard him say Mafs?

Oates. Several times; a dozen times I believe.

Corker. Was there any body with you when you heard me say Mafs.

Oates. I believe there was an whole Church full at *Somerfet-House*.

Corker. Can you nominate any in particular?

Mr. Just. *Atkins*. How can he do that? He says there was an whole Church full.

Mr. Just. *Pemberton*. Will you ask him any more Questions?

Corker. No.

Mr. Serj. *Strode*. Then set up Mr. *Bedlow*. Pray, Sir, will you tell my Lord and the Jury, what you know of Mr. *Corker's* being a Priest.

Bedlow. I have seen him wear the Habit of a *Benedictine* Monk, before the suppressing of the Convent in the *Savoy*; and I have seen him confessing several People in *Somerfet-house*.

L. C. J. And gave them Absolution?

Bedlow. Yes.

L. C. J. Do they use to let them see when they confess?

Bedlow. They confess in publick, but they speak so softly we cannot hear; but the whole Chapel sometimes may be full of people Confessing.

L. C. J. When was this?

Bedlow. About four or five Years since, when Father *Lathum* was there.

L. C. J. Did you ever hear him say Mafs at Father *Lathum's*?

Bedlow. No, I never saw him say Mafs, but only confess.

L. C. J. Did you never see him deliver the Sacrament?

Bedlow. No, my Lord.

Corker. When you saw me in my Habit, was it when you came to Father *Lathum's*?

Bedlow. I judge so, it was several times, with several of them.

Corker. Can you nominate any one that saw me at the same time?

Bedlow. There were a whole Chapel full of Catholicks.

Mr. Just. *Pemberton*. That is no great matter whether he can or no.

Mr. Just. *Atkins*. 'Tis an immaterial Question, Why do you ask it?

Bedlow. My Lord, what I did was done so privately, that if I went but from *Strand-bridge* to the Monks, I either took a Boat and went by Water, or a Coach and went round about, to avoid suspicion.

Mr. *Belwood*. Then set up Mr. *Praunce*. Pray Sir tell what you know of this.

Praunce. I have heard him say Mafs at Mr. *Paston's* in *Duke-street*.

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L. C. J. How often?

Praunce. Never but once.

Corker. When, Sir?

Praunce. It may be two Years ago.

Mr. Just. *Atkins*. That is another Place too, Mr. *Corker*.

L. C. J. Have you any thing to ask him?

Corker. No, my Lord.

L. C. J. What have you then to say for yourself?

Corker. My Lord, this I have to say for myself, and I do protest it to be true: I never in my Life did say Mafs or hear Confessions at *Somerfet-house*.

L. C. J. What say you to Mr. *Paston's*?

Corker. No, nor at Mr. *Paston's*; nor ever was in the Company of that Man, nor ever saw him there in my Life, to my knowledge.

L. C. J. That may be.

Corker. I likewise protest, that I never said Mafs in any publick Place since I was born.

L. C. J. It may be you count not Mr. *Paston's* a publick Place.

Corker. If it be a private Place, then I should know who were in the Company, and who were admitted there.

L. C. J. No, you were not two or three Years ago so nice and cautious whom you admitted to see you in the Exercise of what you call your Religion; because the Execution of the Law was not so strict as now-a-days it is. And therefore it is very probable, and may very well be, that you were at Mr. *Paston's* House, and yet not know all the Company.

Corker. But I say, I never did say Mafs there.

Mr. Just. *Pemberton*. Here are three Witnesses against you, and do you think your bare Word will be taken against their three Oaths?

Mr. *Recorder*. What say you to the *Savoy*, Mr. *Corker*? I ask you, because I would know whether you can speak Truth in any thing.

Corker. I would not tell a Lye, tho' I should thereby save my Life: And I do again protest before God and the Court, I never in my Life said Mafs or heard Confessions at *Somerfet-house* Chapel, nor at Mr. *Paston's* in *Duke-street*. And as to the *Savoy*, seeing I will be sincere, I shall only say, that as my Denial will not clear me, so I beg I may not be my own Accuser.

L. C. J. Here is one hath swore it.

Corker. 'Tis only *Oates*, my Lord.

L. C. J. Well Gentlemen of the Jury, you hear what is proved against him by three Witnesses, that they heard him say Mafs and receive Confessions, and deliver the Sacrament. They tell you what Order he was of, and that they saw him do the Acts of a Priest.

Corker. I appeal to all the World that ever came to *Somerfet-house*, whether ever any one heard me say Mafs there.

L. C. J. Here is one hath.

Mr. Serj. *Strode*. We will try *William Marshal* next. [*Who was charged upon the Jury as the other.*]

Mr. *Belwood*. May it please your Lordship, and you Gentlemen of the Jury, *William Marshal*, the Prisoner at the Bar, stands indicted for High-Treason. The Offence is not for being a Priest barely; but that he being born an *Englishman*, within the King's Dominions, and having received Orders from *Rome*, did, against the Laws of the Kingdom, come and abide here.

Mr. Serj. *Strode*. Swear Dr. *Oates* and Mr. *Bedlow*.

low. [*Which was done.*] Dr. Oates, pray stand up.

L. C. J. What can you say to Mr. *Marshal's* being a Priest?

Oates. I have heard him say Mass in the *Savoy*, and I have seen him in that Posture that the Priests are in when they give Absolution.

L. C. J. Have you seen him in a Priest's Habit say Mass?

Oates. Yes, in his Habit as a *Benedictine* Monk.

Mr. Just. *Jones*. Did you ever see him give the Sacrament?

Oates. Yes, and consecrate the Host.

Mr. Just. *Jones*. Well, have you any thing to ask him?

Marshal. When was this?

Oates. I have known him these three Years to be a Priest.

Marshal. That is a Year longer than you knew me at the Trial.

Oates. It is a great while since that Trial.

L. C. J. Ay, that is a good while ago.

Marshal. But where, Mr. Oates, and when?

Oates. At the *Savoy*.

Marshal. When?

Oates. Within the compass of three Years, several times.

Marshal. How does that afford me any occasion of Defence? I can make no Plea, unless he ascertains Time.

Mr. Just. *Pemberton*. 'Tis good Evidence, without confining himself to precise time.

L. C. J. He says a dozen times within that compass.

Marshal. But why does he not name some particular time; for unless he name the time, how is it possible for us to disprove him?

L. C. J. He tells you many times in three Years.

Marshal. But when?

L. C. J. Why, within three Years.

Mr. Just. *Dolben*. What if he could tell you when?

Marshal. Let him name the Day, then we could disprove him; and let him name the Day, and if I do not disprove him, I'll be hang'd.

L. C. J. 'Tis an improper Question that you ask.

Mr. Just. *Pemberton*. He is not bound to name the Day.

Oates. Well, I will pitch upon a Day now.

Marshal. When was it?

Oates. Several times last Summer was Twelvemonth.

Marshal. What, before the Plot?

Oates. Several times in that Summer before the Plot was discovered; and several times the Winter before, when I came over from *Spain*?

Marshal. Did you hear me say Mass before you went over to *Spain*?

Oates. Yes I did.

Mr. Just. *Dolben*. Call another Witness.

Mr. *Belwood*. Mr. *Bedlow*.

Mr. Serj. *Strode*. Pray will you tell what you know of Mr. *Marshal*.

Bedlow. I know a great deal of him.

L. C. J. What of his being a Priest?

Bedlow. I have seen him in his Habit of a *Benedictine* Monk in the *Savoy*.

L. C. J. Have you heard him say Mass?

Bedlow. No, my Lord, I have not; But he hath been preparing to go to take Confessions.

L. C. J. Did he own himself to be a Priest?

Bedlow. He was in the Habit of Priest, but I never saw him execute any part of the Office of a Priest.

Mr. Just. *Pemberton*. Did you hear him declare, that he hath been going at any time to take Confession?

Bedlow. The Monks have said when he hath been gone, that he went to take Confessions.

L. C. J. Upon your Oath, Have you ever heard him own him himself to be a Priest, or ever say, that he was going to take Confession?

Bedlow. No, my Lord; but I have seen him in a Monk's Habit, and within half an hour he was in a secular Habit: For when they went abroad they took Confessions in their secular Habit.

L. C. J. How often have you seen him in a Monk's Habit?

Bedlow. I do not know whether it were more than once; and I asked then, Where is our Father going?

Mr. Just. *Pemberton*. And what said they to you?

Bedlow. He was going to take Confessions.

Mr. Just. *Dolben*. Have not you your self been confessed by *Marshal*?

Bedlow. No, my Lord.

L. C. J. What say you to him, will you ask him any Questions?

Marshal. I do not, I think, need to ask this Witness any Questions.

L. C. J. That shall be observed for you, if it be to your advantage. If you have any thing to say for your self, pray speak it.

Marshal. If there be but one Witness, what need I make any Defence?

L. C. J. What say you to Mr. Oates's Testimony?

Marshal. As for Mr. Oates, if your Lordship will but promise, that it shall not prejudice me, as to the point of having but one Witness, I have much to say for my self: But I think I need not trouble your Lordship with it.

Sir *John Keiling*. Were not you here when *Marshal* was tried for the Plot?

Bedlow. Yes.

Mr. Just. *Pemberton*. You must not ask him any Questions about that.

Marshal. My Lord, I say, if your Lordship will but grant, that the Witnesses may have free Access, and go away safe——

Bedlow. I believe the Court, upon his Trial, was satisfied that he was in Orders, received from the Church of *Rome*.

Sir *John Keiling*. Swear Mr. *Praunce*. [*Which was done.*] What did you hear him say at his last Trial?

L. C. J. This is hard Evidence truly.

Mr. Just. *Jones*. If he would do it voluntarily of himself, he might, we did not ask him the Question.

Praunce. My Lord, I stood just by him when he stood at the Bar, and I heard him say this to the other Man, Mr. *Corker*, *Though we are Priests, this does not reach us.*

L. C. J. But is this good Evidence?

Praunce. I did hear him say he was a Priest.

Mr. Just. *Pemberton*. We did all hear him say so, I believe.

Mr. Just. *Atkins*. I dare say none of the Court asked him the Question.

Marshal.

Marshal. My Lord, I was not asked, nor had any occasion, and certainly I should not pick an occasion to condemn my self: If I did it, I did it without occasion. Besides, my Lord, I humbly conceive, that there must be Proof against a Man, or his Confession won't make him Guilty.

Mr. Just. Pemberton. I would not have you too sure of that.

Marshal. Certainly if a Man do confess at another time, without Proof against him that will not do.

Mr. Just. Pemberton. I believe the Jury will take your own Confession.

L. C. J. Don't be over-confident of that, for we have Memories too as well as you.

Mr. Just. Pemberton. You are not bely'd by Mr. Praunce, I believe, Mr. *Marshal.*

Mr. Just. Ellis. If he have confessed it, that is sure Proof enough.

Sir John Keiling. Swear Mr. *Dugdale.* [*Which was done.*] You were at the last Trial, Sir; I only ask of you, Can you remember any thing of this?

Dugdale. To the best of my remembrance, I heard him own that he was a Priest.

Sir John Keiling. Then say what you can for your self.

Marshal. My Lord, I have only one material Witness against me. They say that I said so; if I did say so, I must say it to the Court; and if it was to the Court, it must be upon some Question asked me.

L. C. J. You must not say so; I am afraid if you appeal to the Court, it will do you no good.

Mr. Just. Dolben. It is plain that you are so free of your Discourse, that you might say things that were not pertinent.

L. C. J. 'Tis not proper for the Court to give Evidence; if we did, we should do you little Service in this matter.

Marshal. I do believe I shall receive all Justice from the Court. And I have experienced it so already. Now as to the present Testimony against me, I conceive that only Mr. *Oates* is a material Witness; no one else swears that they ever saw me officiate or perform the Duty of a Priest. As for Mr. *Oates*, he says he heard me say Mass several times the last Summer before the Plot. And Mr. *Oates* did say he was present in *June*, *July*, and *August*. *Sir William Waller*, tho' he was pleased to forget other things, yet did remember that, and did testify that he saw me in *June*, *July*, and *August*. Now then I humbly conceive, if he heard me say Mass at any time in that Summer, it must be in one of those three Months? Was it in any one of them?

Oates. My Lord, I came over in *April* from *St. Omers*, and I did, as I remember, hear him say Mass one time before I went again, and heard him say it several times after, which was about the middle of *June*, I think.

Marshal. Now I say, if this Honourable Court will but please to promise, that the Witnesses that come hither shall come and go safe, I believe there are Witnesses that may contradict Dr. *Oates*.

L. C. J. What can your Witnesses prove? you must not make Bargains with the Court.

Mr. Just. Pemberton. Why should you suspect that your Witnesses should not go free?

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Marshal. Because some have received great Abuses.

Mr. Just. Atkins. It was so said, but not made out.

Mr. Just. Pemberton. There was only one Person that came here, and affirmed so, but he did not prove it.

Mr. Recorder. And the Court did say that they should be punished that did it.

L. C. J. The Witnesses none of them, that I know of, were abused.

Bedlow. It was only the King's Witnesses that have been abused.

L. C. J. What can your Witnesses prove?

Marshal. He came over the 24th of *April*, and I can prove that from the beginning of *April*, to the end of *July*, I was not within threescore Miles of *London*.

Oates. As to his officiating as a Priest, I cannot speak positively as to the Time, but I think in last Summer was twelvemonth.

Mr. Just. Dolben. He says, he thinks he did once in that time, but he is sure that he did see you several times that Summer.

Marshal. But what part of the Summer?

Oates. From the time of my coming over again, to the time of the Discovery of the Plot.

L. C. J. When was it that you heard him first?

Oates. When I heard him first was in the Year 1677, before I went into *Spain*: I went away in the Month of *April*, and I am sure he said Mass before I went into *Spain*; and when I came back again in the Winter, I came in *November*, and staid in Town about ten Days, and then went to the *Savoy*, and heard him say Mass.

Marshal. What *November*?

Oates. Before the Summer I came out of *Flanders*.

L. C. J. He says he went into *Spain* in *April*, (77.)

Marshal. And he heard me say Mass before he went over?

Oates. Yes.

Marshal. Pray look, my Lord, Mr. *Oates* will confess himself, he was but newly reconciled to the Church of *Rome* a little while before he went.

Oates. I was reconciled to the Church on *Asswedenesday*, and I went in *April* following.

Marshal. Where did you hear me say Mass then?

Oates. In the *Savoy*, at that time, before I went into *Spain*.

Marshal. Do you pretend to have known the *Savoy* ever before your coming back again?

Oates. Yes, I do.

Mr. Just. Pemberton. He does swear it.

Marshal. So he does, but he can't prove it. Mr. *Oates* came over in the Company, as he says, of Mr. *Thimbleby* and Mr. *Hitchcock*, and by his means he did get to be commended to be received into the Order of the *Benedictines*, and he was then sent to Mr. *Pickering* in order to it; Now, my Lord, is it credible that Mr. *Oates* having no acquaintance with the *Savoy* before he had acquaintance with Mr. *Hitchcock*, which was when he came from *Spain*, should hear me say Mass before he went thither?

Mr. Just. Pemberton. All this is but a Story to the Court.

L. C. J. What a wild Inference do you make from this unintelligible Business?

Marshal. Mr. Oates says so himself.

Mr. Just. Dolben. We all know you said Mafs so openly in the *Savoy*, that any People whatsoever might come, and you did not know who they were.

L. C. J. Though he was not one of your Order, yet he might know you.

Marshal. To my knowledge there were never three Masses said in the World at the *Savoy*.

Mr. Just. Dolben. The World knows the contrary.

Marshal. Let Mr. Oates be positive in any thing, and we will disprove him.

Mr. Just. Pemberton. He hath gone as near it as is necessary; he tells you, after his Reconciliation, before he went over into *Spain*.

Marshal. But I say, he could not be at the *Savoy* before he was acquainted there, and I can bring Witnesses to prove, that I was not then at the *Savoy*; but I pray, my Lord, will these Witnesses do me any good?

L. C. J. What will they prove?

Marshal. That all the Summer, from the beginning of *April* to the end of the Summer, I was in the Country, threescore Miles from *London*.

Oates. I am not so positive in that, my Lord, but as near as I remember, before I went into *Spain* again. Your Lordships all know that I was not so positive as to any one time; but the Summer before the Plot broke out, I heard him say Mafs several times in the Summer.

L. C. J. Now he is positive that he saw you say Mafs in the Summer before the Plot was discovered. The Substance of his Deposition was your saying Mafs, the Time is not material: He tells of a many times within that Compass.

Marshal. How shall I disprove that?

Mr. Recorder. He hath given you one particular time from *Ash-wednesday*, when he was reconciled to *Rome*, till he went to *Spain* in *April*.

Marshal. If he names Times, then I am able to disprove him: And he did name one, but when he saw me offer to prove by Witnesses, that I was not then in Town, he goes off from it.

Mr. Just. Pemberton. 'Tis impossible for Witnesses to be positive to a Day, a Week, or such a thing.

Mr. Just. Ellis. How is it possible to be so, unless it be a thing that he had taken such particular notice of, as to intend to swear to it, and give Evidence about it afterwards: Now, I believe Dr. Oates at that time had no thoughts of giving Evidence as to any such matter; but this he is positive in, That he did hear you say Mafs at the *Savoy*.

Marshal. My Lord, if Mr. Oates had said he had seen me officiate at *Somerset-house* or *Wild-house*, it might have been something like; but at the *Savoy* it is known, that none are let in but Friends, nor could Mr. Oates come in, but upon a particular Acquaintance.

L. C. J. How does that appear so?

Marshal. By those that live in the House.

Mr. Just. Pemberton. You must not spend the Court's time in this manner of Discourse: If you have any Witnesses that you think in yourself are material, the Court will suffer you to call them, and pray call them presently.

Marshal. Here is the House-keeper her self

that will witness that she never saw Mr. Oates there.

L. C. J. If the Great *Turk* had come there with a Pair of Beads and a Crucifix, you would have let him come in: But in the mean time, Mr. Oates, you have given him a pretty compass of time, whereby he hath an Opportunity of disproving what you say: And you give him one particular short time; but can you give any time afterwards in the Summer you speak of, within any month, or two, or three; because you say at several times?

Oates. I cannot be positive, but I will tell you, one time was the *Sunday* before they held their Conspiracy, which was, I verily believe, the *Sunday* before the 21st of *August*.

L. C. J. Do you believe it was in *August*?

Oates. Yes, I do, and confine my self to the Month of *August*.

Marshal. Then call *Ellen Rigby*.

Oates. I was acquainted with Mr. *Pickering* soon after my being reconciled; and being acquainted with him, I went along with him several times to the *Savoy*.

Mr. Just. Pemberton. What do you talk of one *Hitchcock*, and I know not whom; he was acquainted with *Pickering* before.

Marshal. When, my Lord?

L. C. J. Presently after he was reconciled.

Marshal. Well, but you pretend now, that since you came over here you were in the *Savoy*; Had you a Key to get in?

L. C. J. He was reconciled on *Ash-wednesday*, he went in *April* to *Spain*.

Marshal. Here is *Ellen Rigby*.

L. C. J. Well, what would you have with her?

Marshal. I ask, Did she ever see Mr. Oates in the Summer before last?

Mr. Just. Pemberton. Don't you lead your Witness with such Questions.

L. C. J. Do you know Mr. Oates?

Rigby. I have seen him when I saw him come to ask Charity of Mr. *Pickering*.

L. C. J. How often?

Rigby. Twice or thrice.

L. C. J. What time in the Summer?

Rigby. I cannot say; but I saw him in Summer was Twelvemonth.

Oates. Why then did not this Woman, when she knew this Evidence that would lay a Blemish upon me, come and give it for *Pickering*, to have saved him?

Mr. Just. Dolben. Will you give me leave to ask this Woman this Question; Whether she ever heard you say Mafs?

Marshal. Ay, my Lord, with all my heart; and if she says she hath, I will be hanged without any more ado.

Mr. Just. Dolben. Then you are sure your Profelytes will say any thing you would have them?

Marshal. I my self am a perfect Stranger to the *Savoy*, in a manner.

Mr. Just. Pemberton. Is he not acquainted with the *Savoy*?

Rigby. Yes, he was there one Month when *Pickering* was taken.

Marshal. Pray ask her whether ever, before Mr. Oates went over, she saw him in the *Savoy*?

L. C. J. You shall have your Question ask'd; but do you think you can build upon that; if she did not see him, he did not see you? Did you

you ever see Dr. Oates there betwixt *March* and *April*, before he went over into *Spain*?

Rigby. No, there was no body in the House but Mr. *Pickering*.

L. C. J. Was there never Mafs said in the House?

Rigby. Yes, while her Majesty's Servants were in the House.

L. C. J. But was there Mafs never said since in the House?

Rigby. Never since I came out of it, which was a Twelvemonth ago.

Mr. Just. Pemberton. Was there not Mafs said in three or four Years time there?

Rigby. Not in our House, I lived but in one House.

Marshal. I call her to know, whether Dr. Oates was there? And, my Lord, here is that which I insist upon; That none is let in there to hear Mafs, but those that have some particular Acquaintance and Intimacy in the House.

L. C. J. She only speaks to one particular part of the House; she can't but say Mafs was said in the other parts.

Rigby. There was no Mafs said there, that I know of.

L. C. J. Why, was there no Mafs said but in that particular House you liv'd in?

Rigby. I can't say that.

L. C. J. But the Question is, Whether ever you, Mr. Oates, saw him say Mafs in this Woman's House?

Oates. I do not know that I ever saw this Woman in all my Life, before the Trial.

Marshal. He came there under a disguised Name.

L. C. J. He tells you he went along with *Pickering*.

Oates. *Pickering* serv'd the Mafs.

L. C. J. Well, call your Witnesses, if you have any other.

Marshal. I can prove that I was out of Town the whole Summer, from the beginning of *April* to the end of the Summer: But if Mr. Oates will not stand to any time, I cannot be able to disprove him: But then I'll only offer one or two things more.

L. C. J. When did you come to *London*? in *August*?

Marshal. I will tell you as near as I can to a Day. I came in the middle of *Bartholomew-Fair*, which begins the 24th of *August*.

L. C. J. So it was the latter end.

Mr. Just. Pemberton. Well, if you have any Witnesses, call them, and do not spend the Court's time in vain.

Marshal. My Lord, I have something very material, I think, to offer: The only material Witness that is now against me, was a Witness against me in my last Trial: Now I do conceive, that I being found Not Guilty at the last Trial, that Witness ought to be look'd upon as perjurd: And I appeal to the Court, whether it were so or no.

Mr. Just. Atkins. That's a false Collection, Mr. *Marshal*.

L. C. J. 'Tis a strange Inference you make: Do you think that every Witness is perjurd, because the Jury don't find according to what he says? He is not perjurd, for he may swear true, and the Jury not believe him.

Marshal. I ground it, my Lord, upon what

my Lord *Jones* said to the Jury that sat upon *Coleman*; who at their going out told them, either they were to find him Guilty, or bring in two Men perjurd. Thus it was his Opinion, that the finding of the Jury contrary to the Evidence, did make them perjurd; and there was none of the Court did oppose him.

Mr. Just. Jones. What then?

Marshal. And if this were the Sense of the whole Court, That a Man must either be found Guilty, or the Witnesses perjurd; that is my Case, and he is not to be believ'd.

L. C. J. See how unconsequentially you talk: The Court might say, that you must believe these Men perjurd, if they swear a positive thing and you find it not: But if you make use of it thus, that therefore they are perjurd, 'tis false, for they are not so till they be Convicted upon Record: And tho' the Jury don't believe them, yet they may swear true.

Marshal. 'Tis true.

L. C. J. Then you make no Inference from it.

Marshal. My Lord, I am before the same Court that I was try'd by before, and before the self-same Judges, who know that upon my Trial he was not believed, and therefore is perjured.

Mr. Just. Pemberton. You must consider, that sometimes the Jury will go against the Direction of the Court; but if the Witness be not believed by them, that does not argue that he does not swear Truth, or is perjurd: I tell you my Brother *Jones* might say, You must find this Man Guilty, or think these Men perjurd: Many times a Judge will say so, but the Jury often find against the Direction of the Court; shall these Men be perjurd then presently?

Mr. Just. Jones. There were two positive Witnesses, as positive as could be in the World, and nothing at all to contradict them.

Mr. Recorder. Will you give the Jury leave to believe you, Mr. *Marshal*? For you yourself said you were a Priest.

Marshal. Yes, if I said so, I humbly desire the Jury to take notice of it, that they are the self-same Witnesses that brought such a positive Testimony the last time; which if the Jury had believed, they must of necessity have brought me in Guilty; I would not spend the time of the Court, but I would observe this; it was all sworn positively, That I did consent to the King's Death, and other things.

L. C. J. You had the better luck.

Marshal. Then they are not to be believed now.

L. C. J. This is to no purpose, neither is it to be suffer'd: For you break in contrary to all the Laws of Practice, if we suffer this as an Argument, That because an Evidence was not believed in one Case, therefore he is perjurd: And the Jury gave in a Verdict contrary to the Witnesses, that therefore he is perjurd in another Case.

Marshal. This does invalidate the Testimony sure of such a Witness.

L. C. J. You have said it often enough, come pray conclude.

Mr. Just. Pemberton. No, Mr. *Marshal*, you must not be suffer'd in these Harangues to impeach the Witnesses; if you have any thing material against Dr. Oates, or if you can shew any

Record of his Conviction of Perjury, it may be something.

Marshal. My Lord, it is for my Life, and 'tis the second time that I plead for my Life, much beyond my expectation; and therefore I hope I may have the freedom to speak: And though I confess this Jury is not obliged to proceed according to the Verdict of the former Jury; yet this Jury, as well as that, is obliged to proceed according to the appearance of Truth: And his being found false in his Testimony the last time, should make him of no Credit here.

Mr. Just. Dolben. It is not so, they are not to take notice of it, unless you bring them a Record of Conviction.

Mr. Just. Pemberton. He gave a good Evidence then no doubt of it, though they would not believe it.

Mr. Just. Atkins. Upon what Grounds that Jury went, is unknown to us.

Marshal. Then, my Lord, another thing is this: The Law does except against all Witnesses who are strongly or rationally supposed to have a Spite or Malice against the Prisoner, much more where there is a manifest Sign that he hath a Malice. Now I will endeavour to shew how it comes to my Case: Mr. Oates accused me last time of Treason, and that in the highest nature; if this had been true, he had shewn himself a good Subject, and me Disloyal: And the Jury not believing him, I was found the good Subject: Now he pursues his malice.

L. J. C. You shall not go on in this manner, and make such notorious false Inferences; that because it was not found according to his Testimony, therefore he is perjur'd: The Jury did not believe it, might not he speak true for all that? Hath not many a Witness sworn true, yet the Verdict gone against their Evidence? And therefore you don't mind: Ye are all giddy-headed, if you once get a thing into your Heads, you can't get it out again.

Mr. Just. Atkins. If the Jury did not believe it, a great many others did.

L. C. J. All you build upon is but a false Conclusion; because the Jury found you Not Guilty, therefore they found him perjur'd.

Marshal. My Lord —

Mr. Just. Pemberton. Pray Sir, if you will speak any thing that is material and modest, the Court will admit of it; but if you only go to throw Dirt upon the King's Witnesses, Men of good Reputation, and Men that have shew'd themselves honest, and that have spoke Truth all along; ne'er a one of their Testimonies but what is confirm'd by another's; so that not one of them stands single, and for you to say they are ill Men.

Marshal. My Lord, I do not say they are ill Men, I speak of Matter of Fact.

L. C. J. You conclude falsely; and if you did but mind it, you would never repeat it over and over again: That because the Jury did not believe his Evidence, therefore he is perjur'd: Do you suppose then that any other Jury should never believe him?

Marshal. My Lord, I reckon his Evidence is not so good; and if I am found Not Guilty, there must be Malice in him to accuse me.

L. C. J. Look you, Gentlemen, The single Question is, Whether he be a *Romish* Priest or no? It is proved by Mr. Oates, that he hath se-

veral times heard him say Mass, that he hath seen him deliver the Sacrament, and seen him Consecrate the Host. He insisted upon it how often; Mr. Oates says, ten or a dozen times, in what time he cannot charge himself particularly with a Month or two; but at last he did tell him positively, because *Marshal* said, How is it possible I can make my Defence to Generals, unless you fix some time? Therefore, says he, I was reconciled to the Church of *Rome* on *Asb-Wednesday*, and afterwards between that and *April*, when I went into *Spain*, I heard him say Mass, that was once; but I heard him say in the Summer several times: being asked, What part? he says, I cannot say exactly, but I think in the Month of *August*; if he had said any thing as to the particular time between *Asb-Wednesday* and his going into *Spain*, it had been something, but against that he makes no Pretence, as to his saying Mass in the *Savoy*, that can contradict it. If he can still he shall call his Witnesses that can prove he did not say Mass between the *Asb-Wednesday* and the *April* he went into *Spain*: He does indeed say, that he was a great part of the Summer in the Country, in *June* and *July* to *Bartholomew-Fair*, threescore Miles off; but to that Mr. Oates says it was some time in *August*, and so he might be in the Country till then, and yet say Mass after; he might come to Town the 26th, or 27th, or 28th, and he might be here in *August*: So you hear no Evidence that contradicts, supposing it proved true, what he imagines his Witnesses can say; the last time that he charges him to have said it in the Summer, may be true according to his own Word and Confession when he came to Town. Then there is Mr. *Bedlow*, he only tells you he saw him in a Priest's Habit, but he did not see him execute the Office of a Priest, but he looked upon him as a Priest, called him Father: and that is all that he charges him with; that is concurring Evidence, and backs Mr. Oates, but alone perhaps it would be very weak. But they set up here *Praunce*, and he says directly, that at the Trial he did confess himself to be a Priest; and he seems to deny it, and would appeal to the Court; but his appealing to the Court would not help him in that Case. So I leave this to you upon this Evidence; if you believe Mr. Oates, that swears he saw him before he went into *Spain*, and after, say Mass, with the concurring Evidence of Mr. *Bedlow*, that saw him in his Habit, and with the subsequent Evidence of those two more that do swear that he did say so, you must find him Guilty; and a Man's own Confession is Evidence against himself; and if Mr. *Marshal* will recollect himself, he would not be too positive in that Point. If all these Particulars satisfy your Conscience, I say, that he is a *Romish* Priest, you must find him Guilty; if you are unsatisfied, you must acquit him.

Cl. of Cr. Set *William Ruffel* to the Bar. *William Ruffel*, alias *Napper*, hold up thy Hand: You that are sworn, look upon the Prisoner, and hearken to his Cause, &c.

Mr. Belwood. May it please your Lordship, and you Gentlemen of the Jury, *William Ruffel*, alias *Napper*, stands Indicted for High-Treason: The Offence charged in the Indictment is, That being born within the Kingdom of *England*, and having received Orders from the See of *Rome*, he

he did come and abide here. To this he hath pleaded, Not Guilty.

Mr. Serj. *Strode*. Swear Dr. *Oates*, and Mr. *Praunce*. Dr. *Oates*, Will you tell my Lord and the Jury, what you know of Mr. *Ruffel's* being a Priest?

Oates. My Lord, this *Ruffel* went by the Name of *Napper*, and is a *Franciscan Frier*, and I heard him say Mass several times at *Wild-house*.

L. C. J. What, in his Habit?

Oates. In Priest's Habit.

L. C. J. When was this?

Oates. The last Summer before the Plot; I have heard him twenty times sing Mass.

Mr. Just. *Jones*. Did you ever see him give the Sacrament?

Ruffel. Where pray was this?

Oates. At *Wild-house*.

Ruffel. What is his Name?

L. C. J. *Oates*.

Ruffel. I do not know him, I say, my Lord.

L. C. J. Did he do it publickly?

Oates. Yes, in the Chapel.

Mr. Just. *Jones*. Did he give the Sacrament?

Oates. I did receive the Sacrament from him.

Ruffel. Why, first of all, I say I do not know him.

L. C. J. It may be so, more know *Jack Pudding*, than *Jack Pudding* knows.

Ruffel. Well then if one Witness must stand, I have no more to say.

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

Ruffel. He says he heard me a Month ago.

L. C. J. No it was last Summer was Twelvemonth.

Ruffel. Then he must prove it.

Capt. *Richardson*. He does prove it, he swears it.

Ruffel. Well, I can make it appear, last Summer was Twelvemonth I was in the Country.

Oates. And I heard him say Mass, November, 1677, he was then one of the Chaplains of *Wild-house*.

Ruffel. Give me leave to recollect my Memory.

Mr. *Belwood*. Set up Mr. *Praunce*. You hear the Question: Sir, Is the Prisoner at the Bar a Priest?

Praunce. Yes, I have heard him say Mass twenty times in his Habit.

L. C. J. Did he give the Sacrament?

Praunce. Yes, I saw him give the Sacrament to several, and he did hear Confessions; he had a great many People about him.

Ruffel. When was this?

Praunce. Two or three Years ago.

Ruffel. Where?

Praunce. At the Spanish Ambassadors, at *Wild-house*.

Mr. At. Gen. My Lord, here is Sir *William Waller*, that took him, with his Vestments and all his Trinkets. [*Who was sworn.*]

L. C. J. Come, what say you, Sir *William*?

Sir *W. Waller*. That Morning I took him, as soon as I came into the Room, I asked him his Name: He told me his Name was *Ruffel*: I asked him, if he ever went by any other Name? He denied it for some time, but looking amongst some of his Papers, I found some Letters directed to him by the Name of *Napper*; and then he did confess his Name was *William Ruffel Napper*. Searching among his Clothes, I found some Religious Habits; I asked him, if they

were his, and he confessed and owned 'em to be his.

Ruffel. It was in my Custody; it was none of mine.

L. C. J. Why did you say so then?

Ruffel. I kept it for another.

L. C. J. But you told him it was your own, What say you to that.

Ruffel. I do not remember that.

Mr. Just. *Dolben*. Well, he swears it.

L. C. J. Here are two positive Witnesses against you, what say you to it? What say you to his saying, He hath heard you say Mass twenty times?

L. C. Baron. What say you to the saying Mass at the time Dr. *Oates* speaks of?

Ruffel. I believe he is mistaken, as to the Time and Year: I was entred into the House in — 78.

Mr. Just. *Pemberton*. Then you think it was at another time?

Ruffel. He could not hear me at that time, for I was then in the Country.

L. C. J. Have you any thing to say? It shall be allowed you, it was at another time, but it seems it is true. Look you Gentlemen, you have a very plain Business of it; here are two Witnesses that swear they saw him give Absolution, deliver the Sacrament, and heard him say Mass, and one says twenty times: And Sir *W. Waller*, who says, that he confess the Priest's Habit to be his own.

Ruffel. Consider my Circumstances, and give me a little time; I have not had any time to get my Friends near me, or to prepare my self.

L. C. J. I do not see any Good time would do you: I think the best use you can make of your time is to repent.

Oates. My Lord, the Court here is pestered with Papists; here are a great many about here.

L. C. J. If they be Witnesses, we cannot keep them out.

Mr. *Bedlow*. Some of them may be Witnesses, but all are not; and if they be, they come to catch Advantages.

Mr. Just. *Dolben*. I don't understand why they should be turned out.

Mr. Just. *Pemberton*. Let them alone: Be at quiet.

L. C. J. No, no, they will revile us, that they had not an open and a fair Hearing; we won't have it said, that we do any thing in Huggemugger; what we do is done openly and honestly.

Cl. of Cr. Set *Charles Parris*, alias *Parry*, to the Bar. Hold up thy Hand: You that are sworn, &c.

Mr. *Belwood*. May it please your Lordship, and you Gentlemen of the Jury; the Offence for which the Prisoner at the Bar stands Indicted, is High-Treason, the same Offence for which the rest have been Indicted—

L. C. J. Then call your Witnesses.

Mr. Serj. *Strode*. Dr. *Oates*, and Mr. *Praunce*. [*Who were sworn.*]

L. C. J. What can you say against the Prisoner, as to his being a Priest?

Oates. My Lord, he is a reputed Priest, and hath said Mass several times: I have heard him say Mass at *Wild-house*, not in the publick Chapel, but in another Room.

L. C. J. Where do you say?

Oates.

Oates. Once at *Wild-houfe*.

L. C. J. Where elfe?

Oates. At *Mr. Pafton's*.

L. C. J. When was this, Winter or Summer?

Oates. Within the Compafs of a Year, reckoning—77 and—78; it was on a *Saturday* one time, and twice at *Mr. Pafton's*, and once or twice, I cannot tell which, at the other Place.

L. C. J. And in the *Prieff's Habit*?

Oates. Yes, in the *Prieff's Habit*.

L. C. J. And did you fee him confecrate the *Host*?

Oates. Yes.

L. C. J. And give the *Sacrament*?

Oates. Yes.

Parry. My Lord, as to that he fpeaks of—77, or—78, what Month of—78 I defire to know.

Oates. I cannot confine my felf to a Month; I knew him to be a *Prieff*, but I was little acquainted with him, but he was a reputed *Prieff*.

Mr. Juft. Jones. But you are fure this is the Man?

Oates. Yes, this is the Man.

Parry. Am I the Man? What is my Name?

Oates. You went by the Name of *Johnfon*.

L. C. J. Did you never go by that Name of *Johnfon*?

Parry. No, my Lord, but by this Name of *Parry*; *Parry* is my Name, and by that Name I went, and never by any other Name than *Parry*, whatever he fays.

L. C. J. Why by that fame Name you are Indicted, and you are the Man that he faw.

Mr. Juft. Pemberton. Will you ask him ever a Question?

Parry. I have asked him already what I would ask him.

Sir John Kelling. Then fet up *Mr. Praunce*?

L. C. J. What do you fay as to *Mr. Parry*?

Praunce. I know he is a *Prieff*, and have heard him fay *Mafs* at the *Venetian Ambaffador's*, and at *Mr. Pafton's*, and he went by the Name of *Johnfon*.

Mr. Recorder. Did you go by that Name?

Parry. No, I never went in my Life but by my own Name, *Parry*; that is my Name, whatever he fays, and I am not afhamed of it.

L. C. J. How often?

Praunce. Once at *Pafton's*, and two or three times at the *Venetian Ambaffador's*.

L. C. J. And you faw him give the *Sacrament*?

Praunce. Yes.

L. C. J. In his *Habit*?

Praunce. Yes.

Parry. At what time?

Praunce. I believe it might be half a Year before the Plot: And I know you by another Circumftance: You brought a *Chalice* to my Houfe, and it was whole, and you broke it, and told me, I muft not touch it until it was broke, and fo you defaced it.

L. C. J. That was an holy Veffel, was it not?

Praunce. Yes; and he told me I muft not touch it till it was broken in pieces.

L. C. J. If you had not been a *Prieff*, he had been as holy as you, and he might have touch'd it as well as you.

L. C. Baron. His breaking was to defecrate it.

Praunce. He bought fome *Oil-Boxes* of me about that Time.

Parry. I do not know this Man.

Praunce. You were feveral times with me.

L. C. J. Why, have you forgot the *Chalice* you brought to his Houfe?

Parry. I have no reafon to forget my felf, for I never did any fuch thing, for I never bought, or fold to him any *Chalice*, or any fuch thing; and befide, fuppofe I had, that doth not argue that I am a *Prieff*.

L. C. J. No, but if he were fo holy as to touch the *Chalice*, he would be a *Prieff*. But there is no great *Strefs* laid upon that, but to fhew you that he knows you, he did not miftake the Man. The *Strefs* of the Evidence lies, that he heard you fay *Mafs* at the *Venetian Ambaffador's*, and at *Pafton's*, and then *Dr. Oates* fpeaks of *Wild-houfe*.

Parry. I was never in my Life at the *Venetian Ambaffador's*, nor at *Mr. Pafton's*, nor at *Wild-houfe*.

L. C. J. Can you fwear that he is the Man?

Bedlow. No.

L. C. J. Then fet him afide.

Bedlow. I had Order to fend for two *Witneffes* out of *Wiltmouthfbire*—

L. C. J. Here is Proof enough.

Mr. Juft. Pemberton. What have you to fay for your felf?

Parry. I have this to fay, and can fhew it evidently, that is, I have *Witneffes* to prove, that I never was at *Wild-houfe* to *Officiate* in the Years 77 and 78 before the Plot: And for thefe fix or feven Months that *Mr. Praunce* does alledge I was in *London*, I was in the Country.

L. C. J. When?

Parry. Six or feven Months before the Plot?

L. C. J. He did not confine himfelf precifely to any fix or feven Months.

Parry. My Lord, I defired him to fix upon a Month.

Mr. Juft. Pemberton. He cannot do it.

L. C. J. If he can, let him; we will ask him the Question; when was it that you faw him do thus?

Praunce. My Lord, I am not certain what time it was, but about two, or two Years and an half ago, I am not certain, it is impoffible for me to remember it.

Mr. Juft. Pemberton. You muft take him in what he fays; this he is fure of, he did hear you fay *Mafs* and give the *Sacrament*, but as to the Time, he believes it to be about this time, but he is not pofitive, nor can be in it.

Parry. He only believes it now, becaufe he knows I have *Witneffes* for that time: He hath fworn it pofitively, it was fix or feven Months before the Plot, and I have *Witneffes* to produce, can prove how long before the Plot I was in the Country.

L. C. J. Call your *Witneffes*.

Parry. Call *Lenfcroon* and *Jacob*.

L. C. J. How long was it before the Plot, as near as you can tell the Time, *Mr. Oates*?

Oates. I have heard fo many *Prieffs*, that I cannot poffibly give an Account of the Day.

Parry. I defire to know of *Mr. Oates*, who was *Ambaffador* at *Wild-houfe* at that Time when he fays he heard me.

Mr. Recorder. Were you never at *Pafton's*?

Parry. No.

Mr. Recorder. Nor at the *Venetian Refident's*?

Parry. No.

Mr. Recorder.

Mr. Recorder. Mr. Parry was not, but Mr. Johnson was.

Parry. I know not Mr. Johnson, my Name is Parry; I hope it is not just I should be hang'd for another Person.

Mr. Recorder. I mean Mr. Johnson, alias Parry.

L. C. J. Mr. Praunce, you are sure that is the Man?

Praunce. Yes, and I heard him confes himself to be a Priest.

Parry. 'Tis false.

L. C. Baron. And this is the Man that brought the Chalice to you.

L. C. J. Why, did you never go with a Chalice to this Man, and break it?

Parry. My Lord, I never bought any thing of him, nor sold any thing to him, nor had any Converse with him.

Sir John Keiling. I do never wonder at their denying any thing. I would fain know whether he would not deny the Sun shines now or no?

Parry. And then for the private Room, what Room of the House was it?

Praunce. I took him up in the middle of *Cheapside*, and therefore I must sure know him.

Parry. He did not know me, but only took me on Suspicion at Random, because I was in the Company of a *Roman Catholick*.

Then the Witness Lanscroon stood up.

L. C. J. What would you have this Man asked?

Parry. About the Year 77 and 78, wherein Mr. Oates alledges he heard me, let them answer to that, how long I was at *Windsor*? And whether I did not dwell constantly there?

L. C. J. Well, you hear the Question. How long was he at *Windsor*?

Lanscroon. From what Time do you ask?

Mr. Just. Pemberton. Nay, you must not be led into an Answer. How long was he at *Windsor*?

Lanscroon. From *Christmas 77*, to *Allballantide 78*.

Mr. Just. Ellis. And was he never at *London* all that Time?

Lanscroon. No.

Mr. Just. Pemberton. How can you tell that?

Mr. Just. Atkins. Was he always in your Sight all the Time?

Lanscroon. Yes, he was there always.

Mr. Just. Atkins. Were you there always yourself?

Lanscroon. Yes.

L. C. J. What are you?

Lanscroon. A Painter.

L. C. J. And was you and he always together at that Time?

Lanscroon. Yes.

L. C. J. What, in a Room?

Lanscroon. Yes.

L. C. J. Can you affirm, that for a Twelve-month together, you saw him every Day?

Lanscroon. Yes.

Mr. Recorder. How many Years ago do you speak of?

Lanscroon. From 77 to 78.

Mr. Recorder. I don't ask you that, but how many Years ago 'tis?

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L. C. J. When came he down to *Windsor*?

Lanscroon. *Christmas (77.)*

L. C. J. The Testimony of Mr. Oates goes to *November*, and he speaks of *Christmas* following.

Mr. Recorder. How many Years ago was it, I ask?

Lanscroon. A Year ago last *Christmas*.

Mr. Recorder. That is 78 and 79.

Mr. Just. Pemberton. Your Witness is understood, Mr. Parry.

Then stood up the other Witness Jacob.

L. C. J. What say you about Mr. Parry's being at *Windsor*?

Jacob. He was a Gentleman that came along with me in the Coach to *Windsor*.

L. C. J. When?

Jacob. Before *Christmas (77.)*

L. C. J. How long before?

Jacob. Ten Days. He came there to take Air for his Health, he was not well.

L. C. J. How long staid he there?

Jacob. He staid at *Windsor* till *Allballantide* after, he staid there a Year.

L. C. J. Did you see him there every Day of that Year?

Jacob. Yes.

L. C. J. Why, what Reason had you to see him every Day;

Jacob. He dined every Day at our House.

L. C. J. Your House? What House?

Jacob. The Painter's.

Mr. Just. Dolben. However, that is but from *Christmas*, and he speaks of *November* before.

L. C. J. Did he dine there all that Time?

Jacob. Yes.

L. C. J. Did he dine there every *Friday* constantly?

Jacob. Yes.

L. C. J. Did he never keep a Fast in all that time?

Jacob. No.

L. C. J. Did he dine a *Wednesdays* and *Fridays*?

Jacob. Yes.

L. C. J. There was one *Good-Friday* in that Time.

Oates. Pray ask this Witness if he never heard him say *Mafs*?

Mr. Just. Dolben. Then he must be sworn, and may be he will deny it.

L. C. J. Did he dine of *Ashwednesday* and *Good-Friday*?

Jacob. Yes, my Lord.

L. C. J. So, he says you eat of *Good-Friday* and *Ashwednesday*; the Pope shall know it.

Mr. Recorder. What say you? Did he eat Flesh upon those Days?

Jacob. Yes, he did.

L. C. J. You can tell what he did eat, can you?

Mr. Recorder. Did he eat Beef; or Mutton?

Mr. Just. Dolben. Go; you talk like an idle Boy.

L. C. J. He tells you, that you eat Meat too, that is more.

Parry. My Lord; we eat Fish, and such things all *Catholicks* do.

Mr. Recorder. Ay; the Priests do; but their Pupils do not; they will not allow it to them.

L. C. J. Well, have you done, have you any more Witnesses?

Parry. I would ask Mr. *Oates*, and desire him to answer me to it, what did he depose against me before my Lord *Shaftsbury*, viz. That he heard me say Mass in *Wild-Chapel*, and there heard Mr. *Collins's* Confession, and now he says, it was in a Private Room; now I have it to shew that I did not officiate there, nor frequent the House.

L. C. J. Who is it that will prove that you did not come to the House?

Parry. The Ambassador's Servants.

L. C. J. I do not understand what you mean.

Parry. I am to ask of Mr. *Oates*, and desire he should answer to it, What he did depose before my Lord *Shaftsbury* and the Committee of Lords, touching Mr. *Collins*?

L. C. J. He cannot remember, it may be.

Mr. Just. Pemberton. You must not ask such Questions as these are, it does not refer to this Matter.

Parry. He did give in, that I heard Mr. *Collins's* Confession, I ask, why he does not give it in now?

L. C. J. That is a foreign Matter, what have we to do with it now?

Mr. Just. Pemberton. If you will prove any thing against him, you may, but you may not ask such Questions as that.

Parry. I have proved that I was in 1677, and 1678, in the Country.

Mr. Just. Pemberton. They tell us of ten Days before *Christmas*, and Mr. *Oates* speaks of *November*.

L. C. J. Look you, Gentlemen of the Jury, here are two Witnesses against him, Mr. *Oates* and Mr. *Praunce*. ———

Parry. My Lord, I have one thing I desire to be taken notice of, that is, this Letter of the Ambassador's, who upon the Examination of all his Family does testify and declare, that I did never officiate in any respect in his Family.

L. C. J. It cannot be read.

Mr. Just. Pemberton. It is not any Evidence.

Parry. How shall I clear myself, if the Testimony of the Ambassador and his whole Family be not admitted?

Mr. Just. Atkins. 'Tis a hard thing for you to clear yourself.

L. C. J. Why don't you bring them hither as your Witnesses?

Mr. Recorder. Where is my Lord Ambassador, why does not he come hither?

Parry. He hath left the Kingdom.

Mr. Recorder. Then you may boldly say any thing of him, and we cannot disprove you.

L. C. J. Is all his Family gone with him?

Parry. There is but one remaining, I think he is here.

L. C. J. Call him.

Parry. Monsieur *Rivier*. [*Who appeared, and stood up.*]

L. C. J. What do you ask him?

Parry. Do you know this Hand, Sir?

L. C. J. It must not be read if he do.

Parry. He is one of the Servants to my Lord *Egmond*, and he lived in the House, and he knows that by his Master's Order all his Domesticks were examined, and all protested they neither knew nor saw me ever in *Wild-House*; all which I have under his Hand and Seal to shew.

L. C. J. It signifies nothing.

Mr. Just. Pemberton. Ask him any Question, but don't tell him what he knows.

L. C. J. Why don't you ask him some Questions? Why, you have not Catechisms in your Church, you don't know how to ask Questions.

Parry. Ask him whether he ever heard me say Mass at my Lord Ambassador's House?

L. C. J. It is to no purpose if he did not, here are some have.

Parry. Then, my Lord, he knows that there was a strict Examination at *Wild-House* by my Lord's Orders, whether I did frequent the House, and it was reported by them all I did not; and they must know if ever I did officiate there, for there is none admitted to say Mass there, but by Order.

Mr. Just. Pemberton. Look you, Sir, do you know that Mr. *Parry* ever said Mass at *Wild-House*?

Rivier. No, my Lord, I do not know it.

Mr. Just. Pemberton. It was in a private Room, Dr. *Oates* says.

Rivier. I never saw him there.

Mr. Just. Pemberton. If you ask an hundred here, they would say the same thing.

L. C. J. Come, when Matters are plain 'tis in vain to contend; here is the Business, Gentlemen, here are Mr. *Oates* and Mr. *Praunce*, two Witnesses against Mr. *Parry*; Mr. *Oates* says, he hath heard him say Mass, one time at one Place, and twice or thrice at another. Mr. *Praunce* hath heard him often, and Mr. *Praunce* does tell you plainly, that he cannot err, that he is not mistaken in the Man, for he came to his House with a Chalice, and broke it there, and he knew him so well, that meeting him by chance, he took him up in the Streets; so if you believe them, they swear it positively, and you must find it so.

Then the Lord Chief Justice went away.

Cl. of Cr. Set *Henry Starkey* to the Bar. Hold up thy Hand, &c.

Mr. Belwood. May it please your Lordship, and you Gentlemen of the Jury, *Henry Starkey* stands indicted for the like Offence with the other Prisoners; that he having received Orders from the See of *Rome*, came into *England*, and this is High-Treason; to this he hath pleaded Not Guilty; we will prove it upon him. Swear Dr. *Oates* and Mr. *Praunce*. [*Which was done.*]

Mr. Serj. Strode. Pray, Sir, will you tell my Lord and the Gentlemen of the Jury, what you do know of this *Starkey's* being a Priest?

Oates. My Lord, Mr. *Starkey* is a Priest, and I once heard him say Mass at Mr. *Pastor's*.

L. C. Baron. When was that? How long was it ago?

Oates. It is about three Years ago.

L. C. Baron. Did he give the Sacrament then, or at any other Time?

Oates. None received but himself.

Mr. Belwood. Was he in Priest's Habit?

Oates. Yes.

L. C. Baron. Did he receive the Sacrament, and consecrate the Host?

Oates. Yes, in both Kinds.

L. C. Baron. Will you ask him any Questions?

Starkey. He tells me of Priest's Habits; what are they, Sir?

L. C. Baron. What Habit had he on?

Oates.

Oates. A thing about his Neck, and a Surplice, and a thing about his Arm; he had a Surplice girt about him.

Starkey. I know you not; and I perceive you neither know what a Priest's Habit is, nor the Difference between his Habit and his Ornaments. A Priest's Habit is a Cassock down to the Ground, and a side Cloke; the Ornaments of a Priest are not a Surplice, (as *Oates* says) but an Albe that falls to the Ground, and other things besides that.

Mr. Just. Pemberton. You are well skill'd in it, I see.

Starkey. And how did you know that I said Mass? Did you know that I took Orders? For if I took no Orders, it was no Mass; for it is the Priest makes the Mass, and not the Mass the Priest; and then if I were no Priest, it could be no Mass.

Mr. Just. Pemberton. That is a pretty Argument indeed! Do any but Priests say Mass?

Starkey. I can bring an Instance of a Gentleman in this Town, a private Layman, who said Mass about this Town, and he was a Protestant, and at last he stole the Chalice, (His Name was *Gardner*.)

Mr. Just. Pemberton. He did well, did he not? Is that your Use?

Starkey. Yes, with such Priests as he.

L. C. Baron. 'Tis a great Evidence this arguing of yours, if he did not swear it, that you are a Priest.

Starkey. I wonder that this Gentleman should so well remember me, I don't know him.

Mr. Just. Pemberton. Do you think you know every one that hath seen you at Mass?

Sir John Keling. Set up *Mr. Praunce*. What say you, Sir, to this?

Praunce. My Lord, I heard him say Mass at my Lady *Somerset's* in *Lincoln's-Inn Fields*, and at *Mr. Duncomb's*, that taught School in *Prince's-Street*.

Starkey. As I hope for Mercy from Almighty God, I was never there in all my Life (except *Pantly*) her House in *Gloucestershire*.

Praunce. Did you know one *Mr. Duncomb* that is dead?

Starkey. Yes.

Praunce. Well, I heard you say Mass at his House.

Starkey. My Lord, I was never at *Mr. Duncomb's* in my Life, but at 3 or 4 o'clock in the Afternoon, and if I said Mass there, it was over a Pot of Ale.

Praunce. I have heard him say he said Mass in the King's Army.

Starkey. I know neither of these two Fellows.

Mr. Recorder. Come, I would fain see whether you Priests and Jesuits can speak one Word of Truth or no: Come, *Mr. Starkey*, did you ever say Mass in the Army?

Starkey. I never did: But pray give me leave to speak; I appeared for the King, when he had not above 500 Men in Appearance for him; I am but a younger Brother, (second Brother to *John Starkey* of *Darley* in the County of *Chester*, Esq;) and yet with an Annuity of Seventy-score Pounds a Year, which I bought, and other Monies which I had, I spent above 4000 *l.* in the King's Service, (which I bled for before I had it) for I got it in another Monarch's Service; I lost my Leg for him by a Cannon-shot,

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and so spent my Estate to that degree, that that Day when I received my Sentence of Banishment, I had but three half Crowns in the World, which were given me that same Morning by two Friends.

L. C. Baron. *Mr. Starkey*, you may urge this to the King, for his Mercy and Clemency, 'tis nothing to the Point here before the Jury to be try'd. Whatsoever you have merited by your Services, you must apply yourself to the King for his Mercy, it is nothing here.

Starkey. Pray, my Lord, give me leave to add something more: I was banished for 14 Years into *France*, because I refused to take an Engagement never to bear Arms again for the King: I did discover to this King a Plot design'd against his Life, State, and Government: I suffer to this Day for it; and I delivered (into his own Hand) eleven Articles of High-Treason against the Plotters and their Abettors.

L. C. Baron. You may be a Priest for all that.

Starkey. But, my Lord, by the Civil Law it is a Conclusion, that although a Man be a Traitor, and in the same Plot, he is to be indemnified for discovering the Conspiracy against his Prince; much more for discovering another, that I was not a Party in.

Mr. Just. Pemberton. We have nothing to do with that here, but whether you are a Priest or not.

Starkey. That I must leave to the Proof.

L. C. Baron. Well then, I'll tell you, Gentlemen, this Person is indicted for being a Priest, and coming into *England*. For the Point of his being a Priest, you have heard two Witnesses depose; and they both tell you, that they have heard him say Mass, as great an Evidence of it as can be, for none say Mass but Priests. *Dr. Oates* tells you at *Mr. Paston's*. *Mr. Praunce* says at *Mr. Paston's*, at my Lady *Somerset's*, and one *Mr. Duncomb's*. If you believe this, you must find him Guilty.

Mr. Just. Atkins. And they speak too, to his receiving the Sacraments in both Kinds.

Starkey. If I was there, sure there was some body else besides myself, I did not say Mass alone; produce but one Witness for you, then I'll submit.

Cl. of Cr. Set *Alexander Lumsden* to the Bar. Hold up thy Hand, &c. Your Charge is to enquire of him as of your first Prisoner, and hear your Evidence.

Mr. Belwood. May it please your Lordship, and you Gentlemen of the Jury, *Alexander Lumsden* the Prisoner at the Bar stands indicted for High-Treason, for that he being a Priest, and receiving Orders from *Rome*, did come here into *England*, and abide contrary to the Statute.

Sir John Keling. Swear *Dr. Oates*, *Mr. Dugdale*, and *Mr. Praunce*. [Which was done.]

L. C. Baron. Come, *Dr. Oates*, what say you to this Man?

Oates. I heard him say Mass, he is a *Dominican* Frier, as I remember. I heard him say Mass twenty times at *Wild-House*.

L. C. Baron. And Consecrate the Host?

Oates. Yes, and I received the Sacrament from him.

L. C. Baron. And saw him take Confession?

Oates. Yes.

Mr. Just. Pemberton. Will you ask him any Questions?

Lumfden. What time was this, if it please you, Sir?

Oates. That Summer that was before the Plot broke out. *Mr. Lumfden* knows me well enough.

L. C. Baron. Do you know him?

Lumfden. Truly I do not know that ever I saw him, or conversed with him in my Life.

L. C. Baron. What say you, *Mr. Dugdale*?

Dugdale. My Lord, I was at *Whitehall* that Day *Mr. Lumfden* was taken; and by the Impor-tunity of some Friends I did go to him, but I did not know him, but by Discourse he did confess himself a Priest; I asked if he was a *Franciscan*, he said he was a *Dominican*.

Oates. He is Procurator-General of the King-dom of *Scotland*.

Mr. Recorder. They have such a parcel of Peo-ple, and such Names for them.

Mr. Serj. Strode. *Mr. Praunce*, what do you know of *Lumfden's* being a Priest?

Praunce. I know he is a Priest, and have heard him say Mass several times at *Wild-boufe*.

L. C. Baron. Was he there in the Habit?

Praunce. Yes, and consecrated the Host.

L. C. Baron. How long since?

Praunce. Two Years since. I heard him twenty times.

L. C. Baron. Do you know what Countryman he is?

Praunce. An *Irishman*, I think.

Oates. No, he is a *Scotchman*, he will not deny it.

L. C. Baron. What Countryman are you?

Lumfden. A *Scotchman*.

L. C. Baron. Of what part of *Scotland*?

Lumfden. *Aberdeen*.

L. C. Baron. Were you born there?

Lumfden. Yes.

L. C. Baron. You have no more to say, have you.

Lumfden. My Lord, I am not here, I think, to be my own Accuser, I humbly conceive so, and whatsoever is against me must be proved, not simply asserted: They ought to give Proofs and Reasons; but so it is, it is but a simple Assertion what they say; I desire they may prove it.

L. C. Baron. No, they need not; it is sufficient if they prove it by such Circumstances that the Jury are satisfied and convinced that it is true; but it is not to be looked for, that no Proof should be given against the Priest, but by them that saw him receive Orders.

Mr. Just. Atkins. 'Tis impossible almost to prove that.

L. C. Baron. But if they prove the Circumstances, that you have executed the Office of a Priest by saying Mass, which none does but a Priest, 'tis enough to guide them in their Verdict.

Mr. Just. Ellis. And they have proved that which is next to a positive Assertion.

L. C. Baron. That need not be.

Mr. Just. Ellis. But let us not lessen our Proof neither.

Mr. Just. Pemberton. You must consider that the Proof is certain; for they have sworn an Assertive positive Thing, which thing is enough to a Jury to prove you a Priest, because none others but Priests may do such things in your

Church, as you have done: Therefore it is a good Argument and Evidence to conclude you a Priest, from this Evidence that hath been given.

Oates. I have heard him own himself a Priest twenty times.

Lumfden. The exercise of the Priestly Function is but a Penalty of 200 Marks.

L. C. Baron. Ay, that is, if the King will go no higher: But you are prosecuted upon another Law.

Mr. Just. Ellis. 'Tis Evidence, and a great Evidence, that which hath been given; for we must go according to the nature of the thing: 'Tis impossible the Act of Parliament should be put in execution, if they must prove they received Orders from the See of *Rome*: But when they have proved those things done by any man, which none ought to do but a Priest, it hath been in all times allow'd to be a Special Evidence.

Mr. Just. Pemberton. 'Tis a plain and sufficient Evidence.

Mr. Just. Ellis. But if there were any need of it, and you would have any more, he hath confessed, upon the Question asked him, Whether he was a *Franciscan*; No, he was a *Dominican*.

L. C. Baron. Have you done? Then Gentlemen of the Jury, you must not at this time of the day be insnared by that Argument, That there must be a positive Proof of this Reception of Orders from the Church of *Rome*, because it hath been all along accounted, and is an un-doubted Proof for your Satisfaction, if it appear he hath exercised the Offices of the Function; those Offices that are not done but by Priests: Now this hath been proved by two Witnesses, and by the Confession of the Priest himself to *Dr. Oates* and *Mr. Dugdale*: So I must leave it upon the point of Fact to you, whether it be not sufficient Proof. But this Case will differ from all the rest, and the Court is very tender in the case of Life, that it should be without all Question what is determined; therefore as to your Enquiry for him, it must go only whether he be a Priest or no; for the others you must consider them as *Englishmen*, and enquire of them as such: He is a *Scotchman*, as he says, and they say so too: Now then there are some Words in this Statute, whereupon the Court hath conceived a Doubt, whether his Case comes within them; which are the Words about the King's Dominions, which now are far more enlarged than were those of the Queen when the Statute was made; if then you find him a Priest, you must find the other matter specially.

Mr. Just. Ellis. Look you, Gentlemen, we are to be of Counsel for the Prisoner; and it being matter of Law, we shall take time to advise upon it before we give our Opinions in it: but for the matter of Fact, I doubt not but you will find that he is a Priest: and then the other matters, that he was born at *Aberdeen* in *Scotland*, and the other matters you may find specially, there needs no more.

Mr. Recorder. Swear an Officer to keep the Jury.

Who. after the Recess of a quarter of an Hour, re-turnd into the Court, and having answered to their Names, and appointed their Foreman to give in their Verdict, he delivered it thus:

Cl. of Cr. *Lionel Anderson*, alias *Munson*, hold up thy hand; 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 Cr. *James Corker*, hold up thy Hand: How say you, is he guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *William Marshal* guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *William Russel*, alias *Napper*, guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *Charles Parry* guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *Henry Starkey* guilty, &c.

Foreman. Guilty.

Cl. of Cr. *Alexander Lumsden*, hold up thy Hand; look upon the Prisoner; How say you, is he Guilty of the High-Treason whereof he stands indicted, or Not Guilty?

Foreman. We find he is guilty of being a Priest, and born at *Aberdeen* in *Scotland*.

Mr. Just. Ellis. Read the Notes to them.

Cl. of Cr. You find that *Alexander Lumsden* is a *Scotchman*, of 58 Years of Age, born at *Aberdeen* in the Kingdom of *Scotland*, being then under the Dominions of King *Charles* the First, and now under the Dominions of our present Sovereign; and in the Reign of the said King *Charles* the First, and that at the Time in the Indictment mentioned, he was a Priest in Holy Orders, by Authority derived from the See of *Rome*, prout in the Indictment: And that he came and was remaining in *England*, prout in the Indictment. But whether upon the whole matter he be Guilty of High-Treason within this Law or not, you do not know, and crave the Opinion of the Court.

Foreman. Yes.

Cl. of Cr. Then hearken to your Verdict, as the Court hath Recorded it: You say, &c.

Mr. Recorder. Call for the Executioner.

Then the Judges went off from the Bench, and the Court proceeded to Judgment.

Cl. of Cr. Set *Lionel Anderson*, alias *Munson*, to the Bar: *Lionel Anderson*, alias *Munson*, thou standest Convicted of High-Treason? What canst thou say for thyself, why Judgment should not pass upon thee to Die according to the Law?

Anderson. I can say this, I would have gone out of *England*, but the King kept me here, telling me, I should not go; and I had a Protection from the Council-board: The Bishop of *London*, when I was taken first, sent a Letter to Sir *Clement Armiger*, that neither I nor my Books should be meddled with, that I had written for the King and the Government, for which he conceived I might be excommunicated at *Rome*, and that I was then under a special Protection of his Majesty and Council; and when I was again taken and put in Custody of the Horse-Guard, the Duke of *Monmouth* sent Sir *Thomas Armstrong* to have me freed again: I begg'd of the King that I might go, said I, I won't expose the King to the worst of Rabbles; but he told me, I should stay in *England*, and Mr. *Peter Welsh* and I had Orders from the Council, he one and I another, to stay.

Mr. Recorder. For that matter you may be assured, I promise it you faithfully and publickly,

that I will acquaint the King with what you say.

Anderson. I thank you, Sir.

Mr. Recorder. For this Court hath nothing to do with that; the King is the proper Judge of that matter, to determine his own Pleasure as he thinks fit: Tie him up.

Anderson. Sir, I had no notice of my Trial but this morning: I sent to my Lord *Bridgewater*, to know when I should be Tried, he told me, I should have Ten Days notice of it; now I have Witnesses to disprove Mr. *Praunce's* Testimony; for Mr. *Oates*, I own he hath heard me say Mass; but for Mr. *Bedlow's* Testimony, as I hope to see the Face of Almighty God, I know him not: When I was taken, said he to me, Mr. *Anderson*, let me see your Protection, and I shewed it him; You have two Names, said he, I do not know whether it be you or no. And then besides, these are not legal Witnesses.

Mr. Recorder. Nay, that must not be allow'd you to say: You have been fairly heard and try'd; they were upon their Oaths, and the Jury, twelve men upon their Oaths, without any Exception made to them, they have Convicted you; therefore this is to calumniate the Proceedings of the Court.

Anderson. I tell you this more; they are not the King's Evidence properly; for they swear for themselves upon the account of Benefit; if any Priest be Convicted, they are to have so much Money.

Mr. Recorder. The Court heard the Evidence that was given, and if you will have it of the Court, the Court does really believe them, and so did the Jury too.

Anderson. I am satisfied.

Mr. Recorder. Tie him up then.

Cl. of Cr. *James Corker*, hold up thy Hand: You stand Convicted of High-Treason; What can say you for yourself, &c.

Corker. Nothing, but that I refer myself to God, my just Judge and Saviour.

Mr. Recorder. Tie him up.

Cl. of Cr. *William Marshal*, hold up thy Hand: Thou art in the same Condition, what say'st thou for thyself?

Marshal. I have very little more to say than what I have said already: I thought the Law had not allow'd any Man to have been condemned upon the Testimony of one Witness, but required two: Now there was but one positive Witness against me, the rest only said, I had confessed myself to be a Priest; two of them did swear, they heard me confess it at my other Trial; if it had been at this Trial it had been another thing, and there had been some Validity in the Proof; but to say, they heard me confess it at another time, I humbly conceive, according to the Law, bears no force. I have this further to add, his Majesty, some Years ago, put forth a Declaration under the Broad-Seal, for a Toleration of Religion, and Liberty of Conscience, whereby the *Roman* Catholicks had the use of their Religion in their private Houses. Now I have been informed, that according to Law, whatsoever is put forth under the Broad-Seal, must be recalled by something under the Broad-Seal, or it remains in force: which was never done as to this Declaration, and then I lie under the Protection of that Declaration.

Mr. Recorder. As for the first part, 'tis plain, to the Satisfaction of every body, that there hath been two sufficient Witnesses, upon whose Testimony you are convicted: For whether you were asked the Question or not, yet if you will say you are a Priest, that Confession of yours is Evidence against you, tho' you might possibly say so without being asked the Question.

Marshal. Is it credible I should do so?

Mr. Recorder. Yes, the Jury believed it so.

Dr. Oates. One of the Jury stood by and heard the Words.

Mr. Recorder. And now, because I will put it out of all doubt, 'tis not the Business nor the Duty of the Court to give any Evidence of any Fact that they know of their own knowledge, unless they will be sworn for that purpose: For tho' they do know it in their own private Consciences to be true; yet they are obliged to conceal their own Knowledge, unless they will be sworn as Witnesses. But now you are convicted, I must take the liberty to tell you, that at your last Trial you did own your self to be a Priest; and I must put you in mind further of something which you may very well remember: When I detained you after your Acquittal, and re-committed you when Sir *George Wakeman* was discharged, I did then tell you, you have own'd your selves to be Priests, I was bound to take notice of that Confession of yours, and therefore obliged to detain you: Such a Token as that is may perhaps bring it to your memory; but as it was hinted to you before, you are a voluminous Talker, and abundance of things may drop out of your mouth, that you don't consider before they are past.

Marshal. 'Tis for my Life, and therefore I may be permitted to speak sure.

Mr. Recorder. That is as to the first Point: And then as to the King's Declaration, which was the other matter you insisted upon, I presume it does not stick with any body that knows the matter; but lest it should, I would say this to it: 'Tis very well known in the first place (I do not go now to determine the Law upon it, because you know what Opinions and Judgment it received afterwards) yet this I will adventure to say, That it was never the Intention of that Declaration that ever Priests should come and reside here; but it was only intended for tender Consciences, as the very Letter of the Declaration it self does shew, not to countenance Priests and Jesuits, that have cast off all their Allegiance to the King, and endeavour both to destroy him and his Government.

Marshal. Pray Sir, will you give me leave to speak as to that: If so be the use of their Religion were permitted to *Roman* Catholicks, that Religion not being to be practised without Priests, it is to be supposed, that the Priests are permitted.

Mr. Recorder. But if a Man were to argue with you now in your own way; Pray are there not Priests in *England*, besides those Priests that were born here? You know, of your own Acquaintance there are several *Roman* Catholick Priests, not *Englishmen* born, that are constantly here, who can perform the Offices.

Marshal. Nay, I don't know that; but this I know, if they be not born in *England*, or have lived in *England*, so as to know the Tongue, *Roman* Catholicks will be little the better for 'em.

Mr. Recorder. Nay, I don't say much the better, but much the worse for their coming at them: and in case they would only use the *English* Truth, I presume they would not have so many Profelytes, but you gull them with Stuff they understand not.

Marshal. Pray, Sir, give me leave a little, I have one word more: For all matters of Treason, and treacherous Conspiracy, I was freed before in this Court; now I would observe what the best Lawyers that ever were in *England*, have observed for me; That there is no Crime in Priesthood it self: For my Lord *Coke* in his 5th Report, 39th Leaf, commenting largely upon the Statute of 27 *Eliz.* and enlarging upon the Sense and Meaning of that Statute, and calling to mind who the Men were that were formerly executed by force of that Statute, and why, concludes thus: Hence it appears, that no Man yet hath or can be executed for his Function of Priesthood, but because there was annexed to the Priesthood treacherous Designs and treacherous Attempts. And the same Lawyer in the 3d Institutes, 22d Leaf, says, That in this Statute of 27 *Eliz.* 'twas very wisely and justly done by the Statute-makers, to provide, that the Judges should proceed in their Judgments upon that matter, only according to what is expressed and specified in that Statute. And those Words were a Sanctuary to the Judges, and put in to prevent the shedding of guiltless Blood. Now if so be that so great a Lawyer, in a Discourse about Priesthood and Treachery, does thence conclude, That Priesthood as Priesthood is no Crime, nor no Function belonging to it hath any Crime in it, well may I conclude so too: And indeed, if it had, then a great part of the World would be Traitors; nay, it would bring in Christ himself, who was a Priest, to be a Traitor too: Therefore Priesthood, as Priesthood, hath no Treason essentially link'd to it. And when he says, that they must proceed according to what is specified, he does in the forementioned place shew, that it was not specified at all, that any that were Executed, were for Priesthood Executed: And I am accused of nothing else in the World but bare Priesthood as Priesthood, without any Design or Treachery joined to it: And if, according to Law, Priesthood be not liable to Condemnation, then I am not to be Condemned.

Mr. Recorder. Now you have been heard.

Marshal. Yes, Sir, and I thank you for it.

Mr. Recorder. This long Speech of yours will signify but little, when you consider the Act of Parliament upon which you are indicted. 'Tis true, set that Act of Parliament out of the Case, and then to be a Priest is not High-Treason; nay, in case a Man be born out of the King's Dominions, and be a Priest, and remain here, that is not High-Treason within this Statute, because Priesthood it self does not make the Crime (God forbid any one should affirm it) but when all that is granted, when an Act of Parliament hath taken particular notice of the great Mischiefs and Inconveniencies that have attended the Government, and the continual Danger that the Supreme Head hath been in, by having Persons which were born within the King's Dominions (as you were) to wave their Allegiance, and to acknowledge a Supremacy in any Foreign Prince or Prelate, as you all do, when

when you take Orders from the See of Rome: the Wisdom of the Nation hath thought reasonable that such should be adjudged Traitors: And this Act of Parliament, upon which you stand Convicted, does plainly say, If any one born within the King's Dominions will take Orders from the See of Rome, and shall after reside here, he is guilty of High-Treason: And this is not only thought so by us that are here, but by all my Lords the Judges that were present at your Trial; for God forbid we should condemn you for any thing as High-Treason, if you had not been within the compass of the Act of Parliament: And what is Treason, the Act of Parliament particularly describes, which all hath been proved upon you; and because you are pleased to speak it to the Court, and lay it on the Consciences of the Court, I discharge my Conscience; the Jury having Convicted you for High-Treason, I am very ready to pass Judgment upon you according to the Law, and I will clear my Conscience of that presently. Tie him up.

Cl. of Cr. William Ruffel, Hold up thy Hand, Thou art in the same Case, what canst thou say for thy self? &c.

Ruffel. I can say this, my Lord, that in my Conscience, I do not acknowledge my self Guilty of what they accuse me for, but I must submit to the Laws as they are made; but I do protest before Almighty God, and this whole Court, that I am innocent of all that is laid upon me.

Mr. Recorder. Why, what were you never at *Wild-bouje*, and said Mass there? I would fain hear, whether you, in the State and Condition you are in (though you Jesuits have a thousand Tricks and Evasions) have Confidence enough to say you never were, nor said Mass there?

Ruffel. I ought not to accuse my self.

Mr. Recorder. You are convicted. But every thing that you say is but an Evasion, and a Trick to catch and insnare the ignorant, but People of any sort of Sense will not be gull'd so.

Ruffel. For my Witnesses, you are my Witness, I have but one Witness upon that Business.

Mr. Recorder. The Jury have believed them.

Ruffel. 'Tis possible it may be so.

Mr. Recorder. Nay, 'tis beyond possible, 'tis true.

Ruffel. The Witnesses that have deposed against me, for my part, I know them not.

Mr. Recorder. You have heard of Dr. Oates, Mr. Praunce, and of Sir William Waller too. Tie him up.

Cl. of Cr. Charles Parris, alias *Parry*, hold up thy Hand. You are in the same Condition, what have you to say?

Parry. What have I to say for my self? I have this to say, That those that did depose against me, did not say one Word of Truth as to their Allegations, I take God to witness for it; I am a dying Man, and thank most heartily the Court for what they are to pronounce against me, and I am as ready to suffer, as any Man may be to have me to suffer, for it is God's Glory and his Cause. Then I insisted upon two Parts, and complained, First, of Sir William Turner, that being brought before him by Mr. Praunce, and shewing him my Protection under an Ambassador, and I professing my self a *Frenchman*, he slighted it, which I held to be a manifest Breach against the Laws of Nations. Secondly, I was wrong'd

by Sir William Waller, when (in his Examination of me with Justice Warcup) in the *Press-yard, Newgate*, he threaten'd me with Irons, &c. if I did not take my Oath I was not born in *France*, and I refusing, (which none could be compell'd to) for 'twas my Opponent's Part to prove the contrary; and who can prove me to be other than a *Frenchman*?

Mr. Recorder. No body can; we believe you to be an *Englishman*.

Parry. If I be a *Frenchman*, I am not subject to the penal Laws.

Mr. Recorder. Why, no body does. We believe you to be an *Englishman*.

Parry. And if it please you, they are to prove it.

Mr. Recorder. Well, that is over now. Tie him up.

Parry. I am not a Subject, and as not a Subject, am not under the penal Laws.

Cl. of Cr. Set Henry Starkey to the Bar. *Henry Starkey*, hold up thy Hand. Thou art in the same Condition with him that went last before thee, what canst thou say for thy self? &c.

Starkey. In the first place, Mr. Recorder, here is the Man (pointing at Mr. Praunce) hath sworn two Lies at one Breath.

Mr. Recorder. I must not hear that, Mr. Starkey.

Starkey. Will you please to hear me, Sir?

Mr. Recorder. I will give you all the Freedom you can lawfully desire in the World, but it must be that which will consist with my Duty, and the Reverence you owe the Court. You shall not revile the King's Evidence as long as I am here, by the help of God.

Starkey. If that it were true, that I had said Mass at my Lady *Somerset's* and Mr. *Duncomb's*, yet it is not sufficient to prove a Man to be a Priest, for any Man may take the Priest's Garments, and do the Ceremony and the Office, because there are hundreds, perhaps thousands, that have suffer'd Death for it. And so to do these Acts, is not Evidence of being a Priest.

Mr. Recorder. Indeed I don't understand what makes a *Romish* Priest, nor do I desire it.

Starkey. But you will give me the Letter of the Law.

Mr. Recorder. And the Jury hath found you a Transgressor of the Law.

Starkey. The Letter of the Law is this, *That if any one of the Queen's Subjects shall transport himself beyond the Sea, and shall in a Seminary take Orders, by Authority deriv'd from the See of Rome, and shall return into England, and shall not present himself here to the Ordinary, or else to such a certain Number of Justices of the Peace within such a Term, but shall seduce the King's Liege People* —

Mr. Recorder. No, that is another Act.

Starkey. Then he shall be adjudged a Traitor: Now, Mr. Recorder, I come to this, as I told you before, I had discovered a Plot to the King that was design'd against his Person, State, and Government, and did deliver into his Hands eleven Articles of Treason, which I had writ with my own Hands; (and this he hath own'd, and will own.) So, Mr. Recorder, upon this I was threaten'd my Life and Liberty by the Plotters, That the King should not be gone twenty four hours, but I should be imprisoned. When the King went, what must I do? Must I stay there and hazard my Life, or trust to the King's Mercy? I was forced to come along with the King for Protection.

Protection. I came to *Whitehall*, and the King rose up and gave me his Hand to kiss, and so did the Duke of *York*, and told me I was welcome. I went to my Lord Chancellor *Hyde*, who, when he saw me, embraced me in his Arms, and said, thou art welcome, I am glad to see thee in *England*. I had occasion to speak with the Bishop of *London*, Dr. *Shelden*, about another Person, and when I came to him he asked me, What is your Name? My Lord, said I, my Name is *Starkey*, with that he catches me fast by the Hand, and when he had done that, he took me in his Arms, and told me, You are welcome. And Mr. *Recorder*, I do suffer to this Day for the Service I have done the King.

Mr. *Recorder*. Mr. *Starkey*, I can only say this to you, I do promise you faithfully, as I promised the other Gentleman that went before, I'll tell the King what you alledge. He is the best able to give an Account of it, and is the fittest Judge of his own Mercy. But I could recommend to you, Mr. *Starkey*, a thing that would be very acceptable, and then as far forth as 'tis modest for me to speak, I am pretty well assured, I might say, I could prevail for Mercy to you, That is, as you did discover one Plot before, so you would discover this hellish Plot that is now on foot.

Starkey. Mr. *Recorder*, I have wished a hundred times, and wish now, that if there were any Commissions, as is pretended, the first that had delivered one to me, should never have deliver'd a second; for I would either have brought him to Justice, where he should receive his Reward, or else I would have kill'd him in the place; tell the King, Mr. *Recorder*, that I say so.

Mr. *Recorder*. Well, the King is a Fountain of Mercy, and he is the best Judge of the fit Objects of it, I will, as I said, tell him what you say.

Starkey. If the King does not own what I told you, then count me the greatest Knave that ever you spoke withal.

Mr. *Recorder*. You remain now under the Conviction of the Law; what Mercy the King, who is the Fountain of Mercy as well as of Justice, will extend to you, is in his own Power.

Starkey. Mr. *Recorder*, I have here his Majesty's Gracious Pardon of the 25th Year of his Reign.

Mr. *Recorder*. I allow that, but you have staid here since.

Starkey. Why then, Mr. *Recorder*, pray will you advise me what to have done? Nature teacheth all Men to shun Danger; for I was threatened with Life, &c. if I staid in *France*: Whether should I stay there, or return to my native Country with my King? Now, Mr. *Recorder*, I desire to know what you would have had me done?

Mr. *Recorder*. I shall acquaint the King, and will do you all the Kindness I can with him. Tie him up.

Starkey. But how shall I do then, when I am lame? I want a Leg, and I must use my Stick.

Mr. *Recorder*. Then let him alone.

Starkey. But I pray, good Mr. *Recorder*, will you be pleased before you give Sentence upon me, to acquaint the King with what I have to say for myself.

Mr. *Recorder*. No, I cannot do that, the King's Pleasure is to be known afterwards. Set *Lumsden* aside, and set all the rest to the Bar.

Then Proclamation was made for Silence, whilst Judgment was giving.

Mr. *Recorder*. You the Prisoners at the Bar; you have been severally Accused, Arraigned —

Starkey. Mr. *Recorder*, may I speak one Word? I have presented this Year, wherein at the 26th of this Month I have been a Prisoner, several Petitions by my Friends to the King, and desir'd to be Transported; for my Age and Infirmities, and want of a Leg, did not stand well with my being in *England* these troublesome Times. The King, I am told, hath promised I should, but I see no Fruits of those Petitions. And pray consider this, that I should have been imprisoned if I staid out of *England*, and now to be prosecuted in *England* in this manner, and to be drawn, hang'd, and quartered, is very hard.

Mr. *Recorder*. Whether it be true or not, God knows, I shall acquaint the King with it. It only remains with me to take notice of it for that purpose. And for my part I am sorry with all my Heart to see so many Persons brought to receive the Sentence of Death by my Mouth. But I must say this, you your selves have been the occasion of it, and therefore must blame your selves for it. You have had the Benefit of the best Laws, the Law of *England*, which gives every Subject the liberty to make a Defence for himself, when ever he is accused of any Crime; he hath the liberty to hear the Witnesses what they say against him; to call any Witnesses for him, and to make defence for himself. And not only so, but he hath likewise Twelve Men upon their Oaths, that are his Peers, against whom he hath the liberty to make a Challenge without shewing any Reason, to a certain Number; and if it shall appear that any of them have the least Prejudice or Malice against any Persons that are to be tried for their Lives, to a greater Number. Such, and so great is the Benefit of the Laws of *England*, beyond all the Laws of any other Nation in the World. But all these Forms having been passed, and a Jury of Men, against whom you made no Exception, having found you Guilty of the Offences for which you were Indicted, there remains now nothing more with the Court, but to pass that Judgment of Death upon you, which the Law requires, and which is the Business that lies upon me now. But before I do that, for I know you may think it a Presumption, or at least a needless and unnecessary thing for me to take upon me, and give any Directions to you, the Business of whose Profession it hath been to give Precepts: However I think it necessary for the Satisfaction of some Persons that are here present, that I should give them some Account, why I think this Law, and the putting it in execution at this time, is not unreasonable. For it is to be known, that every Subject of this Realm by his being born within the Dominions of the King, does owe an immediate Allegiance to the King, and is to take notice by the Law, that there is not any Person hath any Superiority over him; for under God he is the Supreme Head and Governor. And if any Person born within the Dominions of the King shall so far forget himself, and what he owes to the King by his Birth, and that Supremacy which he should maintain with his Life and Fortune, as to acknowledge any other Foreign Person to be Supreme, and to have a Power to Depose the King,

and

and dispose of his Dominions (as every one does, that takes Orders from the See of Rome) he cannot but be thought deserving of the greatest Punishment. Wherefore the Wisdom of our Nation, the Parliament, at the Time when they made the Law, found that the Religion Established (that Religion which I hope in God will remain notwithstanding all the Enemies it ever had or shall have) was invaded by such Priests as you; they found the Life of the Queen at that time in great danger, by the Attempts of those Persons whom they had made their Profelytes, into whom they had infused Principles, that it was no Crime for them to depose their Queen, since they had the Authority of their Pope to justify the Fact. And if once Men can preach such Doctrine, and also but prevail with their Hearers to be of such a Persuasion, if Care were not taken, we shall soon see an end of all sort of Government, and of our Religion too. But in as much as these Principals were not so visibly endeavoured to be put in practice till of late times, though you were not permitted, but connived at; yet that is no Reason but the occasion of making the Law being revived, the Execution of the Law should revive with it. I suppose it is not unknown to any of us, that there hath been an hellish Plot against the Life of the King, and to destroy our Religion, I would to God I could say the Plot was at an end. For I must say, some of you, I fear, had too great a Hand in it: And what a sort of Monsters were prevailed upon to compass the same, by you that are Priests and Jesuits, who have wrought them up to such a Belief, that Murder in this World is a certain Way to Saintship in that which is to come. And though you seem to deny it, your Practices are a Proof of it beyond all Contradiction, which is the Reason that this Law, which was a good Law at the time of the making, and thought fit to be put in Execution then, though it hath slept some time since, should now be put in Execution against you, who have occasion'd all those Mischiefs to this Nation in these latter Times, which occasioned the making of the Law. And one thing more I should say to that Man, who pretends to merit by the good Ser-

vices he hath done for the Publick, that he should injoin a Man to scour his Kettle, as he calls it, to receive the Sacrament, and then give him a Dispensation to be drunk, and make another so, to promote a damnable Design, is such a Power of Priesthood, fit only for the Pope and his Imps to put in practice.

But say no more, in Charity I am bound to compassionate your Condition, which with all my Soul I do, and heartily can say to you, I am sorry to see you in that Misery. It was in your own power to have prevented it; but seeing you have made your selves Obnoxious to the Law, the only thing required of me, is to pronounce the Sentence that the Law hath decreed: And therefore in the Name of the Court I do pronounce this to be your Judgment——

Starkey. Mr. Recorder, give me leave to speak one Word: if any one should have held to me that Position, That it is lawful to depose and murder Kings, I would have killed him in the place: Tell the King, Mr. Recorder, I say so.

Anderfon. It is my comfort, that no one of common Sense can believe it.

Marshal. May I ask one Question, Mr. Recorder, before you pronounce Sentence?

Mr. Recorder. No, Mr. Marshal, you can't speak now; but this is your Judgment, and the Court does award it: That you the several Prisoners now at the Bar, be conveyed from hence to the Place from whence you came; and that you, and every of you, be convey'd from thence on Hurdles to the place of Execution, where every one of you are to be severally hang'd by the Neck; That you be severally cut down alive; That your Privy-Members be cut off, your Bowels taken out and be burnt in your view; That your Heads be severed from your Bodies; That your Bodies be divided into four Quarters, which are to be disposed at the King's pleasure: and the God of infinite Mercy have Mercy upon your Souls.

Parry. *Te Deum laudamus; Te Dominum confitemur.*

Then the Prisoners were carried away, and the Court Adjourn'd the Sessions.



XCI. *The Trial of JOHN TASBOROUGH and ANNE PRICE, at the King's-Bench, for Subornation of Perjury, February 3, 1679. Hil. 32 Car. II.*

FIRST, Proclamation was made for Information in usual Form. Then the Defendants were called, and appearing, were by the Clerk of the Crown advised to look to their Challenges. Then the jurors that were summoned to try the Cause being called, and appearing, the Twelve that were Sworn, were these Persons following,

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<i>Thomas Harriot,</i>	} Jur.	<i>Edward Wilford,</i>
<i>Thomas Johnson,</i>		<i>Richard Bull,</i>
<i>Charles Umphervile,</i>		<i>Joseph Racliffe,</i>
<i>Thomas Earsby,</i>		<i>Richard Cooper,</i>
<i>Richard Pagett,</i>		<i>James Supple,</i>
<i>John Greene,</i>		<i>George Read.</i>

Cl. of Cr. Gentlemen of the Jury, you that are Sworn, hearken to the Record. The Defendants,

dants, *John Tasborough* and *Anne Price*, stand Indicted by the Oaths of Twelve honest and lawful Men of the County of *Middlesex*; which Indictment sets forth, That whereas one *Thomas White*, alias *Whitebread*, *William Harcourt*, *John Fenwick*, *John Gevan*, alias *Gawen*, and *Anthony Turner*, being Popish Recufants, and false Traitors against our Sovereign Lord, *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, &c. the Thirteenth Day of *June*, in the Year of the Reign of our Sovereign Lord the King that now is, the Thirty first, at the Sessions of *Oyer* and *Terminer*, and Goal-delivery, then held in the *Old-Baily*, in the Parish of *St. Sepulchres*, in the Ward of *Faringdon without*, *London*, for the City of *London* and County of *Middlesex*, were lawfully indicted for certain High-Treasons, in the said Indictment specified; and afterwards were severally Tried by a Jury of the said County, and then and there were Attainted, as appears by the Record thereof to the Jurors aforesaid in Evidence shewn. And whereas also one *Richard Langborn*, Esq; being a Popish Recufant, the 14th Day of *June*, in the Year of the Reign of our said Sovereign Lord the King that now is the 31st aforesaid, at the Sessions of *Oyer* and *Terminer*, then held by Adjournment at the *Old-Baily*, in the Parish and Ward aforesaid, was lawfully Indicted for divers High-Treasons in the said Indictment specified; and being afterwards Tried by a Jury of the County, was then and there thereof Attainted, as appears by the Record thereof, to the Jurors aforesaid in Evidence shewn. And whereas one *Stephen Dugdale*, upon the several Trials of the Indictments aforesaid, was a Witness produced and sworn on behalf of our said Sovereign Lord the King that now is, and then and there in lawful manner did give material Evidence against the said *William Harcourt*, and the said several other Traitors, to prove them guilty of the matters in the said Indictment specified: The said Defendants, *John Tasborough* and *Anne Price*, the Premises aforesaid well knowing, and being Persons devilishly affected towards our Sovereign Lord *Charles* the Second, now King of *England*, &c. their Supreme and Natural Lord, and devising, and with all their Strength intending the Peace and Tranquillity of this Kingdom to disturb, and to hinder and stifle the farther discovery of the said Treasons, and as much as in them lay, the due course of Law to elude, and the Prosecution of Justice in that behalf to retard and obstruct; as also to cause and procure that it should be believed, that the Persons aforesaid Attainted, were unjustly Attainted: The said *Anne Price* before the Trial of the said *William Harcourt*, to wit, the 10th day of *June*, in the Year of the Reign of our said Sovereign Lord the King the 31st aforesaid, at the Parish of *St. Margaret Westminster*, in the County of *Middlesex*, with Force and Arms, falsely, unlawfully, unjustly, corruptly, and against the Duty of her Allegiance, did solicit, suborn, and endeavour to persuade the said *Stephen Dugdale*, that he the aforesaid *Stephen Dugdale* should not be a Witness nor give Evidence against the said *William Harcourt*, upon the Trial of the said *William Harcourt* for the Treasons aforesaid: And that the said *John Tasborough* and *Anne Price*, afterwards, to wit, the 12th Day of *October*, in the Year of the Reign of our said

Sovereign Lord the King that now is, the 31st aforesaid, at the Parish of *St. Margaret Westminster* aforesaid, with Force and Arms, falsely, unlawfully, unjustly, advisedly, corruptly, and against the Duty of their Allegiance, did solicit, suborn, and endeavour to persuade, and either of them did then and there, falsely, unlawfully, advisedly, corruptly, and against the Duty of their Allegiance, solicit, suborn, and endeavour to persuade the said *Stephen Dugdale*, that he the said *Stephen Dugdale* should retract and deny all the Evidence and Information which he the said *Stephen Dugdale*, as aforesaid, had given against the Traitors and Popish Recufants aforesaid; the said *John Tasborough* and *Anne Price* then and there falsely, unlawfully, unjustly and advisedly, corruptly promising, and either of them promising to the said *Stephen Dugdale* great Sums of Money and Rewards, if he the said *Stephen Dugdale* would retract and deny all the Evidence and Information by the said *Stephen Dugdale*, against the Traitors and Popish Recufants aforesaid, as aforesaid given, and would withdraw and absent himself the said *Stephen Dugdale*, in places unknown and beyond the Sea: And that the said *John Tasborough* and *Anne Price*, their wicked Devices, Practices and Intentions aforesaid to fulfil and accomplish, afterwards, to wit, the said 12th Day of *October*, in the Year of the Reign of our said Sovereign Lord the King the 31st aforesaid, at the Parish aforesaid, in the County aforesaid, by Force and Arms, falsely, unlawfully, unjustly, advisedly and corruptly, and against the Duty of their Allegiance, did produce and shew, and each of them did then and there produce and shew to the said *Stephen Dugdale*, a certain Note in Writing, the Tenour of which Note follows in these *English* Words following: *Being touched with a true remorse of Conscience, and hearty So row for the great Ill I did in coming in a Witness against the Catholicks, and there speaking things which in my own Conscience I knew to be very far from the Truth: I think my self bound in Duty both to God and Man, and for the safety of my own Soul, to make a true Declaration how I was drawn into this wicked Action. But being very well satisfied, that I shall create my self many powerful Enemies upon this account, I have retired my self to a place of safety, where I will with my own Hand discover the great Wrong that hath been done the Catholicks, and hope it may gain Belief. And likewise I protest before Almighty God, that I have no Motive to induce me to this Confession, but a true Repentance for the Mischiefs I have done, and hope God Almighty will forgive me.* And that the said *John Tasborough* and *Anne Price*, the Day and Year aforesaid, in the Parish aforesaid, in the County aforesaid, with Force and Arms, falsely, unlawfully, unjustly, advisedly, corruptly, and against the Duty of their Allegiance, the said *Stephen Dugdale* the aforesaid Note in Writing, so as aforesaid, to the said *Stephen Dugdale* produced and shewn to sign and subscribe, did solicit and endeavour to persuade, and each of them did solicit and endeavour to persuade, and then and there falsely, unlawfully, unjustly, advisedly and corruptly did promise, and each of them did promise to the said *Stephen Dugdale*, that if he the said *Stephen Dugdale*, the aforesaid Note in Writing would sign and subscribe, that then he the said *Stephen Dugdale* great and vast Sums of Money should have and receive; to the evil and pernicious Example of all Persons in the like Case

Cafe offending, and against the Peace of our said Sovereign Lord the King, his Crown and Dignity, and against the Duty of their Allegiance. To this Indictment they have pleaded Not Guilty, and for their Trial have put themselves upon the Country, and the King's Attorney likewise, which Country you are: Your Charge is to enquire, Whether the Defendants, or either of them, be guilty of the Trespas and Offence whereof they stand Indicted, or Not Guilty: If you find them or either of them Guilty, you are to say so; if you find them Not Guilty, you are to say so, and no more, and hear your Evidence.

Crier, make an O Yes.

Crier. O Yes! If any one will give Evidence on behalf of our Sovereign Lord the King, against the Defendants *John Tasborough* and *Anne Price*, let them come forth and they shall be heard.

Mr. Bekwood. May it please your Lordship, and you Gentlemen of the Jury, the Defendants, *John Tasborough* and *Anne Price*, stand Indicted for Subornation of Perjury: And the Indictment sets forth, That whereas *Thomas Whitebread*, *William Harcourt*, and others, were Indicted, and that for Treason, in Conspiring the Death of the King, and other Treasons, and were legally Try'd, Convicted, and Attainted for the same; and that *Richard Langborn* was likewise Indicted and Attainted for the same Offence: And that upon these Trials *Mr. Dugdale* was produced and examined as a Witness for the King, and did depose materially against the said Traitors: And the Defendants knowing this, and contriving and designing to stifle the Discovery of the Treasons aforesaid, did before the Trial of the said *Harcourt* solicit, suborn, and endeavour to persuade the said *Mr. Dugdale* not to be a Witness, nor to give Evidence upon the Trial: And after the Trial, did farther solicit him to retract and deny all the Evidence he had given on that behalf, and promised him large Rewards and great Sums of Money for it: And to accomplish this, they did incite him to withdraw and retire himself, and produced a Note which he was to sign, and which hath been read to you, wherein he was to acknowledge that he was in an Error, and had sworn falsely, and therefore had retired himself; and for this they promised him great Rewards: And this Offence is laid to be done falsely, advisedly, corruptly, and against the Duty of their Allegiance. To this the Defendants have pleaded Not Guilty; if we shall prove the Fact upon them, we hope you will find it.

Mr. Serj. Maynard. My Lord, and you the Gentlemen of the Jury, I am of Counsel in this Cause against the Defendants. For the Fact that is laid in the Indictment, it consists of these Particulars: First, An Attempt to prevent the Evidence before it was given. And Secondly, When it was given, and the Traitors were Convicted and Condemned, then to Disgrace that Evidence, and the Proceedings at Law that hath been against the Traitors; and this in favour of the Catholics. Thirdly, The Means they used to persuade him, which was by corrupt Promises and Engagements to him. And, Fourthly, That they had prepared a Note which hath been read to the Jury; whereby he that had swore the Truth, should publickly own to the World that he had swore a Lye:

and that the Catholics had received great Injury by him, and that he had withdrawn himself to make this Discovery: And this is the Substance of the Charge upon these Persons. This Practice, my Lord, is not new, it hath appeared here in several other Instances: We remember what *Reading* did, and we have not forgotten what *Know* and *Lane* did; and this is the third Cause of that kind that hath come before you. Our Evidence will be this: We shall produce *Mr. Dugdale*, the Person against whom this Design was laid, and he can testify all this Matter. Now he was but a single Person against these two Tempters; and your Lordship remembers what was said in the like Case, two might convince one; and therefore ne thought it safe to acquaint, and he did acquaint Persons of Publick Concern and Authority with this Attempt upon him; and he did not only this, but they met several times about it at the Tavern, and there we shall prove what they did. Part of this hath been confessed, for this hath had another Examination in another Place: And the Gentlewoman hath confessed, that she did offer him Sums of Money; for it we will call our Witnesses. We shall not now aggravate the Fault, that will come after the Evidence given; but I think it is hellish enough if it be proved.

* *Mr. Att. Gen.* My Lord, This Case is of the same nature with those that *Sir Cref. wei Levinz.* *Mr. Serjeant* hath mentioned of *Reading*, and *Know* and *Lane*; but it goes somewhat further: For this must be done in Writing, and subscribed by the Party, to be produc'd upon occasion, to defame all the Evidence that had been given before: And the Substance of the Note is to recant all that he had said, and aver it to be false; and so all that have died upon that Account, must have been supposed to have died very unjustly. This was the Design of the Matter: And it was not only in this Case that these Persons had been endeavouring things of this nature; for we can prove, if it be necessary, by another Witness, that this Gentlewoman hath been tampering to persuade him to retract his Evidence against another Person, one *Mr. Parsons*, a Priest in Custody; and to bring all about, she did presume upon *Mr. Dugdale's* old Acquaintance with her: They had been Fellow-Servants in my Lord *Aston's* Family, and by that means were of ancient Acquaintance; and she did presume upon these grounds, that she could withdraw him from all his Evidence. And we shall prove, I think, by another Witness which does fortify this Testimony, that both these Persons have already acknowledged this Fact, and that they personated great Persons in it; that is, they pretended to come in the Name of very great Persons, as you will hear, when they had nothing to do in the thing. They pretended to go to *Windsor* for Pardon and Assurances of Protection, and they have acknowledg'd it; and 'tis in Proof that they were never near that Person: That is, *Mrs. Price* did pretend she should go down to *Windsor* and speak with the Duke of *York*, for he was the Person nam'd, though 'tis acknowledg'd, and was in proof by her Companion, that she never came near him, that is, by *Mrs. Harris*, of whom you will hear anon. And *Mr. Tasborough* did pretend the same thing to *Mr. Dugdale*, and did acknowledge it to the Council, but deny'd that it was true. We shall call our Witnesses, and prove the Fact as it hath been opened.

Mr. Serj. Maynard. We will first prove the Indictments that are recited, and call for the Records of the Convictions.

* *Sir William Scroggs.* * *L. C. J.* Sure they will admit that.

Mr. Serj. Maynard. We must offer our Proof; if they will admit it, so.

L. C. J. What say the Counsel for the Defendants? Do you admit the Indictments and Convictions?

Mr. Pollexfen. My Lord, I cannot tell in this Case; If we should not stand upon it that all the Proofs be given, our Client perhaps will take it ill. I pray therefore the Evidence may be given according to Law.

L. C. J. Well, if you stand upon it, they must prove it. Produce the Records.

Mr. Att. Gen. Give Mr. *Clare* his Oath.

[*Who was sworn.*]

Mr. Serj. Maynard. Put in the Copy, Sir.

[*Which was done.*]

Cl. of the Cr. Come, Sir, is that a true Copy?

Mr. Clare. Yes; I examin'd it.

L. C. J. Where?

Mr. Clare. With Mr. *Adderley*, the Clerk of the Peace of *Middlesex*; and this other with Mr. *Tanner*, Clerk of the Peace for *London*.

Then the Copy of the Record of the Conviction of *Whitebread*, &c. was begun to be read.

L. C. J. Let them see it that are for the Defendants.

Mr. Just. Dolben. Don't read it all; if they have any Exception to it, let them make it: Give it over to them.

Mr. Pollexfen. Ay, my Lord, let us see it. Pray, Sir, you say you examined this, is this a true Copy?

Mr. Clare. Yes, it is.

Then also the Conviction of *Langhorn* in *London*, was read.

Mr. Just. Dolben. That is the Conviction at *Newgate*.

Mr. Just. Pemberton. Well, go on with the rest now.

L. C. J. Go on with the Evidence.

Mr. Just. Pemberton. Who do you begin with? Who do you call first?

Mr. Belwood. Mr. *Dugdale*, my Lord.

[*Who was sworn.*]

Price. Stand nearer me, Mr. *Dugdale*.

Mr. Att. Gen. He stands near enough.

Mr. Serj. Maynard. He will be near enough you by and by, Mrs. *Price*.

L. C. J. Come, Mr. *Dugdale*, What say you against Mrs. *Price* and Mr. *Tasborough*?

Dugdale. My Lord, Mrs. *Price* being an ancient Acquaintance of mine (for she was my Fellow-Servant at my Lord *Aston's*, may it please your Lordship) I coming to Town as a Witness for the King, I did send for Mrs. *Price* as one of my ancient Acquaintance; I think it was in *January* was Twelve-month.

L. C. J. Is she a Papist?

Dugdale. Yes, I think she is so now: We used to go to Mass together in the Country.

L. C. J. She was one, but is she?

Dugdale. I suppose she is one; we had Familiarity together, but never 'till *June* last did she endeavour to take off my Evidence.

L. C. J. When was it she first set upon you?

Dugdale. She began to tamper first the Night before *Harcourt's* Trial.

L. C. J. But she had been before with you in *London*?

Dugdale. Several times: For I sent to her presently after I came to Town; but that was the first time she offer'd to take off my Evidence. And she was then persuading me to be out of the way, and not to give any Evidence against Mr. *Harcourt*, because he was her Ghostly Father.

L. C. J. Who was by?

Dugdale. There was no Body by, but one that was an Acquaintance of mine that heard her.

L. C. J. What is his Name?

Dugdale. *Wright*.

L. C. J. Then you two and *Wright* were together?

Dugdale. Yes, my Lord.

L. C. J. What said you to her when she made that Offer to you?

Dugdale. I told her I could not do it; for that I was to appear the next Day, and was to give my Evidence, or I must be forsworn: In any thing else I told her I would serve her; but that I could not do, because I should forswear my self; and I was sworn next Morning. It continued two or three Days, or a pretty while, before I saw her again.

L. C. J. She was angry for a while with you, was she?

Dugdale. She was afterwards well reconciled to me, and after she desired me that I would speak to your Lordship, on behalf of one Mr. *Parsons*, a Prisoner in the *Gatehouse*, that he might be bail'd out; I told her I would; I know not whether I did or no certainly, I suppose I did speak to some of your Lordship's Servants; I do confess it was not done: But I was to go into the Country, into *Staffordshire*, and just as I was going to take Coach, she sent a Messenger to me to speak with me before I went. I said I could not stay to speak with her that Morning, but I would remember her Business when I came to Town again: I supposed it to be this about Mr. *Parsons*. I went into *Staffordshire*, and continued there about six or seven Weeks; I was there at the Assizes with your Lordship. Now she had been several times at one Mr. *Cross's* (where we usually met) to enquire when I came to Town, and did desire she might know when I came, for she had important Business to communicate to me. I think this might be about the 11th of *September* last, my Lord. When I came to Town, I came to Mr. *Cross's* that very Night, and they told me of this, That Mrs. *Price* had been there several times to request them, that whenever I came she might have Notice. I deny'd it that Night; I am very weary, said I, and therefore would not have her sent for. Within two or three Days after, I came there again, and she was sent for: I cannot tell whether by my Direction, or whether they sent for her of their own accord, they can best testify that; when she came to Mr. *Cross's*, the first thing after Salutation from my Journey, she asked me if I had spoken to your Lordship about Mr. *Parsons*? I told her, No, not as yet; but I would go straight up to your Lordship's House, and speak with you about it.

No

No (said she) you need not now do that, for we have a greater Work in Hand; which Work was this: She told me she was come from a great Person, whom she did not then name, to tell me, that if I would retract my Evidence (this was the short of it, there were more Particulars) and go beyond Seas, I should either be in the D. of York's Court, or I should be supported by him.

L. C. J. Did she name the Duke of York then?

Dugdale. Not the first time; she said she was come from a great Person, but named him not: The second time she named him, when I desired to know who the great Person was.

L. C. J. But what said she the first time, if you would retract, what then?

Dugdale. I was to have a Thousand Pounds paid into a Merchant's Hands, to be secured for me till I came back to give Evidence for them. I was to take the Plot off from the Catholicks, and to lay it wholly upon the Protestants. I was to swear against some Persons, as Mr. *Tasborough* told me; that after I was got on Ship-board, I was to do a great deal of more Service, and come to swear against a great Person, a Person of considerable Note, whom yet they did not name.

L. C. J. But before you depart from what Mrs. *Price* said to you, make an end of her Discourse, when she told you, you should have a Thousand Pounds deposited into what Merchant's Hand you thought fit.

Dugdale. I think not that, but into a Merchant's Hand.

L. C. J. Well, what should you do for it?

Dugdale. I was to retract all my Evidence, and to be no Witness against them; but before I would much encourage this, I went to my Lord that was then President of the Council, my Lord *Shaftsbury*.

L. C. J. Who was by when this Discourse was? was the third Person by, you speak of?

Dugdale. There were others by afterward; but there was no Body but we two together, I think at that time: But I went to that Noble Lord my Lord *Shaftsbury*, and acquainted him and Mr. *Hambden* and Mr. *Charlson* with it: For She threatened, that all the King's Evidence would in a short time be hang'd; and if I would come over to them, it should all be turned upon the Protestants. The Duke had a wife Council, and had contrived it so, that if I would come over to them, there would not be a Papist that should suffer more: but their Religion should be established in half a Year, and all the Witnesses brought to condign Punishment. When I acquainted these Persons I named with this, and communicated it to them, they thought fit I should go on a little with her to trepan her, to see what kind of Plot it was they were designing; and I did give Encouragement; but not so far as to set my Hand to any Paper. But when it did come out, the Contrivance they spoke of did prove Mr. *Dangerfield's* Plot, as appear'd afterwards. So, as I was saying, I did encourage this to Mrs. *Price*, to see what I could get out of her; for I knew their Plots were dangerous and barbarous when I was amongst them; but I never design'd to prosecute them at any Bar, but only to know the Depth of their Contrivance. And these Gentlemen thought it very fit I should have some Evidence to testify for my Innocency, if they should prosecute me: And I did get two

Persons, one Dr. *Chamberlain* and his Clerk, who were to be in a private place to over-hear what was the Communication between us; and when I had placed them, I asked Mrs. *Price*, whether I first began the Tampering or she, she answered she did, and I reckon'd up all the Heads of our former Treaties, though not the Particulars.

L. C. J. When did Mr. *Tasborough* first appear in this matter?

Dugdale. My Lord, he never appeared but twice, and it was about the 12th of *October*, I think, the first time. We appointed to meet at the *Green Lettice*, that was with Mrs. *Price*, for I never saw the Face of Mr. *Tasborough* before that time, and from thence we adjourned to the *Pheasant* in *Fuller's* Rents.

L. C. J. There was the first time you met with Mr. *Tasborough*, you say?

Dugdale. Yes, my Lord.

L. C. J. What Discourse had you with him when you first met him?

Dugdale. My Lord, when we came there, Mr. *Tasborough* was at first pleased to open the Business to me, that Mrs. *Price* had acquainted him that I would come over to them. I sat a good while and said nothing, and when I did speak, I did rather give Encouragement than speak against it.

L. C. J. What did he tell you?

Dugdale. He said, he was brought there to confirm what Mrs. *Price* had promised me.

L. C. J. Did he say so?

Dugdale. Yes, because I would not take it upon her Word alone, but desired to have some other sufficient Person; and she told me, he was an honest sufficient Gentleman, and I might confide in him, and he said, what she had promised, should certainly be made good, and that he came likewise from the Duke of York, as he said, to confirm those Promises had been made me of his Encouragement and Protection.

L. C. J. Did he express particularly of what should be made good?

Dugdale. My Lord, in general.

L. C. J. Did he mention the Money that was to be paid into the Merchant's Hands?

Dugdale. In general Words only, all would be made good.

L. C. J. Then he did not say, the Money, but what had been said to you by her should be made good?

Dugdale. We had some Particulars mentioned, but I cannot positively remember which.

Mr. Attorney General. I desire, my Lord, the Jury may take notice of this, that what she had promised, was, if he would retract his Evidence.

Mr. Just. Dolben. Did he intimate that?

Dugdale. The second time when he came, —

L. C. J. But before you come to the second time, let us make an end of the first: Repeat what he told you, when he came to you. You say, he said I am informed by this Gentlewoman, that you intend to come over to us; what then?

Dugdale. He told me a great many things for my Encouragement; if I did come, that it was a very charitable Act, and it was nothing but what was acted like a Christian; and if I had done amiss, I might have Pardon for it; and he did say, he was encouraged by more than the Duke

Duke of *York*, that had taken my matter into Consideration.

L. C. J. What, was it in general Words?

Dugdale. It was, if I would come over and retract what Evidence I had given. And he said whatever things had been promised me should be sure to be made good. Then my Lord, the second time, we did adjourn till *Tuesday* following; and then we met (as I think) at the *Six Cars* in *Holbourn*, and it was pretty late that time we met; so Mr. *Tasborough* and Mrs. *Price* did tell me it was the last time they were to come.

L. C. J. What, the second time of *Tasborough's* coming?

Dugdale. Yes, my Lord, and they offered me this Note. I had the Note before left with me to consider of it.

L. C. J. Who had given you the Note?

Dugdale. Mrs. *Price* gave me the Note.

L. C. J. Did Mr. *Tasborough* leave you before the Note was given you? For look you, when he told you about retracting your Evidence, and that this is nothing but what you may lawfully do, 'tis a Charitable Act.—

Dugdale. That was the first time, my Lord.

L. C. J. Did he produce the Note then?

Dugdale. He and she together did.

L. C. J. Who was it had it?

Dugdale. Mrs. *Price* had it from me, and produced it before Mr. *Tasborough's* Face.

L. C. J. Did she give it to him to read?

Dugdale. Mr. *Tasborough* did read it, and reading it said, this is nothing but what you may lawfully do; there is no Hurt in it.

L. C. J. And then he went away and left you and Mrs. *Price* together; what became of the Note?

Dugdale. Then Mrs. *Price*, after some Imporunity, left the Note with me, and I delivered it to Dr. *Chamberlain* to copy out. And Mr. *Tasborough* and Mrs. *Price* at the second Meeting told me, that was the last Time of meeting, and if I did not then sign it, it would be much to my Prejudice; and that they should not be able to do any thing for my Advantage, if I did not sign it before the Duke went into *Scotland*. He was then going, and it should be much for my Benefit if I signed it first; but Mr. *Tasborough* said, he could do me no more Service except I did that.

L. C. J. He said, that that was the last time, and if you would do it, it would be for your Advantage.

Dugdale. Yes, my Lord.

L. C. J. What said you then, did they produce the Note again?

Dugdale. My Lord, the Note was delivered to Mrs. *Price*, and she brought it thither for me to sign it, and laid it upon the Table, and pressed me to sign it.

L. C. J. I thought you had said she had given you the Note?

Dugdale. Yes, but I gave it her again before we met the second time.

L. C. J. And who produced it then?

Dugdale. She again the second time. But my Lord, we have missed one thing about Mrs. *Price*. When she was persuading me, she made use of the Duke of *York's* Name, and said, she would go down to *Windsor* to persuade the Duke that I should have my Pardon: Accordingly she did go, as I believe; for she took Coach at *Charing-*

Cross, and, as she said, did go to *Windsor*, and brought me Word back again, that the Duke did not seem to countenance it much, for fear he should be drawn into a *Premunire* himself; and then she told me the Duke did wish her to acquaint the *Spanish* Ambassador with it; and she did go and acquaint him with it, as she told me. I asked her when I should go to speak with the Ambassador about it; she told me that the *Spanish* Ambassador could not speak *English*, and it was not safe to trust an Interpreter that they did not know; and so it was to be deferred a little longer; but she said, that he would protect me, and that all that she said that the Duke had promised for my Reward, and for my safe going beyond Sea, he would be ready to do it; and she told me, that the *Spanish* Ambassador would write Letters into *Flanders*. And so they made use of the Duke of *York's* Name; but I could never find by any thing, nor can say, though they made use of the Duke of *York's* Name, that he did countenance any such thing, or ever knew of it.

L. C. J. How long was this before the Duke went away?

Dugdale. It was about the twelfth or fourteenth of *October*. The Duke went the beginning of *November* from hence.

L. C. J. Sir *Thomas Doleman*, do you know when the King came to Town from *Windsor*?

Sir *Thomas Doleman.* No, I do not know.

Dugdale. It was before the Duke went over into *Flanders* that the King was at *Windsor*. For the King and the Duke of *York* came from *Windsor*, and then the Duke went to *Flanders* again, and then she went, as she said, to *Windsor*, and came home either the Day the Duke came from *Windsor*, or the Day after.

L. C. J. Her Discourse when she went to *Windsor*, was before the Duke went into *Flanders*?

Mr. *Just. Pemberton.* The second Time, you mean.

Dugdale. Yes, my Lord, the second Time. For may it please your Lordship, I do remember now, that the Day when the Duke of *York* came back again from *Flanders*, I think it was the twelfth of *October*, that was the Time that I saw Mr. *Tasborough* first, and that was the Time they produced the Note, and I shall produce some Witnesses to prove that he had Discourse with me then.

L. C. J. I would only know the Time when she told you she went to *Windsor*, to speak with the Duke of *York*?

Dugdale. My Lord, to the best of my Remembrance, and as I think, it was the Day before the King came from *Windsor*, that she went down.

Mr. *Just. Pemberton.* He cannot swear to a Day, 'tis hard to put him to that.

L. C. J. He is not asked to a Day, but we would be at some Certainty about the Time, as near as we can.

Dugdale. My Lord, this I dare positively say, she went down of a *Tuesday*, and that was the Day before the Duke of *York* came from *Windsor*.

Mr. *Just. Pemberton.* He does give us the Time as near as possibly he can.

Mr. *Att. Gen.* Have you a Copy of the Note, Mr. *Dugdale*?

Dugdale. Yes, my Lord, I have.

Mr.

Mr. Serj. Maynard. Now we will prove that Note.

Mr. Att. Gen. For the Note itself, your Lordship observes, Mrs. Price had the Original back again, but your Lordship hears Dr. Chamberlain took a Copy of it, and he will prove it.

Then Dr. Chamberlain was sworn.

L. C. J. Did she shew you the Note at the Time that she went to the Duke to *Windsor*?

Dugdale. The Note was produc'd when the Duke came from *Flanders*, the Day I think he came, and that was in *October*.

L. C. J. When did *Tasborough* and she meet with you?

Dugdale. When the Duke of *York* came back from *Flanders*.

L. C. J. When was that?

Dugdale. My Lord, I think it was the Twelfth of *October*. Mrs. Price had appointed Mr. *Tasborough* to come to confirm what she had said before, which was the Time that I saw him first.

L. C. J. When was that?

Dugdale. The very Day the Duke came from *Flanders*, as I think.

L. C. J. Well then, she talked to you of the Duke of *York*, and going to *Windsor*, before ever you saw *Tasborough*.

Dugdale. Yes, my Lord.

Mr. Just. Pemberton. And so his Evidence was.

L. C. J. So then here is the Matter, that the Jury may understand the Evidence: She solicited him the first Day before *Harcourt's* Trial: Then the next was three or four Days after the Trial; and then she endeavoured to persuade you to retract your Evidence, and go beyond Sea.

Mr. Just. Pemberton. No, my Lord, that was only to get the Man bailed that was in the *Gate-House*.

L. C. J. Did she not the second Time propose that?

Dugdale. No, my Lord, not till I came forth out of the Country again.

L. C. J. Then you went into the Country before the great Matter was spoken to?

Dugdale. Yes, my Lord.

L. C. J. And then she left word at the House, that she might know when you came, and when she met with you, she began to tamper with you, and said you should have 1000*l.* paid into some Merchant's Hand, and be well look'd upon, and after that she said she would go down to the Duke to *Windsor*.

Mr. Just. Pemberton. But at that Time she told him, he should have a Place in the Duke's Court.

L. C. J. Did she produce the Note the first Time you saw *Tasborough*?

Dugdale. Yes, my Lord, the Note was produced the first Time.

L. C. J. And *Tasborough* read it?

Dugdale. Yes, he read it.

L. C. J. And said you might lawfully do it?

Dugdale. Yes, my Lord.

L. C. J. When was the second Time?

Dugdale. It was within a few Days after, about two or three Days.

L. C. J. You are not asked to a Day, was the Note produced a second Time?

Dugdale. Yes.

L. C. J. And then he was upon the same Matter still, when you swear the Note was produc'd the second Time?

Dugdale. Yes, my Lord.

L. C. J. And then he said, this is the last Time we must offer it to you, if you do not do it now, I can do you no good.

Dugdale. Yes, my Lord.

L. C. J. But her Discourse was before all this, that she would go down to *Windsor* and get your Pardon?

Dugdale. Yes, my Lord.

Mr. Just. Jones. Before your Acquaintance with *Tasborough*?

Dugdale. Yes, before ever I saw him.

Mr. Just. Pemberton. *Tasborough* was to confirm it.

Dugdale. Yes, for I made some Scruples about it, for they said before the Duke would believe me real, I must subscribe the Note, which I would not do without further Assurance. She promised a Perion of good Sufficiency and Quality should engage for the Performance, and one Mr. *Perkins*, as she said, was to be sent for, and was sent for out of the Country, and 3*l.* 10*s.* expended in sending for him. And I said to Mrs. Price when 1000*l.* was proposed, Lord in Heaven! that is too much Money, 100*l.* is enough to serve me; said she, We must have a care how we manage this Matter; for she told me the Duke of *York* stood upon a tickle Point, and if it should be known the Duke tampered with the King's Witnesses, it would ruin him; but she said 1000*l.* was prepared for me, if I would go beyond Sea into *Flanders*, where I should be maintained and protected. But I objected my Fear of the Inquisition in *Spain*, which I knew to be so cruel a thing, therefore I would not go beyond Sea. Then she asked me if I would be contented with the Protection of a Protestant Earl's House?

L. C. J. Did she tell you his Name?

Dugdale. She asked me if I could not be content to be in a Protestant Earl's House, and not go beyond Sea? but she named no body.

L. C. J. When you said you were unwilling to go beyond Sea, for fear of the Inquisition, she offered you the Protection of a Protestant Earl's House, and you desired to know who it was, but she named no body?

Mr. Just. Pemberton. And you say when Mr. *Tasborough* came to you, he told you, if you would retract your Evidence, all the Promises that had been made you by her should be made good?

Dugdale. Yes, my Lord, and without I would sign the Note, the Duke and the rest of the Gentlemen could not be serviceable to me.

Mr. Just. Pemberton. And he pressed you to do it before the Duke went into *Scotland*?

Dugdale. Yes, my Lord.

Mr. Belwood. Pray, Mr. *Dugdale*, what Discourse was between you and Mr. *Tasborough* concerning the Trial of Sir *George Wakeman*?

Dugdale. The last Time, the second Time we were together —

L. C. J. Then you were but twice with *Tasborough*?

Dugdale. No, my Lord, but that second Time, You may see, says he, what a Progress hath been made

made by the acquitting of Sir *George Wakeman*, even that the Protestants themselves are at a Stand about their Belief, whether there be a Plot or no, and if you come over to us, it will overthrow all.

L. C. J. Had he any Discourse with you about the *Spanish* Ambassador?

Dugdale. My Lord, I can't tell whether he had or no, she had.

L. C. J. Did she say he would undertake the making good of the Promises?

Dugdale. Said I, Mrs. *Price*, suppose I should come over to you, what would it advantage you? There is Mr. *Oates*, and Mr. *Bedlow*, and Mr. *Praunce*, when I am gone. Said she, Hang them Rogues, so as we do but get you over, we do not care, we can quickly do their Business.

Mr. Sol. Gen. And he said, this I observe by the way, That if he came over, all the King's Evidence should be hang'd, and the Plot turn'd upon the Protestants.

Mr. Just. Pemberton. Yes, he did say so, that he was told by the Gentlewoman, if he would come over, the Plot should be turn'd upon the Protestants, and the King's Evidence be hang'd.

Mr. Scroggs. Mr. *Tasborough* did not say so.

Mr. Att. Gen. Is this a true Copy of the Note?

Mr. Just. Pemberton. But Mr. *Tasborough* persuaded him to sign the Note, and *Tasborough* did say it was a good Act, and confirmed and assured him, that all should be made good to him that she had promised, and desired him to do it before the Duke went, that he might be the abler to serve him with the Duke.

Mr. Att. Gen. Mr. *Dugdale*, is this a true Copy of the Note?

Dugdale. I have read it so often, that I do believe it is a true Copy: And here is the Doctor and his Clerk, who will swear it was a true Copy, examined with the Note.

Mr. Att. Gen. Swear Dr. *Chamberlain* and *Cleave*. [Which was done.] With what did you examine that Copy?

Cleave. By the Paper given me by Dr. *Chamberlain*.

Chamberlain. My Lord, I received the Paper from Mr. *Dugdale*, my Lord, and gave him Order to transcribe it.

L. C. J. And that is a true Copy of the Paper you had from Dr. *Chamberlain*?

Cleave. Yes, my Lord, it is.

L. C. J. Mr. *Dugdale*, did you deliver that very Note that Mrs. *Price* delivered to you, to Dr. *Chamberlain*?

Dugdale. Yes, I did, and received it back again from him.

L. C. J. And you copied it out from that Note Dr. *Chamberlain* had?

Cleave. Yes, I did.

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

Cleave. *Cleave*.

L. C. J. Read the Note. [Which was read as in the Indictment.]

Mr. Just. Pemberton. Was this a Copy of the Note delivered to you, that you were to sign?

Dugdale. Yes, my Lord, it is a true Copy: And if I may not be too troublesome, there is one thing more which comes into my Mind that passed betwixt Mrs. *Price* and me: She was instructing me how I should be convey'd beyond Sea, and she mention'd the way of the *Pacquet-*

Boat that comes from *Dover*, and goes every *Tuesday* or *Wednesday*. I made a Shew as if I was willing to do it, but the next Time she came, said she, We have thought it not to be so safe as to go in a Merchant-ship, which was the way we sent all our Priests over.

L. C. J. When was this?

Dugdale. My Lord, it was before the Duke came home the second Time, it was while he was in *Flanders*. And being desirous to know, I pressed her to tell me what became of Mr. *Ewers*, my ghostly Father in the Country: It was a long Time ere she would tell me; but at last she told me that he was convey'd over in those Yachts that carry'd the D. of *York* the first time over into *Flanders*.

Mr. Att. Gen. Then swear *Wright*. [Which was done.] Mr. *Dugdale*, is this the Man that you mention'd concerning the Discourse about *Harcourt*?

Dugdale. He hearken'd, as he told me afterwards, but I did not then know it.

L. C. J. Well, what say you, were you present at any Discourse between Mr. *Dugdale* and Mrs. *Price*, before *Harcourt's* Trial?

Wright. My Lord, I was walking to and fro in the Room: Mrs. *Price*, that Gentlewoman, was talking with Mr. *Dugdale* at the Window, and I was very inquisitive, I did think it was upon the Account of Marriage, or some such Business, and so hearkening, I did hear her say, That Father *Harcourt* had been very kind to her, and that she had visited him before he went to Execution, and he bid her not be troubled, he dy'd in a good Cause; and upon this Account I asked Mr. *Dugdale* afterwards what her Design was, and he said it was to withdraw his Evidence.

L. C. J. How often were you in the Company of Mrs. *Price* and Mr. *Dugdale*? never but that one Time?

Wright. Yes, a dozen times, I believe, I have been with them.

L. C. J. When was the first Time that you heard them talk concerning *Harcourt*? they were always very private, were they not?

Wright. Yes.

L. C. J. Well, what did you hear the first Time?

Wright. It was at the *Horseshoe* Tavern in *Chancery-Lane*; and then the great Matter that she did desire of him was, to be kind to *Harcourt*, for he had been her Confessor: But afterwards I remember, when he was condemned, she said she had been with him, and he had bid her be of good Cheer, for he dy'd in a good Cause.

L. C. J. Was this the Time that you were at the *Horseshoe* Tavern?

Wright. The first Time I heard no Discourse of *Harcourt* then.

L. C. J. When was this? And what said she when she spoke of Father *Harcourt* the first Time?

Wright. It was to desire him to be kind to Father *Harcourt*, because he was her Confessor. They spoke so softly I could hardly hear them.

L. C. J. Well, how do you know then?

Wright. I asked him when he came out, what it was, and he said it was to take off his Evidence against *Harcourt*; and afterwards she said she had been to visit him.

L. C. J. What more did she say at that Time?

Wright. I could not hear any more, my Lord.

L. C. J. Then all that you did hear was, She said to him, pray be kind to Mr. *Harcourt*, for he is my Confessor; and to that Effect was all their Whispering that you heard?

Wright. That is all I did hear her say at that Time.

Mr. Just. Pemberton. But what did you hear Mr. *Dugdale* say at that Time?

Wright. He said it was upon the Account of taking off his Evidence.

L. C. J. Well, what did you hear her say afterwards?

Wright. After she was saying she had been with him.

L. C. J. How long after?

Wright. I do not know, I cannot say to the Time, for I never minded it, they sent for me sometimes at their Pleasure; but she said she had been to visit Father *Harcourt*, who took her in his Arms and said, Do not cry for me, for I die in a good Cause; and this I told Mr. *Dugdale* of again: And she did further say, If the King should command me to be burnt at a Stake, I would do it, and so would any of the Party. Then said Mr. *Dugdale*, while you give these kind Expressions, yet you would cut off his Head if you could: Said she, you are a Rogue, and I am satisfied.

L. C. J. What, was it before the time that she said, pray be kind to *Harcourt*?

Mr. Serj. Maynard. We call this Witness only in Confirmation of *Dugdale's* Testimony.

L. C. J. But Brother, here is the matter: He says at the time that she told *Dugdale* he was a Rogue, and she was satisfied; afterwards she came to tamper with him to do *Harcourt* a Kindness.

Wright. She said many times, there were not four greater Rogues between this and Hell Gate, than the King's Evidence.

L. C. J. What, was it before she talk'd of *Harcourt*?

Wright. Yes, a great while.

L. C. J. That is the thing, that she should say he was a great Rogue, and yet afterwards tamper with him.

Mr. Serj. Maynard. There was some Love betwixt them, and they did keep Company together.

Mr. Sol. Gen. This is before she began to tamper with Mr. *Dugdale*; but that we call this Witness to prove is, that she did afterwards tamper with him, as Mr. *Dugdale* tells you.

L. C. J. And the thing I say is, Wou'd she go to tamper with one she had that Opinion of? 'Tis not impossible to be so, but it is not likely.

Mr. Sol. Gen. It is not impossible nor improbable at all, with submission; who should she tamper with but a Rogue, or one that she thought would be so?

Mr. Just. Pemberton. She thought as all the other Catholicks did, and did desire to withdraw him from his Evidence against them.

Mr. Just. Dolben. And notwithstanding that she called him Rogue; yet still the Witness says, he thought there was matter of Love between them.

Mr. Att. Gen. Then we will call you *Cross*, the Man of the Tavern.

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Mr. Just. Pemberton. It was about a matter that concerned the whole Catholick Party, and if you ask them they will call them all Rogues: But afterwards they will begin to tamper one with one, and another with another.

Mr. Serj. Maynard. And they take the same method with every one of them.

Mr. Just. Jones. But this is that that is said in confirmation of *Dugdale's* Evidence, that *Dugdale* did immediately after tell him, that her Business was to get him to retract his Evidence.

Mr. Just. Pemberton. And he overheard so much, that she desired of him to be kind to *Harcourt*, who was her ghostly Father.

Mr. Sol. Gen. Now, my Lord, as we have produced one Witness to confirm one part of Mr. *Dugdale's* Evidence; now we shall produce another Witness to prove the subsequent Discourses, and her Persuasion of him to retract and to sign the Note. And for that we call Dr. *Chamberlain*.

Mr. Att. Gen. We will call *Cross* first to prove the meetings at the Tavern, he is the Man of the Tavern. [Who was sworn.]

L. C. J. Come ask your Question now?

Mr. Belwood. Pray what can you say concerning Mrs. *Price's* Discourses with Mr. *Dugdale*?

L. C. J. Do you know Mrs. *Price* here?

Cross. Yes, I do know her very well.

L. C. J. What say you then to her?

Cross. I never heard any Discourse from them but what was common.

Mr. Just. Dolben. But they have been often there only them two, have they not?

Mr. Just. Pemberton. Did she ever come to your Houie?

Cross. She hath been there several times.

Mr. Att. Gen. I would ask you this Question; Sir, Whether she used not to come there and send for Mr. *Dugdale*, when he hath not been there?

Cross. Yes, she hath been there often to enquire for him.

Mr. Att. Gen. What, frequently?

Cross. Yes, a great many times.

Mr. Att. Gen. About what time of the Year?

Cross. Last Summer, in *June*, *July*, and several Months.

L. C. J. What say you 'to *September* and *October*?

Cross. I can't say the particular Months; but she hath been there, and desired me to send for Mr. *Dugdale*, for she had earnest Business with him.

Mr. Att. Gen. Was it presently after he came to Town?

Cross. My Lord, she sent for him before he went out of Town, and after he came to Town; before he went to the Assizes, and since he came from the Assizes.

Mr. Att. Gen. Pray did you ever hear them speak about a Priest, one *Parsons*?

Cross. I have heard somewhat about Mr. *Parsons*, that Mrs. *Price* did speak to Mr. *Dugdale*, that he should not proceed further against him than he had done.

L. C. J. Did you hear her talk about *Harcourt*?

Cross. Yes, I have heard her speak something, but I do not know the Particulars of it.

L. C. J. But you have heard her name *Harcourt's* Name?

Crofs. Yes, I have.

L. C. J. You do not pretend this Man was by at the Agreement?

Mr. Att. Gen. No, we do not: But only to prove they had frequent Discourses together, and that she sent for him often about Business.

L. C. J. And 'tis to the same Purpose that the other was called for, only in Confirmation.

Mr. Sanders. My Lord, we pray he may be asked, Whether *Mr. Dugdale* did not sometimes send for *Mrs. Price*?

Crofs. Not upon his own Account, as I know of; for I have told you she hath been there, and left word she must needs speak with him, and when he hath come she hath been sent for.

Mr. Sanders. Do you know she hath been sent for at any other time?

Crofs. Not that I know of: But when he was in the Country, she came to our House, and desired that whenever he came to Town she might speak with him about earnest Business, and she was sent for.

Mr. Scroggs. But he does not say any thing of *Mr. Tasborough*.

L. C. J. No; he came only to the *Pheasant*, and that other Place.

Mr. Att. Gen. Now, my Lord, if your Lordship please, *Mr. Dugdale* did mention a matter that some Persons were by Direction to stand by and hear their Discourse; we have these Persons here, who will tell you how it was, *Dr. Chamberlain* and his Clerk.

Dr. Chamberlain. My Lord, some time in *September*, *Mr. Dugdale* acquainted me, that there was a Design to draw him off from his Evidence, and he told me that the Duke of *York* was named in it. I said, if it were so, it were a thing of great moment, and if it could be confirmed it were well. He told me, if I would come to his Chamber some Morning, *Mrs. Price* should be there, and I should hear the Discourse; and accordingly I did come the 22d or 23d of *September*, and was there about an hour, and went into the Closet with my Clerk, and bid *Mr. Dugdale* speak with an indifferent Voice, to see if I could hear what they said. He did so, and we did hear him. At length *Mrs. Price* came; the Gentlewoman I had never seen, but he called her by that Name, and she answered to it. They had several Discourses, I could not overhear all, but the Sum was, that the *Spanish* Ambassador was unwilling to treat with him, because it was dangerous, and he must make use of an Interpreter, and that the Duke of *York* would protect him, pardon him, and give him a thousand Pound to maintain him: You know, says he, *Mrs. Price*, that I began not this Intrigue with you, but you proposed it to me. She owned it, that she had proposed it to him.

L. C. J. Now how can you tell this is the Gentlewoman?

Dr. Chamberlain. Nay, I don't know that, my Lord.

Mr. Att. Gen. We don't pretend that, but will prove it by another Witness by and by.

Dr. Chamberlain. It was about the 22d or 23d of *September*, a *Monday* Morning, as I remember.

Mr. Just. Jones. Was *Tasborough* there?

Dr. Chamberlain. No, my Lord, none but them two.

L. C. J. Well, go on, Sir.

Dr. Chamberlain. She did press *Mr. Dugdale* very much to go with her to the *Gatehouse*, he would willingly have excused it, but she pressed him so earnestly, telling him she would not go without him, that they went together, and he came up afterwards to me, where I had staid all the time.

L. C. J. Did you hear her say any thing what she would have him do for that thousand Pound?

Dr. Chamberlain. I cannot tell truly any thing, but only to be gone.

Mr. Just. Pemberton. You could hear that?

Dr. Chamberlain. Yes, my Lord, I did.

L. C. J. Whither?

Dr. Chamberlain. Nay, I don't remember that.

Mr. Serj. Maynard. This was before the Note, my Lord.

Dr. Chamberlain. Yes, my Lord, for that was brought me afterwards.

Mr. Recorder. Call the other Witness, *Cleave*.

L. C. J. How long was this before *Harcourt's* Trial?

Dr. Chamberlain. I don't know that, my Lord, it was in *September*.

Mr. Just. Pemberton. But the Trial was long before that, soon after *Trinity-Term*.

Mr. Sol. Gen. Pray, what did *Mr. Dugdale* say to her when she pressed him to be gone, did he not make any Objection?

Dr. Chamberlain. Possibly he might, I did not hear all that was said.

Cleave. I was there the 22d of *September*.

L. C. J. In the Closet with *Dr. Chamberlain*?

Cleave. Yes, my Lord.

L. C. J. Had you ever seen *Mrs. Price*?

Cleave. No, never in my Life that I know of.

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

Cleave. Before that *Mrs. Price* came, we shut up ourselves in the Closet, and desired *Mr. Dugdale* to make a feigned Discourse to see whether we could hear him, and he did so, and we heard indifferently well. We bid him to speak a little loud that we might be sure to hear him. We staid there almost half an Hour before she came. Afterwards she came up, and *Mr. Dugdale* saluted her by the Name of *Mrs. Price*, to which she answer'd. He ask'd her, When shall I go to the *Spanish* Ambassador's? [This I heard distinctly; for I could see her Body but not her Face, she stood with her Back to the Door.] 'Tis not convenient at present, said she, to go; for his Interpreter is out of Town. Then *Mrs. Price* was saying, If so be you will come over to the Church of *Rome*, and take off your Evidence, you shall have 1000 *l.* secured to you: But how, said he? Said she, I will bring to you in a Week's Time a Person of Quality that shall secure and confirm it to you.

Dr. Chamberlain. That I heard too.

Cleave. That will be well, said *Mr. Dugdale*; I had rather do that way than any other. Said she, you shall have the Duke of *York's* Protection, and a Pardon not only for your Body, but for your Soul.

Mr. Serj. Maynard. A large Proffer!

Cleave. And afterwards said he, If I should come over again to the Church, what signifies my going out of the way, when there is *Dr. Oates* and others to go on with the Evidence? Said she, We do not care so much for them, for the Duke's Eye is only upon you.

Mr.

Mr. Just. Pemberton. Did you hear that, Dr. Chamberlain?

Dr. Chamberlain. No, my Lord; the Duke was named indeed, but I do not remember that Particular. And she several times desired him to speak softly; and then Mr. Dugdale was so honest, that he repeated it over again, that if we had not heard him before, we might understand him.

L. C. J. Now prove this Gentlewoman to be the Person.

Cleave. She afterwards pressed him to go with her to the Gatehouse, which he seemed unwilling to do, but went; and we have a Man here that stood below the Stairs, that saw her come in and go out.

Mr. Serj. Maynard. Call Holmes, [Who was sworn.] What can you say about this Mrs. Price?

L. C. J. Do you know Mrs. Price?

Holmes. Yes, That is the Woman.

Mr. Belwood. Did you see her at Dr. Chamberlain's?

Holmes. I saw her at Mr. Dugdale's that Morning that my Master was there.

L. C. J. What Time do you speak of?

Holmes. The 22d of September I went along with my Master.

L. C. J. Who is your Master?

Holmes. Dr. Chamberlain?

L. C. J. What Day of the Week was it?

Holmes. On a Monday Morning between 8 and 9 o'clock.

Mr. Just. Dolben. That is the same time you speak of, is it not?

Chamberlain, } Yes, my Lord, he went along
and *Cleave,* } with us.

Holmes. This is the Woman that came down with Mr. Dugdale; I took great notice of her, and know her very well again: There were some Words spoke in the Shop, but I don't know what they were.

L. C. J. Dr. Chamberlain, she went out of the Chamber with him, did she not?

Chamberlain. Yes, my Lord, she did.

L. C. J. How often have you seen her?

Holmes. I saw her go into the House, come out with Mr. Dugdale to go to the Gatehouse, and when they came back again from Westminster, from the Gatehouse.

L. C. J. How often have you seen her besides? You took notice of her when she came down stairs, and when she came back again?

Holmes. Yes.

L. C. J. And this is the Woman, upon your Oath?

Holmes. Yes, upon my Oath.

Mr. Just. Pemberton. She came down with Dugdale, and would have him go along with her to the Gatehouse.

Mr. Att. Gen. My Lord, we say that Mr. Dugdale did acquaint Mr. Hambden, and Mr. Charlton, and my Lord of Shaftsbury with the Business; we desire Mr. Hambden and Mr. Charlton may be called, who promised to be here.

[But they appeared not.]

Mr. Att. Gen. Then, my Lord, here are the Clerks of the Council, they will all give your Lordship an account, that this Woman and the Gentleman did acknowledge this matter before the Council, and there did deny what they had sworn at first.

L. C. J. Who do you see first?

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Mr. Att. Gen. Sir Robert Southwell.

[Which was done.]

L. C. J. Come, Sir Robert, what do you know?

Sir Robert Southwell. My Lord, she, this Gentlewoman, Mrs. Price, was about the 23d of October examined before the Council, and being examined, we were commanded to take Notes, the several Clerks of the Council, and we did take Notes, which were long, and, my Lord, I must refer to those Notes.

Mr. Just. Pemberton. Have you those Notes?

Sir R. Southwell. Yes. 'Tis hard for me to give my Evidence, unless some particular Question be asked me, because they are very long.

Mr. Att. Gen. Then I ask you, Sir, this particular Question, Whether that Gentlewoman did acknowledge the Paper she is charg'd with?

Sir R. Southwell. My Lord, I do remember Mrs. Price, when she was asked who it was that framed the Paper for her (because it seemed to the Lords as if it had been a thing so very well framed that it was beyond a Woman's Capacity to do it) Mrs. Price said, that she studied it herself, and indited it herself, and one Mrs. Man, as I think, writ it out for her; but she took it upon herself that she had studied it (that particular Word) and contrived it.

Mr. Att. Gen. What did Mr. Tasborough say?

Sir R. Southwell. My Lord, I do also remember that Mr. Tasborough was cited before the Council-Board; and being asked about this Paper—

L. C. J. Was it shewn him?

Sir R. Southwell. I verily believe it was; it was read to him. Mr. Tasborough did speak very cautiously, and as prudently as he could in the matter: He did not positively say he had pressed Mr. Dugdale to sign it; but did tell Mr. Dugdale, That unless he did sign it, he could not proceed to get him any Favour, for that was to be the Foundation to testify that he was a Man of that Sorrow that he had expressed himself to Mrs. Price.

L. C. J. Did he own that to Mr. Dugdale?

Sir R. Southwell. Yes; and he added, my Lord, further (to do him justice in all he said) in case Mr. Dugdale had sign'd the Paper, he would presently have carried it before a Magistrate.

Mr. Att. Gen. I think we need not trouble your Lordship any further at present; we leave it here till we hear what they say.

Mr. Sanders. May it please your Lordship, and you Gentlemen of the Jury, I am of Counsel for Mrs. Price, that is one of the Defendants in this Indictment; which, as hath been opened, does set forth, That she did contrive to suborn the King's Evidence before the Trials of those Persons, and to suppress it; and afterwards to retract the Evidence given, and go off from what before he had sworn, to disparage the Justice of the Realm, and to make it be believed, that those Persons who were condemned and executed for this Conspiracy were innocent, and had wrong done them by him. Now for that matter, that which we have to offer for her is this: Mr. Dugdale and Mrs. Price were Fellow-servants in my Lord Aston's Family, and there they did contract a more than ordinary Familiarity; for in truth they did contract a Marriage, and Mr. Dugdale did promise her Marriage; but afterwards Mr. Dugdale having some other De-

sign, did desert her, and she came to *London* and lived here; but afterwards when he came up to *London*, he thought fit to renew his Suit, and did not only send for her when he first came to *London*; but we have it in Proof, that from time to time he had continually sent for her, and would not be quiet without her; and when she denied to come upon his sending in his own Name, he sent in another Woman's Name, whom he knew to be an Acquaintance of her's: And thus there continued all along a great Intimacy between them, insomuch that several Persons, and among them one of the King's Witnesses did observe they were speaking about marrying, and did think they did intend to be married in a short time; my Lord, what Discourse might pass between them I don't know; for ought I perceive she is prov'd to be a Papist, and 'tis very like she would solicit one with whom she had that Familiarity, for those of her own Party as much as she could; but as far as I perceive by this Evidence that hath been given, he under colour of Kindness, and pretence that he would marry her, and sending for her from time to time, at last to rid his Hands of her, hath put this upon her, That she should solicit to suborn him against his Conscience to withdraw his Evidence. She is a kind of weak Solicitrix for matter of Judgment and Reason; I know not what other Prevalency she might have with him by any other thing, but for Judgment I think——

L. C. J. If she penn'd that herself, as she did acknowledge and avow she did, she was a Woman of good Judgment certainly.

Mr. Sanders. I perceive he was of good Judgment, to get rid of one he was weary of, by this means.

Mr. Just. Pemberton. Alas! Alas! This is such a Design indeed of counterproving the King's Evidence.

Mr. Sanders. Mr. *Dugdale* hath sworn, That this was her Intrigue, and she first began with him: If Mrs. *Price* be admitted to swear, who is the Defendant, as well as Mr. *Dugdale*, who is the Prosecutor, she would tell you that Mr. *Dugdale* did contrive this matter himself.

Mr. Just. Pemberton. She would destroy his Evidence that way, that's very well.

Mr. Just. Dolben. Dr. *Chamberlain* and his Clerk both swear, That he told her, *You know it was not I begun this Intrigue, but you.*

Mr. Sanders. And if she had had but so much Wit to have planted Witnesses to have taken Advantage of his Words, she had counter-worked him.

Mr. Just. Pemberton. They will learn such ways soon enough of themselves, you need not teach them.

Mr. Sanders. If you please we will go on with our Evidence, and call Witnesses to prove, that Mr. *Dugdale* had contracted himself to her in Marriage; and this is a very unkind ill thing in him to serve us thus.

Mr. Just. Pemberton. Mr. *Sanders*, you ought to remember, *Publica privatis, &c.* A Man should prefer the publick Good and Safety of the Nation before such a Mistress as this is.

Mr. Just. Dolben. But hitherto the Proof runs, that she sought him, and not he her.

Mr. Sanders. But they were contracted first.

Mr. Just. Dolben. And you hear what the Master of the *Horsehoe* says about her leaving Messages for him.

Mr. Just. Pemberton. He hath very good reason why he should not marry her, for what I can perceive.

L. C. J. 'Tis much they should be contracted, when she told him he was a great Rogue.

Mr. Sanders. It may be she might, I know not what cause he hath now to be displeas'd with her; but it may be she might be displeas'd with him then. But I beseech your Lordship and the Jury to observe, that tho' she did tell him he was a Rogue, yet it was afterwards that she did solicit and suborn him.

Mr. Just. Pemberton. And therefore she thought plainly he was fitter for her purpose, because she took him for a Rogue.

Mr. Sanders. But if she had a Purpose to suborn him, she would not call him Rogue to his Face; that was not the way to insinuate into him. I desire Sir *John Nicholas* may be sworn.

[Which was done.]

L. C. J. What Questions do you ask Sir *John*?

Mr. Sanders. I desire, my Lord, Sir *John* would tell us, whether Mr. *Dugdale* in his hearing did not own he was contracted to Mrs. *Price*?

Sir *John Nicholas.* No, truly sir, that I know of.

Mr. Sanders. Pray Sir, will you please to recollect it; it was when Mr. *Dugdale* was before the Council.

Sir *John Nicholas.* Mr. *Dugdale* did then own some Proposals of Marriage, but nothing of a Contract.

L. C. J. 'Tis your Women-witnesses are like to do that.

Mr. Sanders. That is all, Sir, you remember?

Sir *John Nicholas.* Yes.

Mr. Just. Pemberton. Have you put the best foot forwards, Mr. *Sanders*?

Mr. Sanders. Which is *Mary Benwell*? Swear *Mary Benwell.* [Which was done.] We will now prove he sent for us several times; we did not go after him so much. What do you know concerning Mr. *Dugdale's* sending for Mrs. *Price*?

Benwell. He sent for her to my House several times.

L. C. J. Did he lie at your House?

Benwell. No, my Lord, he did not.

L. C. J. Where is your House?

Benwell. In *Brownlow-street.*

L. C. J. What, is it a publick House?

Benwell. It is an Alehouse, the *Green-Lettice.*

Mr. Just. Dolben. He told you so himself, that he did meet her at the *Green-Lettice.*

L. C. J. What was their Discourse when they met?

Benwell. I know nothing of that, I did not hear him say any thing; but only he would come in and say, Let your Boy go for Mrs. *Price.*

L. C. J. When was this?

Benwell. The last time was *Sunday* Seven-night before she was taken.

* *Mr. Recorder.* She always came ^{to} Sir *George Jfferies.* when she was sent for?

Benwell. Yes, if she was within.

Mr. Sanders. How often did he send for her?

Benwell. Above 20 times.

L. C. J. What great Inference can you make from that? methinks 'tis as much against you as it is for you; for it proves there was a great Familiarity and frequent Meetings between them; and

and if it be so, it shews as if she had that great Confidence in him, as to attempt upon, and attack him in this affair.

Mr. Just. Pemberton. Indeed, *Mr. Sanders*, if you would have proved an Inducement to *Mr. Dugdale's* Evidence, you could not have prov'd it better, that she had great Confidence in him; she had an Opinion, and reckon'd he was sure to her, and so had a greater Influence over him than another.

Mr. Just. Jones. He sent for her to the *Green-Lattice*, she sent for him to the *Horseshoe*; the Master of the House sweareth that she sent for him 20 times, so they might send for one another 20 times a-piece.

Mr. Just. Dolben. And he never came to seek for her but when she had been there, and left word for him before.

Mr. Sanders. Now, my Lord, if you please, we will go on to prove, That when she refused to come, he sent for her in another Body's Name.

L. C. J. What will that do? Or what does that prove?

Mr. Sanders. It is not probable then that she should solicit him: And just at the last here are some Witnesses planted, and some Words are taken from her mouth, that it was her Intrigue all along.

Mr. Just. Pemberton. *Mr. Sanders*, You do not shew the Time when those frequent sendings and comings were.

L. C. J. It shews that which they have prov'd, that she believed he was fond of her, and she was confident of him.

Mr. Just. Jones. I suppose *Mr. Sanders* means, and does drive at this, to shew that it was to drive on the Intrigue on his part that these frequent Messages were sent.

Then another Woman Witness was called and sworn.

Witness. My Lord, at the time that the Proclamation was for the banishing of all Papists out of Town, she came to me and said, If *Mr. Dugdale* come to ask for me don't offer to tell him where I am.

L. C. J. When was this?

Witness. Long before *Easter-Term*, before the Papists were banished out of Town.

Mr. Just. Pemberton. } This was another part
and *Mr. Just. Jones.* } of the Intrigue.

Witness. So *Mr. Dugdale* came to me, and ask'd me where *Mrs. Price* was? I told him I could not tell; but if you have any Letters I will convey them by a Messenger or some Footboy to her.

Mr. Just. Jones. Did he send for her at any time in *September*?

Witness. The last time he sent for her was the *Sunday* was se'nnight before she was taken.

L. C. J. Did he frequently send for her a month or six weeks before that?

Witness. Yes, several times.

Mr. Sanders. Then swear *Bridget Lee*.

[Which was done.]

Mr. Sanders. Pray, *Mistress*, you that spoke last, did *Mrs. Price* ever deny herself to him, but that once when she left that word with you?

Witness. Never to me, my Lord, but that time.

Mr. Sanders. *Bridget Lee*, Pray tell my Lord,

Whether *Mrs. Price* did deny herself, and the way he used to get her to him.

Lee. *Mr. Dugdale* came into this Gentlewoman's House, and coming into the House I was in the Passage; he asked me, Sweetheart, let me speak with you; he desired me to tell him where *Mrs. Price* was; I told him I could not tell: I wish, said he, you would fetch her to me; no, said I, I would not do it for 5 s. He clapp'd his Hand in his Pocket, and said he, I will give you 5 s. No, said I, I will not do it if you would give me 5 l. *Let every Tub stand upon its own Bottom.*

L. C. J. What did you mean by those Words, *Let every Tub stand upon its own Bottom*?

Lee. I would not meddle nor make with any thing but my own Concerns.

L. C. J. How long was this before the Trial of *Harcourt*?

Lee. A Quarter of a Year before that.

L. C. J. It was before he went out of Town, the Circuit.

Lee. Yes, my Lord, so it was.

Mr. Just. Pemberton. There had been no tampering then, this was before the tampering.

L. C. J. It is no matter when the tampering was, but when *Mr. Dugdale* sent for her, and she refused.

Mr. Sanders. I wonder what they did together all the time before, if they were not tampering.

L. C. J. They made Love together.

Mr. Sanders. What was the occasion that she refused?

Witness. I understand that *Mr. Dugdale* did find I was fearful of myself; you may venture, said he, for I would not do her the least wrong, nor the least Hair of her Head should not perish.

L. C. J. This was long before he went into the Country?

Witness. Yes, my Lord.

L. C. J. Before the tampering?

Witness. Yes, my Lord.

Mr. Sanders. Where is that other Witness, *Mrs. Holland*? [Who was sworn.] What do you know of *Mr. Dugdale's* sending for *Mrs. Price*? I would know the last Time, and where it was.

Holland. My Lord, I do not know what Place it was he sent for her to, nor the last Time, but it was since *Christmas*.

L. C. J. Since *Christmas*?

Holland. No, before *Christmas*, but I do not remember the Day.

L. C. J. How do you know that he sent for her?

Holland. I was told by the People so, That a Messenger was come from him for her.

L. C. J. You did not see him.

Holland. No, I did not.

L. C. J. She says nothing to the purpose.

Holland. I know *Mr. Dugdale* was in her Company one *Sunday* last *Levi*, and was there two Hours.

Mr. Just. Jones. 'Tis agreed of all sides they were Acquaintance, and had great Familiarity.

Mr. Just. Pemberton. Ay, or she would never have had the Confidence to have attempted upon him in this manner.

L. C. J. Well, have you any more?

Mr. Sanders. Here is one more, that is *Mrs. Sheldon*.

L. C. J. What do you call her for?

Mr.

Mr. Sanders. To prove that there was a Note left to warn her to avoid *Mr. Dugdale's* Company.

Mr. Just. Pemberton. Why did you not?

Mr. Sanders. It had been better for us if we had.

L. C. J. When was that Note?

Mr. Sanders. Lately.

L. C. J. That will do no good.

Mr. Just. Pemberton. Come, call her however; they will say their Witnesses were not heard else. [*And she was called, but did not appear.*]

L. C. J. Come, she is not here.

Mr. Sanders. Then, my Lord, we offer this as Evidence, That we had no Design to Suborn him to retract what he had said; the occasion of our being with him we have given you an Account of.

Mr. Just. Pemberton. Why did you write your Note then?

L. C. J. *Mr. Sanders*, what you have said amounts to nothing to avoid the Evidence that hath been given for the King; for all your Testimony says little more, than what he said at first; That we were Fellow-servants, and well acquainted; we made frequent Visits, and when I came to Town I went to see her, and she came to me: They had no Discourse of this same matter of tampering till the Day before *Harcourt's* Trial; but *Sir Robert Southwell* does say, She owned that she did study the Note, which is the great Business in the Case: For if she prepared the Note for him to sign, what can be said more?

Mr. Sanders. We can say no more but that *Mr. Dugdale* might Dictate it.

L. C. J. No, she owned she Dictated it, and got *Mrs. Man* to write it for her.

Mr. Sanders. I do not know, my Lord ———

L. C. J. But you may know, if you will; for *Sir Robert Southwell* hath sworn, That she being examined at the Council-Board, the Lords of the Council had so good an Opinion of the Skill of it, that they asked her, who framed it for her? And she answered, She did it her self.

Mr. Just. Pemberton. *Mr. Sanders*, if you be not satisfied, here is another of the Clerks of the Council.

Sir John Nicholas. All that *Sir Robert Southwell* hath said is true.

Sir Thomas Doleman. All that *Sir Robert* hath said, I can swear to every particular.

L. C. J. Well, What say you, *Mr. Pollexfen*?

Mr. Pollexfen. My Lord, if you please to spare me a Word for the other Defendant *Mr. Tasborough*: There is in the Indictment two Things charg'd on the Defendants; One, That they should persuade *Mr. Dugdale* not to give Evidence against *Harcourt*: For that there is no manner of Evidence against *Mr. Tasborough*, but he ought to be found Not Guilty for that part.

L. C. J. That is true, of that he must be acquitted.

Mr. Pollexfen. Then for the other part of the Charge, That they should endeavour to persuade *Mr. Dugdale* to Retract the Evidence he had formerly given, for a Sum of Money, and other Rewards: We do reckon, That as this Evidence stands before your Lordships, whatsoever is proved against *Mrs. Price*, will have no influence upon *Mr. Tasborough*; for altho' *Dugdale* and *Price*

have had Practices and Designs amongst themselves, unless he be a Party to them, if he have not a part in them they will not affect him: Then the next thing is, we must distinguish the Evidence as it stands, or else it may not be by the Jury so well understood how they are distinguished one from another; for I would not mince the Evidence, but let it stand as it is: And how far *Mr. Tasborough* is concern'd in it, and how far may be done by him as an honest Man in this matter, or how far it is an illegal Act, will be to be determin'd by you. Now there is only two Meetings that *Mr. Dugdale* hath had with *Mr. Tasborough*; and in the next place, there is no other Witness to prove it but *Dugdale* himself, excepting only what *Sir Robert Southwell* says of the Confession at the Council, which, I think, will not be very much neither, as I shall shew when I come to that particular. *Mr. Dugdale* says, that at the first Meeting, the 12th of *October*, at the *Green-Lettice* in *Fuller's Rents*, *Mr. Tasborough* did say unto him, That *Mrs. Price* had told him, *Mr. Dugdale* would Retract his Evidence, and he was come to confirm what she had said.

L. C. J. Nay, but what she had promised.

Mr. Pollexfen. Yes, what she had promised; and that he came from the Duke, and that it was charitably done of him to Retract; he goes no further: And that if he had done amiss he should be sorry for it. This is the Evidence, as near as I can remember to repeat it.

L. C. J. Part of it.

Mr. Pollexfen. As to the first Meeting —

Mr. Just. Pemberton. Look you, do not mistake, *Mr. Pollexfen*, but observe this: For *Mr. Dugdale* does swear he told him, If you will Retract the Evidence you have given, then all the hath promised shall be made good.

Mr. Pollexfen. That he came to confirm what she had promised. I would repeat it as right as I could, because, my Lord, I hope, as this Case stands, that notwithstanding all that hath been proved, yet *Mr. Tasborough* hath done nothing amiss. Then I come to the second Meeting.

Mr. Just. Pemberton. At the first Meeting the Note was produced.

L. C. J. No, I think not.

Mr. Just. Dolben. Yes, my Lord, it was.

L. C. J. Was it, *Mr. Dugdale*?

Dugdale. Yes, my Lord.

Mr. Pollexfen. Yes, he does swear so, and that he read it, and press'd *Mr. Dugdale* to sign it; and that this was the last time, and it must be done before the Duke went into *Scotland*, or something to that purpose. This, my Lord, under favour, may all stand and be very true, and yet *Mr. Tasborough* not criminal, with submission. For if so be *Mrs. Price* were so far in her Inter-course with *Mr. Dugdale*, that as appears by his own Evidence he did seem to comply and treat, as if he were yielding, and to do what they would have him do, concerning his going beyond Seas, or being kept in a Protestant Lord's House, and she had such Confidence as to tell him how the Priests were sent away, and how he might be convey'd away: All this thus far comes to agree with what *Mr. Tasborough* says for his own Defence: For *Mr. Tasborough* says, *Mrs. Price* did tell me, that *Mr. Dugdale* was sorry for what he had sworn, and would Retract all the Evidence he had formerly given. Thus he

says:

says: I'll apply it to our Case anon; and this appears by Mr. *Dugdale's* own Evidence: For when he does repeat what Mr. *Tasborough* told him, he says, That he said Mrs. *Price* told him of it, and he hath not told you, that he did contradict it for false.

Mr. Just. Pemberton. Pray consider; He tells you, that *Tasborough* said, that Mrs. *Price* had acquainted him with what Propositions she had made of 1000 *l.* and that he was the Man that was come to confirm the Promises she had made.

L. C. J. That presses you, that is the truth of it: If that had not been in the Case, perhaps you don't talk much out of the way. 'Tis true, your Observation is right.

Mr. Just. Pemberton. 'Tis ingenious indeed, but 'twill not hold out.

L. C. J. When *Tasborough* comes into the Company to be acquainted with Mr. *Dugdale*, at that time Mr. *Dugdale* had been advised to comply, or seem to do so to find out the Plot and Design, and what he could get out by it; and without question, to pursue that end, he did shew yieldings, and as you observe, for ought *Tasborough* knew, he might be sincere: But was it a good way for him to tell him; there is the matter in effect he does tell him so; If you will retract your Evidence, according to this Note that was produced by her, and read by him, you shall have 1000 *l.* for your pains: Can you answer that?

Mr. Just. Pemberton. Or can you answer the other, That he should say, She hath acquainted me with what you propose; that is, That you would retract all, and go out of the way, and be no more an Evidence; and if you would do that, that she hath acquainted me with her Proposition, which I come to confirm, that she would give you 1000 *l.* What can be made of that?

Mr. Just. Dolben. And withal, formerly there was a Discourse of some Person of Quality that should come to him; he desired that some such one should be a Security for the Money, and afterwards she brought Mr. *Tasborough*, and said, That was the Gentleman she told him of.

Mr. Just. Pemberton. Come, Mr. *Pollexfen*, take this too: What had Mr. *Tasborough* to do to use the Duke of *York's* Name? and to say, That he had Authority from him to propose these things; which certainly is a very great wrong to so great a Prince.

L. C. J. That needed not to a penitent Person, that was sorry for what he had done.

Mr. Pollexfen. He does indeed say, That Mr. *Tasborough* should be the Man that should secure the Money.

Mr. Sol. Gen. And there is one thing farther, to take in all that Mr. *Tasborough* did likewise say to Mr. *Dugdale*; That there is no harm in doing this, that it is a very charitable Act, and that he would do well in it.

L. C. J. But they answer that, by saying, Supposing it to be true, that *Dugdale* had Remorse, then it would be a very good Action; but to talk of 1000 *l.* to be given for it, there is the Crime.

Mr. Pollexfen. Whether my Answer will take with your Lordship or no, I can't tell; but the Answer I would give is this; There are several things in that Paper, as amongst the rest, That

he should fall under great Dislike and Danger, and therefore was forced to hide and secure himself, for fear of those whom he should make his Enemies by it, and that was Terror enough to any Man that should run into such a Retraction. Therefore now he must live when he hath done this, and so we should apply the other part of the Discourse, whatever Money she had promised to take off his Fears of Want, and so his coming there was to make good that part of the Paper, which says, he must be protected and maintained, and preserved, that he may see he hath a Subsistence and Provision for him, if he did deserve it. And, my Lord, it will be greatly distinguishing in our Case, and turn much upon this Point, with Submission, if I give or offer Money to any Man to swear a Falshood or retract the Truth, 'tis a very great Crime, and if we are guilty of that, undoubtedly our Crime is very bad; but in order to the bringing of Truth to discovery, and to have a Retraction, not of a Truth, but of a Falshood, and to preserve that Witness from perishing, I may promise him Protection and Subsistence.

Mr. Serj. Maynard. Then you have found out a better way than the Devil himself could have suggested to uphold Subornation.

L. C. J. Upon my Word, if that were a way that were allowable, then woe be to us, we should easily have all the Witnesses tamper'd with by the Temptation of 1000 *l.* Reward. Do you think that is a good thing for a Man to say, This thing was rashly said, if you will unsay't, you shall have such a Reward? People would be apt to bite at such a Bait, and we do not live in so virtuous an Age, that 1000 *l.* will not Tempt a Man to unsay what he hath said at first, tho' what he hath said then was true.

Mr. Pollexfen. It were an unjust and unfitting thing, if it were as you say.

Mr. Just. Pemberton. Nay, Mr. *Pollexfen*, consider these things must not be done by any one; their way, if they had been convinced of the Truth, had been to have carried the Complaint to a Magistrate, and there to detect him by what he had said; not to corrupt him, and persist in it, by telling him, if he would do so and so, he should have 1000 *l.* By this you let in all manner of Temptations to Witnesses, that we shall never know where we are.

L. C. J. Come, Mr. *Dugdale*, (because I will shew you all very fair play, I think very well of Mr. *Dugdale*.)

Mr. Just. Pemberton. He hath carry'd himself always well.

L. C. J. Yes truly, I know nothing to the contrary: And pray tell upon your Oath, and tell the Truth: Did Mr. *Tasborough*, when he read the Note, ask of you, Is this true? Did he inquire of you, Whether or no you were really a Convert, and, Whether your Sorrow and Repentance were true?

Dugdale. No, he never did.

L. C. J. Did he ask you, if you could do it with a safe Conscience?

Dugdale. No, nothing of Conscience was ever nam'd in it.

L. C. J. Did he ask you, Whether it was true?

Dugdale. He never nam'd Truth or Falshood: It was only to get me over to retract what I had said.

Mr. Just. Pemberton. What is a Temptation, if this be not ?

L. C. J. Truly I ask this Question, That the World may see, we would find out the Truth by all the ways we can ; for if he had been solicitous with him, and asked him, Whether he could do this safely, and with a good Conscience, and whether the matter of it were true, it would have gone a great way ; but now I have asked *Mr. Dugdale* this upon his Oath, and he says it was only to get him over to them.

Mr. Just. Pemberton. And then consider all that is said against *Mrs. Price* is turn'd upon you, except that of the Contrivance to keep him from giving his Evidence against *Harcourt*. A very subtle Invention it was ; but whether *Mr. Tasborough* was in the Business of the Note, in contriving it, I cannot tell, and it signifies nothing : But she having contriv'd as ill a Note as can be penn'd, he is as much guilty ; for he solicits as well as she, and countenances it so far, as to undertake farther, that the Money and the Bribes she had offered, should be paid and made good.

L. C. J. *Mr. Dugdale*, *Mr. Tasborough* talked with you of going away ?

Dugdale. Yes, my Lord.

L. C. J. Advised you to be gone ?

Dugdale. Yes, he did : He told me I were best to absent my self for a while beyond Sea, and should have convenient Passage.

L. C. J. Did he mention the Duke of York ? What said he ?

Dugdale. Yes, he said he had acquainted the Duke, and the Duke had given him Orders to press that Note home ; for, said he, the Duke will not believe you will be true, if you do not sign this Note.

Mr. Just. Pemberton. 'Tis never to be endured, that you should abuse so noble a Prince.

L. C. J. Did you tell *Mr. Tasborough* then, if I come over, there is *Oates*, and *Bedlow*, and *Praunce* still left ?

Dugdale. I did say so to *Mrs. Price*, but never to him.

Mr. Just. Pemberton. You see then what he would have this Note sign'd for, to strengthen the Catholick Cause.

Mr. Thompson. My Lord, Will you please to spare me one Word for *Mr. Tasborough* : I confess the Evidence does seem by *Mr. Dugdale* to press us very hard, and particularly upon that matter of the Money ; but as *Mrs. Price* had managed the Business, *Mr. Tasborough* might have been very innocent : But, my Lord, we must make that Defence for our selves that we can in a Case of this nature ; and therefore it will be, I hope, no Reflexion to say, We must counterprove *Mr. Dugdale*, and disprove him as far as we can, to acquit our selves. My Lord, it is a very great Crime that we are here charg'd with, and the Crime being so heinous, ought to be well proved, and with unquestionable Evidence : *Mr. Tasborough*, if he be guilty of what he is here accused of, is a very ill Man ; but Men are not drawn up to great degrees of Illness so soon as at the first Act to attempt such heinous Offences : And 'tis not probable, that at his first slip he should be guilty of a Fault of so high a Nature, and so very ill as this is. My Lord, we shall call some Persons that shall make it appear to your Lordship, that after *Mrs. Price* had given us In-

formation of this Repentance of *Mr. Dugdale's*, we did make application to a Person of very great Honour, no less than my Lord Privy Seal, that *Mr. Dugdale* might receive the Discouragement which it was fitting he should in such a matter. My Lord, we must call our Witnesses, to prove *Mr. Tasborough* to be a Man of a very good Reputation, that he never did any such thing before ; and I hope we shall give your Lordship such an Account of him, that the Jury will have reason to believe, that *Mr. Tasborough* is not so guilty as he is represented, but was drawn into this matter, whatever it is. Pray call a Witness to shew that *Mr. Tasborough* acquainted any Lord of the Privy-Council.

Then my Lord Chief Justice went off the Bench, so sit on Writs of Error in the Exchequer-Chamber.

Mr. Just. Pemberton. If *Mr. Tasborough* be drawn in, 'tis by *Mrs. Price*, but not by *Mr. Dugdale*.

Mr. Thompson. Is my Lord Privy Seal in Court ?

Mr. Just. Jones. You know he is not here.

Mr. Just. Pemberton. You toss great Names about, and make great Noise with them, when you know they are not here.

Mr. Thompson. If he had not fallen ill, sure he would have been here. What say you, *Mr. Tasborough* ?

Tasborough. My Lord, I was to attend my Lord Privy Seal Yesterday, and desired him to do me the Honour to be here to-day, because I was to come to my Trial : He told me he had Business that would hinder him from coming ; but said he, if the Attorney-General will inform himself of me, I am ready to testify, that you gave me Information first of *Mr. Dugdale's* Recantation, before it came before the Council.

Mr. Just. Pemberton. We will do your Client this Right, *Mr. Thompson*, as to ask whether my Lord Privy Seal was at the Council, and said so much then.

Mr. Scroggs. He was not that Day, but we acquainted my Lord Privy Seal before that ; but *Sir Robert Southwell* does him this Right, as to say, that he did declare, if *Mr. Dugdale* had sign'd that Note, he would have gone with it immediately to a Magistrate.

Mr. Just. Pemberton. How does that appear he said so ?

Sir R. Southwell. My Lord, he did further say, after he had said, that he would have carried it to a Magistrate in that case, he did say, he had been once or twice with my Lord Privy Seal.

Mr. Just. Pemberton. Ay, he did say so ; but there was no Evidence but his Allegation.

Mr. Just. Jones. Was my Lord Privy Seal at Council at that time ?

Sir R. Southwell. No, I think not, my Lord.

Mr. Scroggs. 'Tis a very strange thing we should be so forward to promise for *Mrs. Price*, if we had not thought *Mr. Dugdale* real.

Mr. Just. Pemberton. 'Tis a sign you had a great Inclination to the Thing : Well, call your Witnesses.

Mr. Thompson. Call *Sir Richard Ashfield* and Alderman *Barker*.

Mr. Just. Dolben. 'Tis a fine thing this to make a long Brief with, to no purpose.

Mr.

Mr. Scroggs. We have a swinging Brief here indeed.

Mr. Just. Dolben. Ay, you come with a great Brief, but no Witnesses.

Mr. Thompson. If we do not call the Witnesses nam'd in our Brief, our Client will take it ill; if they do not appear, we can't help it.

Mr. Just. Pemberton. You have forgot what you moved the Court about *Tempest*.

Mr. Just. Dolben. But we have not forgotten, that about ten Days ago you mov'd to put off this Trial, because *Mr. Tempest* was your material Witness; and being ask'd what he could prove, you said it was how you were brought acquainted with *Mr. Dugdale*: But because the Court did not think fit to put off the Trial, *Mr. Attorney* did say, he would see if he had been examined, and what he had deposed, and report it to us; and afterwards did so, and did consent here that at the Trial you should make use of his Examination if you pleas'd; but we do not see that you make any use at all of it.

Mr. Thompson. We that are of Counsel must make use of our Client's Witnesses as we have them in our Brief.

Mr. Serj. Maynard. We desire they should call their Witnesses, and not name Names.

Mr. Scroggs. We desire that Examination may be read.

Mr. Att. Gen. Produce it then.

Mr. Thompson. We have it not.

Mr. Recorder. And we for the King do not use it as Evidence.

Mr. Att. Gen. Come, if it be here you shall have it read, though I believe *Mr. Tempest* swears little to your purpose; for as I take it he says he does not know *Mr. Dugdale* at all.

Mr. Just. Dolben. But I told you that *Mr. Tasborough* puts you upon Trifles.

Mr. Just. Pemberton. But whatsoever they put you upon, you should not trifle with us.

Mr. Thompson. Do you desire they should be read, *Mr. Attorney*?

Mr. Just. Pemberton. We can't read them without the Consent of both Parties. Do you consent to them first for whom they are produced?

Tasborough. I only desire to know by them how I came acquainted with *Mrs. Price*.

Mr. Just. Dolben. Well, you hear what *Mr. Attorney* says is in them; will you have them read?

Mr. Scroggs. 'Tis to no purpose then, if that be all.

Mr. Serj. Maynard. I desire to speak but a few Words, and I am bound to speak them. —

Mr. Just. Jones. Brother, they have more Witnesses.

Mr. Pollexfen. These we shall now call are to this purpose, to prove *Mr. Tasborough's* Reputation, that he is a very honest Man.

Mr. Just. Dolben. I don't see but that he may be a fair-condition'd Man in all other things.

Mr. Just. Pemberton. Look you, those that are in their Dealings sometimes honest fair Men, yet when they come to be of that Religion, there they are debauched, and there they are brought to do as wicked things as can be, in favour, and to support that Religion.

Then Alderman Barker was sworn.

Mr. Thompson. Do you know *Mr. Tasborough*?

Barker. Yes, I have known him several Years.

Mr. Thompson. How long?

Barker. Fourteen or Fifteen Years.

Mr. Thompson. How have you look'd upon him?

Barker. I have looked upon him as an honest peaceable Man.

Mr. Just. Pemberton. You have known him to be a Catholick?

Barker. Yes, that I have.

Price. May I beg the Favour of this Honourable Court, that I may speak for myself here?

Mr. Just. Dolben. Well, come *Mrs.* what will you say? But we must tell the Jury before-hand it signifies nothing for Evidence.

Price. I desire to speak the Truth.

Mr. Just. Dolben. But they must not believe a Word you say.

Price. Be pleas'd to give me leave to speak however.

Mr. Just. Jones. Well, go on.

Price. Sir, *Mr. Dugdale* does here accuse me of suborning him to retract his Evidence. I do protest 'tis so far from it, that he importuned me, and solicited me to go to the Duke of York, and he told me if I would go, he would pay my Coach-hire. Is it not so, *Mr. Dugdale*?

Mr. Just. Pemberton. You must not interrogate him.

Mr. Just. Dolben. The very first thing you have said hath discredited all you would say; for if *Mr. Dugdale* (as you say) had importuned you that you would do this thing for him, how comes it to pass that afterwards you should promise him a Reward of 1000*l.* and bring a Gentleman to make it good?

Price. I assure you, my Lord, I never did.

Mr. Just. Dolben. 'Tis most apparent, *Tasborough* does not deny that.

Price. But that which is the real Truth, that you say must not be believed.

Mr. Just. Pemberton. Did he solicit you to draw your Note?

Price. Yes, he did, upon the Word of a Christian.

Mr. Just. Jones. You did confess that you did study it, and draw it yourself.

Price. I did so, but he importun'd me to do it.

Mr. Just. Pemberton. How do you prove that?

Price. I desire to know by what Words I took off his Evidence at *Harcourt's* Trial?

Mr. Just. Dolben. You desired him to be kind, because he was your Confessor.

Price. I desire to ask him the Question, by what Words it was.

Mr. Just. Jones. Well, you may ask him, but 'tis little to the purpose. Can you remember the Words, or the Effect of the Words that she spoke to you in the Behalf of *Harcourt*? The Night before his Trial, I think it was.

Dugdale. Yes, it was the Night before, to desire me I would not be an Evidence against him, in regard he was her Ghostly Father.

Price. You know you came to me, *Mr. Dugdale*, and told me you rid Post to Town.

Mr. Just. Pemberton. We must have no more of these interlectory Discourses.

Dugdale. *Mrs. Price*, I would not do you the least Injury in the World.

Mr. Serj. Maynard. *Mr. Justice Jones*, I desire a Word.

Mr. Just. Jones. If you will produce any Witnesses, do.

Price. I desire I may speak for myself.

Mr. Just. Dolben. 'Tis but Reason she should speak for herself.

Mr. Just. Pemberton. But I hope if she ask unreasonable Questions she is not to be heard.

Price. I only speak the Truth.

Mr. Just. Dolben. But we must not take your Evidence of it, produce your Witnesses.

Mr. Just. Jones. If you have any to prove what you say, call them.

Price. Whether you will take my Evidence or not, pray let me speak for myself.

Mr. Just. Dolben. We cannot believe you, nor must the Jury believe you, I'll tell you that beforehand.

Mr. Just. Pemberton. We tell you, you must not be heard. If you have any Questions to ask, let your Counsel propose them.

Mr. Just. Dolben. If you apply to the Jury, you are not to tell the Matter of Fact, but to prove it to them by Witnesses.

Price. I desire, however, I may be heard myself.

Mr. Just. Jones. If any thing hath been omitted by your Counsel, which is material for your Defence, and you have Witnesses to prove it, they shall be called.

Mr. Just. Pemberton. Mrs. Price, you must know the Course of the Court, and the way of Evidence is, we are not to hear the Persons indicted make long Speeches to the Court, or to the Jury, or come with great Confidence to deny the thing that is prov'd against them; if you have any thing material to say, we will hear you by your Counsel; you must not trouble us.

Price. My Lord, I have Matter enough to say, but it can't be heard.

Mr. Sanders. We desire *Wright* may be call'd again.

Mr. Just. Jones. To what purpose?

Price. To prove that you, Mr. *Dugdale*, would suborn him.

Dugdale. Call him, if you will, if you can prove any Practices upon me.

Price. You have good Practices we know; you are a Man of excellent Practices; you had need commend your Practices. You know very well, Mr. *Dugdale*, that you told me you were perjured.

Mr. Recorder. 'Tis not Language fit for you to give.

Mr. Serj. Maynard. Is that Liberty of Speech fit to be given? She tells Mr. *Dugdale* that he said himself he was perjured.

Mr. Just. Pemberton. You are an impudent Woman to talk so.

Mr. Just. Dolben. Your Mouth must be stopped, if you can use your Tongue no better.

Mr. Just. Jones. What would you ask him when he does come?

Price. I have told my Counsel.

Mr. Sanders. She says she would ask him whether Mr. *Dugdale* did not offer him Money to suborn him in this Case. You are sworn already, Sir, are you not?

Wright. Yes.

Mr. Sanders. Then pray answer the Court this Question, Did Mr. *Dugdale* at any time offer you any Money to take an Oath, or give Evidence?

Wright. Offer me Money?

Mr. Sanders. Yes, you. Answer upon your Oath.

Wright. No, my Lord.

Mr. Sanders. Or any thing else did he offer?

Wright. No, my Lord. He hath often sent to me to come, and when I did come, hath said, I am glad you are come, I'll do you as great a Kindness; but he did not know of my coming, because his Messengers had not met with me.

Mr. Sanders. Did any one on his Behalf offer you any thing?

Wright. No, I think not; if it was, I think it was in vain.

Mr. Sanders. But did he, or did he not?

Wright. No.

Mr. Recorder. If Mrs *Price* hath any more such Witnesses, she may call them.

Mr. Serj. Maynard. Sir, under your Favour, here hath been a strange way of Defence. Consider what a Crime we are upon, and in what Times we are. That there is a Plot of a very high and transcendent Nature under Question, that divers Witnesses have been suborned, and Persons tried in this Place and convicted for it, 'tis undeniable. Now after Trials for so high a Crime in the most publick Way, here come *Price* and *Tasborough*; What to do? She indeed before, but both *Tasborough* and she afterwards, by Rewards, and such Temptations, endeavours to disgrace his Evidence; but there is not only that, but the great thing looked after by their Party, was, the Issue of it; upon this all the King's Evidence were to be hang'd. What hath been said is only to make a Jest, and make the Company merry, that there was a Contract of Marriage between them; but what will be the Consequence of that? He that spoke it, has unquestionably proved the Probability of our Charge, we have made it probable, and he hath proved it; and the Inference drawn by them is, She certainly did not tempt him, because she had an Interest in him, which concludes very naturally. But then for the other, Mr. *Tasborough*, Alderman *Barker* comes in, and swears the Gentleman is a very honest Man; I hope he did hear the Evidence, and then I wonder how he could swear it; but do we come to prove whether he be an honest Man in his Life? 'Tis not at all our Question; if we should have offered to have disparaged him in another way, we had not, I think, done our Duty, and the Court would justly have reprov'd us for it; but there is one thing, which if it had not been spoken, I would have held my Peace: How is *Tasborough* concerned in the Case? Divers have been questioned and executed for High-Treason, upon Mr. *Dugdale*'s Evidence; and after such an Execution, what is Mr. *Tasborough*'s Duty? It hath been represented as if he had been persuaded by her, and drawn in that way, and he thinking that it was a Falsity that had been sworn before, and that Mr. *Dugdale* repented of the Injury he had done them, he should help to make this Discovery. But what was he concerned? Did he go to a Justice of Peace, or any just way? Did he not contrive with the Devil rather than the Justice? 1000 *l.* must be paid to draw off a Man, and corrupt him, to make him own himself perjur'd, in a Truth that had been spoken. And this is not the first time that they have done it; for we remember the Case of *Reading* very well. I shall say no more, but

but this, under favour, it is not well to say, That a Man may persuade another to deny his Testimony, that is nothing concerned in the Case, in a Case of this publick Nature especially; and for Money too, that was never meant by the Law, and I hope is not meant ever to be countenanced here. I hope the Court will give that Caution to all that hear it, as will discourage any Attempts of this Nature for the future. And that it shall not be enough to excuse it, for him to say he was persuaded, and thought his Sorrow was real, and thereby to put the King's Witnesses to prove that thing to be true that they had proved already. What had Mr. *Tasborough* to do, as if he were a Judge of the Proceedings of the Court and Witnesses? Nothing at all, under favour, but is a very ill Man, and as such I hope shall be punished.

Mr. Just. Jones. Gentlemen, you of the Jury; these two Persons have been Indicted for a very great Offence. The Indictment sets forth (that which we all know to be true) that *Whitebread*, and divers others, have been Tried and Condemned for a very Execrable, Hellish, Popish-Plot: That upon these Indictments, Mr. *Dugdale* did give material Evidence; but that, when some other of the Conspirators were to be Tried, and brought to Punishment, these two Persons did endeavour to make Mr. *Dugdale* absent himself, and retract his Evidence. And not only so, when *Harcourt* was to be brought to his Trial, (for whom it seems Mrs. *Price* had a particular Kindness) but likewise it was endeavoured, he should be gone, and not give any further Evidence at all, and he should have 1000*l.* for a Reward. This is the Indictment.

The Inducement to the Indictment (that is, the Trials of the Conspirators) is all well known: And there have been Copies of the Records produc'd, which have been inspected and perused by the Counsel on the Defendants parts; and they cannot say, but that the Records agree with the matter in that respect: So that there is nothing at all but the bare matter of Fact that you are to enquire into.

I shall distinguish the Persons: Mrs. *Price*, according to the Evidence, hath gone thro' the whole Charge of the Indictment, and indeed, hath committed some further Crimes than have been mention'd in the Indictment.

First, It hath been proved to you by Mr. *Dugdale*, That she did not only desire Kindness to *Harcourt*, who was her *Ghostly Father*; but she did design, as much as in her lay, that he should not come in at all to give Evidence against him: This is prov'd by Mr. *Dugdale*, and another Person that was by, that did hear Mrs. *Price* say, She would have him be kind to Mr. *Harcourt*, because he was her *Ghostly Father*: Withal tells you, That immediately after *Dugdale* did tell him, that she did persuade him he should absent himself, and not give Evidence against *Harcourt*.

She is likewise Charg'd (as they are both) that she did treat with Mr. *Dugdale* for to Retract all that he had said, to be gone, and to leave a Paper behind him, which should signify, That there was trouble of Mind upon him, and that he had done wrong in his Testimony given against the Catholics: Therefore he would be gone, and leave a Testimony of it in Writing, when he was gone. And she provides for his

Security abroad, and he should have 1000*l.* Reward.

Dugdale is the Person with whom the first Treaty was: But because he knew, and it was observed, that it was unsafe to deal with Persons that were tampering with him in such a nature as this was, and upon a matter of this kind, he does acquaint Persons of very great Quality, as he swears, my Lord of *Shaftsbury*, and two other Persons: They do advise him that he should get some Persons to be by when they should come to some further Treaties concerning this business; and to that purpose he should hold up a Correspondence, and condescend to a kind of Agreement and Compliance, that he might be able to have further Testimony to confirm his Evidence. Whereupon Dr. *Chamberlain* and his Servant are plac'd in a Closet in Mr. *Dugdale's* Chamber, in such a Place, that they might hear what was discours'd in the Chamber; in comes Mrs. *Price*, they being in the Closet. Mr. *Dugdale* and she discours'd about the Business so load, that Dr. *Chamberlain* and his Servant (as both of them tell you) heard their Discourse upon it: The Question was ask'd and put to Mrs. *Price*: Mrs. *Price*, I hope you know you are the Person that first mov'd this Inigue; it began from you, and not from me: And this was confest by her. So that you have in confirmation of Mr. *Dugdale*, the Testimony both of Dr. *Chamberlain*, and of his Servant, to that part of the Charge against her. And withal, 'tis added, not only that he was to go beyond Sea, to retract what Evidence he had given; but likewise it was thought expedient he should come over again, and swear against all the rest of the Evidence that had been given or should be given for the King. And when it was said by Mr. *Dugdale*, What will it avail you, if I do retract my Evidence? There is Mr. *Oates* and Mr. *Pronce* to testify the same thing: She said, No matter for that; if we get you on our side for the Catholick Cause, to be our Friend, we shall be sure to baffle all they can say or do; and we shall not only save the Catholics, but turn the Plot upon the Heads of the Protestants, and all the King's Witnesses shall be hang'd. That you may remember was testified by some of the Witnesses.

Mrs. *Price* deals frequently with Mr. *Dugdale* to this purpose.

Dugdale, that he might know (and 'tis very like with that honest intention, and no other, he did it) and that he might discover the bottom of this Business, tells her, This is a thing of dangerous Consequence, and it is fit that I have better Security than your Promise to this 1000*l.* I will have some substantial Person that shall come and confirm what you promise, and thereupon she tells him, He should have a substantial Person brought, and he should have Thanks from very great Persons, naming the Duke of *York*; for he it was, as they said, that would take care to protect him, and procure a Pardon for him.

Now Gentlemen, this is the Evidence against Mrs. *Price*. In Defence of this what doth she offer, but that she hath been acquainted with Mr. *Dugdale*, and there hath been great Familiarity between them. It there had not been such a Familiarity, would there have been such an Inigue? Is this a matter to be communicated to a Stranger? If there were a Doubt before, whether

ther there were this Contrivance, Does not this give us a better Assurance that it was so, because there was such an Acquaintance between them?

Then, as to *Mr. Tasborough*: He indeed is not in the beginning of the Design at all: There is no Evidence against him for that part of the Charge, *That he should absent himself, and not give Evidence against Harcourt*. He comes not in at that time; nor can I perceive by *Mr. Dugdale*, that he had any Acquaintance with him at all till the 12th of *October*; and he says he was but twice in his Company.

Now, Gentlemen, What does *Mr. Tasborough* do? First, *Dugdale* is told by *Mrs. Price*, That a Man of Quality should come to him, and confirm all the Promises she had made him. *Tasborough* does come to him, and tells him, He hath had some Discourse with *Mrs. Price*, what she had propos'd; and he is now come to make good and confirm, That all shall be effected that she had propos'd to him. Ay! but it is suppos'd, that *Mr. Tasborough* is a very honest Man, and a conscientious Man, and does come for nothing in the World, but to persuade *Mr. Dugdale* to do the Office of a Christian; it was a charitable thing of him, to take off the Scandal that was upon the Innocent. But you do not hear him charge it upon *Mr. Dugdale's* Conscience, that he had given a false Evidence against any of those Persons, nor urge him much to Repent. But he must be gone, he must give no more Evidence against the Catholics: And, What if he do comply with this Desire? Then he tells him he shall have a Reward: What Reward? A Thousand Pound; which was made known before, and Protection, and Pardon, and Security: And he comes to him in the Duke of *York's* Name, to enforce it the more strongly upon him, and make him do it: Whereas, indeed, the Duke of *York* (as he himself and *Mrs. Price* have since confess'd) never knew any thing at all of the Business.

Now, Gentlemen, to move by honest Christian means, any one that hath done an Injury of any sort, to Repentance, and Contrition, and Recantation, that is a very good thing; but to do it with promise of a Reward of 1000*l.* can't be justify'd: What way is there to insinuate into any Person an Intention of doing a Mischief, but such a way as this? Will any one come to another, and say, forswear your self; whereas you know such a thing to be true, swear it to be false, or Retract the Evidence you have given about it, and I will give you a 1000*l.* No, but serve the *Catholic* Cause; a great many have suffered, and by your Testimony; Retract, be gone, be secure, you shall have a Certainty, that you shall be secure in another Kingdom; or else you shall have it in a *Protestant* Family; tho' neither that *Protestant*, nor any *Protestant* was nam'd.

Is not this a Bait to tempt a Man to all the Villany in the World? If 1000*l.* be offer'd, who can resist? Such People as these are will not easily resist such a Temptation.

But *Mr. Tasborough* is a very honest Man in his Life and Conversation; he produceth those that tell you his Reputation is good, and the like: There is no doubt of it, and if he had produc'd 20 Witnesses, do you think he would produce any one that should speak against himself? He chooseth out those certainly as would speak as much

in his Favour as they can: But if a Man hath been an honest Man in his Conversation, may he not be intic'd or seduc'd? Especially when it will be told him, If you do this, you shall merit Heaven, you shall be Sainted and Canoniz'd, you do the greatest Service in the World to the *Catholic* Cause.

These Temptations may work upon a Man, perhaps, that is morally honest, when he is infatuated with this Principle, That any thing may be done for the *Catholic* Cause; as it is a *Catholic* Doctrine too often instill'd into them, that any thing is become sanctified when it tends to that End; 'tis easy then to prevail upon them in Things of this Nature.

I should have told you (which I omitted before) one Circumstance concerning Matter of Proof against *Mrs. Price* more than *Tasborough*: Two Witnesses said they were in the Closet, and heard a Woman discourse, but neither of them did see her Face; but afterwards it is proved by another, that he was desired to observe who came into or went out of the House; and he swears he saw *Mr. Dugdale* and her come out of the House; That they went to the *Gatehouse*, and he saw her come again from the *Gatehouse* with *Mr. Dugdale*, and he is sure this is the Person. And you remember that part of their Discourse was of going to the *Gatehouse*.

Mr. Just. Pemberton. They do not deny it neither.

Mr. Just. Jones. I don't see they do.

Mr. Just. Pemberton. 'Tis a very strong and plain Evidence as can be given.

Mr. Just. Jones. There is nothing can be said for *Mrs. Price*, little for *Mr. Tasborough*.

Mr. Just. Pemberton. I see nothing that can do him any good.

Mr. Just. Dolben. Come Gentlemen, lay your Heads together and consider of the Matter.

Which the Jury did at the Bar: And being asked by the Clerk of the Crown, Whether they were agreed; they answer'd, Yes.

Cl. of Cr. Who shall say for you?

Ommes. Foreman.

Cl. of Cr. Do you find the Defendants Guilty of the Trespass and Offence whereof they stand Indicted, or Not Guilty?

Foreman. Guilty.

Mr. Pollexfen. As to part only for *Mr. Tasborough*.

Foreman. Guilty of the Indictment.

Mr. Just. Jones. We all know he is not found Guilty of one part, and that must be consider'd at the setting of the Fine.

Mr. Att. Gen. *Mr. Tasborough* hath been upon Bail, but I suppose he must not go upon Bail now; we pray that he may be committed.

Mr. Just. Pemberton. They must both be committed; take them both.

Mr. Sanders. *Mrs. Price* is still in the *Gatehouse*.

Mr. Just. Pemberton. We have her here now, she is in our Custody.

Mr. Sanders. If you please, Sir, we desire she may be remanded back.

Mr. Just. Pemberton. No, they shall go both into the *Marshal's* Custody.

Price. I beg of your Lordships I may go back to the *Gatehouse*.

Mr.

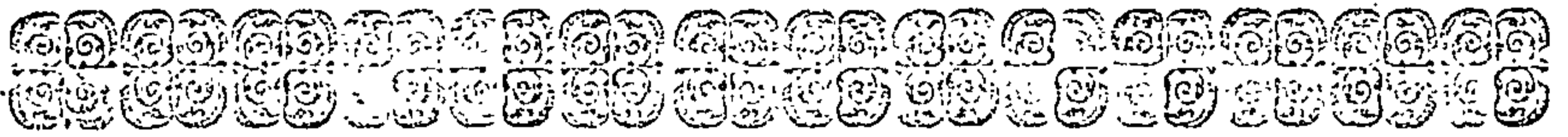
Mr. Just. Pemberton. What! These are not things to be trifled with.

Mr. Just. Deben. No, we must not shew you any Favour at all.

Mr. Just. Pemberton. No, we must have no Favour for you that would destroy us all.

Then the Prisoners were taken into Custody by the Marshal, to be kept till their Judgment.

Afterwards *John Tasborough* was fin'd 100 l. and *Anne Price* 200 l.



XCII. *The Trial of BENJAMIN HARRIS, Bookseller, at Guild-Hall, for causing to be Printed, and Sold, a Libel, Entitled, An Appeal from the Country to the City, for the Preservation of His Majesty's Person, Liberty, Property, and the Protestant Religion. February 5, 1679. 32 Car. II.*

* *Mr. RECORDER,*

I HOPE, this being a Matter to be tried in the City of *London*, Persons coming here in great Multitudes, come to blush, rather than to give Encouragement to it; and if we can give your Lordship, and this Jury, Satisfaction that this Person is guilty of the Offence, according as it is laid in the Information, I hope that both you and all others that shall hear it, (for I perceive there is a great Expectation this Day from this Cause) I hope, I say, you will abominate any Man that shall offer at any such like thing. Indeed we live in an Age where all sorts of Faction and Rebellion is countenanced, Magistrates reviled, and scandalized by some Persons, who think they have Authority to do. It is just like such another kind of Religion, which some have now of late taken up, that rather than they will be thought to turn Fanaticks, they will turn plain Atheists, and others, who scorn to be either, downright Rebels. This Book is as base a Piece as ever was contrived in Hell, either by Papists, or the blackest Rebel that ever was: It seems to carry with it a fine Character, and has a Figure of all plausible Obedience to the Crown, to wit, *An Appeal, &c. for the Preservation of his Majesty's Person, Liberty, Property, and the Protestant Religion.* But if any of you have seen it, I hope you will be so far from giving any Countenance to it, as that you will, with me, think, 'tis so far from tending well to the Government, that it is only design'd to rake up all Sedition and Rebellion, and the very worst of all Rebellion. I must confess, I would rather have believed that it was only the sake of Lucre made him do what he did, for that would have somewhat extenuated his Crime, if he had not read it first; but then to go and have it Printed, and exposed to Sale, &c. this is a great Aggravation.

If the same sort of Insinuation had been used towards any private Tradesman, as hath been offered to the King and Magistrates, I believe

there is no Man but would say, that ere this time he might have hid his Head.

But Dissemblances of Pretences for the sake of the Protestant Religion now-a-days in his Shop will pass well enough, and Persons can tell you there how far you may go from hence to *Rome* with Safety; and after they have blackened their Mouths with Tobacco and Smoke, and do not rail against the Church and the Government, they are look'd upon straight as no Protestants.

But still as to this Person, the farther to urge it, by way of Aggravation upon him, he could vauntingly make his Boasts, when it was put home to him, Why he would venture to do such things, &c? That he had above a Thousand Persons who would stand by him in whatsoever he did.

* *L. C. J.* There was hardly ever any Book more pernicious to set us together by the Ears than this, nor any thing a greater Incendiary; one can hardly write a worse ———

Says he, *We in the Country have done our Parts in Choosing, for the generality, good Members to serve in Parliament; but if (as our Two last Parliaments were) they must be Dissolved, or Prorogued, whenever they come to redress the Grievances of the Subject, we may be pitied, but not blamed. If the Plot takes effect, (as in all probability it will) our Parliaments are not then to be Condemned, for that their not being suffered to Sit occasioned it.*

So that here is a sly way of casting it upon the King himself. And if it be not downright Treason, I am sure it is just upon the Heels of it. 'Tis a most abominable Piece.

Then were called the Witnesses, to prove that the Books were sold in his Shop; and after they were all sworn, first of all Mrs. Grover, a Printer's Wife, stood up, who confessed she had half a Dozen of them, but not of him; for he was either gone out, or not in the way, but she had them of his Man.

Then

* *Sir George Jefferies.*

Then stood up one Mary Darby, and she said, she had four of them.

After her, Mr. Benjamin Tooke, at the Ship in St. Paul's Churchyard, Bookfeller, was Examined, who said he saw several Quires of them in the Shop. And being asked by Mr. Harris, How he knew they were all those Books? He answered, That he turned over a great many of them, and found them all the same.

Mr. Recorder. My Lord, he was so mighty zealous of this Book, of so great Importance, no doubt, to his Party, that for fear he should be disappointed in time, he gave somewhat to hasten it.

Mr. Recorder. Call—the Printer's Man, and swear him. [Who stood up, and was sworn.

Mr. Recorder. What did Mr. Harris give you, ha?

Printer's Man. He laid me down Six-pence.

L. C. J. And what, that was for hastening the Book, was it not?

Printer's Man. I cannot tell, Sir, not I, but he gave me Six-pence.

Mr. Recorder. And what, did you do it in the Day-time, was you not at it in the Night?

Printer's Man. Yes, I was upon it in the Night.

Mr. Recorder. Ay, it was a Deed of Darkness, and so fit for Night-work.

Mr. Serj. Strode. My Lord, if it can be made out to your Lordship and this Jury, that he designed maliciously to scandalize the King and the Government by it, we must acquiesce; but that, my Lord, he absolutely denies; but seeing it running up and down the Town, he gets some of them, and suffers them to lie up and down in his Shop, and this only as a common thing to get Money, so that we suppose it may not be within the Information, because it does not intentionally scandalize the King and the Government.

Mr. Williams. He in his Trade sold this Book, and that we admit; but, my Lord, it is a material Part of the Information, that it was done with a malicious Design, &c. and we do not take it so; but for the other Matter we submit to it.

L. C. J. Then you do admit, that he did sell some of these Books.

Mr. Williams. We do, my Lord, that he did sell one.

Mr. Ollibear. My Lord, this Book was publickly sold in other Bookfellers Shops before we had it, and so we thought in a way of Trade, we might do the like; but as soon as ever we heard there was any thing ill in the Book, we suppress'd the Selling of it.

Mr. Serj. Strode. They say, my Lord, the Printer had Six-pence given him by Mr. Harris. — Friend, does not he come, and give you some Money at other times? Have you never had any of him before?

Printer's Man. No, Sir. I never Printed any thing for him before.

Mr. Serj. Strode. Was not this Printed before you saw it?

Printer. Not to my Knowledge.

Mr. Serj. Strode. Pray ask the first Witness. Was not this in Print before you saw it in his Shop?

Grover. Yes, my Lord.

Mr. Williams. My Lord, he is a Man of other Principles, than to do such things.

L. C. J. There is scarce any but *Smith*, that is so factious a Seller of Books, as *Harris*: All your Domestick Intelligences are so; for which, you know, you have forfeited your Recognizance almost in every Book.

A Neighbour was called by Mr. Williams, to give an Account of Mr. Harris.

Neighbour. My Lord, I have known him about a Twelve-month; and I have always looked upon him, to be a fair-conditioned, quiet, peaceable Man: He is, and has been so reputed among his Neighbours. And I have never seen any thing from him, but what was very quiet and peaceable.

Mr. Recorder. A Bookfeller that causes a Factious Book to be Printed, or Reprinted, if it was Printed before, is a factious Fellow.

L. C. J. You say right.

Mr. Goodball (another Neighbour of Mr. Harris's) said, upon his being asked, if he were acquainted with him? And, if he were wont to oppose, or to scandalize the King or Government? That he never heard such a like thing of him.

Mr. Recorder. I presume that none of these do stand by him in any such thing: But he, being advertised of it, and being asked, Why he would offer to expose to Sale such a Book as this? He answered and said, That he had a Thousand Persons that would stand by him.

Call Robert Stevens.

L. C. J. What can you say?

Robert Stevens. My Lord, I have seen this Book several times in his Shop, and others too. And I have asked him, Why he would so publickly vend them? (I did not indeed buy one of them myself, but I caused a Man to buy one for me) and he said, He had several Thousands to stand by him: And he is accounted an Anabaptist. He said so before the Master and Wardens of the Company; who question'd him, why he sold such scandalous things? And he said he had several Thousands to stand by him.

Then spake the Lord Chief Justice to this purpose.

Because my Brother shall be satisfied with the Opinion of all the Judges of *England*, what this Offence is, which they would insinuate, as if the mere Selling of such a Book was no Offence: 'Tis not long since, that all the Judges met, by the King's Command; as they did some time before too: And they both times declared unanimously, That all Persons that do Write, or Print, or Sell any Pamphlet, that is either scandalous to Publick, or Private Persons; such Books may be seiz'd, and the Person punish'd by Law: That all Books, which are scandalous to the Government may be seiz'd; and all Persons so exposing them, may be punish'd. And further, That all Writers of News, though not scandalous, seditious, nor reflective upon the Government or the State; yet if they are Writers (as there are few others) of false News, they are Indictable and Punishable upon that Account.

So that your Hopes of any thing of that kind will be vain; for all the Judges have declared this Offence, at the Common-Law, to be punishable in the Seller, though in the way of his Trade: The Books may be seized, and the Person punished.

As for this Book, in particular; you can hardly read a more base, and pernicious Book, to put us all into a Flame: It gives you such Incitements, and such base Encouragements, with such Reflections upon all sorts of Persons, (for I have read it upon this Account) that I think, there can scarce be a worse made. He would set up another Man, that has no Title to the Crown: For (says he) *the greatest Danger accruing to your Persons, as well as to the whole Kingdom, upon the King's untimely Death, will proceed from a Confusion, and want of some Eminent and Interested Person, whom you may trust to lead you up against a French and Popish Army: For which Purpose, no Person is fitter than his Grace the Duke of Monmouth; as well for Quality, Courage, and Conduct, as for that his Life and Fortune depends upon the same Bottom with yours. He will stand by you; and therefore, you ought to stand by him. And remember the old Rule is, He who hath the worst Title, ever makes the best King; as being constrained by a Gracious Government, to supply what he wants in Title: That instead of GOD and my Right; his Motto may be, GOD and my People.* He says, *Such a one would make a better King; for, as you see, the Worse the Title, the Better the King. A King with a Bad Title, makes a better King, than he that hath a Good One; for he shall be obliged to comply with, and will humour the People, for want of a Title.* A Thing, which is of the basest Nature that can be: And yet this Man must give Money to hasten the Printing of such a Book; and he had several Quires of them in his Shop. Except the Writer of it, there cannot be a worse Man in the World; who, for trivial Profit, will neglect the Peace and Quiet of his Country, and set us all together by the Ears for a Groat. And, Mr. Harris, if you expect any thing in this World, of this kind of Favour, you must find out the Author; for he must be a rebellious, and a villainous Traitor: For, though he seems to inveigh against Popery, it is only to be a Rebel. And certainly, he has rejected all the Laws of God, and all Obedience that Man requires; and prophaned all Holy Writ. He is some Body, whose Fortune does not suit with his Condition; and who, because he is not at Ease and Quiet himself, will let no body else be so neither.

[Speaking to the Jury, who presently withdrew.]

You have nothing more to do, but to give your Verdict:

If there be any thing in Law, let me know it, because you go out.

Then one of the Jury asked my Lord, if they might not have the Book with them, which was there in the Court, and it was answered in the Negative.

Before the Jury went out, Mr. Harris would

have spoke to them for himself, but it was not permitted him.

Then, after a little while tarrying, they returned to the Bar.

And being, as is usual, asked if they were agreed on their Verdict, and who should speak for them; they answered, Yes; and appointed their Foreman, who said he was Guilty of Selling the Book.

At which there was a very great and clamorous Shout.

Lord Chief Justice said, that was not their Business, they were only to determine whether barely Guilty, or Not Guilty.

The Recorder would have had them given their Verdict by the Poll, but they all unanimously cried out, they were all agreed, and then the Foreman gave the Verdict again, Guilty.

Mr. Recorder then prayed, he being for the King, that Mr. Harris might stand Committed; Who was thereupon presently delivered to a Tipstaff, to be carried to the King's-Bench.

Mr. Harris earnestly beseeched his Lordship, that he might be sent to any other Prison, and named *Newgate* three or four times, but it was not granted him: Thereupon he said, I hope God will give me patience to go through it.

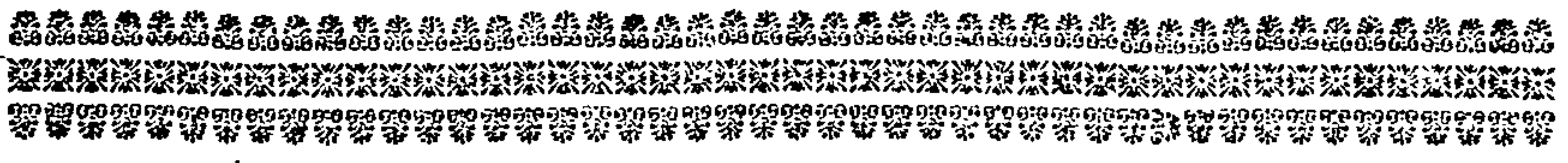
Then my Lord Chief Justice spake to the Jury to this Effect.

I am sorry you gave Countenance to this Cause so much, as to stir from the Bar, when the Evidence was so full, and when I told you plainly, not only my Opinion, but likewise that of all the Judges of *England*, that selling this Book was an Offence at the Common Law, for which they ought to be punished: And yet with your Scruples, you give the Party (with their Hollows, and Shoutings) to take Advantage; though you did mean upon the Matter the same thing then, you do now, yet you see, upon every little Occasion, when a thing shall seem to thwart the Government, how ready they are to send up their loud Hollowings. It was not so prudently done as might have been done.

We had need look about us, for if at such a Time, and for such a base Book, such clamorous Noises shall be made, what shall become of us? Our Lives and Fortunes are at stake. Would I knew some of those Shouters, I would make them know, I would punish them: I am incensed in the Behalf of the Government, and of all our Lives and Fortunes, that such shall go unpunished.


He afterwards received Sentence in the Court of *King's-Bench*, to pay 500 *l. Fine*; stand on the *Pillory* an Hour; and find Sureties for his Good Behaviour for Three Years; and had it not been for Mr. Justice *Pemberton*, the Chief Justice would have added, That he should be publickly *Whipt*.





 XCIII. *The Trial of FRANCIS SMITH, Bookseller, at the Guild-Hall of London, for Publishing a Libel, February 7, 1679. Hil. 32 Car. II.*

The Jury being Sworn, Mr. Holt opened the Information.

Mr. Holt.  AY it please your Lordship, here is an Information preferr'd in behalf of the King against *Francis Smith*, Bookseller: And it sets forth, That after Sir *George Wakeman*, *William Marshal*, *William Rumley*, and *James Corker*, were Indicted and Tried on the 18th of July, 1679, for divers High-Treasons, at the *Sessions-House* in the *Old-Baily*, before Sir *James Edwards*, then Lord Mayor of *London*, and the Lord Chief Justice *Scroggs*, and others; the Defendant, *Francis Smith*, published a scandalous Libel relating to the late Trials, which was intitled, *Some Observations upon the late Trial, &c.* the Words are particularly set forth in the Information; to which the Defendant pleads Not Guilty: But if we prove it upon him, you of the Jury are to find for the King; and if you find he is Not Guilty, you are to say so, and no more, &c.

Then Mr. Recorder spake to this Effect.

Mr. Recorder *. My Lord, I am of Counsel against the Defendant for the King, who stands inform'd against for a very great Offence. The Information particularly sets forth, That whereas some certain Persons were Indicted at the *Sessions-House* in the *Old-Baily*, before the then Lord-Mayor, Sir *James Edwards*, and other Persons then in Commission of Oyer and Terminer, and Goal-Delivery for that Place, and particularly my Lord Chief Justice *Scroggs*; and after the Trial was over, and the Persons thereupon acquitted, there was a Book, which is mentioned in the Information, printed and publish'd, and it is a Book that is known by the Name of *Tom Ticklefoot*; a very abusive thing; but Persons now begin to grow wonderful witty in the beginning of their Books, in hopes to ensnare People to read them, and to prevail upon them so far as to make them believe there is somewhat extraordinary by the Title. You see, Malice finds out all the Ways in the World to ensnare and gain upon the People, to so bad an Age are we come.

But I confess, it is the second Time ever since I had the Fortune or Happiness to know this City of *London*, that I have known such Expectations, as have been upon two Causes in this Place: The first was but two Days ago, the

second is at this Time; wherein is truly a sort of Countenance, I am afraid, too much given by Persons that dare pretend to be no other sort of Protestants, but can impudently outface all sort of Governors. Now, as all Persons ought to abhor and detest that damnable Doctrine, That Men hope to be Saints in another World, because they may commit Murders in this; so this ought too as much to be condemn'd by all Protestants as the other, That Men shall endeavour to rebel, and be factious in this World, that so they may be reckon'd good Subjects; the one are as far from being good Saints, as the others from being good Subjects. I take this Occasion to speak all this before your Lordship and this Court, because I hope the City of *London* will never be corrupted by the base Insinuations of some idle Busy-Bodies in it; Men, who cannot, or will not be pleas'd, because (forsooth) every thing does not go according to their Mind and Fancy; and tho' by no means they will allow the *Pope* to be *Infallible*, yet every factious Fellow will expect, that every one should pay him the Tribute of *Infallible*, as if he were the only fit Person to give Measures to *Government* and *Governors*.

When we come to have extraordinary Cases and Persons, extraordinary Occasions ought to be taken to inflict due and just Punishments upon them.

And when they shall dare to come to disparage *Great Men* that act by *Supreme Authority*, Men that act by their *Consciences*; and because they cannot be steer'd by the Humours of these sort of People, therefore they must be look'd upon as *Papists*, or at least as *Brib'd*, because they cannot comply with that base Humour which some sort of Persons have.

I take notice of this to your Lordship, because one that is intrusted in as great a Place for the Welfare of this Nation, as any whosoever, is extremely concern'd in the Affair of this Day; I mean, the *Lord Chief Justice of the King's-Bench*; who being assisted with several other Judges, as far forth as it did appear to him, did deliver the Sense of the whole Court; who, for acting according to his Conscience, and as he ought to do, hath been *Libelled* and *Reproached* with as base a *Book* as ever was written against any Magistrate whatsoever: If such things as this shall be permitted, then there will be an end of your Lordship's sitting here, or any where else, or of any other that shall act as a Magistrate ought to act, and that shall not be afraid to do his Duty. But such is the Happiness of this

* *Sir George Jefferies.*

this City, in this Jury, that, I must confess, I receive so much the greater Satisfaction that it comes before them; for as I know the Men to be Men of Loyalty and Affection to the Government, and will be so just to him, that if they do not find him Guilty of the Matter of the Information, they will acquit him: So, on the other side, they will not think themselves to be aw'd by a *Multitude*, or inflav'd by private Insinuations, to debauch their Consciences, either in respect to God above, or to the King his Vicegerent here on Earth; therefore observe your Duty to both, that you may render to *Cesar* the Things that be *Cesar's*, as well as to God the Things that are God's.

Now as the King is God's Vicegerent, so is every Magistrate the King's Vicegerent, in that Particular.

I would not take up so much of your Lordship's Time, but that I see this is a Matter of great Expectation; and I know that every Word is taken in Short-hand, to be commented upon as Persons Humours shall steer them. I do think, as being the *Member of the City of London*, it is my Duty to speak thus much, that I hope, nay, I may dare confidently affirm, that the Generality of the City of *London*, all good Men, and Men of Abilities, &c. are for the King, and the Government as it is now Establish'd by Law.

[At which there was a general Hum thro' the Court.]

Having said thus much against this Person, Mr. *Francis Smith*, I must say, That if the way of common Report were Evidence enough to convict a Man, he would be convicted without any more ado: But such is the Happiness of our Laws that they expect Testimony, besides common Fame.

I would rather a great deal it might be a Caution to Mr. *Smith*, if there had not been many before, and that he could not be convicted, and the Evidence not plain in Proof against him.

Well, he printed this *Book* in the Name of another Person, one Mrs. *Brewster*: He sold several of them in Quires to several People; and *Brewster* questioning wherefore he should put her Name to this *Book*: Truly, he said, he intended no Harm to her, for he was resolv'd to save her harmless; and this we will prove to you; and likewise that several Books have been taken in his Shop; and he justifying himself in what he had done, and his further Resolution to expose them still to Sale. And if we shall prove this to you, there will be an end of all sort of Justice, if in case that you, who are the only Means of bringing Men to Justice, will not contribute to have Justice executed where it ought to be: None can be legally punished, unless they be legally convicted; and I doubt not your Honesty and Loyalty, but that you will do your Part by Conviction, and by Justice too.

Against all Libellers, I am sure, there is Law enough, and every honest Man will endeavour to have it put in Execution against them, as far forth as it lies in his way: I hope the Generality of those that are here, do come to shew an Abhorrency against this Person informed against, and not to give any Countenance to such base Actions.

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Mr. *Williams*. [Counsel for the Defendant.] My Lord, the Libel is sufficiently infamous, we must needs own; and I do not come to justify the Thing, neither Mr. *Smith* my Client, nor any body else that shall be guilty of it: The Question is, Whether he be Guilty of, &c. as it is laid in the Information.

Mr. *Recorder*, Sir, do you admit the *Record*?

Mr. *Just. Jones*. If you do not admit it, you must call in your Witnesses, and prove what you can.

Whereupon Robert Stevens, Anne Brewster, and Margaret Clark were call'd into Court, and stood up behind the Jury.

Mr. *Williams*. Sir, if you will give me leave, you shall hear what we will admit.

Mr. *Recorder*. Come, come, Sir, if you do not admit the *Record*, we will have none of your Anticipations.

Mr. *Williams*. What call you your *Speech* but Anticipation?

My Lord, the poor Man, my Client, is a languishing, sick and dying Man, and one that is almost ruin'd; if any Submission will serve the Turn, he will give all the Submission that is fit for a Man to give: All that we say is this, that he did not order this to be printed, as it is laid in the Information. — But I think we may admit —

Mr. *Fettiplace* said [Who was Counsel on the same Side.] he had no such Order given him by his Client, as to admit the *Record*.

Then they were just going on to swear the Witnesses, but Mr. *Just. Jones* said, It would be very well if they would admit, &c. and the Defendant come to Submission.

Mr. *Recorder*. Ay, that is your best way; for it would be a great means to testify, that your Submission is really intended as a Submission: But if it be to prepare us to think, that you are innocent, then we will not have your Submission. — And I am for a Sinner's Repentance with all my Heart.

Mr. *Just. Jones*. If your Client be willing to submit, let the King have a Verdict in Law, and then he will find my Lord Chief Justice *Scroggs* full of Pity and Compassion; and if I can see any Signs of Repentance, I will promise you to intercede to my Lord for him.

Mr. *Williams*. One that came from my Client told me, that if he had offended, he would submit to any thing: And now here is his Wife come.

Mr. *Just. Jones*. I would save him if I can, if he will throw himself into Mercy.

Well, what do you say, Mistress, for your Husband?

Mrs. *Smith*. My Lord, my Husband is very sick and weak, and is not able to come himself, or else he would have done it; but I ask'd Mr. *Williams* if it were not best to submit to the Court.

Mr. *Just. Jones*. Are you content to own it shall be so?

Mrs. *Smith*. I leave it to the Gentlemen, my Counsel; I shall acquiesce in what they think fitting.

Mr. Williams. Then I presume to admit the Record.

Mr. Just. Jones. Then you are to find for the King: [Speaking to the Jury.] 'Tis the Cause of the King, altho' only my Lord Chief Justice be concern'd. 'Tis a high Scandal; a great Scandal against a great Officer and Magistrate of the King. I will say nothing more to aggravate the Offence at this Time, because I would invite Repentance in all Persons that have offended in this or the like Cases.

Then the Jury being asked, Whether they were agreed on their Verdict, said, Yes; and choosing their Foreman to speak for them, he gave the Verdict, Guilty.


Mr. Just. Jones. Well, Mistress, you have done very well; if, now you for your Husband came here to make a publick Acknowledgment of his Guiltiness, hereafter he shall go, and ingenuously make Submission to my Lord; I know he is a Person of that Pity and Compassion, that he loves no Man's Ruin, but delights rather in the universal Welfare of all People: And I promise this, that I will be an Intercessor to my Lord in your Husband's Behalf.

Mr. Recorder. And as far forth as I can contribute to it, I will do the same.

He afterwards submitted to a small Fine.



XCIV. *The Trial of JANE CURTIS, at Guild-Hall, for Publishing the same Libel. 1679. 32 Car. II.*

Mr. Holt.  AY it please your Lordship, and Gentlemen of the Jury, here is an Information brought against *Jane Curtis*; and it sets forth, That the Defendant did publish and put to sale a seditious Libel against my Lord Chief Justice *Scroggs*: The Defendant pleads Not Guilty; if we prove it upon her, you are to find for the King; and if not, you are to say so, and no more.

Mr. Williams said [Who was a Counsel for the Defendant.] he would admit the Record: Whereupon they proceeded no further to Trial, but the Woman being call'd, she said:

Mrs. Curtis. I was ignorant in the Matter, and knew no such thing, my Lord; my Husband, an't please your Lordship was in the Country a hundred Miles off of me, in *Lincolnshire*.

Mr. Just. Jones. You did it ignorantly and simply, without any Malice, and, I suppose, you are heartily sorry for it. You see your Neighbour there, *Mrs. Smith*, hath shew'd good Discretion in the Behalf of her Husband; she has ingenuously declar'd, that he shall come and make Submission; and if I find you as submissive, and as sorry for what you have done, I may do the like for you.

Mrs. Curtis. In any thing that I have done, I know not my self Guilty; and if I am, I beg your Lordship's Pardon with all my Heart; my Lord, or any Body's else.

Mr. Just. Jones. I know you will find Mercy from my Lord Chief Justice, and therefore go and make your Submission.

Then the Jury proceeded to give their Verdict, and their Foreman said, Guilty.

The End of the SECOND VOLUME.

2/3/1679

