

in the Church-porch to come down, and secure them from escaping.

Mr. *Sol. Gen.* When was this Time?

Mr. *West.* I think it was before Mr. *Ferguson* went for *Holland*. And, my Lord, there was another thing propos'd: I think it was Colonel *Rumsey* did say, He wondred that the Lords and great Men, that were so fond of the thing, did not raise a Purse, and buy somebody an Office, who should rail against the Duke of *Monmouth*, and the *Whigs*, and by that means get himself an Opportunity of Access to the King's Person. My Lord, after these Discourses, when my Lord *Sbastbury* retir'd to *Holland*, Mr. *Ferguson* thought fit to do so too: He was afraid of a Book that he had printed, and away he went, and Captain *Walcot* with him. In the mean time I met Col. *Rumsey* several times, and several things were offer'd, but nothing resolv'd upon. A little after *Christmas* we met at the *Salutation* Tavern in *Lombard-street*, and there it was agreed we should send for Mr. *Ferguson*; and there I writ a canting Letter, that he would come over for his Health; for he was the only Man that could manage the Affair. When he came over, there was one Meeting at the *Five-Bells*, but I came just as they were coming away, and cannot say what pass'd there. After that, they came several times to my Chamber; and there Mr. *Ferguson*, Mr. *Goodenough*, and Mr. *Rumbold*, undertook to provide the Men.

L. C. J. The Men, for what?

Mr. *West.* The Men for the Assassination: That I was not concern'd in, either in Person or Purse, or to procure any body for it. And they did agree to do it in the going to or from *Newmarket*, and thereupon were several Debates, whether it should be done at their going, or coming back. Against doing it going down, it was objected, That the Guards were left here and there, and they went together; but very often they returned apart, and therefore it was not the safest way going down; and nothing also being prepared, so it was resolv'd to be done coming back. Then it was consider'd what Arms should be provided: Mr. *Rumbold* was the Man to manage that Matter, and was to procure some Blunderbuffes, some Carbines, and some Pistols; but there was nothing to be prepared, as I know of, by other Persons, but every Man was to provide himself. Several Meetings there were, they brought their Notes, and conferr'd together about the Men; but I remember no Names, but *Keeling*, and *Burton*; and Mr. *Goodenough* said, he had spoke to one *Hone* a Joyner; and, I think, he spake of one *Manning*, and these are all the Names I can remember. After they had conferr'd their Notes, I ask'd Mr. *Ferguson*, what Provisions of Money he had made. Says he, I shall have Money when the Men are provided, but not till then: For, said he, the last time there was some Money rais'd, and put into a Man's Hand, who never returned it; but since I understand it was paid to Mr. *Goodenough*. And Mr. *Ferguson* said, Mr. *Goodenough* call'd him Fool, for returning some Money he had, and not keeping it for his own Use; and my Lord *Sbastbury* had often complain'd of that Injustice done him: The Colonel said, Mr. *Charlton* should pay the Money. There was a further Debate, how these Arms would be got down to Mr. *Rumbold*'s: It was propos'd, to send them down by *Smithfield* Carts in Chests: Others, to send them down by trusty Watermen, who were to

cover them with Oysters: Others, that the Men should carry them; but no Resolution taken: Then it was consider'd, how they should get off. The next thing was, how they should execute this; and it was propos'd, That one Party was to fall upon the Coach-horses, a second upon the Coach, a third upon the Guards: Captain *Walcot* would not undertake any thing but the Guards.

Capt. *Walcot.* What do you say, Sir?

Mr. *West.* Sir, I do say, you were at my Chamber, and did say, you were to command that Party of Horse that were to attack the Guards. It was to be done at *Rumbold*'s House; they were to lie there *Perdue*, till the King just came down upon them.

Mr. *Serg. Jefferies.* At the Time of the Assassination?

Mr. *West.* Yes, Sir.

Mr. *Att. Gen.* Where were these Arms to be carried?

Mr. *West.* To *Rumbold*'s House. I did not see it: But he said he could keep them all private, where nobody could see them till the Time of the Execution; and that there was a Gate they were to pass through, that he could shut upon the Horse-Guards, that they should not be able to come in for their Relief. Mr. *Rumbold* said, he would bring them off; and said, he thought it dangerous for them to go the Road-way; but he would bring them over the Meadows, and come in by *Hackney-marsh*: But the way which the Prisoner did most approve of, was, That they should retire within his Wall, there keep till Night, being a Place they could defend against any Force for a Day's time.

Mr. *Att. Gen.* Where was this Resolution taken?

Mr. *West.* This Resolution was taken at my Chamber: My Lord, as to the Attempt, when they designed to make it upon the King's coming from the *Play house*, one Mr. *Row* said, he had discours'd with one *Gibbons*, that was the Duke of *Monmouth*'s Servant, about it, and ask'd him, If any of their Family knew of it? Yes, says he, they all know of it, but they will not be seen in't; and said, that he shew'd him the Place. My Lord, in one of the Discourses I had before Mr. *Ferguson* went for *Holland*, I had a mind to be rid of the thing, but I did not know how; so I created Difficulties, and said, I suppose the Duke of *Monmouth* is to get most by it: What Security will you have, you shall not be hang'd when the thing is done? He is bound, said I, in Honour to hang us all, and make Inquisition for this Blood, otherwise they will say he is a Party. Says he, What if I get it under his Hand? But, said I, Engage his Servants, and that will stick upon him. There is one thing I have omitted, which was in the first Discourse with Captain *Walcot* about the Insurrection of *November*; he told me, that my Lord *Sbastbury* was preparing a Declaration to be published, in case of an Assassination or Insurrection; and he ask'd me, if I would undertake to do one too? For, says he, I would have several People draw it, to pick one good one out of all. And he told me he had made some Collections towards it, and shew'd me a Paper, which was a Collection of all the Passages in the Three Kings Reigns, King *James*, *Charles* I. and this King's, that he call'd Attempts to introduce

roduce arbitrary Government and Popery; and concluded, taxing them with some personal Vices, and that the Government was dissolved, and they were free to settle another Government: These, I perceiv'd, were the Topics my Lord *Shaftsbury* laid Weight upon. I told him, That this did require an exact Knowledge of the History of those Times, and I would not undertake a thing to which I was not competent; and so he desir'd me to burn the Paper, which I did: But for any other Declaration, my Lord *Shaftsbury* kept his Paper to himself; and I never did see it, tho' I desir'd it.

Mr. Serg. *Jefferies*. Can you remember in whose Name the Declaration was to run?

Mr. *West*. No, I do not remember that.

Mr. *Att. Gen.* After the Disappointment, what Meetings had you?

Mr. *West*. Sir, I will tell you: When the News of the Fire came, they adjourned to my Chamber, and there considered what they should do; they were in no Readiness, nor had any Horses; nay, I believe the thing could not have been effected, if the Fire had not happened; and I was very glad it could not; but for that, I am in the Charity of the Court. They did endeavour to put things in a Posture, to see if it could be done another Day; I think they met on *Thursday* Night, and *Friday* Night; but they said, the King would be at home the next Day, and the thing was laid aside. My Lord, a Day, I think, or two after, I went into the City, and went to the *Dolphin* Tavern, where I met with Colonel *Rumsey*, and this Mr. *Keeling* came in; he was there talking of Blunderbuffes and Pistols in downright *English*: I told him, it was a foolish thing to talk so before Drawers, and that was the Occasion of calling them by the Names of *Swan-quills*, *Goose-quills*, and *Crow-quills*. After this thing we met the next Week, not at my Chamber, Colonel *Rumsey* was mistaken in that, but at the *George and Vultur*: There was Capt. *Walcot*, Mr. *Goodenough*, Mr. *Ferguson*, one *Norton*, and one *Ayliff*: They discours'd of the late Disappointment; and that one Reason was, they had not Arms in Readiness. Then they agreed, That Arms should be bought, and the Number was ten Blunderbuffes, that should be twenty or two-and-twenty Inches in the Barrel: Thirty Carabines, eighteen Inches: And thirty Cases of Pistols, to be fourteen Inches. My Lord, it was put upon me to provide them, for this Reason, because I was serviceable to them no other way, and could have a Pretence for buying them, because I had a Plantation in *America*; but Mr. *Ferguson* was to pay the Money. My Lord, I did bespeak the Arms, and paid for them with my own Money, and was not paid again a great while; Mr. *Ferguson* disappointed me; but at last told me, if I would send to Major *Wildman*, he would pay me: But he told me before that, one Mr. *Charlton*, when he came to Town, would pay me, but I had none of him. So I told him, I bought those Arms upon a Pretence I intended to use them, and had spoke to a Sea-Captain to carry them off to a Plantation where I had a Concern myself. After that, Mr. *Ferguson* sent to me to take my Money: So I came to him; and found with him Mr. *Charlton*, and another Gentleman, whom I could not distinguish, because it was

dusky. Mr. *Charlton* went down, and then says Mr. *Ferguson*, I have your Money for you; and he paid me in fourscore and thirteen Guineas, which was something more than the Arms cost; and said, He had not the Money above half an Hour in his Hands; by which I did guess, it was Mr. *Charlton's* Money. Another thing was, at last Meeting with Mr. *Ferguson*, he did say, There was a Man employ'd to see what Conveniency there would be for an Assassination between *Windsor* and *Hampton-Court*; but that was never reported, and so laid aside. This is all I can say concerning the Assassination; but I believe they did intend to carry it on; for Col. *Rumsey* did tell me, He saw the Hearts of all the great Men were upon it; and it would be convenient to have an Army to back it. But in case this Assassination had gone on, these things were to be done. It was design'd, the Lord Mayor and the Sheriffs should be kill'd, and as many of the Lieutenancy as they could get; and the principal Ministers of State, my Lord *Halifax*, and my Lord *Rochester* that now is, and my Lord Keeper; for which they gave this Reason, because he had the Great Seal; and my Lord *Rochester*, as like to stand by the Duke's Interest; and my Lord *Halifax*, as being one that had profess'd himself of the Party before, and turn'd from the right Side, and had put the Court upon that which otherwise they never would have acted, nor had the Courage to have done. As for my Lord Keeper, They said, they would hang him for the Murder of *Colledge*, and upon the same Post *Colledge* had hung. Sir *John Moore* was to be kill'd, and to be hung up in *Guild-hall*, as a Betrayer of the Rights and Liberties of the City: And your Lordships to be slay'd, and stuff'd, and hung up in *Westminster-hall*, and a great many of the Pensional Parliament hang'd up, as Betrayers of the Rights of the People.

L. C. J. How was this to be done? to slay them and stuff them?

Mr. *West*. Yes, I understood it so.

Mr. *Att. Gen.* At these Discourses was this Gentleman present?

Mr. *West*. He was not at my Chamber so often as the rest; he came not there till towards the latter End; but he was there sometimes when these things were discours'd of.

L. C. J. But you say he did at last undertake to fight the Guards?

Mr. *West*. Yes: Upon the News of the Fire, says he, I believe God shews his Disapprobation of the thing. Says Mr. *Ferguson*, I believe he reserves them for worse Punishment. Mr. *Walcot* said, He desired to have his Name conceal'd. Why, says *Ferguson*, why should you be ashamed? It is a glorious Action, and such an Action as I hope to see publicly gratified by the Parliament; and question not, but you will be famed for it, and Statues erected for you, with the Title of *Liberatores Patriæ*.

Mr. Serg. *Jefferies*. What is this *Ferguson*?

Mr. *West*. He is an Independent Parson.

Mr. Serg. *Jefferies*. He preached excellent Gospel.

Mr. *West*. Says he, I have told some Nonconformists, and they desired me to forbear; but, says he, they are silly People, that do not know how to distinguish between killing a Prince, for Difference in Opinion about Religion, and destroying a Tyrant, for Preservation of the Rights and Liberties of the People. He said, it was an Action

Action that would make all the Princes in the World tremble, and teach them to use their Subjects kindly. My Lord, they did design, at the same time when the Mayor and the Sheriffs were to be kill'd, that Mr. *Papillon*, and Mr. *Dubois*, should be forced to take the Office of Sheriffs upon them; and if they would not take it, they would use them as they did the other: And that Sir *Thomas Gold*, or Sir *John Shorter*, or Alderman *Cornish*, should be set up for Lord Mayor; but rather Alderman *Cornish*, as the fitter Person. I asked them further, What they would do with the King's Natural Sons? Says he, They are good lusty Lads; I think we had as good keep them for Porters and Watermen; and for my Lady *Anne*, they had as good marry her to some Country Gentleman for a Breed to keep out Foreign Pretences.

Mr. Serg. *Jefferies*. I perceive they left nothing unconsidered.

Mr. Att. Gen. *Mr. West*, To repeat all their Passages would fill a Volume; but as to the Continuation of the Rising, and whether it was continued?

Mr. *West*. I have a great many Particulars, but have them not in Method.

Mr. Sol. Gen. Answer Questions then.

Mr. *West*. When Mr. *Rumbold* came to Town, he said, he saw the King come by but with six Guards, and believed he could have done it with six Men, if he had been provided with Arms. This is all I can say, except some little Discourse, which I have not time to reduce into Method. About *Christmas*, Colonel *Rumsey* told me, there was a Design carrying on among the Lords, and great Men, by whom I always understood the Duke of *Monmouth*, my Lord *Russel*, my Lord *Grey*, Lord *Howard*, Colonel *Sidney*, Major *Wildman*, Mr. *Hambden*, for an Insurrection; and that this was designed to be done about *March*. Colonel *Rumsey* and I were discoursing of it; and Colonel *Rumsey* thought it fit to draw up some things, that we should require of them to do for the People; and a Paper was drawn up, but my Lord *Russel* said, they were rejected, and all should be left to the Parliament. And Colonel *Rumsey* said, The Duke was inclin'd to gratify the Parliament; but the Lords about him were for great Places, and they would suffer him to do nothing.

Mr. Serg. *Jefferies*. Now tell us about *Culing*.

Mr. *West*. I dined at a Tavern with Colonel *Rumsey*, Mr. *Wade*, Mr. *Nelthrop*, Mr. *Goodenough*, Capt. *Walcot*, and Mr. *Norton*.

Mr. Serg. *Jefferies*. What was your Discourse there about?

Mr. *West*. There was no Discourse that had any particular Point.

Mr. Solicitor. Was there nothing of Division of the City?

Mr. *West*. Sir, *Goodenough* gave some general Account, but nothing was done upon it. While we were there, in came Mr. *Keeling* to speak with Mr. *Goodenough*, and Mr. *Nelthrop*; and in the *Gazette* that Day was an Account of the Insurrection at *Collen*; and Mr. *Nelthrop*, when he came in, called this Man, *Culing*. What is that? what do you mean? says he. I was then writing a Letter, and told him, *Culing* in *Dutch* was the same as *Keeling* in *English*. Mr. *Nelthrop* took me aside, says he, What will you say, if I, and some Friends of mine, deliver the City, and save the

Charter, and nobody shall know of it till it be done? But, says he, shall not I be hang'd for it? Said I, Take heed what you do; nobody will be hanged for any good thing. As to the Delivering of the City, there was a Treaty between the *Scots*, and our Persons of Quality here; and Col. *Sidney* and Major *Wildman* had the Management of it, as I understood. At last, they came down to some Terms: They would have had 10,000 *l.* to buy Arms, and came down at last to 5000 *l.* and the Earl of *Argyle* was to head them: But when Mr. *Ferguson* paid me for the Arms, he told me, The *Scots* Business was quite off, and *Wildman* and *Sidney* had done ill with the *Scots*; for after they had kept them, and treated with them two or three Months, they broke off, because the *Scots* would not declare for a Common-wealth the first Hour, and extirpating of Monarchy, and the Family of the *Stuarts*; and that the *Scots* Answer was, That would be to destroy all their Interest among the Lords, and Providence might order it so, as to bring it to a Common-wealth; but that was a Business of Time. When this broke off, Mr. *Ferguson* told me, That the Duke of *Monmouth* was willing to speak with me, and *Goodenough*, and some others. I told him, I never had, nor was willing to speak with him. Then he said, Sir *Thomas Armstrong* would. I told him, I was not willing to speak with him neither. Mr. *Goodenough*, I believe, did speak with Sir *Thomas Armstrong*. We met at *Richard's* Coffee-House, and adjourn'd to the *Young Devil-Tavern*; there was Capt. *Walcot*, Col. *Rumsey*, Mr. *Wade*, Mr. *Goodenough*, and myself, and one *Holloway* a Merchant at *Bristol*. Mr. *Holloway* did propose, since the *Scotch* Business was broke off, that they should try what Forces they could raise here. And Mr. *Ferguson* did say, if three thousand Men could be had, he believed the Duke of *Monmouth*, and my Lord *Russel*, would appear in the Head of them. They were to divide the City into 20 Parts, each 20th Part into 14ths and 15ths, and to divide it into Streets and Lanes; one principal Man was to have a 20th Part, and to have Men under him; and, that they should not interfere one with another, they bought a great Map of the City of *London*. My Lord, I did not read one Line in it, but Mr. *Goodenough*, being a Man of publick Acquaintance, by reason of his Office, did undertake it. I think he did propose Mr. *Bourne* for one, and one Mr. *Grains* for another, and said he would speak with Mr. *Keeling*. We had several Meetings after this, and Mr. *Goodenough* did report, that there were 1300 Men out of two of the Hamlets. My Lord, I stood here while Mr. *Bourn* gave his Evidence; but I suppose he hath a little forgot himself; for he told me he had spoken to one Parson *Lobb*, and he said to him, he would try what his Congregation could do; that he had two in *New-prison*, and he would set them out to see what they could do; that they were poor Men, but zealous in their way. I think Mr. *Bourn* hath forgot himself; for he did mention, that he had spoken to Parson *Lobb*.

Mr. Serg. *Jefferies*. Then Parson *Lobb* was in; there was another Parson in.

Mr. *West*. Yes, and he mentioned *Lobb's* Pound.

Mr. Att. Gen. The Prisoner was at those several Meetings, was he not?

Mr. *West*.

Mr. *West*. Yes, and did shew himself ready to act his Part. About a Fortnight before the Discovery brake out, Mr. *Rumbold* told me they had a great Jealousy Mr. *Keeling* would discover all the Business; that Mr. *Keeling*'s Wife and Mother cried mightily, and charged him for neglecting his Business, and said they were afraid he would do a great deal of Mischief to honest People; for he had replied to them, he would not want Money, and he would be hang'd for nobody. Upon which *Rumbold* told me, If I were sure of this, says he, I would dispatch him; I would get him into the Country, and kill him; but, says he, I will not kill an innocent Man; if I thought the thing was not so, I would not kill him for all the World. Mr. *Keeling* told him he had an Overture from one *Shoot*, of fourscore Pounds a Year.

Mr. *Att. Gen.* After you had notice of the Discovery, did you meet?

Mr. *West*. The *Saturday* before the Discovery I dined with Mr. *Rumbold*, and he took Mr. *Keeling* along with him. Says he, We won't discourage him too much; it may be 'tis not so. Mr. *Keeling* told him he never wanted Money so much in his Life. Mr. *Rumbold*, and one *Gale*, that was to be one of the Assassins, contrived to help *Keeling* to Money, and lent him 100*l.* Upon the *Sunday* I had notice the Thing was discovered, and that *Keeling* had accused me, and Mr. *Goode-nough*, and Mr. *Nelthorp*. On the *Monday* Morning early I thought fit to retire; but we did agree to meet at Captain *Walcot*'s Lodging. My Lord, I came thither pretty early, and all the People came afterwards, that had agreed to come thither, but they designed to go beyond Sea. I had no mind to go. They had hired a Boat, and gave 5*l.* in Earnest; but the next Morning it was said the Messengers were abroad, and that it was believed the River was beset, and there was no getting away. Then every Man shifted for himself, and I shifted by the means of Mr. *Bourn*, who, I thank him, helped me to a Conveniency for two or three Days. When we were all retired, they got Mr. *Keeling* in the City, and *Rumbold* discoursed him in the Presence of several People, where he wished a great many Imprecations upon himself, if he had discovered. I told them I did not understand him; for if he had made a Discovery, it was a fine way to catch People in. Then there was a Discourse of killing him. They proposed to him to go out of Town. He refused them, but said, he would go in a few Days. That Night they followed him, and upon tracing of him they found he had called out his Brother, and that he and his Brother were gone to the Secretary's; and then it was taken for granted, that Discovery was made, and every Man must shift for himself. Had not *Keeling* deceived them at that Meeting at the Tavern, by the Protestations he made, somebody had killed him there. Then Mr. *Wade* said, If the Duke of *Monmouth* would go into the *West*, we might try a Push for it; and the Prisoner at the Bar said, I am satisfied God will deliver the Nation, though he does not approve of the present Instruments.

L. C. J. Have you done as to this Gentleman at the Bar?

Capt. *Walcot*. When was it that I should say these Words? Then I desire your Lordship would ask him, how many Months ago it was he says I gave him the Paper?

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Mr. *West*. It was in *October*.

Capt. *Walcot*. Then whether I did not then lie ill of the Gout?

Mr. *West*. Not at that time, my Lord. This that I say of the Paper, was given me at my Chamber, and then I think he was pretty well.

Capt. *Walcot*. My Lord, I am not so natural a Fool to think, for me to charge the Guards, when another Man kills the King; but I am as guilty as he that kills him.

L. C. J. No doubt of it.

Mr. *West*. Capt. *Walcot*, I would not take away your Life to save my own; but I do take it upon me, that you did agree to command, or be one of those that were to fight the Guards.

L. C. J. What was the Reason he would not kill the King?

Mr. *West*. He said it was a base thing that way, being a naked Person, and he would not do it.

L. C. J. So the Point is the same; but only you distinguished in the Point of your mistaken Honour, and thought to kill the King was not so honourable a Point as to fight his Guards.

Capt. *Walcot*. There is no Difference between the one and the other; to do one and the other is the same thing.

L. C. J. Your Judgment is now rectified; but what say you to the Matter? For now you hear what is fastened upon you, that is, several Consults about the securing or killing the King; and your Advice was to kill him, and you did go down to *Rumbold*'s House, to view the Place where it might be done the more securely; and you did undertake; as several Witnesses say, not only Mr. *West*, but Col. *Rumsey*, and another of them, (*Bourn* I think it was) That you would fight the Guards, if you might have a considerable Number of Men.

Capt. *Walcot*. My Lord, if ever I was at Mr. *Rumbold*'s House, unless it was when I travelled from *York* by *Norwich*, and came to *London*; if ever I was there since, then I am guilty of all the Roguery imaginable.

Mr. *West*. I never heard, my Lord, Mr. *Rumbold* say he was there, but Col. *Rumsey* told me so.

Col. *Rumsey*. My Lord, he bought an Horse, and he said, he did intend to go down; and indeed, to the best of my Remembrance, he did say he was down; but I am not certain: But he did buy an Horse that cost him, I think, Twenty Pounds.

L. C. J. For that Purpose?

Col. *Rumsey*. Yes.

L. C. J. Now you hear, this is a little more particular than the other; Col. *Rumsey* did say before, that you did agree to go down, and, as he believes; you did go down.

Col. *Rumsey*. I believe Mr. *West* may remember he bought an Horse for that Purpose.

Mr. *West*. I remember he bought an Horse for Service; but I can't say it was to go down thither.

L. C. J. It does import you tell us upon what Account you met so often, and what was your Meaning in hearing these Things, and consulting of them, and what your raising of Men was for, and the Declaration written for the People, to please the People when this Assassination was over?

Capt. *Walcot*. The Declaration, Mr. *West* says, was in *October* last.

Mr. West. I take it to be so, my Lord, to the best of my Remembrance; there was this Passage: Says he, I believe in a Month or three Weeks you will be better or worse; so that I measure it by that.

Capt. Walcot. My Lord, Mr. West does tell your Lordship a very long Story, and sometimes he names one Gentleman, and sometimes another. I am very fearful the Jury will be very apt to apply all to me, who was the Man least concerned; for I had the Gout for several Weeks together, and Mr. West came several times to my own Lodging to see me: And for that of assassinating the King, it never entered into my Thoughts more or less; but here are four Gentlemen, who, by their own Confession, are sufficiently culpable; they, to wipe off their own Stains, are resolved to swear me out of Life.

L. C. J. What made you among them?

Mr. West. I do take it upon me, he was there three or four times.

Capt. Walcot. I did not stir for three Weeks or a Month. I came to Town on *Asb-Wednesday*, and then fell ill of the Gout, and that continued for divers Weeks. For a Month's Time that the King was at *New-market*, I am confident, I was not out of my Chamber, unless I made a Shift to scramble to *Stepney*, and dipp'd my Foot in every Well of Water I came by.

Mr. West. My Lord, I do remember this Passage, That he was afraid he should not be able to draw on his Boot, because he had the Gout.

Capt. Walcot. I desire to know, my Lord, When is the Time Mr. West speaks of, that I gave an Account of killing the King at my Lord Mayor's Feast?

Mr. West. I do not charge you positively with it: but I had it from you or Mr. Ferguson, but I must do the Prisoner Justice, he said, he would be no way concerned in it.

Mr. Att. Gen. Pray swear Mr. Blaitbwait.

[Which was done.

Mr. Blaitbwait, Pray tell my Lord, and the Jury, whether Captain Walcot owned that to be his Hand.

A Letter being then produced from Capt. Walcot to Mr. Secretary Jenkins.

Mr. Blaitbwait. My Lord, I remember, when Captain Walcot was examined before the King, he did own this to be his Hand.

Mr. Serg. Jefferies. Give it in.

Cl. of the Cr. Honoured Sir, July 5th. 83.—

L. C. J. Who is it directed to?

Cl. of the Cr. There is no Direction.

Mr. Blaitbwait. It was directed to Mr. Secretary Jenkins, as I find by the Minutes I then took of it.

L. C. J. Here is the Cover, it seems.

Cl. of Cr. To the Right Honourable Sir *Leoline Jenkins*, &c.

Honoured Sir,

I BEING in the Countrey, and to my great Trouble seeing myself in his Majesty's Proclamation, I came last Night to Town, resolving to lay myself at his Majesty's Feet, let him do with me what he pleaseth: This is the first Crime I have been guilty of since his Majesty's Restauration, and too soon by much now. If his Majesty thinks my Death will do him more good than my Life, God's Will and his be done. Until I sent your Honour this Letter, my Life was in my own

Power, but now it is in the King's, to whom I do most humbly propose, That, if his Majesty desires it, I will discover to him all that I know relating to England, Scotland or Ireland, which I suppose may be something more than the original Discoverer was able to acquaint his Majesty with, especially as to Ireland: There is not any thing his Majesty shall think fit to ask me but I will answer him the Truth as pertinently and as fully as I can. My Intimacy with a Scotch Minister, through whose Hands much of the Business went, I judge occasion'd my knowing very much. And I do further humbly propose, That if his Majesty thinks it advisable, I will follow those Lords and Gentlemen that are fled into Holland, as if I had fled thither, and had made my Escape also; and will acquaint the King, if I can find it out, what Measures they resolve of taking next: I do assure his Majesty, the Business is laid very broad, or I am misinform'd. And I am sure as to that Particular, if my being with his Majesty and your Honour be not discovered, I shall be ten times abler to serve him than either Mr. Freeman or Mr. Carr, for they will trust neither of them. There's scarce any thing done at Court, but is immediately talk'd all the Town over: Therefore if his Majesty thinks what I have presumed to propose advisable, I do then further most humbly propose, That my waiting upon his Majesty may be some time within Night; that your Honour will acquaint me the Time and Place where I may wait upon you, in order to it, that it may be within Night also, and that nobody may be by, but his Majesty, and your Honour: And if his Majesty pleaseth to pardon my Offences for the Time past, he shall find I will approve myself very loyal for the future; if not, I resolve to give his Majesty no further Trouble, but to lye at his Mercy, let him do with me what he pleaseth. I purpose to spend much of the Day in Westminster-Hall, at least from Two of the Clock to Four. I beg your Pardon I send your Honour this by a Porter: I assure your Honour, it was for no other Reason, but because I would not have a third Person privy to it; and that I might have the better Opportunity to make good my Word to his Majesty, and to approve myself

Your Honour's most humble Servant,
THO. WALCOT.

Mr. Att. Gen. Swear Captain Richardson.

[Which was done.

Capt. Richardson. My Lord, On Sunday at Night Mr. Walcot desired to speak with me, and he seemed very desirable to wait upon his Majesty, and unbosom himself to the King: Mr. Attorney said, I should give him Notice to prepare for his Trial, which I did, and told him, he should want nothing to prepare himself for his Trial. Yesterday Morning his Son came, and I sent my Clerk to stand between them, and he had prepared this little Paper tied close with a Thread, which my Man told me he did intend to give his Son; and he desired me, since I had discovered it, I would make no Use of it. The Letter was to Capt. Tracey, that was his Landlord, to speak to Col. Rumsy, that he would be tender of him, and tell him, he had Ground enough to serve the King upon other Men; and also to speak to Mrs. West, to desire the same thing of her Husband. The last Words in the Note were, If you cannot be private, leave the Issue to God.

L. C. J. Mr. Walcot, have you any thing to say for yourself, against this plain Evidence?

Capt.

Capt. *Walcot*. My Lord, They have taken a great deal of Pains, and made long Speeches, tho' very little of them relating to me, tho' too much. Col. *Rumsey* tells your Lordship of a Design they had to assassinate the King, and carry on a War, or something like it, when I was out of the Kingdom: That at Mr. *Shepherd's* House they drew up a Declaration; and that upon Mr. *Trenchard's* saying, Things were not ready. This was before I came into *England*, and he says this was agreed at Mr. *West's* Chamber before I came out of *Holland*, that Mr. *Rumbold* undertook it. Then he says, that after I came over, I undertook to charge the Guards while the King was killing. My Lord, that was a very improbable thing; for I look upon it, there is no Difference between killing the King, and securing his Guards. These Gentlemen, by what they have said, do sufficiently convince the Court, and all that hear them, that they are sufficiently dipp'd themselves. Here they combine to take away my Life, to save their own. Then they tell you, that Mr. *Goodenough* and Mr. *Rumbold* brought Notes about Men that were to assassinate the King; but they do not tell your Lordship I was privy to any of these Notes, nor that I knew any of them. 'Tis in itself very improbable, that I would engage in so desperate an Undertaking with Men I never saw, nor heard of in my Life. Then he tells you, that Mr. *Ferguson* had been at a Place where I was, and there inquired what Mr. *Goodenough* had done; and withal, they told you, they met at my Lodging: Now that their meeting at my Lodging was by Col. *Rumsey's* Appointment, I knew nothing of it. Most of these Meetings were by Col. *Rumsey's* Appointment, or Mr. *West's*: I accidentally came amongst them sometimes, but all my Business was only to hear News; nothing was agitated concerning killing the King, or levying of War, more or less; as I know of. I must confess, I did hear that there was a Design by a great many Lords and Gentlemen; and others, for asserting of their Liberties and Properties; but I was never in any Consultation with them, or any Message to them, nor I never saw one of these Lords, that I know of, that are said to be concerned. Therefore, I say, 'tis very improbable I should be so far concerned as they seem to represent it. They met at the *Five-Bells*; they allow, themselves, I was not at that Meeting. For Mr. *Keeling*, he does not at all charge me. What I said to Mr. *West* relating to the Business he talks of in *October* last, that, my Lord, is out of Doors in point of Time. I pray God forgive him for what he has said. I can't say more than I have.

L. C. J. Pray where do you live? Where is your Habitation?

Capt. *Walcot*. My Habitation is in *Ireland*, my Lord.

L. C. J. Pray what do you do here?

Capt. *Walcot*. I was invited by my Lord *Shaftsbury* to go Governor to *Carolina*.

L. C. J. That Design was a great while ago frustrated.

Capt. *Walcot*. My Lord, it was some while before I came over, and so my Lord gave his Commission to another. But being in *England*, my Lord *Shaftsbury* invited me to go to *Holland* with him, which I did; and when he died, I came to *London*; I had not been here a Fortnight but I fell ill of the *Gout*, and that continued three Months: Another thing was, my Son was here,

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and I design'd to marry him; and make Provision for my younger Children: My Lord; I have a competent Estate; I hope it is no great Crime for a Man of an Estate to be here.

L. C. J. You confess, you heard some Discourse of these things; what made you to frequent their Company, when you heard these things?

Capt. *Walcot*. It was my Folly to do it.

L. C. J. Ay, but you are to understand; that Folly in these Cases is Treason.

Capt. *Walcot*. I conceive, my Lord, 'tis only Misprision of Treason. I did hear of a great deal that these Gentlemen have said, and that there would be an Insurrection; but I had no Hand; directly or indirectly, in it; nor did it enter into my Thoughts, either directly or indirectly, the Death of the King. When some Gentlemen have talked to me about it, I abominated it, and told them, it was a scandalous thing, a Reproach to the Protestant Religion: For my Part, I had Children would bear the Reproach of it; and I would have no Hand in it.

L. C. J. Look you, Captain *Walcot*, that you did deny to do the Fact, to assassinate the King, that is very true; they say so, that you did always deny it; for you stood upon this Point of Gallantry, a naked Man you would not assassinate. And then you talk of Misprision of Treason: For a Man to hear of Treason accidentally, or occasionally, and conceal it, is but Misprision; but if a Man will be at a Consult where Treason is hatched, and will then conceal it, he is guilty of Treason therein; therefore do not mistake your Case: So that your Point of Law fails you, and every thing fails you in this Case. It appears plainly by them, that you were not only privy to the Consult as an Auditor, but as an Actor; you chose your Post, and upon this Point of Gallantry you would venture yourself, not upon a naked Man, but upon Persons that would oppose you.

Capt. *Walcot*. Certainly no Man that knows me, would take me for such a very Fool, that I would kill the King's Guards; as if I were not sensible, that was equal Treason with the other.

Mr. *Att. Gen.* Ill Men are always Fools.

Capt. *Walcot*. 'Tis clear they have laid their Heads together, they have contrived to take away my Life, to save their own; 'tis plain enough.

L. C. J. There is nothing more reasonable, nothing more just in the World, than to make use of some Traitors to discover and convict the others, else would Treason be hatched securely. There's nobody capable (where Treason does not take Effect) of making an Evidence in such a Case, but some of you that are Conspirators. You do not publish it at the *Market-Cross*. And if you could gain but this Point, that none that are concerned with you in the Conspiracy should be Witnesses, it would be the securest thing in the World to hatch Treason. For you would be upon this Point; either it shall take Effect, and then 'tis too late; or if it do not, and the Conspirators are not to be believed, then I am secure, nobody in the World can convict me.

Juror. We desire he may be asked what he says to the Letter.

L. C. J. Well, what say you to it? You have made Proposals you will discover others, and you will give Intimation to the King of the Measures the rest of the Conspirators were taking in *Ireland*, and other Places; upon what Design did you write that? And what induced you to it?

Capt. Walcot. My Lord, I have told your Lordship, that I have heard a great many Discourses relating to that thing, and heard it mostly by *Mr. Ferguson*, with whom I had a very great Intimacy, and I did according to my Promise give that Account of it; but if his Majesty would not believe me, I can't help it; but the King was not pleased with me, because I could not descend to Particulars; and I could not, because I never had been in their Company, nor knew nothing but what I had once by a private Hand. I dealt ingenuously and truly with the King, and told him what I knew.

L. C. J. Pray observe the Contents of your Letter. You made this Proposal, That you being in the Proclamation, you were one of the fittest Men to understand and smell out the Measures of the other Persons. By this it is plain, you took yourself to have an Intimacy, and some Intrigue, with the other Persons that you thought were impeached: Your Letter does import, that you had such an Interest with those Persons, that they would have communicated their Counsels to you.

Capt. Walcot. My Lord, I never spake but with *Mr. Ferguson*, who was a Man they did much confide in; and I knew very well, that by my Interest in *Mr. Ferguson*, I should have an Interest in the rest. But truly, whether the Duke of *Monmouth* be there, or not, I know not. I do not know him, if I meet him. I was never at any Consult, never at any of these Debates.

L. C. J. What did you mean by this, that this was your first Crime? You knew what you was charged with; it was for High Treason.

Capt. Walcot. My Lord, 'Tis my first Crime. My Lord, I have heard there was an Insurrection intended, I have heard of the Persons that were to carry it on; I did look upon this as a Misprision of Treason; but that I ever acted in it, or intended it, I utterly deny.

L. C. J. The last Question is, Whether you have any Witnesses?

Capt. Walcot. I have only a young Man or two, if he be here, to prove the Time that I was ill of the *Gout*, and therefore 'tis improbable I should be so far concerned.

L. C. J. I must tell you before-hand, that an Argument from the Topic of Probability, will do you but little Service, when there is positive Evidence against you. This it will import you to make a little Answer to, if you can, what you meant by your Application to Colonel *Rumsey*, desiring Captain *Tracey* to speak to him and *Mr. West*; what do you mean by that?

Capt. Walcot. My Lord, would not any Man in my Circumstances desire a Man to deal tenderly with him?

L. C. J. Well, is this young Man come in? Come, Sir, what have you to say on the Behalf of the Prisoner at Bar? Or will you ask him any Questions?

Capt. Walcot. Only about what Time I fell ill of the *Gout*, and how long I continued so?

L. C. J. Do you know about what Time he fell ill of the *Gout*, and how long it continued?

Wit. My Lord, I can't remember certainly the Time, but I believe it was about three Months; I can't tell certainly when it began.

Capt. Walcot. My Lord, it is very improbable, that when I was not able to put a Shoe on, nor wear a Boot, I should engage in so hazardous and desperate an Undertaking.

L. C. J. Have you done, Sir?

Capt. Walcot. Yes, my Lord.

Mr. Sol. Gen. May it please your Lordship —

Capt. Walcot. The Jury will take notice; here are four Men, to save their own Lives, swear me out of mine.

Mr. Sol. Gen. May it please your Lordship, and you, Gentlemen of the Jury, the Evidence you have heard has been very long, and I observe that *Capt. Walcot* has complained of it; it has been delivered mostly in general Terms; and is afraid you should not apprehend it aright, to see those Parts wherein he is concerned, but mistake what is said in general to be spoken against him. I will therefore do him the Justice as to recapitulate that Part of the Evidence that does immediately concern himself. It has been very full, and given by every one of the four Witnesses that have been produced against him, besides the Letter under his own Hand, which is twice as many more.

The first Witness I shall remind you of is *Mr. West*, tho' not produced first, yet because his Evidence goes further backward; his Acquaintance began with him in last Summer Vacation, he became soon intimate with him, and Captain *Walcot* did unbosom himself, and tell him, that there was a Design to make an Insurrection; that it was my Lord *Shaftsbury's* Design, that he was to be an Officer, I think he said a Colonel of Horse; he invited *Mr. West* to partake with him in that Design, and did propose to him the Advantage of a Command in the Army; but he not being qualified, declin'd it. He tells you further, that he did acquaint him there was a Design to assassinate the King; and 'tis easy enough to be believed, if there was one designed, the other was too. And you see all along the only Dispute was, whether the Assassination should be first, or follow; for to raise Arms against the King is directly to assassinate the King; for it cannot end any other way with Security to those that raised it. He told *Mr. West*, he would not be concerned directly in the Assassination, but in the Insurrection he would; he was persuaded to come in. This was, last *October*, discoursed with *Mr. West*; they were to rise in *November*. Then Col. *Rumsey* comes in, and he tells you, that there was a Design to rise in *November*. The Lord *Shaftsbury* sent him to Persons concern'd in the Conspiracy, to know in what Readiness it was; but they being disappointed of Men, whom they expected to rise in the Country, they did defer it at that time; at which my Lord *Shaftsbury* being concerned, went into *Holland*, and I think the Prisoner himself hath told you he went with him. The Design was not then laid aside, but still carried on, the most material Man; *Mr. Ferguson*, being in *Holland*, there was some little Stop put to it, that is, to the swift Progress of it; and

and therefore he was sent for over to manage it, as being the only Man in whom all Persons had Confidence. When he comes over, he brings Captain *Walcot* along with him. Mr. *Ferguson* meets at Mr. *West's* Chamber; this Mr. *West* and Col. *Rumsey* give an Account of, they both swear it. Several Meetings there were in which Capt. *Walcot* was not, and possibly at those times he might be sick of the *Gout*, and that might occasion his not being there. But afterwards both tell you, that Capt. *Walcot* did meet at Mr. *West's* Chamber, and there was debated particularly the Assassination of the King; and it was agreed to be at *Rumbold's* House called the *Rye*, looking upon it as a very convenient Place, as those that know it say; there being a narrow Passage that it was easy to assault, and hard for Persons to escape; and with 40 or 50 Men, thereabouts, it was a Design very likely to have succeeded. Capt. *Walcot's* Share in this was not directly the Assassination of the King, that he would not be concerned in, being a Soldier, it was beneath him to do that; but his Part was to fight the Guards, he looked upon that as the more honourable Employment; Men that were armed to engage them. This is proved both by Mr. *West* and Col. *Rumsey*.

In the next Place, Gentlemen, when this did not succeed, but was prevented by the great Providence of God Almighty, as you have heard, they carry on the Design still, and take it into their Councils, and resolved to carry it on, either at *Windfor*, or in his Passage from *Windfor* to *Hampton-Court*; but no Place was certainly fixed upon; and I think the latter Resolution was, that it should be done at the *Bull-Feast*, an Entertainment that was designed here in the Fields. Now, Gentlemen, while this was carrying on, it was necessary to carry on the other Part too, that is, the Insurrection; and that Capt. *Walcot* is all along concerned in. He is present at the Meetings in the Taverns, where they discoursed concerning Men to secure the King. This is Mr. *Bourn's* Evidence, That at the *Dragon-Tavern* on *Snow-hill*, there they met to consult to secure the King and the Duke. That he was present at the Meeting in *London*, this is sworn by all, by Col. *Rumsey*, Mr. *West* and Mr. *Bourn*, where *Goodenough* was to give an Account what Success he had in the List made of dividing the City in several Parts, and raising Men out of every Division, and Capt. *Walcot* met for to know what Progress they had made in it. Gentlemen, every one of these are overt Acts, to declare his Intention to kill the King, and are all High Treason.

The Gentleman at the Bar cannot attempt to mitigate his Offence, by saying he would not directly assassinate the King, but would be the Man to assist in raising Arms; this makes him equally guilty. To conspire to raise Arms against the King, certainly that is as great a Declaration of his Imagination of his Heart to kill the King, as any thing in the World: And this being proved upon him, there is no room for any Objections for him to make; some he hath made, not worth the Mention; but because they are those he thinks to put his Life upon, I will take notice of them to you.

He says, the Witnesses are not to be credited, because they have been concerned in the same Conspiracy.

Gentlemen, because they have been concerned, therefore they are to be believed; for who should know this but those that were so concerned? I think, Gentlemen, there is no good Man, no honest Man, would desire a better Evidence; for better Evidence could not have been had, unless the thing had taken Success; and I am sure that is far from the Heart of any Man, that has the Heart of a Christian, to wish. Does he pretend to intrap these Witnesses in any Contradictions? Does he pretend to say these Witnesses have consulted together to make up this Story to accuse him for his Life? There is nothing pretended of it, but on the contrary he owns he met these Men; but the End of his going there was only to hear News. I thought that had not been the proper Place to hear News in; certainly no Man that comes there would have been admitted merely for Curiosity; certainly he must bring a Mind to accompany them in all their Villainy; but his own Confession you have for that. I think he hath hardly Confidence to deny, but he was at several Consults for raising Arms at Mr. *West's* Chamber. You were, when *Goodenough* gave an Account, at the *Green-Dragon Tavern*. You were where Discourses were of raising Arms to secure the King; and nothing he has said, Gentlemen, to clear himself.

Gentlemen, here is that above all Evidence; here is almost the Confession of the Prisoner, the Letter of his own Hand. That Letter (when he sees his Name in the Proclamation) acknowledges it is his first Crime, he says: What was that Crime? He was proclaimed as a Traitor. He says in his Letter, that his Life was at the King's Mercy; that if his Death would do the King more Service than his Life, God's Will be done; that if his Majesty would admit him to come in, and use Mercy, he would tell all he knew concerning *England*, *Scotland* and *Ireland*, which he thought would be more material than any thing that another Discoverer could tell. This shews he hath a deeper Hand than any of these Men that have given this Evidence. You see they accuse themselves; they confess this, and 'tis a great Mercy they have so done; for all your Lives and Liberties in the Person of the King are preserved; and God be thanked, that you are here this Day to sit in Judgment upon him that would have deprived you of them.

L. C. J. Look you, Gentlemen of the Jury, here is the Prisoner at the Bar indicted of High Treason, and 'tis for conspiring the Death of the King, and for endeavouring to raise Arms within his Kingdom against him. You hear he denies himself to be guilty; you have heard the Evidence, and this does plainly appear upon what you have heard, that there was a dangerous and desperate Plot upon the King, to have destroyed him, that is most certainly plain, the Prisoner himself confessed it; that there were several Consults and Meetings concerning it; and that this had a great Progress from time to time, for near half a Year, is very plain; that he was at many Consults, is very certain; that there was a Design to raise an Insurrection and War within this Nation, is as plain by them all; it was design'd the last Winter to have done it. The Witnesses (who are certainly the Persons most capable of giving Evidence) tell you there were several times appointed, and still they were by one Pro-
vidence

vidence or another disappointed. All of them tell you, there was a Design to kill the King and Duke at the *Rye* in *Hertsfordshire*, as they came from *New-market*: This is very plain too, that this Gentleman at the Bar knew of this; this he himself confesses, that he was at several of the Consults; and this he excuses it by, that that was Misprision of Treason, if he did not undertake to do any thing. As to that, Gentlemen, we do tell you, the Law is, that those that are at a Consult for the killing the King, or doing of a traitorous Act, that is in them High Treason, his being at the consulting of it. 'Tis true, it would excuse and mitigate the Fact, if they should come afterwards and discover it, it might intitle them to the King's Mercy; but to be at a Consult upon a treasonable Design, to meet for that Purpose to hear the Plot laid, and a Design to take away the King's Life, or to raise Arms against him, and to say nothing of this, this is downright Treason, and 'tis not Misprision of Treason; his Law that he relies upon, fails him there. 'Tis very plain by his own Words, he heard of this Conspiracy, and he kept it secret, and says nothing of it; and this he says is his Crime that he mentioned to the King; so he would mitigate it by saying, 'tis but Misprision of Treason. But without doubt, the Meeting at several Times upon this Design, if he had promised and undertaken nothing in it, his keeping of it private, as he has done, makes him guilty of High Treason; so that out of his own Words 'tis plain that he is Guilty.

But then, consider what two Witnesses positively prove upon him: They prove, that he did there deny to be any of them that should assassinate the King; thus says Col. *Rumsey*, and thus says Mr. *West*; but he would be one of them that should fight the Guards, and he did undertake to fight the Guards, as both of them positively swear. This is done with Circumstances of overt Acts too, as the providing of Horses, and a Tuck was to be prepared in order to it, and a Tuck he did prepare: Whether he did go down, that is a little dark, but he did agree to go down.

Gentlemen, 'Tis plain by what Mr. *West* said of him, that he had a Design formerly in my Lord *Shaftsbury's* Time to have raised War; he


had undertaken to be a Colonel of Horse under my Lord *Shaftsbury*, and he offered Mr. *West* to be one of his Officers under him. This is a Design to raise War against the King, and declares it sufficiently. That which makes the Evidence further plainly and greatly clear, is a Letter whereby he does submit to the King's Mercy; but proposes that himself is abler to instruct the King in these Matters, than any of those that had made former Discoveries; and therefore if his Majesty should think fit, he would make him a full Discovery, not only of things in this Kingdom, but of the Transactions with other Kingdoms, that is, *Scotland* and *Ireland*, in which he takes himself to be more capable of discovering to the King that any body else, because he was concerned with the Agents there; which shews this Plot hath gone a great Way: This Design hath gone into other of the King's Dominions, and it is to be feared 'tis larger than the King knows. 'Tis Time to nip these Treasons when they are gone so far; certainly a more barbarous Design was never thought of by Mankind. We have had certainly as many Engagements to the King, as any Subjects ever had to any Prince whatsoever; he has done as many Acts of Grace, we have lived as peaceably as any People under a Prince can ever expect to do; he hath shewed himself with as much Kindness, with as much Lenity, even to his very Enemies, as any Prince that ever we read of; the Preservation of our Religion, and the Laws of the Kingdom; our Laws and Liberties, and all our Happiness, depend as much upon his Life, as they ever did upon the Life of any Prince, or ever can do; so that we ought all to be concerned, even to the last Drop of our Blood, to preserve him: But how this mischievous Design should enter into the Hearts of Men, to undertake to kill him in such villainous and barbarous a Manner as this, may justly make us astonished.

Gentlemen, You hear your Evidence, you have a very strong Evidence in this Case, and stronger, I think, than could be expected in the Case of Treason.

The Jury went out for about Half a Quarter of an Hour, and returned, and brought the Prisoner in Guilty.



CXVIII. *The Trial of WILLIAM HONE* *, *at the Old Bailey, for High Treason, July 12. 1683. 35 Car. II.*

 *William Hone* being brought to the Bar, and having held up his Hand, the Indictment was read, as follows:

London. *The Jurors for our Sovereign Lord the King, upon their Oaths, present, That William Hone, late of London, Labourer, with other false Traitors, as a false Traitor against the most Illustrious and Excellent Prince, our Sovereign Lord Charles*

II. by the Grace of God, of England, Scotland, France and Ireland King, his natural Lord; not having the Fear of God in his Heart; nor weighing the Duty of his Allegiance, but being moved and seduced by the Instigation of the Devil; and the true Duty, and natural Obedience, which true and faithful Subjects of our Sovereign Lord the King, towards him our said Lord the King, do bear, and of Right ought to bear, wholly withdrawing; and with

* *Burnet's History of his Own Times, Vol. I. p. 559.*

his whole Strength intending the Peace and common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move and stir up, and the Government of our said Lord the King within this Kingdom of England to subvert, and our said Lord the King from his Title, Honour and Kingly Name of the Imperial Crown of this his Kingdom of England to put down and deprive, and our said Lord the King to Death and final Destruction to bring and put, the second Day of March, in the Year of the Reign of our Sovereign Lord Charles II. King of England; &c. the Five-and-thirtieth, and divers other Days and Times, as well before as after, at the Parish of St. Michael Bassishaw, in the Ward of Bassishaw, London, aforesaid, maliciously and traiterously, with divers other Traitors, to the Jurors aforesaid unknown, he did conspire, compass, imagine and intend our said Lord the King, his Supreme Lord, not only of his Kingly State, Title, Power and Government of this his Kingdom of England to deprive and throw down; but also our said Lord the King to kill, and to Death to bring and put; and the ancient Government of this his Kingdom of England to change alter and wholly to subvert, and a miserable Slaughter amongst the Subjects of our said Lord the King through the whole Kingdom of England to cause and procure, and Insurrection and Rebellion against our said Lord the King to move, and stir up, within this Kingdom of England; and to fulfil and perfect the said most horrible Treasons, and traiterous Compassings, Imaginations, and Purposes aforesaid, he the said William Hone, and many other Traitors, as a false Traitor, then and there, and divers other Days and Times, as well before as after, maliciously, traiterously and advisedly, he did assemble, meet together, and consult with divers other evil-disposed and discontented Subjects of our said Lord the King, to the Jurors as yet unknown, and had Discourse, and did treat, of and for the executing and fulfilling their Treasons, and traiterous Compassings, Imaginations and Purposes aforesaid; and that the said William Hone, (together with many other Traitors) as a false Traitor, maliciously, traiterously, and advisedly, then and there, and divers other Days and Times, as well before as after, did take upon himself, and promise to be aiding and assisting in the executing of the Treasons, and traiterous Compassings, Imaginations and Purposes aforesaid; and in providing of Arms, and Men armed, to fulfil and perfect the said Treasons, traiterous Compassings, Imaginations and Purposes aforesaid. And to fulfil, and bring to pass, the said most horrid Treasons, and traiterous Compassings, Imaginations and Purposes aforesaid, he the said William Hone (with many other false Traitors) as a false Traitor, maliciously, traiterously and advisedly, then and there, did procure and prepare Arms, to wit, Blunderbusses, Carbines, and Pistols, against the Duty of his Allegiance, against the Peace of our Sovereign Lord the King, &c. and against the Form of the Statutes, &c.

Cl. of the Cr. How sayest thou, William Hone? Art thou Guilty of this High Treason, whereof thou standest indicted, or Not guilty?

Hone. In some measure I am guilty.

Capt. Richardson. You must say, Guilty, or Not guilty.

L. C. J. You must plead to this; and the Way is, to confess all, or deny all.

Hone. I know nothing of the Arms.

L. C. J. Are you guilty of the Treason, in conspiring the Death of the King; and providing Arms for that Purpose?

Hone. I never provided Arms; I am guilty of the Conspiracy.

L. C. J. We can take notice of none of these odd kind of Words you talk of; but either plainly Guilty, or Not guilty.

Hone. My Lord, I can truly say, I am Not guilty; for I know nothing of it.

L. C. J. If you say so, you say as much as is required of you at present.

Hone. In that understanding of it, I am Not guilty.

L. C. J. Well, he says he is Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Hone. By God and my Country.

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

Friday, July the 13th in the Morning, the Court being set, and Proclamation made.

Mr. Att. Gen. Set William Hone to the Bar.

Cl. of Cr. You the Prisoner at the Bar, hold up your Hand.

Hone. I desire I may retract my Plea: I would plead Guilty.

L. C. J. Do you confess the Indictment?

Hone. Yes, my Lord.

L. C. J. That is, That you did conspire the Death of the King, and in order to that, that you did provide yourself with Arms to do this wicked Act.

Hone. I never did that, my Lord, I never provided any Arms.

L. C. J. What were you to have done?

Hone. That Deposition I gave before Sir William Turner is true.

L. C. J. Tell us what you were to have done in this bloody Matter.

Hone. I was asked by one Mr. Richard Goodenough to go along with him, and I asked him whither, and he would not tell me; but I understood it was to kill the King and Duke of York, but he did not tell me the Place.

Mr. Serg. Jefferies. He does not confess fully; we desire to try him.

L. C. J. Look you, you have pleaded Not guilty to this Indictment: The King is willing, that if you be Not guilty, you shall not be condemned; and therefore he does desire and command the Evidence against you should be publickly give, that all Persons may see, that you are not without Cause brought to Trial. Therefore swear the Jury.

The Prisoner challenged none; but the Jury that were sworn were,

Nicolas Charlton,	} Jur ^s	William Rutland,
Christopher Pitts,		Thomas Short,
Robert Beddingfield,		Theophilus Man,
John Pelling,		John Genew,
William Windbury,		John Short,
Thomas Seaton,		Thomas Nicholas.

Then Proclamation for Information, and for those that were bound by Recognizance to appear, was made.

Cl. of Cr. William Hone, hold up thy Hand. (Which he did.) You Gentlemen of the Jury that

that are sworn, look upon the Prisoner, and hear-ken to his Cause; he stands indicted by the Name of *William Hone*, &c. *prout antea*, in the Indictment, *mutatis mutandis*; upon this Indictment he hath been arraigned, and hath thereunto pleaded Not guilty; and for his Trial, &c.

Mr. *Jones*. May it please your Lordship, and you, Gentlemen of the Jury, the Prisoner stands indicted for the most horrid Treason that ever was endeavoured to be committed in this Kingdom, for traiterously conspiring to kill the King, and consulting how and in what Manner it should be done, and for preparing Arms for the doing of it. We shall prove this to you, and then I hope you will find him Guilty.

Mr. *Att. Gen.* May it please your Lordship, and you, Gentlemen of the Jury, the Part the Prisoner at the Bar was to act in this Treason, was the killing of the King; he was one of the Persons that were to be assisting in assassinating the King's Person. We will not trouble you with the large Evidence of the Rising, as we did Yesterday; but we will prove these things upon him, that he undertook to do it, that he was concerned with the rest of the Confederates: We shall shew you this is not a new Thing, but he hath been an old Rebel; for this hath not been a new Project, but hath been acting several Years. Five Years ago, when the King attended my Lord Mayor's Show, he undertook to kill him off of *Bow Church*. We shall call our Witness, and prove it fully upon him. Mr. *Keeling*, and Mr. *West*.

Mr. *Josias Keeling sworn.*

Mr. *Att. Gen.* Do you tell my Lord and the Jury, what you know of this Prisoner at the Bar.

Mr. *Keeling*. The first Time I saw him was at the *Dolphin Tavern*, when the Arms were agreed upon, he was there then.

Mr. *Att. Gen.* Who was there then?

Mr. *Keeling*. Mr. *West*, Mr. *Goodenough*, and him I remember particularly, and some others, whom I do not at present remember, and since that he hath taken notice of me.

Mr. *Att. Gen.* Was Mr. *Rumbold* there at that time?

Mr. *Keeling*. Yes.

Mr. *Att. Gen.* Pray at that Meeting tell the Jury what Discourse you had; for many of these Gentlemen are not the same that were on the Jury Yesterday.

Mr. *Keeling*. It was discoursed then of the King's coming home from *New-market* the Saturday after the Fire. Mr. *West* told Mr. *Rumbold*, he heard the King would come home that Day; But, says he, I don't believe it. Says *Rumbold*, I hear he will come home on Monday. Says Mr. *West*, I hear so too. They said, they hoped they would not come home on Monday. Says Mr. *West* to Mr. *Rumbold* then, How many *Swan-quills*, *Goose-quills* and *Crow-quills*, and how much Sand and Ink, must we have? I think the Prisoner at the Bar must needs remember it as well as I. It was agreed by Mr. *Rumbold*. I think I am exact in the Number, and he was by and heard all the Discourse.

Mr. *Att. Gen.* What did they mean by this?

Mr. *Keeling*. By *Swan-quills* they meant Blunderbuffes; by *Goose-quills*, Muskets; and by *Crow-*

quills, Pistols; and by *Sand and Ink*, Powder and Bullet. He took Acquaintance with me after that Meeting, (for I never saw him, as I know of, before) and after some time he told me, he was one of them that was to go down to the *Rye* to assassinate the King. And since that, at a Coffee-house in *Switbin's-Alley*, he told me, It would never be well till the Blackbird and the Goldfinch were knocked on the Head. They being Terms I did not understand, I asked him what he meant; he said, The King and Duke of *York*.

Mr. *Serg. Jefferies*. You are sure that is the Man?

Mr. *Keeling*. I am sure that is the Man, *William Hone*.

Mr. *Serg. Jefferies*. What, is that the Man that talked of the Blackbird and Goldfinch?

Mr. *Keeling*. I am sure that is the Man.

Mr. *Att. Gen.* Now swear Mr. *West*.

Mr. *Serg. Jefferies*. If Mr. *Hone* has a-mind to ask him any Questions, he may.

Hone. My Lord, this I deny: As to the Blackbird, I own it; as to the Goldfinch, I never heard a Word of it till this time.

Mr. *Serg. Jefferies*. You had only a Design upon the Blackbird then.

Mr. *West sworn.*

Mr. *Att. Gen.* Tell the Court what you know of the Meeting at the *Dolphin Tavern*.

Mr. *West*. I was there, and Mr. *Keeling* came in. There were several things said of *Swan-quills*, *Goose-quills* and *Crow-quills*, but this Man did not come in till this Discourse was over, and I am sure I did not speak of any thing of this Nature before this Man in my Life. But Mr. *Goodenough* did undertake to provide the Men, and Mr. *Goodenough* said, he would try him, if he would make an Attempt upon the Duke without the King. And I asked him, whether he had seen Mr. *Goodenough*. He told me he had. Says he, he spoke to me about a little Jobb for the Duke. Mr. *Goodenough* said, he had spoke to him fully about the thing. And I saw him often in the Company of *Mannius*, that was design'd to be another of the Assassins. He was at my Chamber once; says he, Master, shall we do nothing? I think he used these Words, That if the Duke of *Monmouth* would be true, and appear, he could bring fifty or sixty honest Men of t'other Side the Water, to do the Business. I asked him, What Business? Says he, Either a brisk Push (that I took for an Insurrection) for the two Brothers: Says I, what Brothers do you mean? Says he, the Captain and Lieutenant; those were the two Terms they used since the *Van-berring* was printed. I think he was a pretty honest Fellow before this Time; he was deluded by *Goodenough*, I think, in the thing.

L. C. J. (to Mr. *West*.) Do you come to justify these things?

Mr. *West*. My Lord, he hath been deluded basely, and I am sorry for the poor Fellow.

L. C. J. It is a very unusual thing, for one in your Condition to use such Expressions in such a Case.

Mr. *Serg. Jefferies*. Mr. *West*, You have been deluded.

Mr. *Att. Gen.* Captain *Richardson* and Sir *Nicolas Butler*.

Mr.

Mr. Serg. *Jefferies*. I find he is not worthy of the Mercy the King hath shewed him.

Mr. *West*. It was a Word I put from me unawares.

Mr. Serg. *Jefferies*. My Lord, We will give you an Account of a Design this Man had long ago to kill the King.

Sir Nicolas Butler sworn.

Sir Nicolas Butler. My Lord, I know the Prisoner at the Bar very well. I have known him many Years: I have always known him guilty of Plotting and Contriving, and ready upon all Occasions to embrace any thing for these Purposes laid to his Charge; particularly, when *Sir Francis Chablain* was Lord Mayor, his Majesty and the Duke stood at Mr. *Waldoe's* House, by reason of the *Angel* House being shaken. And he came to my House, and told me, he would discourse me upon some private Matter; I called him into a Closet, and he told me, they had a fair Opportunity to take off the King and the Duke at once: I told him, that would do very well, but how will you do it? Says he, We will do it with Cross-bows; we are to be half a Dozen, and we will go into the Steeple, where there is a Window just opposite to the Balcony: And a great deal of Discourse we had to this Purpose. My Intent was to divert them from this Design, and told him how impossible it was they should escape the Foot Guards and Horse Guards, and Multitude of People: And if he did not do the Business effectually, he would be undone, and all the Party. I rested satisfied he would have desisted upon this. But I knew the Principles of these Fifth-Monarchy-Men, and their Associates, and thought it not safe to trust to his bare Say-so, that he would desist; but I went to the King and the Duke of *York*, into my Lord Chamberlain's Chamber, where they came to me, and I gave them this Account, and desired them to set some to watch the Place, and to search if any were got into the Steeple before they came; and there was one *Horsal* appointed, that did accordingly watch them, but none came: Upon which some Good-willers to it have reported, that it was a Sham-business; but I think that was not well done. But the thing was real, and when he was examined before the King in the Secretary's Office, he did confess all these things that I charged him with.

Mr. *Att. Gen.* *Sir Nicolas Butler*, Had you any Discourse of killing the King at this time?

Sir Nicolas Butler. No: At last they did understand I kept a Correspondence at Court, and then they would tell me no more.

Mr. *Att. Gen.* Since he was taken, what did he say about this Matter?

Sir Nicolas Butler. About this Matter he did acquaint divers; he was one that was to kill the King and the Duke.

Captain Richardson sworn.

Capt. Richardson. *Sir Nicolas Butler* asked him in my Presence (I went along with *Sir Nicolas* when he examined him) as to this thing, how he was concerned? He said, Mr. *Goodenough* came to him, and told him he wanted Labourers; he

asked him, for what? At last he did confess, that Mr. *Goodenough* did tell him, it was to kill the King, and the Duke of *York*; he did confess, that he did agree to it, and that he would be one of them. He did likewise say, that after, at another Meeting, he was for killing the King and saving the Duke; but *Goodenough* was for both.

Sir Nicolas Butler. He said he was to have 20 *l.*

Capt. Richardson. He said, he did not desire to stir, and *Goodenough* told him he should have 20 *l.* to buy him Horse and Armour: And told us the Business of the *Rye*, the Place he did not know, but said, it was the Place where the King was to be murdered. This is the Substance of the Examination taken.

Mr. Serg. *Jefferies*. Tho' the Prisoner at the Bar did partly make a Confession; yet for the Satisfaction of the World, my Lord gave us leave to call our Witnesses.

Capt. Richardson. That which *Sir Nicolas* says about the Cross-bows he did own, but —

L. C. J. What say you to this treasonable Design of yours, in undertaking to kill the King, in hiring yourself out to be one of the Persons that should have executed this traitorous Design, this horrid Murder, to have killed the King at the *Rye*?

Hone, I say, I did not know the Place where, nor when, at the time it was proposed about the *Rye*.

L. C. J. But what do you say as to the undertaking to kill the King? The other is but a Circumstance, this is the material Point.

Hone. My Lord, I was drawn into it by Mr. *Richard Goodenough*.

L. C. J. You hear what *Sir Nicolas Butler* says of the Cross-bows you designed to kill the King with, what say you to that?

Hone. I say, there was a Person told me of such a thing; and I told *Sir Nicolas* immediately of it. The Person that told me was a Shop-keeper, and I don't know him.

Sir Nicolas Butler. You named three Persons to the King that were Confederates with you, but you came to me of yourself.

L. C. J. Look you, yourself was one of the wicked Undertakers in that traitorous Design.

Hone. No, I did never design it, but I was told it.

L. C. J. Ay, that yourself and some other good Fellows were engaged in the Design.

Hone. I was not engaged, only as I was told by a Fellow, that there was a Shop-keeper lived hard by that would do such a thing, and I immediately told *Sir Nicolas Butler*.

L. C. J. Come, 'tis in vain for you to mince the Matter, for here is a full Evidence against you: The best you can do for your Advantage now, is to consider well with yourself, and repent of this wicked Design. What Religion do you profess?

Hone. Religion, my Lord?

L. C. J. Ay, any or none?

Hone. My Lord, I hear several sort of Men, sometimes Baptists, sometimes Independents, and sometimes the Presbyterians.

L. C. J. But regard none. Look you, Gentlemen of the Jury, you hear a plain Case of a barbarous Murder designed upon the King, one


of the horridest Treasons that hath been heard of in the World, to have shot the King and the Duke of York in their Coaches, as they were coming upon the Road. You have had full Evidence of this Man's being one of them; and

therefore I am of Opinion, that you must find him guilty.

So the Jury brought the Prisoner in Guilty, without going out of Court.



CXIX. The Trial of Lord WILLIAM RUSSEL *, at the Old Bailey, for High Treason, July 13. 1683. 35 Car. II.

 THE Lord Ruffel was set to the Bar, and placed within the Bar.

Cl. of Cr. William Ruffel †, hold up thy Hand (Which he did). Then the Indictment was read, as followeth:

London. The Jurors of our Sovereign Lord the King, upon their Oaths, present, That William Ruffel, late of London, Esq. together with other false Traitors, as a false Traitor against the most Illustrious and Excellent Prince, our Sovereign Lord Charles II. by the Grace of God, of England, Scotland, France and Ireland King, his natural Lord; not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and seduced by the Instigation of the Devil; and the true Duty, and natural Obedience, which true and faithful Subjects of our Sovereign Lord the King, towards him our said Lord the King, do bear, and of Right ought to bear, wholly withdrawing; and with his whole Strength intending the Peace and common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move and stir up, and the Government of our said Lord the King within this Kingdom of England to subvert, and our said Lord the King from his Title, Honour and Kingly Name of the Imperial Crown of this his Kingdom of England to put down and deprive, and our said Lord the King to Death and final Destruction to bring and put, the second Day of November, in the Year of the Reign of our Sovereign Lord Charles II. King of England, &c. the Four-and-thirtieth, and divers other Days and Times, as well before as after, at the Parish of St. Michael Bassishaw, in the Ward of Bassishaw, London, aforesaid, maliciously and traiterously, with divers other Traitors, to the Jurors aforesaid unknown, he did conspire, compass, imagine and intend our said Lord the King, his Supreme Lord, not only of his Kingly State, Title, Power and Government of this his Kingdom of England to deprive and throw down; but also our said Lord the King to kill, and to Death to bring and put; and the ancient Government of this his Kingdom of England to change alter and wholly to subvert, and a miserable Slaughter amongst the Subjects of our said Lord the King through his whole Kingdom of England to cause and procure, and Insurrection and Rebellion against our said Lord the King to move, procure and stir up, within this Kingdom of England; and to fulfil and perfect the said most horrible Treasons, and traiterous Compassings, Imaginations and Purposes aforesaid, he the said William Ruffel, together with other false Traitors, as a false Traitor, then and there, and divers other

Days and Times, as well before as after, maliciously, traiterously and advisedly, between themselves, and with divers other Traitors, to the Jurors aforesaid unknown, they did meet together, consult, agree and conclude, and every of them, then and there, did consult agree and conclude, Insurrection and Rebellion against our Sovereign Lord the King, within this Kingdom of England, to move and stir up, and the Guards for the Preservation of the Person of our said Lord the King, to seize and destroy, against the Duty of his Allegiance, against the Peace, &c. and also against the Form of the Statutes, &c.

Cl. of Cr. How sayest thou? Art thou Guilty, or Not guilty?

Lord Ruffel. My Lord, May I not have a Copy of the Matter of Fact laid against me, that I may know what to answer to it?

L. C. J. My Lord, we can grant you nothing till you have pleaded. Sir Francis Pemberton. Therefore that which is put to you now is, Whether you say you are Guilty, or Not guilty?

L. Ruffel. My Lord, I am Not guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

L. Ruffel. By God and my Country.

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

L. Ruffel. My Lord, I thought a Prisoner had never been arraigned and tried at the same time. I have been a close Prisoner.

L. C. J. For Crimes of this Nature, my Lord, we do it continually.

L. Ruffel. It is hard, my Lord.

Mr. Att. Gen. My Lord hath no Reason to complain for want of Notice; for since Monday seven-night he had Notice of his Trial; and the Matters alleged against him he had Notice of; for Questions were put to him about this Matter: He hath been very fairly dealt with, he hath had the Liberty of Counsel to advise him; there hath been no sort of Liberty denied him, which becomes any Subject to have in this Condition.

L. C. J. My Lord, I do not know whether you hear Mr. Attorney: He says, your Lordship hath had a great deal of Favour shewn you already, in that you have been acquainted with the Crimes for which you are now indicted, that you have had a great deal of Warning given you, that you have had the Liberty of Counsel, which hath not been known granted to any under your Lordship's Circumstances. He says, he doubts not but your Lordship is prepared for your Defence,

* Burnet's History of his Own Times, Vol. I. p. 553—558. 560—562.

† He was Lord only by Courtesy, being eldest Son to the Earl of Bedford.

because you have had so much Knowledge, and Warning of the Time and Matter for which you were to be called in Question.

L. *Ruffel*. My Lord, I am much to seek; I only heard some general Questions, and I have Witnesses that I believe are not yet in Town, nor will be, I believe, till Night. I think it very hard I can't have one Day more.

Mr. *Att. Gen.* Monday se'ennight your Lordship had Notice.

L. *Ruffel*. I did not know the Matter I was charged with.

Mr. *Att. Gen.* Yes, certainly; for I was with you myself, my Lord; and those Questions you were examined upon, were a Favour to you, that you might know what the Matter was you were accused of.

L. C. J. My Lord, without the King's Consent, we can't put off the Trial: If the King's Counsel think not fit to put it off, we can't grant your Lordship's Request in this Case.

L. *Ruffel*. I would desire a Copy of the Panel of the Jury, that I might consider of it; for how else can I make any just Challenge? I thought the Law had been very favourable to Men upon their Lives; and therefore it had allowed People to have some little Notice.

L. C. J. Hath not your Lordship had a Copy of the Panel? I think your Lordship was allowed one. We gave Order your Lordship should have a Copy of the Panel.

Mr. *Att. Gen.* We did indulge him so far, that he might have a Note of all the Men returned.

L. *Ruffel*. I never had a Copy of the Panel.

L. C. J. It was the Fault of your Lordship's Servants then; for I gave Order for it myself. 'Tis such a Favour, that in regard a Man's Life lies at Stake, we never did deny it*, to my Knowledge. And therefore in this Case I gave Order to the Secondary to deliver a Copy. I know the King did not design to be hard upon my Lord in his Trial, but that he should have as fair a Trial as ever any noble Person had.

L. *Ruffel*. I pray I may have a Copy then.

Mr. *Serg. Jefferies*. If my Lord had sent his Agents, and it had been refused, there had been something in it.

Mr. *Att. Gen.* Secondary *Normansel* was with me, and I gave him my Allowance, tho' it was not his Right.

L. C. J. That my Lord may not be surpris'd, what think you of giving my Lord Time till the Afternoon, and try some of the rest in the mean time?

Mr. *Att. Gen.* Truly, my Lord, if I could imagine it were possible for my Lord to have any Witnesses, I should not be against it.

L. *Ruffel*. 'Tis very hard.

Mr. *Att. Gen.* Do not say so; the King does not deal hardly with you; but I am afraid it will appear you would have dealt more hardly with the King: You would not have given the King an Hour's Notice for saving his Life.

Secondary *Trotman*. I gave my Brother *Normansel* a Copy of the Panel on my Side, and hear that my Brother *Normansel* hath said that he delivered a Copy.

Then Secondary *Normansel* was sent for, and the Court staid for him some time.

Mr. *Atwood*. My Lord, a Gentleman told me; he did not know whether it was fit, till he had consulted the *Attorney General*; afterwards I had a Copy as it stood then; not as it is now.

Mr. *Att. Gen.* I desire my Lord may be asked, who he sent for it?

L. *Ruffel*. I did not send for it; I inquired, and they said it would be refused.

Mr. *Atwood*. No, the Gentleman had it with the fair Periwig.

L. C. J. It was delivered to your Servant or Agent. What did you do with it?

L. *Ruffel's Gent.* Sir, The Gentleman gave me out of a Book some Names.

Mr. *Serg. Jefferies*. What did you do with them?

L. *Ruffel's Gent.* I writ them down; they were not perfect; I did not know what they were.

L. C. J. Sir, you were to blame, not to deliver it to my Lord.

L. *Ruffel's Gent.* I was not bound to deliver an imperfect thing to my Lord.

L. C. J. Sir, you should have consulted your Lord's Advantage, so as to have delivered any thing for his Good.

L. *Ruffel's Gent.* My Lord was in the Tower; I was not admitted to my Lord.

Mr. *Att. Gen.* Did you give it to my Lady?

L. *Ruffel's Gent.* Yes, those Names I had, my Lady had.

Mr. *Serg. Jefferies*. How long ago was it?

Mr. *Atwood*. Tuesday or Wednesday last.

L. C. J. (to Lord *Ruffel's Servant*.) Look you, Sir, when had you this?

L. *Ruffel*. I had no Panel, I will assure you, delivered me; I had some Names of People that they said were usually on Juries.

L. C. J. They were the Names of the Jury.

L. *Ruffel*. They were only the Names of them that were like to be of the Jury; no other Panel came to me.

L. C. J. My Lord, there can be no other Copy given, but the same that was delivered; for your Lordship does know in this Case, any Person accused, as your Lordship is, may challenge Thirty-five; and therefore there is a Return generally of Three or Fourscore, and these are returned in case of your Lordship's Challenge. When you have challenged so many as you please; then the twelve Men that stand after your Challenge are to be of the Jury. And therefore this is not like a Panel made up by the Sheriff, in ordinary Causes, between Man and Man; there they make a formal Panel, from which they cannot depart, when that is once returned; but here in criminal Cases, because of the Challenge, they return either Sixty or Eighty: And I presume your Lordship was attended with the Names delivered.

Mr. *Serg. Jefferies*. How many Names were delivered?

Mr. *Atwood*. Above a Hundred.

L. *Ruffel*. I had nothing of a Panel delivered to me, but some Names.

L. C. J. There was never any formal Panel delivered to any Person accused: The Copy of it is in Paper always.

L. *Ruffel*. How can I know who to challenge?

* But it had been deny'd in *Colledge's Case*; and was afterwards deny'd to Mr. *Cornish*, till the Time of his Trial, when it could be of no Service to him.

L. C. J. My Lord, the Copy of it is in your Hands; your Lordship hath been deceived in this, by not understanding the true Nature of these Things. If we were to give you a new one, we could give you but such an one.

L. Ruffel. I had no Paper from the true Officer.

L. C. J. No, but from your Servant.

Mr. Att. Gen. My Lord, you will have Cause to complain, if they are not the same Men we now shall call.

L. C. J. My Lord, that Paper will guide your Lordship in your Challenges.

L. Ruffel. My Lord, I did not mind it: I put it away. My Lord, with your Favour, I must needs insist upon having a Panel, and that you will put it off till the Afternoon; I have a Witness that is not in Town. My Counsel told me it was never done, or very seldom, arraigning and trying at the same Time, except in case of common Malefactors.

L. C. J. *Mr. Attorney,* Why may not this Trial be respited till the Afternoon?

Mr. Att. Gen. Pray call the Jury.

L. C. J. My Lord, the King's Counsel think it not reasonable to put off the Trial longer, and we can't put it off without their Consent in this Case.

L. Ruffel. My Lord, 'tis hard: I thought the Law had allowed a pretty deal of Favour to a Man when he came upon his Life. How can I know to except against Men that I never heard or saw one of them?

Cl. of Cr. You the Prisoner at the Bar, Those good Men that have been now called, and here appear, are to pass between you and our Sovereign Lord the King, upon your Life or Death; if you challenge any of them, you must speak as they come to the Book to be sworn, before they are sworn.

L. Ruffel. My Lord, May I not have the Use of Pen, Ink and Paper?

Court. Yes, my Lord.

L. Ruffel. My Lord, may I not make use of any Papers I have?

L. C. J. Yes, by all means.

L. Ruffel. May I have somebody write to help my Memory?

Mr. Att. Gen. Yes, a Servant.

L. C. J. Any of your Servants shall assist you in writing any thing you please for you.

L. Ruffel. My Wife is here, my Lord, to do it.

L. C. J. If my Lady please to give herself the Trouble.

Mr. Att. Gen. My Lord, you may have two Persons to write for you, if you please.

L. Ruffel. My Lord, here hath been a Name read, that I never saw in the List of the Jury I had: I heard Sir *Andrew Foster* called.

L. C. J. He is not called to be of the Jury.

Cl. of Cr. Call *John Martin.* [*He appears.*]

L. Ruffel. Are you a Freeholder of 40 s. a Year? I hope none are allowed in the Panel, but those that have Freeholds.

L. C. J. There is no Panel made in *London* by Freeholders; we have very few Freeholders capable of being impanell'd, because the Estates of the City belong much to the Nobility and Gentlemen that live abroad, and to Corporations: Therefore in the City of *London* * the Challenge of Freeholders is excepted.

L. Ruffel. My Lord, I thought it had been always so, and the Law had been clear in that Case throughout *England*, that no Man ought to be tried for his Life, but by those that have Freeholds. My Lord, I remember I read a Statute of 2 *H. 5.* where 'tis positive, that no Persons shall be judged in case of Life and Death, but by those that have 40 s. a Year.

L. C. J. My Lord, that Statute extends not to this Case. Read the Statute.

Cl. of Cr. *Whereas Perjury is much used in the City of London, upon Persons, &c.*

L. C. J. Is this the Statute your Lordship has read?

L. Ruffel. This is not in the Case of Life and Death.

L. C. J. It is not, my Lord.

L. Ruffel. That that I read is positive. And if your Lordship will not allow of it, I desire my Counsel may come and argue it; for 'tis a Matter of Law, and I can't argue it, Whether the Jury are not to be Freeholders?

Mr. Serg. Jefferies. There is nothing mentioned in that Statute with relation to the City of *London* indeed; but the Necessity of the Thing requires it.

Mr. Att. Gen. It will not be material; 'tis a collateral Point; for most of the Jury have Freeholds.

L. C. J. Do you allow the Exception?

Mr. Att. Gen. No, my Lord.

L. C. J. Therefore we must, if my Lord stand upon it, hear his Counsel. My Lord, we will hear your Counsel: What Counsel do you desire, my Lord?

L. Ruffel. The Counsel that were allotted me.

L. C. J. No, you must have Counsel assign'd by us. The Counsel that was assign'd elsewhere signifies nothing.

L. Ruffel. *Mr. Pollexfen, Mr. Holt, and Mr. Ward.*

The said Persons were called, and came into Court.

L. C. J. (*To the Counsel.*) Gentlemen, my Lord here desires Counsel; you are here assigned as Counsel for my Lord *Ruffel* that is at the Bar, 'tis concerning a thing wherein he doubts the Law; he would except to the Jury upon this account, to the Poll, because they have not Freehold within the City of *London*; and he desires you may be assign'd his Counsel to make it out, that this is a Cause of Challenge.

Mr. At. Gen. 'Tis a Case of Treason, *Mr. Pollexfen.*

Mr. Ward. We take it so.

Mr. Pollex. My Lord, perhaps if we had more Consideration of it, we should speak more; but if your Lordship pleases to hear us what we can say: First, we take it, with Submission, at Common Law, a Freehold was necessary to make a Man a Jury-man. But that which falls out in this Case, is the Statute of 2 *H. 5. c. 3.* which Statute, I suppose, is here in Court. That Statute says this, (if you please, I will quote the Substance of it) That none shall be admitted to pass upon any Inquest upon the Trial of the Death of a Man, except he have Lands and Tenements of the yearly Value of 40 s. Now we are here, I think, within the Words of the Statute, and I take it to be no Que-

* But the Resolution of the Court extended to all Trials, even in a County at large, and was so cited and followed in Colonel *Sidney's Case*, p. 736.

ffion at all, were we not in a City and County. I think this would be no Question upon any Trial in any County at large. The Statute does not make any Exception or Distinguishment between Cities and Counties at large; but the Words are general, as I have opened them. My Lord, the Statute does also provide in Cases of Freehold or Forty Marks. Now, my Lord, to prove this Statute extends to *London*, tho' a City and County, there are other Statutes that have been made subsequent, make it plain that it does so extend. But before I speak to them, there is *1 Inst. Fo. 157.* that takes Notice of this Statute, and speaks it generally, that the Freehold ought to be in the same County, nor do I remember to have seen any Book that distinguishes between Counties at large, and Cities and Counties. But Statutes that have been made concerning Cities and Counties are a plain Declaration, that this is meant of Juries both in Cities and Counties. I will mention the Statute *7 H. 7. c. 5.* The Substance of the Statute is this: It takes Notice, that there were Challenges in *London*, for that they had not *40 s. per Ann.* and that this Challenge was to be made in the Wards, which are the same with Hundreds in the Counties; so this Statute is made to take away the Challenge of *40 s.* Freehold. This Statute of *7 H. 7.* that takes away the Challenge in *London*, for not having *40 s.* is, with Submission, a strong Evidence and Authority, that it was before that Time a good Challenge; for otherwise to what End should they make a Statute to take away the Challenge, unless it were before a good Cause of Challenge? In the next place, *4 H. 8. c. 3.* that extends to Civil Causes in *London*, and says, That the *London* Jurors shall (but provides only for *London* in Civil Causes) be admitted in Civil Causes, that have Goods to the Value of 100 Marks. My Lord, if that first Statute, or the Common Law, had not extended to require Freeholds in *London*, then there would have been no need of this Statute that was made to enable Men to be Jurors that had Goods to the Value of 100 Marks. So that we take it to be good Authority, that by the Common Law Freehold was required in all Civil Causes. Then there is another Statute *23 H. 8. c. 13.* and that will be a strong Evidence to shew what the Law is: For the Statute says, in Cities and Boroughs, in Trials of Murder and Felony, if a Freeman of the City of *London* is to be tried, the Freemen shall be upon the Jury, though they have not Freehold; and then there is a *Proviso*, that for Knights and Esquires that are out of the Borough, tho' they are arraigned in the Burrough, that extends not to them, tho' in Cases of Murder and Felony. As for this Statute, we take this Sense of it, first, That it does not extend to Treasons; for when it only names Murders and Felonies, that makes no Alteration as to Treason, therefore that stands as before: But if there be any Alteration, that extends only to Freemen and Burgeses that are to be tried, but not to Knights and Esquires; so that if we were in a Case of Felony and Murder, I think we are not concerned in this Statute; for we are no Freeman nor Burgeses, but we are an Esquire, and therefore ought to be tried by Freeholders: So that for the Law we rely upon these Statutes, that we have looked upon as strong Evidence, that there ought to be in the Trial of the Life of a Man, especially for Treason, Freeholders. First, If it were in Civil Causes,

if this Qualification be not in Jury-men, then an Attaint would lie. The Penalty in an Attaint is, that their Houses should be pulled down, &c. This is provided by the Law, to the Intent the Jury may be careful to go according to their Evidence. 'Tis true, no Attaint does lie in Criminal Causes; but if to be in Civil Causes there be required Freeholders, and an Attaint lies, if there be not, 'tis not reasonable to think but there should be as great Regard to the Life of a Man as to his Estate. Next, my Lord, I do not know any Law that sets any kind of Qualification but this of Freehold; so that be the Persons of what Condition or Nature soever, (supposing they be not outlawed) yet these Persons, if this Law be not in Effect, may then serve and be put upon the Life of a Man. These are the Reasons, my Lord, for which we apprehend they ought to be Freeholders.

Mr. *Holt.* My Lord, I would desire one Word of the same Side: We insist in this Case upon these two Things: First, we conceive by the Common Law, every Jury-man ought to have a Freehold; we have good Authority for it, *Coke's First Institutes*; but if that were not so, I think the Statute Mr. *Pollexfen* hath first mentioned, *2 H. 5. c. 3.* to be express in this Point. My Lord, the Statute in the Preamble does recite all the Mischiefs; it says, great Mischiefs ensued by Juries that were made up of Persons that had not Estates sufficient. In what? As well in the Case of the Death of a Man, as in the Case of Freehold between Party and Party: The Statute reciting this Mischief does in express Words provide two Remedies for the same in these Cases: First on the Life and Death of a Man, the Jury or Inquest to be taken, shall have *40 s. per Ann.* and so between Party and Party *40 Marks*; so that this being the Trial of the Death of a Man, it is interpreted by *Stamford, 162 a.* that is, in all Cases where a Man is arraigned for his Life, that is within the express Words of the Statute. Besides this Exposition that hath been put upon the Statute, my Lord, it does seem, that the Judgment of several Parliaments hath been accordingly in several Times and Ages. My Lord, to instance in one Statute that hath not been mentioned, and that is the *33 of H. 8. c. 23.* that does give the King Power to award Commissions of *Oyer and Terminer*, for Trials in any County of *England*: And that (says the Statute) in such Cases no Challenge to the Shire or Hundred shall be allowed; that is, you shall not challenge the Jury in such a Case, because they have not Freehold, are not of the County where the Treason was committed; but that, upon the Trial, Challenge, for lack of Freehold of *40 s.* a Year, shall be allowed, though it alters the manner of trying Treason by the Common Law: So that, my Lord, here is the Opinion of very Parliament, that though it took away the usual Method of Trials, yet it saves the Prisoner's Challenge for want of Freehold. Now, indeed, that Statute is repealed; but I mention it as to the *Proviso*, that it shews the Judgment of that Parliament at that Time. My Lord, those other Statutes that have been made to regulate Cities and Towns Corporate, why were they made? *33 H. 8.* That no Freehold should be allowed, that shews that *2 H. 5.* did extend to these Cases. But, my Lord, these Statutes that shew the Judgment of the Parliament sufficient for our Purpose, do not extend to
this

this Case; the Statute goes only to Murders and Felonies, but not to Treasons: And we are in the Case of a Penal Statute, and concerning the Life and Death of a Man, which ought to be taken strictly, it ousts the Prisoner of a Benefit; and by Parity of Reason, if Treason be not mentioned, your Lordship can't by Equity extend it to it, when it only mentions inferior Offences, and takes away the Benefit in lower Cases: Like the Case of the Bishop of *Winchester*, where the Statute set down Dean and Chapters, and other Ecclesiastical Persons, it shall not extend to Bishops, because it begins with Persons of an inferior Nature: No more shall Murder and Felony extend to Treason. But further, the Statute only concerns Freemen; for there is an express Proviso in the Case: For in case any Knight or Esquire come to be tried in the Place, he has his Benefit as before. My Lord, we are in this Case, as in the Case not mentioned in the Statute, we are not a Freeman of *London*. My Lord, there is another thing, 7 H. 7. c. 5. why there was not only requisite at the Common Law, that the Jurors had sufficient Freehold, but it was required it should be in the Hundred; and Freehold in the Wards in the City is the same with Freehold in the Hundreds in the Country: So that the Want of Freehold in the Hundred was a good Cause of Challenge. So that I think it will hardly be denied, but that a Jury that passeth upon the Life of a Man ought, by the Law, by the Statute, and by the Judgment of the Parliament, to have Freehold. Where is there then any Statute whatsoever that makes a Difference in this Case, between *London* and other Counties? We are in the Case of Treason, we have taken our Exceptions, and on Behalf of the Prisoner at the Bar we pray the Challenge may be allowed.

Mr. *Ward*. My Lord, I shall be short, because Mr. *Pollexfen* has observed these things so particularly already. I observe the Statute of *H. 5.* is a general Statute, and extends throughout the Realm: Now when the thing is thus general, there is no room to except Particulars. And in this Case 'tis within the very Words of the Law, if the Words be so generally penned in the Negative, then we conceive there is no Construction to be made upon them, unless some subsequent Parliament alter it. *Coke's Institutes*, 157. where 'tis said in Treason as well as any thing else, upon *H. 5.* there shall be Freeholds; if they have provided in Civil and other Criminal Causes, it were strange that this should be *Casus omisus*; but there is no Construction against a Negative Law: For the Parliament taking care of the City of *London*, (as the subsequent Statutes say) that he that hath a hundred Marks shall pass in Civil Causes, and then it says in Murders and Felonies, and that only confined to the Freemen of the Place, does sufficiently explain the Law, where 'tis not altered by any subsequent Act; therefore I desire the Challenge may be admitted.

Mr. *Att. Gen.* My Lord, These Gentlemens Foundation is not good; for they prove it not by any Books, that at Common Law it was requisite for a Jury-man to have Freehold. My Lord, I deny their Foundation; there is no such Law; and at this Day, in all Criminal Cases, where the Statute does not direct it, as for Riots and other Informations for Misdemeanour, there is no Law restrains them, and they may be tried by

any Man they have no Exception against. Then 2 *H. 5.* says, None shall be admitted to pass upon the Death of a Man, (I take it to extend to all Capital Matters, tho' it is pretty oddly expressed; for when a Man is accused of other Felonies and High Treasons, 'tis of the Death of a Man) unless he have Lands or Tenements of the yearly Value of 40 s. But I will take it as these Gentlemen do at this Time, it not being so at Common Law, nor in other Criminal Cases, but what are provided for by the Statute: As to other Matters of Felony and Murder, no doubt there these Challenges are to be taken upon the Statute, but not for Treason, because the Statute of *Queen Mary* does expressly repeal that Statute; and no Statute since takes away the Force of that of *Queen Mary*; that all Trials for Treason shall be as at the Common Law; and according to this the constant Practice in all Cities (not only *London*) where Persons have been indicted for High Treason, hath been. There was never any such thing pretended: Most of these Gentlemen have Freeholds, but we would not have this Point lost to the City of *London*; so that the Statute they speak of, and the Interpretations of the several other Statutes too, are to no Purpose; for we say by Common Law, all Causes might be tried by any Persons, against whom there is not sufficient Cause of Challenge; and the Common Law is by that Statute restored in this Point.

Mr. *Sol. Gen.* My Lord, I have little to say; Mr. Attorney hath given a true Answer to it; the Foundation does fail them. It was not necessary at Common Law for a Juryman to have Freehold: But then they must shew you, my Lord, it is altered and made necessary. The Statute of *H. 5.* does not seem to extend to Treason; but if it did, 'tis now out of Doors, by that of *Queen Mary*, whereby all Trials of Treasons are reduced to the Common Law. This is that we answer, they fail in their Foundation, they do not make it out, that it was necessary for a Juryman at Common Law to have Freehold.

Mr. *Serg. Jefferies*. My Lord, I confess they have cited several Acts of Parliament, and upon them lay their Foundation, and draw Inferences from them: But they will find, that in several Acts of Parliament, which they have quoted, there is a particular Regard had for the Preservation of the constant Usage and Customs for Trials within the City of *London*. That notwithstanding several Acts of Parliament have in other Places ascertained the Value of Jurors; yet they had still an Eye, that the City of *London* should continue in its Usages. I think it will be necessary to put you in mind of the Case of the City of *Worcester*. It would be very hard, say they, because an Attaint does not lie in Criminal Matters; if you intend by that to have People of Ability, 'tis well known, that the ablest People in the City of *London* have scarce any Freehold in it; for that most of the Inheritances of the City of *London* remain in the Nobility and in Corporations. Now, in the Case of my Lord *Ruffel*, he hath a peremptory Challenge to 35; and I think I may adventure to say, there can scarce be 35 more that can call themselves Freeholders in *London*: Consider the Consequence then; Treason should be committed in the City of *London*, and there would not be enow in the City

Mr. *Fitch*.

City of London to try it. In the Case of the *Quo Warranto* brought against the City of Worcester, to know by what Warrant several took upon them the Offices of Aldermen, the Gentlemen at the Bar objected, that it was reasonable, that no Freehold should be determined but by Freeholders. But the Judges of the *King's Bench* (the Court being full) for the Necessity of the thing, lest there might not be sufficient Freeholders in that City, having sent one of the Judges of that Court to your Lordships of the *Common Pleas*, for that Reason did agree the Challenge was not good. I know these Gentlemen will please to remember the Case; so that I say, as in one Case we ought to be tender of the Life of the Prisoner, so we ought surely to be tender of the Life of the King; otherwise it may so happen, that the King's Life may be encompassed, and Treason committed in the City, and there would be no way in the World to try it: Therefore we pray for the King the Challenge may be over-ruled.

Mr. North. My Lord, It is the Practice to make the *Venire facias*, without mentioning Freehold; for it does not command, that they return so many Men that have Freehold, but *probos & legales homines de vicineto*; therefore at the Common Law, those were good Inquests to try any Man, that were not excommunicated, nor under any Out-law. 'Tis true, there are Statutes that say, all Jurymen shall have Freehold; but we say, these Statutes do not extend to the City of London, but that it is governed by its own Customs; and we say it is the Custom, that Citizens of Ability have been returned that have no Freehold. But granting what we do not, by way of Supposal, my Lord, it does not extend to this Case, because Trials are to be according to the Use at Common Law, by the Statute of Queen Mary, which does set them at large again; and that is the Reason the Prisoner, in this Case, hath his Challenge for 35, and is in other Cases restrained to 20; so that we say, these Men of Ability are good, and there is no Statute affects them.

L. C. J. Mr. Pollexfen, Do you find any Judgment that in Cases of Treason; by Common Law, they might except for want of Freehold? Have you any Resolution in the Case?

Mr. Pollexf. I think there are Books that say, at Common Law there must be Freehold.

L. C. J. What, in Treason?

Mr. Pollexf. No, my Lord.

L. C. J. Unless you speak of Treason, you do not speak *ad idem*: For I do take it, that in Cases of Treason, or in Cases of Felony, at the Common Law, they had no Liberty to except to Jurors, that they had not any Freehold, but that at the Common Law any good and lawful Men might pass. Then take as introductive of a new Law the Statute of *H. 5.* I am of the mind, that this Statute of *H. 5.* peradventure may extend to Treasons and Felonies; but when the Statute of Queen Mary comes and says, all Trials shall be by such Evidence, and in such Manner, as by Common Law they ought to have been, I do not see how it is possible to make an Objection afterwards of this Nature. For, admitting this Act of Parliament of *H. 5.* had altered the Common Law, and given a Challenge, why then when the Statute of Queen Mary comes and sets all Trials at large in the Case of Treason,

then certainly the Challenge is gone again; and I doubt you will not find one Exception in this Case, ever since that Statute concerning the Jury's Freehold in Cases of Treason; but it hath generally passed otherwise, and there hath not been any ever excepted. I doubt it will be a very hard thing to maintain such a Challenge now: Here are my Lords and Brothers will be pleased to deliver their Opinions. It is a Business of great Consequence, not only for this noble Person at the Bar, but for all other Persons.

L. C. Bar. I agree with your Lordship perfectly; but if the Counsel ^{William Mordaunt, Esq;} had laid a right Foundation, that it had been so at Common Law, there had been much said; but I take it at Common Law there was no Challenge for want of Freehold, and I am induced to think so; for otherwise what needed the Statute of *H. 5.* been made? But whether it extend to Treason or no, I am not so clear. And if it did, 'tis wiped off again by that of Queen Mary, which reduces all to the Common Law Trial.

Mr. J. Windham. I am of the same Opinion: I conceive, at Common Law, lack of Freehold no good Cause of Challenge. 'Tis true, that Challenge is given in some Cases by Act of Parliament, yet I doubt whether it extend to a thing of so high a Nature as Treason; for other Statutes have not mentioned any thing of Treason. But suppose 2 *H. 5.* did extend to it, yet it is very plain, the Statute of 1 and 2 Queen Mary hath set all at large again, they are to be good and lawful Men; and I do not find that any thing of the Lawfulness must be the Freehold. And therefore I conceive this is no just Exception in this Case.

Mr. J. Jones. My Lord, I am of the same Opinion. I am of Opinion, that the Common Law did not require Freehold to be a good Cause of Challenge, in the Case of Treason, and the rather, because at the Common Law, a Man that was indicted of High Treason had Liberty to challenge, peremptorily, to the Number of 35 Persons. My Lord, if the Common Law be altered by the Statute of *H. 5.* yet I take it, that the Statute of 1 and 2 *Pb.* and *M.* does restore the Common Law in this particular Point. For whereas there was a Statute *H. 8.* to restrain the Prisoner to the Number of 20 for his Challenge, now the Statute restoring it to Common Law, the Prisoner hath his Challenge to 35, as he had before that Statute of *H. 8.* So I take it, the King shall have his Privilege also to try a Prisoner for Treason, by Persons that have not Freehold.

Mr. J. Charlton. I am of the same Opinion: And truly the rather, because no Precedent hath been offered of any such Challenge before, and many Men have suffered, and sure, if it could have been, many would have made use of it.

Mr. J. Levins. I am of Opinion, 'tis not to be allowed. I do not think myself driven to the Necessity to determine now, whether Freehold was a good Challenge at Common Law in point of Treason. I think the Statute of *Pb.* and *M.* hath restored the Trials to the Common Law. What was the Common Law? The Common Law is the Custom of England, which is other in Cities than in Counties, and the Custom of London is Part of that Common Law. So, tho' it be a Cause of Challenge in a County at large, yet it is not a Cause of Challenge in Cities, where Freeholders are not to be found. Now
that

that which satisfies me is, That this Custom is restored by the Statute of *Pb. and Mary*; because never such a Challenge hath been. And it is known when 20 were tried for Treason together in this very Place, and one of them a notable cunning Lawyer, and if such a Challenge were to have been allowed, no doubt he would have made use of it; but the Challenge was not taken, and if he had made such a Challenge, and it had been allowed, perhaps he could not have been tried: That was *Cook*. I have heard several Persons tried for Treason myself, and never heard it taken. Therefore I am of Opinion, that before any Statute was made in this Case, it was the Custom in *London* to try without Freeholds, and since by the Statute of *Queen Mary* 'tis restored.

Mr. *Bar. Street*. I think there was no such Challenge at Common Law. The Jury were only to be *probos & legales homines*, and no more, till the Statute made it so; but there is a particular Reservation to Corporations. And certainly, if this should be admitted to be a good Challenge, tho' it were between Party and Party, there would be in some Corporations a perfect Failure of Justice. So that, without doubt, at Common Law there was no such Challenge. As for the Statute of *H. 5.* 'tis gone by that of *Queen Mary*. If this were admitted within *London*, nothing would be more mischievous to this Corporation. Methinks we have been very nice in this Matter, when the Life of the King is at Stake, and all the Customs and Privileges of the City of *London* seem to be levelled at in this Point. I am of the Opinion with the rest of the Judges, that this Challenge ought to be over-ruled.

J. Withins. I am of the same Opinion.

L. C. J. My Lord, The Court is of Opinion, upon hearing your Counsel, and the King's, that it is no good Challenge to a Jury in a Case of Treason, that he has not Freehold within the City: But I must tell your Lordship withal, that your Lordship has nothing of Hardship in this Case; for, notwithstanding that, I must tell you, you will have as good a Jury, and better than you should have had in a County, of 4 *l.* or 40 *s.* a Year Freeholders. The Reason of the Law for Freeholds is, That no slight Persons should be put upon a Jury, where the Life of a Man, or his Estate, comes in Question; but in the City, the Persons that are impanelled are Men of Quality and Substance, Men that have a great deal to lose. And therefore your Lordship hath the same in Substance, as if a Challenge was allowed of Freehold. It will be no kind of Prejudice to your Lordship in this Case. Therefore, if you please, apply yourself as the Jury is called, and make your Exceptions, if you shall make any.

L. C. J. Mr. *Pollexfen*, You shall have Liberty to stay any-where here, if you please.

Counsel. Here is such a great Croud, my Lord, we have no Room.

Then the Jurymen were called, and after the Lord Ruffel had challenged One-and-thirty of them, the Jury sworn were as follows:

<p><i>John Martin,</i> <i>William Rouse,</i> <i>Jervas Seaton,</i> <i>William Fashion,</i> <i>Thomas Sbort,</i> <i>George Torriano,</i></p>	}	Jur ^s	<p><i>William Butler,</i> <i>James Pickering,</i> <i>Thomas Jeve,</i> <i>Hugh Noden,</i> <i>Robert Brough,</i> <i>Thomas Oneby.</i></p>
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Then was made Proclamation for Information.

Cl. of Cr. William Ruffel, Esq; hold up thy Hand. (*Which he did*). You of the Jury, look upon the Prisoner, and hearken to his Cause: He stands indicted by the Name of ——— prout before in the Indictment. Upon this Indictment he hath been arraigned, and thereunto pleaded Not guilty, and for his Trial hath put himself upon his Country, which Country you are: Your Charge is to inquire whether he be Guilty of this High Treason whereof he stands indicted, or Not guilty: If you find him Guilty, you shall inquire, &c.

Mr. *North*. May it please your Lordship, and you that are sworn, The Prisoner at the Bar stands charged in this Indictment with no less than the conspiring the Death of the King's Majesty; and that, in order to the same, he did, with other Traitors named in the Indictment, and others not known, *November 2.* in the 34th Year of this King, in the Parish of *Bassishaw*, within the City of *London*, meet and conspire together to bring our Sovereign Lord the King to Death, to raise War and Rebellion against him, and to massacre his Subjects: And in order to compass these wicked Designs, there being assembled, did conclude to seize the King's Guards, and his Majesty's Person. This is the Charge: The Defendant says he is not Guilty; if we prove it upon him, it will be your Duty to find it.

Mr. *Att. Gen.* My Lord, and you, Gentlemen of the Jury, Most of our Evidence against this Honourable Person at the Bar is to this Purpose: This Person, the Duke of *Monmouth*, my Lord *Grey*, Sir *Thomas Armstrong*, and Mr. *Ferguson*, they were the Council of State, as I may call them, to give forth Directions for the general Rising that hath appeared was to have been within this Kingdom. The Rising was of great Concern and Expence, and must be managed by Persons of Interest, Prudence, and great Secrecy. These Gentlemen had frequent Meetings in *October* and *November* last, (for then, you may refresh your Memories again, was the general Rising to be) and there they did consult how to manage the Rising, they consulted how to seize the King's Guards; and this Noble Person being mixed with these others, especially with *Ferguson*, who with others of an inferior Rank was also engaged in a Cabal for managing worser Things, (tho' this is bad enough) at several Meetings they receive Messages from my Lord *Shaftsbury* touching the Rising. They being looked upon as the Persons that were to conclude and settle the Time, and all Circumstances about it.

We shall make it appear to you in the Course of our Evidence, that those Underlings (for this was the great Consult, and moved all the other Wheels) who managed the Assassination, did take Notice, that these Lords and Gentlemen of Quality were to manage and clear the whole Business of the Rising. It seems these Gentlemen could not give the Earl of *Shaftsbury* Satisfaction to his Mind; for he pressed them to keep their Day, which was the 17th of *November* last; but the Honourable Person at the Bar, and the rest, made him this Answer, That Mr. *Trenchard* had failed them; for that he had promised to have 1000 Foot, and 2 or 300 Horse, at four Hours Warning; but now it was come to pass, he could not perform it; that some Persons in the *West* would

would not join with them, and therefore at this Time they could not proceed; and therefore they must defer the Day. And at a Council, they sent my Lord *Shaftsbury* Word, he must be contented, they had otherwise resolved, and thereupon my Lord *Shaftsbury* went away, and Mr. *Ferguson* with him.

To carry on this Practice, they took others into their Council, Sir *Thomas Armstrong* was left out; and there falling that scandalous Report upon my Lord *Grey*, he was to be left out, and then there was to be a new Council of Six, whereas the inferior Council to manage the Assassination was Seven. At this Council there was this Honourable Person at the Bar, the Duke of *Monmouth*, my Lord *Howard*, and another Honourable Person, who I am sorry to name upon this Account, who hath, this Morning, prevented the Hand of Justice upon himself, my Lord of *Effex*, and Colonel *Sidney*, and Mr. *Hambden*: These six had their frequent Consults at this Honourable Person's House; for they had excluded Sir *Thomas Armstrong*, and my Lord *Grey*; for these Gentlemen would have the Face of Religion; and my Lord *Grey* was in their Esteem so scandalous, that they thought that would not prevail with the People, if he was of the Council. There they debated how they should make this Rising; after several Consultations they came to this Resolution: That before they did fall upon this Rising, they should have an exact Account both of the Time and Method of the *Scotch* Rising, and thereupon a Messenger was sent on purpose by Colonel *Sidney*, viz. *Aaron Smith*, to invite *Scotch* Commissioners to treat with these Noble Lords. Pursuant to this, just before the Plot brake out, several from *Scotland* came to treat with them how to manage the Work; 30,000*l.* was demanded by the *Scots*, in order that they should be ready in *Scotland*; then they fell to 10,000, and at last (for the *Scots* love Money) they fell to 5000, which they would take and run all Hazards; but they not coming to their Terms, that broke off that Week the Plot was discovered.

Gentlemen, if we prove all these Instances, besides, we shall call some to shew you, that all the inferior Party still looked upon these to be the Heads; and tho' they kept it secret, God hath suffered it to come to Light, with as plain an Evidence as ever was heard.

Mr. *Serg. Jefferies*. I will not take up any of your Lordship's Time; we will call our Witnessess to prove the Fact Mr. *Attorney* hath opened. Swear Colonel *Rumsey* (*which was done*). Pray, Colonel *Rumsey*, will you give my Lord and the Jury an Account, from the Beginning to the End, of the several Meetings that were, and what were the Debates of those Meetings?

Col. *Rumsey*. My Lord, I was at my Lord *Shaftsbury*'s Lodging, where he lay, down by *Wapping*, about the latter End of *October*, or the Beginning of *November*; and he told me, there was met at one Mr. *Sheppard*'s House, the Duke of *Monmouth*, my Lord *Ruffel*, my Lord *Grey*, Sir *Thomas Armstrong*, and Mr. *Ferguson*; and he desired me to speak to them, to know what Resolution they were come to about the Rising of *Taunton*: I did go there accordingly, and call for Mr. *Sheppard*, and he carried me up where they were, and the Answer that was there made me was, that Mr. *Trenchard* had failed them, and there

would no more be done in the Matter at that Time.

Mr. *Att. Gen.* Tell the whole Passage.

Col. *Rumsey*. I did say my Lord *Shaftsbury* had sent me to know what Resolution they had taken about the Rising of *Taunton*. They made me this Answer, That Mr. *Trenchard* had failed them, that he had promised 1000 Foot and 300 Horse; but when he came to perform it, he could not. He thought the People would not meddle, unless they had some Time to make Provision for their Families.

L. C. J. Who had you this Message from?

Col. *Rumsey*. Mr. *Ferguson* did speak most of it.

L. C. J. Who sent this Message back?

Col. *Rumsey*. Mr. *Ferguson* made the Answer, my Lord *Ruffel*, and the Duke of *Monmouth* were present, and I think my Lord *Grey* did say something to the same Purpose.

Mr. *Att. Gen.* Pray, how often were you with them at that House?

Col. *Rumsey*. I do not know: I was there more than once, I was there either another Time, or else I heard Mr. *Ferguson* make a Report of another Meeting to my Lord *Shaftsbury*.

Mr. *Serg. Jefferies*. Was my Lord *Ruffel* in the Room when this Debate was?

Col. *Rumsey*. Yes, my Lord.

Mr. *Att. Gen.* What did they say further?

Col. *Rumsey*. That was all at that Time, that I remember.

Mr. *Att. Gen.* Was there nothing of my Lord *Shaftsbury* to be contented?

Col. *Rumsey*. Yes, that my Lord *Shaftsbury* must be contented; and upon that he took his Resolution to be gone.

L. C. J. Did you hear any such Resolution from him?

Col. *Rumsey*. Yes, my Lord.

Mr. *Att. Gen.* Did you know of their meeting there, or was it by my Lord *Shaftsbury*'s Direction?

Col. *Rumsey*. No, but my Lord told me, I should find such Persons, and accordingly I found them; and this Answer was given.

Mr. *Att. Gen.* What Time did you stay?

Col. *Rumsey*. I think I was not there above a quarter of an Hour.

Mr. *Att. Gen.* Was there any Discourse happened while you were there about a Declaration?

Col. *Rumsey*. I am not certain whether I did hear something about a Declaration there, or that Mr. *Ferguson* did report it to my Lord *Shaftsbury*, that they had debated it.

Mr. *Serg. Jefferies*. To what Purpose was the Declaration?

L. C. J. We must do the Prisoner that Right; he says he can't tell whether he had it from him or Mr. *Ferguson*.

Mr. *Att. Gen.* Did you hear no Discourse to what it tended?

Col. *Rumsey*. My Lord, there was some Discourse about seeing what Posture the Guards were in.

One of the Jury. By whom, Sir?

Col. *Rumsey*. By all the Company that was there.

L. C. J. What was that Discourse?

Col. *Rumsey*. To see what Posture they were in, that they might know how to surprize them.

L. C. J. The Guards?

Col. *Rumsey*. Yes, that were at the *Savoy* and the *Mews*.

L. C. J. Whose were the Words? Tell the Words as near as you can.

Col. *Rumsey*. My Lord, the Discourse was, that some should——

L. C. J. Who made that Discourse?

Col. *Rumsey*. My Lord, I think Sir *Thomas Armstrong* began it, and Mr. *Ferguson*.

Mr. *Att. Gen.* Was it discoursed among all the Company?

Col. *Rumsey*. All the Company did debate it. Afterwards they thought it necessary to see with what Care and Vigilance they did guard themselves at the *Savoy* and *Mews*, whether they might be surpris'd or not.

Mr. *Att. Gen.* Were there any undertook to go and see there?

Col. *Rumsey*. There were some Persons.

Mr. *Serg. Jefferies*. Name them.

Col. *Rumsey*. I think the Duke of *Monmouth*, my Lord *Grey*, and Sir *Tho. Armstrong*.

Mr. *Serg. Jefferies*. Was my Lord *Ruffel*, the Prisoner, there, when they undertook to take the View?

Col. *Rumsey*. Yes, Sir.

Mr. *Att. Gen.* To what Purpose was the View?

Col. *Rumsey*. To surpris'e them, if the Rising had gone on.

Mr. *Serg. Jefferies*. Did you observe by the Debates that happened, that they did take Notice there was a Rising intended?

Col. *Rumsey*. Yes.

Mr. *Serg. Jefferies*. And that Direction was given to take a View of the Guards, if the Rising had gone on?

Col. *Rumsey*. Yes.

L. C. J. Pray, Sir, declare justly the Discourse.

Col. *Rumsey*. I went to them from my Lord *Shaftsbury*: And I did tell them, that my Lord did pray they would come to some Resolution; and they told me, Mr. *Trenchard* they depended upon, for *Taunton* had fail'd them, who when he came up to Town first at the Term, had assur'd them, that in three or four Hours Time he could have *One thousand Foot*, and *Three hundred Horse*: But now it came to be tried, he answer'd it was not possible for him to undertake it; for People would not rush into it of a sudden, but have some Time to prepare for their Families.

Mr. *Att. Gen.* Was it pretended there should be a Rising at that Time?

Col. *Rumsey*. Yes, the 19th of *November* was appointed for the Rising.

L. C. J. Was it before that Time you went to press them from my Lord *Shaftsbury*?

Col. *Rumsey*. Yes, I think it was a matter of a Fortnight before, or something more. For I think it was concluded *Sunday* Fortnight after my Lord *Grey* met.

Mr. *Att. Gen.* But you say, besides what you heard there, you understood there was to be a Rising at that Time: Was you to be engaged in this?

Col. *Rumsey*. Yes, I was.

L. C. J. You must speak so, that what you deliver may be sensible; for if you speak, I apprehend so and so, that will be doubtful.

Col. *Rumsey*. No, my Lord, the Rising was determin'd, and I was to have gone to *Bristol*.

Mr. *Att. Gen.* In what Capacity, as *Colonel* or *Captain*?

Col. *Rumsey*. There was no Determination of that, no Quality.

L. C. J. By whose Appointment was that?

Col. *Rumsey*. My Lord *Shaftsbury* spake that to me.

Mr. *Serg. Jefferies*. But, pray, Col. *Rumsey*, this you are very able to know, what the Debates were, and need not be pumped with so many Questions: Pray, was there any Debate when you came with the Message from my Lord *Shaftsbury's*, was there a Debate about the Rising?

Col. *Rumsey*. There was no Debate of it, because they made Answer, Mr. *Trenchard* had fail'd them.

Mr. *Serg. Jefferies*. But did not they take Notice of the Rising? Give an Account of it.

Col. *Rumsey*. I have done it twice.

Jury. We desire to know the Message from the Lord *Shaftsbury*.

L. C. J. Direct yourself to the Court: Some of the Gentlemen have not heard it, they desire you would, with a little more loud Voice, repeat the Message you were sent of from my Lord *Shaftsbury*.

Col. *Rumsey*. I was sent by my Lord, to know the Resolution of the Rising in *Taunton*; they answer'd, Mr. *Trenchard*, whom they depended upon for the Men, had fail'd them, and that it must fall at that time, and my Lord must be contented.

Mr. *Att. Gen.* Was the Prisoner at the Bar present at that Debate?

Col. *Rumsey*. Yes.

Mr. *Serg. Jefferies*. Did you find him averse to it, or agreeing to it?

Col. *Rumsey*. Agreeing to it.

Baron Street. What said my Lord *Shaftsbury*?

Col. *Rumsey*. Upon my Return he said, he would be gone, and accordingly did go.

Mr. *Serg. Jefferies*. If my Lord *Ruffel* pleases to ask him any Questions, he may.

L. Ruffel. Must I ask him now?

L. C. J. Yes, my Lord, propose your Questions to me.

L. Ruffel. I have very few Questions to ask him, for I know little of the Matter, for it was the greatest Accident in the World I was there, and when I saw that Company was there, I would have been gone again. I came there accidentally to speak with Mr. *Sheppard*; I was just come to Town, but there was no Discourse of surpris'ing the Guards, nor no undertaking of raising an Army.

L. C. J. We will hear you to any thing by-and-by, but that which we now desire of your Lordship is, as the Witnesses come, to know if you would have any particular Questions asked of them.

L. Ruffel. I desire to know, if I gave any Answer to any Message about the Rising: I was up and down; I do not know what they might say when I was in the Room; I was tasting of Wine.

L. C. J. Did you observe, that my Lord *Ruffel* said any thing there, and what?

Col. *Rumsey*. Yes, my Lord *Ruffel* did speak.

L. C. J. About what?

Col. *Rumsey*. About the Rising of *Taunton*.

L. Ruffel. It was Sir *Tho. Armstrong* that conversed with Mr. *Trenchard*.

L. C. J.

L. C. J. What did you observe my Lord *Ruffel* to say?

Col. *Rumsey*. My Lord *Ruffel* did discourse of the Rising.

L. *Ruffel*. How should I discourse of the Rising at *Taunton*, that knew not the Place, nor had Knowledge of *Trenchard*?

Mr. *Att. Gen.* Now, my Lord, we will give you an Account, that my Lord *Ruffel* appointed this Place, and came in the dark without his Coach.

L. *Ruffel*. My Lord, I think the Witness was asked, if I gave my Consent.

L. C. J. What say you, did my Lord give any Consent to the Rising?

Col. *Rumsey*. Yes, my Lord, he did.

Mr. *Att. Gen.* Pray, swear Mr. *Sheppard*.

[Which was done.

Pray, will you speak aloud, and give an Account to my Lord and the Jury, of the Meetings at your House, and what was done?

Mr. *Sheppard*. In the Month of *October* last, as I remember, Mr. *Ferguson* came to me in the Duke of *Monmouth's* Name, and desired the Conveniency of my House, for him and some other Persons of Quality to meet there. And as soon as I had granted it, in the Evening the Duke of *Monmouth*, my Lord *Grey*, my Lord *Ruffel*, Sir *Thomas Armstrong*, Col. *Rumsey*, and Mr. *Ferguson* came. Sir *Thomas Armstrong* desired me, that none of my Servants might come up, but they might be private; so what they wanted I went down for, a Bottle of Wine or so. The Substance of their Discourse was, how to surprize the King's Guards: And in order to that, the Duke of *Monmouth*, my Lord *Grey*, and Sir *Thomas Armstrong*, as I remember, went one Night to the *Mews*, or thereabout, to see the King's Guards: And the next time they came to my House, I heard Sir *Thomas Armstrong* say, The Guards were very remiss in their Places, and not like Soldiers, and the thing was feasible, if they had Strength to do it.

Mr. *Att. Gen.* How many Meetings had you there?

Mr. *Sheppard*. I remember but twice, Sir.

Mr. *Att. Gen.* Did they meet by Chance, or had you Notice they would be there that Night?

Mr. *Sheppard*. Yes, I did hear it before.

Mr. *Sol. Gen.* Who had you Notice would be there?

Mr. *Sheppard*. The Duke of *Monmouth*, my Lord *Grey*, my Lord *Ruffel*, Sir *Tho. Armstrong*, Col. *Rumsey*, and Mr. *Ferguson*.

Mr. *Att. Gen.* Did they come with their Coaches, or a-foot, in the Night-time, and in the dark?

Mr. *Sheppard*. I cannot tell; it was in the Evening, I did not let them in.

Mr. *Att. Gen.* Were there any Coaches at the Door?

Mr. *Sheppard*. None that I heard, or saw, they came not all together, but immediately one after another.

Mr. *Serg. Jefferies*. Had they any Debate before they went into the Room?

Mr. *Sheppard*. No, they went readily into the Room.

Mr. *Serg. Jefferies*. Was my Lord *Ruffel* both times there?

Mr. *Sheppard*. Yes, Sir, as I remember.

Mr. *Serg. Jefferies*. Had you any particular Business with my Lord *Ruffel*, or he with you?

Mr. *Sheppard*. No, not at that time, but since I have had, about the Affairs of my Lord *Shaftsbury*.

Mr. *Serg. Jefferies*. Do you remember, Col. *Rumsey*, at the first time, had any Discourse about any private Business relating to my Lord *Ruffel*?

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

Mr. *Att. Gen.* Besides the seizing of the Guards, did they discourse about Rising?

Mr. *Sheppard*. I do not remember any further Discourse, for I went several times down to fetch Wine, and Sugar, and Nutmeg, and I do not know what was said in my Absence.

Mr. *Serg. Jefferies*. Do you remember any Writings or Papers read at that time?

Mr. *Sheppard*. None that I saw.

Mr. *Serg. Jefferies*. Or that you heard of?

Mr. *Sheppard*. Yes, now I recollect myself, I do remember one Paper was read.

Mr. *Serg. Jefferies*. To what Purpose was it?

Mr. *Sheppard*. It was somewhat in the nature of a Declaration; it was read by Mr. *Ferguson*; who was present at the Reading, I cannot say, whether they were all present or not. The Purport of it was setting forth the Grievances of the Nation, but truly what Particulars I can't tell: It was a pretty large Paper.

Mr. *Att. Gen.* But can you tell the Effect of it, When was that to be set out?

Mr. *Sheppard*. It was not discoursed, it was shewn only, I suppose, for Approbation.

Mr. *Att. Gen.* Who was it shew'd to?

Mr. *Sheppard*. Sir *Tho. Armstrong*.

Mr. *Serg. Jefferies*. Who else?

Mr. *Sheppard*. As I remember, the Duke was present, and I think Col. *Rumsey*.

Col. *Rumsey*. No, I was not; it was done before I came.

Mr. *Serg. Jefferies*. What was the Design of that Paper? Recollect yourself, What was the Design?

Mr. *Sheppard*. The Design of that Paper was in the Nature of a Declaration, setting forth the Grievances of the Nation, in order to a Rising, I suppose by the Purport of the Paper; but cannot remember the particular Words of it.

Foreman of the Jury. Can you say my Lord *Ruffel* was there, when that Declaration was read, as you call it?

Mr. *Sheppard*. I can't say that.

Mr. *Att. Gen.* But he was there, when he talked of seizing the Guards?

Mr. *Sheppard*. Yes, my Lord was there then.

L. *Ruffel*. Pray, Mr. *Sheppard*, do you remember the Time when these Meetings were?

Mr. *Sheppard*. I can't be positive as to the Time. I remember it was at the Time my Lord *Shaftsbury* was absent from his own House, and he absented himself from his own House about *Michaelmas-day*; but I cannot be positive as to the Time.

L. *Ruffel*. I never was but once at your House, and there was no such Design as I heard of. I desire that Mr. *Sheppard* may recollect himself.

Mr. *Sheppard*. Indeed, my Lord, I can't be positive in the Times. My Lord, I am sure, was at one Meeting.

L. C. J. But was he at both?

Mr. *Sheppard*. I think so; but it was eight or nine Months ago, and I can't be positive.

L. *Ruffel*. I can prove I was then in the Country. Col. *Rumsey* said there was but one Meeting.

Col. *Rumsey*. I do not remember I was at two; if I was not, I heard Mr. *Ferguson* relate the Debates of the other Meeting to my Lord *Shaftsbury*.

L. *Ruffel*. Is it usual for the Witnesses to hear one another?

L. C. J. I think your Lordship need not concern yourself about that; for I see the Witnesses are brought in one after another.

L. *Ruffel*. There was no Design.

Mr. Serg. *Jefferies*. He hath sworn it.

Mr. *Att. Gen.* Swear my Lord *Howard*.

[Which was done.

Pray, will your Lordship give an Account to the Court, what you know of a Rising designed before my Lord *Shaftsbury* went away, and afterwards how it was continued on?

L. *Howard*. My Lord, I appear with some Confusion. Let no Man wonder, that it is troublesome to me. My Lord, as to the Question Mr. *Attorney* puts to me, this is the Account I have to give: 'Tis very well known to every one, how great a Ferment was made in the City, upon occasion of the long Dispute about the Election of Sheriffs: And this soon produced a greater Freedom and Liberty of Speech one with another, than perhaps had been used formerly, though not without some previous Preparations and Dispositions made to the same thing. Upon this Occasion, among others, I was acquainted with Captain *Walcot*, a Person that had been some Months in *England*, being returned out of *Ireland*, and who indeed I had not seen for Eleven Years before. But he came to me as soon as he came out of *Ireland*, and when these unhappy Divisions came, he made very frequent Applications to me; and tho' he was unknown himself, yet being brought by me, he soon gained a Confidence with my Lord *Shaftsbury*, and from him derived it to others. When this unhappy Rent and Division of Mind was, he having before got himself acquainted with many Persons of the City, had entered into such Counsels with them, as afterwards had the Effect, which in the ensuing Narrative I shall relate to your Lordship. He came to me and told me, that they were now sensible all they had was going, that this Force put upon them—

L. C. J. Pray, my Lord, raise your Voice, else your Evidence will pass for nothing.

One of the Jury. We cannot hear, my Lord.

L. *Howard*. There is an unhappy Accident happen'd that hath sunk my Voice: I was but just now acquainted with the Fate of my Lord of *Essex*—My Lord, I say, he came to me, and did acquaint me, that the People were now so sensible, that all their Interest was going, by that Violence offer'd to the City in their Elections, that they were resolv'd to take some Course to put a Stop to it, if it were possible: He told me there were several Consults and Meetings of Persons about it, and several Persons had begun to put themselves into a Disposition and Preparation to act; that some had furnished themselves with very good Horses, and kept them in the most secret and blind Stables they could; That divers had intended it, and for his own part, he was resolv'd to embark himself in it. And having an Estate in *Ireland*, he thought to dispatch his Son thither (for he had a good real Estate, and a great Stock, how he disposed of his real Estate I know not); but he ordered his Son to turn his Stock into Money to furnish him for the Occa-

sion: This I take to be about *August*. His Son was sent away. Soon after this, the Son not being yet returned, and I having several Accounts from him, wherein I found the Fermentation grew higher and higher, and every Day a nearer Approach to Action, I told him I had a Necessity to go into *Essex* to attend the Concerns of my own Estate; but told him, how he might by another Name convey Letters to me, and gave him a little Cant, by which he might blind and disguise the Matter he wrote about, when I was in the Country. I received two or three Letters from him, that gave me an Account in that disguised Style, but such as I understood, that the Negotiation which he had with my Correspondents was going on, and in good Condition; and it was earnestly desired I would come to Town; this was the Middle of *September*. I, notwithstanding, was willing to see the Result of that great Affair, upon which all Mens Eyes were fixed, which was the Determination of the Shrivalty about that time. So I ordered it to fall into Town, and went to my own House on *Saturday* Night, which was *Michaelmas-day*. On *Sunday* he came to me, and dined with me, and told me, (after a general Account given me of the Affairs of the Times) that my Lord *Shaftsbury* was secreted and withdrawn from his own House in *Aldersgate street*; and that though he had a Family settled, and had absconded himself from them, and divers others of his Friends and Confidants; yet he did desire to speak with me, and for that Purpose sent him to shew me the Way to his Lodging: He brought me to a House at the lower End of *Woodstreet*, one *Watson's* House, and there my Lord was alone. He told me he could not but be sensible, how innocent soever he was, both he and all honest Men were unsafe, so long as the Administration of Justice was in such Hands as would accommodate all Things to the Humour of the Court: That in the Sense of this he thought it but reasonable to provide for his own Safety, by withdrawing himself from his own House into that Retirement: That now he had ripen'd Affairs to that Head, and had Things in that Preparation, that he did not doubt but he should be able, by those Men that would be in Readiness in *London*, to turn the Tide, and put a Stop to the Torrent that was ready to overflow. But he did complain to me, that his Design, and the Design of the Publick, was very much obstructed by the unhandsome Deportment of the Duke of *Monmouth*, and my Lord *Ruffel*, who had withdrawn themselves not only from his Assistance, but from their own Engagements and Appointments: For when he had got such a formed Force as he had in *London*, and expected to have it answered by them in the Country, they did recede from it, and told him they were not in a Condition or Preparation, in the Country, to be concurrent with him at that Time. This he looked upon but as an artificial Excuse, and as an Instance of their Intentions, wholly to desert him; but notwithstanding there was such Preparation made in *London*, that if they were willing to lose the Honour of being concurrent with him, he was able to do it himself, and did intend speedily to put it into Execution. I asked him, What Forces he had? He said he had enough. Says I, What are you assured of? Says he, There is above *Ten thousand* brisk Boys are ready to follow me, whenever I hold up my Finger. Says I, How have you methoded

methoded this, that they should not be crushed? for there will be a great Force to oppose you. Yes, he answered, but they would possess themselves of the Gates; and these *Ten thousand* Men, in twenty-four Hours, would be multiplied into five times the Number, and be able to make a Sally out, and possess themselves of *Whitehall*, by beating the Guards. I told him, this was a fair Story, and I had Reason to think, a Man of his Figure would not undertake a thing that might prove so fatal, unless it were laid on a Foundation that might give a prudent Man Ground to hope it would be successful. He said he was certain of it, but confessed it was a great Disappointment, that these Lords had failed him. I told him, I was not provided with an Answer at that time; that he well knew me, and knew the general Frame and Bent of my Spirit. But I told him, I looked upon it as dangerous, and ought to be laid deep, and to be very well weighed and consider'd of; and did not think it a thing fit to be enter'd upon, without the Concurrence of those Lords: And therefore desired, before I discover'd my own Inclination, to discourse with those Lords. He did consent, with much ado; but, says he, you will find they will waive it, and give doubtful and deferring Answers, but you will find this a Truth. I went to *Moor-Park* the next Day, where the Duke of *Monmouth* was, and told him the great Complaint my Lord *Shaftsbury* had made, that he failed him. Says he, I think he is mad: I was so far from giving him any Encouragement, that I did tell him from the Beginning, and so did my Lord *Ruffel*, there was nothing to be done by us in the Country at that time. I did not then own I had seen my Lord, but spake as if this were brought me by a third Person, because he had not given me Liberty to tell them where his Lodging was. Says I, My Lord, I shall be able to give a better Account of this in a Day or two: Shall I convey it to my Lord, that you are willing to give a Meeting? Yes, says he, with all my Heart. This was the second, third or fourth of *October*. I came to Town on *Saturday*, and was carried to him on *Monday*; and I suppose this was *Tuesday* the second of *October*: On *Wednesday*, I think, I went to him again, (but 'tis not very material) and told him I had been with the Duke of *Monmouth*, and given him a punctual Account of what I had from him; and the Duke did absolutely disown any such thing; and told me, he never did give him any Encouragement to proceed that way, because the Countries were not in a Disposition for Action, nor could be put in Readiness at that Time. Says my Lord *Shaftsbury*, 'Tis false; they are afraid to own it. And, says he, I have Reason to believe, there is some artificial Bargain between his Father and him, to save one another: For when I have brought him to Action, I could never get him to put on, and therefore I suspect him: And, says he, several honest Men in the City have puzzled me, in asking how the Duke of *Monmouth* lived: Says he, They puzzled me, and I could not answer the Question; for I know he must have his Living from the King; and, says he, we have different Prospects: We are for a *Commonwealth*, and he hath no other Design but his own personal Interest, and that will not go down with my People now, (so he called them) they are all for a *Commonwealth*: And then, says he, 'Tis to no purpose for me to see him; it will

but widen the Breach, and I dare not trust him to come hither. Says I, My Lord, that's a good one indeed! Dare not you trust him, and yet do you send me to him on this Errand? Nay, says he, 'tis because we have had some Misunderstanding of late; but I believe he is true enough to the Interest. Says I, 'Tis a great Unhappiness to take this Time to fall out; and I think 'tis so great a Design, that it ought to be undertaken with the greatest Strength and Coalition in the Kingdom. Says he, My Friends are now gone so far, that they can't pull their Foot back again without going further; for, says he, it hath been communicated to so many, that 'tis impossible to keep it from taking Air, and it must go on. Says he, We are not so unprovided as you think for; there are so many Men, that you will find as brisk Men as any in *England*. Besides, we are to have 1000 or 1500 Horse, that are to be drawn by insensible Parties into Town, that when the Insurrection is, shall be able to scour the Streets, and hinder them from forming their Forces against us. My Lord, after great Inlargement upon this Head, and Heads of the like Nature, I told him I would not leave him thus, and that nothing should satisfy me, but an Interview between him and the Lords. No, I could not obtain it: But if I would go and tell them what a Forwardness he was in, and that, if they would do themselves Right, by putting themselves upon correspondent Action in their respective Places, and where their Interest lay, well; otherwise he would go away without them. So I went again to the Duke of *Monmouth*, I spake to him only (I never spake to my Lord *Ruffel* then, only we were together, but I had never come to any close Conjunction of Counsels in my Life with him at that time). Says I to the Duke, This Man is mad, and his Madness will prove fatal to us all; he hath been in a Fright by being in the *Tower*, and carries those Fears about him, that cloud his Understanding: I think his Judgment hath deserted him, when he goes about with those strange sanguine Hopes, that I can't see what should support him in the Ground of them. Therefore, says I, Pray will you give him a Meeting. God-so, says the Duke, with all my Heart, and I desire nothing more. Now, I told him, I had been with my Lord *Shaftsbury*, with other Inlargements that I need not trouble your Lordship with: Well, says he, Pray go to him, and try if it be possible to get a Meeting: So I went to him, and told him. Says I, This is a great Unhappiness, and it seems to be a great Absurdity, that you are so forward to act alone in such a thing as this. Pray, says I, without any more to do; since you have this Confidence to send for me, let me prevail with you to meet them, and give them an Interview, or else you and I must break. I will no longer hold any Correspondence, unless it be so. Says he, I tell you they will betray me. In short, he did with much Importunity yield, that he would come out the next Night in a Disguise. By this time it was *Saturday*, I take it to be the sixth of *October*; an Almanack will settle that: So the next Night being *Sunday*, and the Shops shut, he would come out in a Concealment, be carried in a Coach, and brought to his own House, which he thought then was safest. I came and gave the Duke of *Monmouth* an Account of it; the Duke, I suppose, conveyed the same Understanding to my Lord *Ruffel*; and, I suppose,

pose, both would have been there accordingly, to have given the Meeting; but next Morning I found Colonel *Rumsey* had left a Note at my House, that the Meeting could not be that Day. Then I went to the Duke of *Monmouth*, and he had had the Account before, that my Lord *Shaftsbury* did apprehend himself to be in some Danger in that House, and that the Apprehension had occasioned him to remove; but we should be sure to hear from him in two or three Days. We took it as a Waiver, and thought he did from thence intend to abscond himself from us, and it proved so to me, for from that time I never saw him. But Captain *Walcot* came to me, and told me, that he was withdrawn, but it was for fear his Lodging might be discovered, but he did not doubt but in a Week he would let me know where his Lodging was: But told me within such a time, which I think was eight or ten Days, there would be a Rising; and I told the Duke of *Monmouth*, and I believe he told my Lord *Ruffel*; and we believed his Frensy was now grown to that Height, that he would rise immediately, and put his Design in Execution; so we endeavour'd to prevent it. Upon which my Lord *Ruffel* (I was told) and the Duke of *Monmouth*, did force their way to my Lord *Shaftsbury*'s, and did persuade him to put off the Day of his Rendezvous. I had not this from my Lord *Ruffel*, for I had not spoke a Word to him; but the Duke told me, my Lord *Ruffel* had been with him (I had indeed an Intimation, that he had been with him); but the Duke told me, says he, I have not been with him, but my Lord *Ruffel* was, having been convey'd by Colonel *Rumsey*. After this Day was put off, it seems it was put off with this Condition, That those Lords, and divers others, should be in a Readiness to raise the Country about that Day Fortnight, or thereabouts; for there was not above a Fortnight's time given: And, says the Duke of *Monmouth*, we have put it off, but now we must be in Action, for there's no holding it off any longer. And, says he, I have been at *Wapping* all Night, and I never saw a Company of bolder and brisker Fellows in my Life: And, says he, I have been round the *Tower*, and seen the Avenues of it; and I do not think it will be hard, in a little time, to possess ourselves of it: But, says he, they are in the wrong way, yet we are engaged to be ready for them in a Fortnight, and therefore, says he, now we must apply ourselves to it as well as we can. And thereupon I believe they did send into the Country; and the Duke of *Monmouth* told me, he spake to Mr. *Trenchard*, who was to take particular Care of *Somersetshire*, with this Circumstance: Says he, I thought Mr. *Trenchard* had been a brisker Fellow; for when I told him of it, he looked so pale, I thought he would have swooned, when I brought him to the Brink of Action; and said, I pray go and do what you can among your Acquaintance; and truly, I thought it would have come then to Action. But I went the next Day to him, and he said, it was impossible; they could not get the Gentlemen of the Country to stir yet.

L. Ruffel. My Lord, I think I have very hard Measure, here is a great deal of Evidence by Hear-say.

L. C. J. This is nothing against you, I declare it to the Jury.

Mr. Att. Gen. If you please, my Lord, go on in the Method of Time. This is nothing against you, but it's coming to you, if your Lordship will have Patience, I assure you.

L. Howard. This is just in the Order it was done. When this was put off, then they were in a great Hurry; and Captain *Walcot* had been several times with me, and discoursed of it. But upon this Disappointment they said, it should be the Dishonour of the Lords; that they were backward to perform their Parts; but still they were resolved to go on. And this had carried it to the latter end of *October*. About the 17th or 18th, Captain *Walcot* came to me, and told me, now they were resolv'd positively to rise, and did believe, that a smart Party might perhaps meet with some great Men. Thereupon I told the Duke of it; I met him in the Street, and went out of my own Coach into his, and told him, That there was some dark Intimation, as if there might be some Attempt upon the King's Person; with that he struck his Breast with a great Emotion of Spirit, and said, God-so, kill the King! I will never suffer that. Then he went to the *Play-house* to find Sir *Tho. Armstrong*, and send him up and down the City to put it off, as they did formerly; and it was done with that Success, that we were all quieted in our Minds, that at that time nothing would be done: But upon the Day the King came from *Newmarket*, we din'd together; the Duke of *Monmouth* was one, and there we had a Notion conveyed among us, that some bold Action should be done that Day; which comparing it with the King's coming, we concluded it was design'd upon the King. And I remember my Lord *Grey*, says he, By God, if they do attempt any such thing, it can't fail. We were in great Anxiety of Mind, till we heard the King's Coach was come in, and Sir *Thomas Armstrong* not being there we apprehended, that he was to be one of the Party (for he was not there). This failing, it was then next determined (which was the last Alarm and News I had of it) to be done upon the 17th of *November*, the Anniversary of Queen *Elizabeth*; and I remember it by this Remark I made myself, that I fear'd it had been discovered, because I saw a Proclamation a little before, forbidding publick Bonfires without leave of my Lord Mayor. It made some Impressions upon me, that I thought they had got an Intimation of our Intention, and had therefore forbid that Meeting. This therefore of the 17th of *November* being also disappointed, and my Lord *Shaftsbury*, being told things were not ripe in the Country, took Shipping and got away; and from that time I heard no more of him till I heard he was dead. Now, Sir, after this we all began to lie under the same Sense and Apprehensions that my Lord *Shaftsbury* did, that we had gone so far, and communicated it to so many, that it was unsafe to make a Retreat; and this being considered, it was also considered, that so great an Affair as that was, consisting of such infinite Particulars, to be managed with so much Fineness, and to have so many Parts, it would be necessary, that there should be some General Council, that should take upon them the Care of the Whole. Upon these Thoughts we resolved to erect a little *Cabal* among ourselves, which did consist of six Persons; and the Persons were, The Duke of *Monmouth*, my Lord of *Essex*, my Lord

Lord *Ruffel*, Mr. *Hambden*, Jun. *Algernoone Sidney*, and myself.

Mr. *Att. Gen.* About what time was this, when you settled this Council?

L. *Howard.* It would have been proper for me in the next Place to tell you that, and I was coming to it. This was about the Middle of *Jan.* last (as near as I can remember); for about that time we did meet at Mr. *Hambden's* House.

Mr. *Att. Gen.* Name those that met.

L. *Howard.* All the Persons I named before; that was the Duke of *Monmouth*, my Lord *Effex*, my Lord *Ruffel*, Col. *Sidney*, Mr. *Hambden* Jun. and myself. When we met there, it was presently agreed what their proper Province was, which was to have a care of the whole: And therefore it was necessary some general Things should fall under our Care and Conduct, which could not possibly be conducted by individual Persons. The Things that did principally challenge this Care, we thought were these; whether the Insurrection was most proper to be begun in *London*, or in the *Country*, or both at one Instant. This stood upon several different Reasons: It was said in the *Country*; and I remember the Duke of *Monmouth* insisted upon it, that it was impossible to oppose a formed, well-methodiz'd, and govern'd Force, with a Rabble hastily got together; and therefore whatever Numbers could be gathered in the City, would be suppressed quickly, before they could form themselves: Therefore it would be better to begin it at such a Distance from the Town, where they might have an Opportunity of forming themselves, and would not be subject to the like panick Fear, as in the Town, where half an Hour would convey the News to those Forces, that in another half Hour would be ready to suppress them.

Mr. *Att. Gen.* Was this determined among you all?

L. *Howard.* In this Manner that I tell you, why it was necessary to be done at some reasonable Distance from the Town. And from thence it was likewise considered, that the being so remote from the Town, it would put the King upon this *Dilemma*, that either the King would send his Forces to subdue them, or not; if he did, he must leave the City naked, who being *Proxim' Dispositioni* to Action, it would give them Occasion to rise, and come upon the Back of the King's Forces; if he did not send, it would give them Time to form their Number, and be better ordered.

Mr. *Att. Gen.* My Lord, we do not desire all your Discourse and Debates: What was your other general Thing?

L. *Howard.* The other was, What Countries and Towns were the fittest and most disposed to Action: And the *Third*, what Arms were necessary to be got, and how to be disposed: And a *Fourth* (which should have been indeed first in Consideration) propounded by the Duke of *Monmouth*, That it would be absolutely necessary to have some common Bank of 25 or 30,000*l.* to answer the Occasions of such an Undertaking. Nothing was done, but these Things were offered then to our Consideration, and we were to bring in our united Advice concerning them. But the last and greatest was, how we might so order it, as to draw *Scotland* into a Consent with us, for we thought it necessary that all the Diver- sion should be given. This was the last.

Mr. *Att. Gen.* Had you any other Meetings?

L. *Howard.* We had, about ten Days after this, at my Lord *Ruffel's*.

Mr. *Att. Gen.* The same Persons?

L. *Howard.* Every one of the same Persons then meeting.

Mr. *Att. Gen.* What Debate had you there?

L. *Howard.* Then it was so far, as we came to a Resolution, That some Persons should be sent to my Lord *Argyle*, to settle an Understanding with him; and that some Messengers should be dispatched into *Scotland*, that should invite some Persons hither, that were judged most able to understand the Estate of *Scotland*, and give an Account of it. The Persons agreed on were, Sir *John Cockram*, my Lord *Melville*, and another whose Name I have since been told upon my Description, Sir — *Cambel*. For this Purpose we did order a Person should be thought on that was fit —

Mr. *Att. Gen.* Do you know who was sent, and what was done upon this Resolution?

L. *Howard.* I have heard, (I never saw him in six Months before) that *Aaron Smith* was sent.

Mr. *Att. Gen.* Who was intrusted to take care of that Business?

L. *Howard.* Colonel *Sidney*. We in Discourse did agree to refer it to Colonel *Sidney* to have the care of sending a Person.

Mr. *Att. Gen.* Who acquainted you *Aaron Smith* was sent?

L. *Howard.* Colonel *Sidney* told me he had sent him, and given him sixty Guineas for his Journey.

Mr. *Att. Gen.* What more Meetings had you?

L. *Howard.* We did then consider, that these Meetings might have occasioned some Observation upon us, and agreed not to meet again till the Return of that Messenger. He was gone, I believe, near a Month before we heard any thing of him, which we wonder'd at, and feared some Miscarriage; but if his Letter had miscarried, it could have done no great Hurt, for it carried only a kind of Cant in it; it was under the Disguise of a Plantation in *Carolina*.

Mr. *Att. Gen.* You are sure my Lord *Ruffel* was there?

L. *Howard.* Yes, Sir: I wish I could say he was not.

Mr. *Att. Gen.* Did he sit there as a Cypher? What did my Lord say?

L. *Howard.* Every one knows my Lord *Ruffel* is a Person of great Judgment, and not very lavish in Discourse.

Mr. *Serg. Jefferies.* But he did consent?

L. *Howard.* We did not put it to the Vote, but it went without Contradiction, and I took it that all there gave their Consent.

Mr. *Sol. Gen.* The raising of Money you speak of, was that put into any way?

L. *Howard.* No, but every Man was to put themselves upon thinking of such a way, that Money might be collected without administering Jealousy.

Mr. *Att. Gen.* Were there no Persons to undertake for a Fund?

L. *Howard.* No, I think not. However, it was but Opinion, the thing that was said, was jocosely, rather than any thing else, that my Lord of *Effex* had dealing in Money, and therefore he was thought the most proper Person to take

take the care of those things; but this was said rather by way of Mirth, than otherwise.

Mr. *Att. Gen.* What do you know else, my Lord?

L. *Howard.* I was going to tell you, I am now at a full Stop. For it was six Weeks or more, before *Smith's* Return, and then drew on the Time, that it was necessary for me to go into *Effex*, where I had a small Concern; there I staid about three Weeks; when I came back, I was informed that he was returned, and Sir *John Cockram* was also come to Town.

L. *C. J.* Did you meet after this?

L. *Howard.* No, my Lord; I tell you, that I was forced to go three Weeks upon the Account of my Estate, and afterwards I was necessitated to go to the *Bath*, where I spent five Weeks; and the time of coming from the *Bath*, to this time, is five Weeks more; so that all this time hath been a perfect Parenthesis to me, and more than this, I know not.

L. *C. J.* My Lord *Ruffel*, Now, if your Lordship pleases, is the time for you to ask him any Questions.

L. *Ruffel.* The most he hath said of me, my Lord, is only Hear-say; the two times we met, it was upon no formed Design, only to talk of News, and talk of things in general.

L. *C. J.* But I will tell you what it is he testifies, that comes nearest your Lordship, that so you may consider of it, if you will ask any Questions. He says, after my Lord *Shaftsbury* went off (all before is but Inducement, as to any thing that concerns your Lordship, and does not particularly touch you; after his going away, he says) the Party concerned with my Lord *Shaftsbury* did think fit to make Choice of six Persons to carry on the Design of an Insurrection or Rising, as he calls it, in the Kingdom; and that to that Purpose, Choice was made of the Duke of *Monmouth*, my Lord of *Effex*, your Lordship, my Lord *Howard*, Colonel *Sidney*, and Mr. *Hambden*.

L. *Ruffel.* Pray, my Lord, not to interrupt you, by what Party (I know no Party) were they chosen?

L. *Howard.* 'Tis very true, we were not chosen by Community, but did erect ourselves by mutual Agreement, one with another, into this Society.

L. *Ruffel.* We were People that did meet very often.

L. *C. J.* Will your Lordship please to have any other Questions asked of my Lord *Howard*?

L. *Ruffel.* He says, it was a formed Design, when we met about no such thing.

L. *C. J.* He says, that you did consult among yourselves, about the Raising of Men, and where the Rising should be first, whether in the City of *London*, or in more foreign Parts, that you had several Debates concerning it; he does make mention of some of the Duke of *Monmouth's* Arguments for its being formed in Places from the City; he says, you did all agree, not to do any thing further in it, till you had consider'd how to raise Money and Arms: And to engage the Kingdom of *Scotland* in this Business with you; that it was agreed among you, that a Messenger should be sent into the Kingdom of *Scotland*. Thus far he goes upon his own Knowledge, as he saith; what he says after, of sending a Messenger, is by Report only.

Mr. *Att. Gen.* I beg your Pardon, my Lord.

L. *C. J.* 'Tis so, that which he heard concerning the sending of *Aaron Smith*.

Mr. *Att. Gen.* Will you ask him any Questions?

L. *Ruffel.* We met, but there was no Debate of any such thing, nor putting any thing in Method. But my Lord *Howard* is a Man hath a voluble Tongue, talks very well, and is full of Discourse, and we were delighted to hear him.

Mr. *Att. Gen.* I think your Lordship did mention the *Cambells*?

L. *Howard.* I did stammer it out, but not without a Parenthesis, it was a Person of the Alliance, and I thought of the Name of the *Argyles*.

L. *Ruffel.* I desire your Lordship to take notice, that none of these Men I ever saw; my Lord *Melville* I have seen, but not upon this Account.

Mr. *Atterbury* sworn.

Mr. *Att. Gen.* *Aaron Smith* did go, and *Cambell* he went for, is here taken. This is the Messenger. Pray, what do you know of the Apprehending of the *Cambells*?

Mr. *Atterbury.* If it please your Lordship, I did not apprehend Sir *Hugh Cambell* myself, but he is now in my Custody; he was making his Escape out of a Woodmonger's House, both he and his Son.

Mr. *Att. Gen.* How long did he own he had been at *London*?

Mr. *Atterbury.* Four Days, and that in that Time he had been at their Lodgings; and that he and his Son, and one *Baily*, came to Town together.

Mr. *Att. Gen.* My Lord, we shall besides this (now we have fixed this upon my Lord) give you an Account, that these Persons, that were to rise, always took them as their Pay-masters, and expected their Assistance. Mr. *West*, Mr. *Keeling* and Mr. *Leigh*.

Mr. *West* sworn.

Mr. *Att. Gen.* That which I call you to, is to know whether or no, in your Managery of this Plot, you understood any of the Lords were concerned, and which?

Mr. *West.* My Lord, as to my Lord *Ruffel*, I never had any Conversation with him at all, but that I have heard this, That in the Insurrection in *November*, Mr. *Ferguson*, and Colonel *Rumsey*, did tell me, that my Lord *Ruffel* intended to go down and take his Post in the *West*, when Mr. *Trenchard* had failed them.

L. *C. J.* What is this?

Mr. *Att. Gen.* We have proved my Lord privy to the Consults; now we go about to prove the Under-actors did know it.

Mr. *West.* They always said, my Lord *Ruffel* was the Man they most depended upon, because he was a Person looked upon as of great Sobriety.

L. *Ruffel.* Can I hinder People from making use of my Name? To have this brought to influence the Gentlemen of the Jury, and inflame them against me, is hard.

L. *C. J.* As to this, the giving Evidence by Hear-say, will not be Evidence; what Colonel *Rumsey* or Mr. *Ferguson* told Mr. *West*, is no Evidence.

Mr.

Mr. *Att. Gen.* 'Tis not Evidence to convict a Man, if there were not plain Evidence before; but it plainly confirms what the other swears: But I think we need no more.

Mr. *Serg. Jefferies.* We have Evidence without it, and will not use any thing of Garniture; we will leave it as 'tis, we won't trouble your Lordship any further. I think, Mr. *Attorney*, we have done with our Evidence.

L. C. J. My Lord *Ruffel*, the King's Counsel do think to rest upon this Evidence that they have given against your Lordship. I would put your Lordship in mind of those things that are material in this Case, and proved against your Lordship. Here is Colonel *Rumsey* does prove against your Lordship this, That he was sent upon an Errand, which in Truth, was traiterous; it was a traiterous Errand sent from my Lord *Shaftsbury* by him to that Meeting. He does swear your Lordship was at that Meeting; and he delivered his Errand to them, which was to know, what Account could be given concerning the Design of the Insurrection at *Taunton*; and he says, your Lordship being there, this Return was made, That Mr. *Trenchard* had failed them in his Undertaking in the Business, and therefore my Lord *Shaftsbury* must be contented, and sit down satisfied as to that time. Mr. *Sheppard* does likewise speak of the same Time, that your Lordship was there with the rest of the Persons, the Duke and others; that there was a Discourse concerning an Insurrection to have been made (tho' he is not so particular, as to the very Notion of it, as Colonel *Rumsey* is); as to the Time they do agree.

L. Ruffel. Col. *Rumsey* is not positive, that I said or heard any thing.

L. C. J. My Lord, if you will have a little Patience to hear me, I will tell you what it is presses you; there is this which I have mentioned; and Mr. *Sheppard* does say, there was a Paper purporting a Declaration then read among the Company there, which was to be printed upon the Rising, setting forth the Oppressions and Grievances of the Nation; and then my Lord *Howard* (after a great Discourse concerning the many Designs of my Lord *Shaftsbury*) comes particularly to your Lordship, and says, that Six of you, as a chosen Council among yourselves, (not that you were actually chosen, but as a chosen Council among yourselves) did undertake to manage the great Matter of the Insurrection, and raising of Men, in order to surprize the King's Guards, and for to rise (which is a Rebellion in the Nation). He says, that you had several Consults concerning it. I told you the several Particulars of those Consults he mentioned: Now it is fit for your Lordship, and 'tis your Time, to give some Answer to these things.

L. Ruffel. My Lord, I cannot but think myself mighty unfortunate, to stand here charged with so high and heinous a Crime, and that intricately and intermixed with the Treasons and horrid Practices and Speeches of other People, the King's Counsel taking all Advantages, and improving and heightening things against me. I am no Lawyer, a very unready Speaker, and altogether a Stranger to things of this Nature, and alone, and without Counsel. Truly, my Lord, I am very sensible, I am not so provided to make my just Defence, as otherwise I should do. But,

my Lord, you are equal, and the Gentlemen of the Jury, I think, are Men of Consciences; they are Strangers to me, and I hope they value innocent Blood, and will consider the Witnesses that swear against me, swear to save their own Lives; for howsoever legal Witnesses they may be accounted, they can't be credible. And for Col. *Rumsey*, who 'tis notoriously known hath been so highly obliged by the King, and the Duke, for him to be capable of such a Design of murdering the King, I think nobody will wonder, if to save his own Life, he will endeavour to take away mine; neither does he swear enough to do it; and then if he did, the Time, by the 13th of this King, is elapsed, it must be, as I understand by the Law, prosecuted within six Months; and by the 25 *E. 3.* a Design of levying War is no Treason, unless by some Overt-Act it appear. And, my Lord, I desire to know, what Statute I am to be tried upon; for Generals, I think, are not to be gone upon in these Cases.

L. C. J. (To the *Attorney General.*) Mr. *Attorney*, you hear what it is my Lord objects to this Evidence; he says, that as to those Witnesses that testify any thing concerning him, above six Months before he was prosecuted, he conceives the Act of Parliament, upon which he takes himself to be indicted, does not extend to it; for that says, that within six Months there ought to have been a Prosecution; and my Lord tells you, that he is advised, that a Design of levying War, without actual levying of War, was not Treason before that Statute.

Mr. *Att. Gen.* To satisfy my Lord, he is not indicted upon that Statute, we go upon the 25 *E. 3.* But then for the next Objection, surely my Lord is informed wrong. To raise a Rebellion, or a Conspiracy, within the Kingdom, is not that which is called levying of War in that Statute, but to raise a Number of Men, to break Prisons, &c. which is not so directly tending against the Life of the King. To prepare Forces to fight against the King, that is a Design, within that Statute, to kill the King; and to design to depose the King, to imprison the King, to raise the Subjects against the King, these have been settled by several Resolutions to be within that Statute, and Evidences of a Design of killing the King.

L. Ruffel. My Lord, this is a Matter of Law; neither was there but one Meeting at Mr. *Sheppard's* House.

Mr. *Att. Gen.* My Lord, if you admit the Fact, and will rest upon the Point of Law, I am ready to argue it with any of your Counsel. I will acquaint your Lordship how the Evidence stands. There is one Evidence since *Christmas* last.

L. Ruffel. That's not to the Business of *Sheppara's* House. My Lord, one Witness will not convict a Man of Treason.

Mr. *Att. Gen.* If there be one Witness of one Act of Treason, and another of a second, another of a third, that manifest the same Treason to depose or destroy the King, that will be sufficient.

L. C. J. My Lord, that has been resolved: The two Witnesses the Statute requires are not to the same individual Act, but to the same Treason; if they be several Acts declaring the same Treason, and one Witness to each of them, they have been reckoned two Witnesses within the Statute of *Edw. 3.*

Mr. Serg. *Jefferies*. If my Lord will call his Witnesses —

L. Ruffel. This is tacking of two Treasons together; here is one in *November* by one Witness, and then you bring on another with a Discourse of my Lord *Howard*, and he says the Discourse passed for Pleasure.

L. C. J. If your Lordship do doubt whether the Fact proved against your Lordship be Treason or not within the Statute of *E. 3.* and you are contented that the Fact be taken as proved against your Lordship, and so desire Counsel barely upon that, that is Matter of Law, you shall have it granted.

L. Ruffel. I am not knowing in the Law. I think 'tis not proved; and if it was, I think it's not punishable by that Act. I desire Counsel may be admitted upon so nice a Point. My Life lies at Stake; here's but one Witness that speaks of a Message.

Mr. Serg. *Jefferies*. The Fact must be left to the Jury; therefore if my Lord *Ruffel* hath any Witnesses to call in Opposition to these Matters, let him.

L. C. J. My Lord, there can be no Matter of Law, but upon a Fact admitted and stated.

L. Ruffel. My Lord, I do not think it proved; I hope you will be of Counsel for me; it's very hard for me, that my Counsel may not speak for me in a Point of Law.

L. C. J. My Lord, to hear your Counsel concerning this Fact, that we cannot do, it was never done, nor will be done. If your Lordship doubts whether this Fact is Treason or not, and desires your Counsel may be heard to that, I will do it.

L. Ruffel. I doubt in Law, and do not see the Fact is proved upon me.

Mr. *Sol. Gen.* Will your Lordship please to call any Witnesses to the Matter of Fact?

L. Ruffel. 'Tis very hard a Man must lose his Life upon Hear-say. Colonel *Rumsey* says he brought a Message, which I will swear I never heard nor knew of. He does not say he spake to me, or I gave him any Answer. Mr. *Sheppard* remembers no such thing: He was gone to and again. Here is but one Witness, and seven Months ago.

Mr. *Att. Gen.* My Lord, if there be any thing that is Law, you shall have it.

L. Ruffel. My Lord, Colonel *Rumsey*, the other Day before the King, could not say, that I heard it, I was in the Room, but I came in late, they had been there a good while; I did not stay above a Quarter of an Hour talking *Sherry* with Mr. *Sheppard*.

L. C. J. Read the Statute of 25 *E. 3. c. 2.* My Brothers desire to have it read.

Cl. of Cr. Whereas divers Opinions have been before this Time, in what Case Treason shall be said, and in what not: The King, at the Request of the Lords, and of the Commons, hath made a Declaration in the manner as hereafter followeth; that is to say, When a Man doth compass or imagine the Death of our Lord the King, or of our Lady his Queen, or of their eldest Son and Heir; or if a Man do violate the King's Companion, or the King's eldest Daughter unmarried, or the Wife of the King's eldest Son and Heir; or if a Man do levy War against our Lord the

King, in his Realm, or be adherent to the King's Enemies in his Realm, giving to them Aid and Comfort in the Realm, or elsewhere, and thereof be provable attainted of open Deed by People of their Condition: And if a Man counterfeit the King's Great or Privy Seal, or his Money: And if a Man bring false Money into this Realm, counterfeit to the Money of England, as the Money called *Lushburgh*, or other like to the said Money of England, knowing the Money to be false, to Merchandise, or make Payment in defect of our said Lord the King, and of his People: And if a Man steal the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assise, and all other Justices designed to hear and determine, being in their Places during their Offices. And it is to be understood, that in the Cases above rehearsed, that ought to be judged Treason, which extends to our Lord the King, and his Royal Majesty.

L. C. J. My Lord, that which is urged against you by the King's Counsel, is this, You are accused by the Indictment of compassing and designing the King's Death, and of endeavouring to raise an Insurrection in order to it; that, that they do say, is, that these Counsels that your Lordship hath taken, are Evidences of your compassing the King's Death, and are Overt-acts declaring the same; and upon that it is they insist your Lordship to be guilty within that Statute.

L. Ruffel. It is in a Point of Law, and I desire Counsel.

Mr. *Att. Gen.* Admit your Consultations, and we will hear them.

L. C. J. I would set your Lordship right, for probably you may not apprehend the Law in this Case; if your Counsel be heard, they must be heard to this, That taking it, that my Lord *Ruffel* has consulted in this Manner, for the raising of Forces within this Kingdom, and making an Insurrection within this Kingdom, as Colonel *Rumsey* and my Lord *Howard* have deposed, whether then this be Treason, we can hear your Counsel to nothing else.

L. Ruffel. I do not know how to answer to it. The Point methinks must be quite otherwise, that there should be two Witnesses to one Thing at the same Time.

Mr. *Att. Gen.* Your Lordship remembers, in my Lord *Stafford's* Case, there was but one Witness to one Act in *England*, and another to another in *France*.

L. Ruffel. It was to the same Point.

Mr. *Att. Gen.* To the general Point, the lopping Point.

Mr. Serg. *Jefferies*. There was not so much Evidence against him, as there is against your Lordship.

L. C. J. My Lord, if your Lordship will say any thing, or call any Witnesses to disprove what either of these Gentlemen have said, we will hear your Lordship what they say: But if you can't contradict them by Testimony, it will be taken to be a Proof. And the Way you have to disprove them, is to call Witnesses, or by asking Questions, whereby it may appear to be untrue.

Mr. *Sol. Gen.* If you have any Witnesses, call them, my Lord.

L. Ruffel.

L. Ruffel. I do not think they have proved it. But then it appears by the Statute, that levying War is Treason, but a Conspiracy to levy War is no Treason; if nothing be done, 'tis not levying War within the Statute. There must be manifest Proof of the Matter of Fact, not by Inference.

Mr. Att. Gen. I see that is taken out of my Lord *Coke*. Levying War is a distinct Branch of the Statute; and my Lord *Coke* explains himself afterwards, and says, 'tis an Assuming of Royal Power, to Raise for particular Purposes.

Just. Withins. Unless Matter of Fact be agreed, we can never come to argue the Law.

L. Ruffel. I came in late.

Mr. Sol. Gen. Pray, my Lord, has your Lordship any Witnesses to call, as to this Matter of Fact?

L. Ruffel. I can prove I was out of Town when one of the Meetings was; but *Mr. Sheppard* can't recollect the Day, for I was out of Town all that Time. I never was but once at *Mr. Sheppard's*, and there was nothing undertaken of viewing the Guards while I was there. *Colonel Rumsey*, can you swear positively, that I heard the Message, and gave any Answer to it?

L. C. J. (To Colonel Rumsey.) Sir, did my Lord *Ruffel* hear you when you deliver'd the Message to the Company? Were they at the Table, or where were they?

Col. Rumsey. When I came in they were standing at the Fire-side; but they all came from the Fire-side to hear what I said.

L. Ruffel. *Colonel Rumsey* was there when I came in.

Col. Rumsey. No, my Lord. The Duke of *Monmouth*, and my Lord *Ruffel*, went away together; and my Lord *Grey*, and *Sir Thomas Armstrong*.

L. Ruffel. The Duke of *Monmouth* and I came together, and you were standing at the Chimney when I came in; you were there before me. My Lord *Howard* hath made a long Narrative here of what he knew. I do not know when he made it, or when he did recollect any thing; 'tis but very lately, that he did declare and protest to several People, that he knew nothing against me, nor of any Plot I could in the least be questioned for.

L. C. J. If you will have any Witnesses called to that, you shall, my Lord.

L. Ruffel. My Lord *Anglesey*, and *Mr. Edward Howard*.

My Lord Anglesey stood up.

L. C. J. My Lord *Ruffel*, What do you ask my Lord *Anglesey*?

L. Ruffel. To declare what my Lord *Howard* told him about me, since I was confined.

L. Anglesey. My Lord, I chanced to be in Town the last Week; and hearing my Lord of *Bedford* was in some Distress and Trouble concerning the Affliction of his Son, I went to give him a Visit, being my old Acquaintance, of some 53 Years standing, I believe; for my Lord and I were bred together at *Maudlin-College* in *Oxon*; I had not been there but a very little while, and was ready to go away again, after I had done the

good Office I came about; but my Lord *Howard* came in, I don't know whether he be here.

L. Howard. Yes, here I am to serve your Lordship.

L. Anglesey. And sat down on the other Side of my Lord of *Bedford*, and he began to comfort my Lord; and the Arguments he used for his Comfort, were, My Lord, you are happy in having a wife Son, and a worthy Person, one that can never be in such a Plot as this, or suspected for it, and that may give your Lordship Reason to expect a very good Issue concerning him. I know nothing against him, or any body else, of such a barbarous Design, and therefore your Lordship may be comforted in it. I did not hear this only from my Lord *Howard's* Mouth, but at my own Home upon the *Monday* after, for I use to go to *Totteridge* for fresh Air; I went down on *Saturday*, this happen'd to be on *Friday* (my Lord being here, I am glad, for he can't forget this Discourse); and when I came to Town on *Monday*, I understood that my Lord *Howard* upon that very *Sunday* had been at Church with my Lady *Chaworth*. My Lady has a Chaplain, it seems, that preaches there, and does the Offices of the Church; but my Lady came to me in the Evening. This I have from my Lady—

L. C. J. My Lord, what you have from my Lady is no kind of Evidence at all.

L. Anglesey. I don't know what my Lord is, I am acquainted with none of the Evidence, nor what hath been done: But my Lady *Chaworth* came to me, and acquainted me, there was some Suspicion—

Mr. Serg. Jefferies. I don't think it fit for me to interrupt a Person of your Honour, my Lord, but your Lordship knows in what Place we stand here: What you can say of any thing you heard of my Lord *Howard* we are willing to hear, but the other is not Evidence. As the Court will not let us offer Hearsays, so neither must we that are for the King permit it*.

L. Anglesey. I have told you what happened in my Hearing.

Then Mr. Howard stood up.

L. C. J. Come, *Mr. Howard*, what do you know?

Mr. Howard. I must desire to say something of myself and my Family first: My Lord and I have been very intimate, not only as Relations, but as dear Friends. My Lord, I have been of a Family known to have great Respect and Duty for the King; and I think there is no Family in the Nation so numerous, that hath expressed greater Loyalty; upon which Account I improved my Interest in my Lord *Howard*; I endeavoured, upon the great Misunderstanding of the Nation, (if he be here, he knows it) to persuade him to apply himself to the King, to serve him in that great Difficulty of State, which is known to all the World. I sometimes found my Lord very forward, and sometimes I soften'd him; upon which Parly, and upon his Permission, and more upon my own Inclination of Duty, I made several Applications to Ministers of State, (and I can name them) that my Lord *Howard* had a great Desire of serving the King in the best way of Satisfaction, and parti-

* But the Court did let them offer Hearsays; for Lord *Howard* went on with Hearsay Evidence, even after Lord *Ruffel* complain'd of it. p. 718.

cularly in the great Business of his Brother. I wonder'd there should be so much Sharpness for a Matter of Opinion, and I told my Lord so, and we had several Disputes about it. My Lord, I do say this before I come to the thing. After this I did partly by his Permission, and partly by my own Inclination to serve the King, because I thought my Lord *Howard* to be a Man of Parts, and saw him a Man that had Interest in the Nation, tell my Lord *Feversham*, that I had prevailed with a Relation of mine, that may be he might think opposite, that perhaps might serve the King in this great Difficulty that is emergent, and particularly that of his Brother. My Lord *Feversham* did receive it very kindly, and I wrote a Letter to him to let him know how I had soften'd my Lord, and that it was my Desire he should speak with my Lord at *Oxon*. My Lord *Feversham* gave me a very kind Account when he came again, but he told me —

L. C. J. Pray apply yourself to the Matter you are called for.

Mr. Howard. This it may be is to the Matter, when you have heard me; for I think I know where I am, and what I am to say.

L. C. J. We must desire you not to go on thus.

Mr. Howard. I must satisfy the World, as well as I can, as to myself, and my Family, and pray do not interrupt me. After this, my Lord, there never passed a Day for almost —

L. C. J. Pray speak to this Matter.

Mr. Howard. Sir, I am coming to it.

L. C. J. Pray, Sir, be directed by the Court.

Mr. Howard. Then now, Sir, I will come to the Thing. Upon this ground I had of my Lord's Kindness, I applied myself to my Lord in this present Issue, on the breaking out of this Plot. My Lord, I thought certainly, as near as I could discern him, (for he took it upon his Honour, his Faith, and as much as if he had taken an Oath before a Magistrate) that he knew nothing of any Man concerned in this Business, and particularly of my Lord *Ruffel*, whom he vindicated with all the Honour in the World. My Lord, it is true, was afraid of his own Person, and as a Friend and a Relation, I concealed him in my House, and I did not think it was for such a Conspiracy, but I thought he was unwilling to go to the Tower for nothing again: So that if my Lord *Howard* has the same Soul on *Monday*, that he had on *Sunday*, this can't be true, that he swears against my Lord *Ruffel*. This I say upon my Reputation, and Honour; and something I could say more, he added, he thought my Lord *Ruffel* did not only unjustly suffer, but he took God and Men to witness, he thought him the worthiest Person in the World. I am very sorry to hear any Man of my Name should be guilty of these things.

L. Ruffel. Call *Dr. Burnet*. Pray, *Dr. Burnet*, did you hear any thing from my Lord *Howard*, since the Plot was discover'd concerning me?

Dr. Burnet. My Lord *Howard* was with me the Night after the Plot broke out, and he did then, as he had done before, with Hands and Eyes lifted up to Heaven, say he knew nothing of any Plot, nor believed any, and treated it with Scorn and Contempt.

L. Howard. My Lord, may I speak for myself?

Mr. Serg. Jefferies. No, no, my Lord, we don't call you.

L. C. J. Will you please to have any other Witnesses called?

L. Ruffel. There are some Persons of Quality, that I have been very well acquainted and conversed with, I desire to know of them, if there was any thing in my former Carriage, to make them think me like to be guilty of this? My Lord *Cavendish*.

L. Cavendish. I had the Honour to be acquainted with my Lord *Ruffel* a long Time. I always thought him a Man of great Honour, and too prudent and wary a Man to be concerned in so vile and desperate a Design as this, and from which he would receive so little Advantage: I can say nothing more, but that two or three Days since the Discovery of this Plot, upon Discourse about Colonel *Rumsey*, my Lord *Ruffel* did express something, as if he had a very ill Opinion of the Man, and therefore it is not likely he would entrust him with such a Secret.

L. Ruffel. *Dr. Tillotson.*

[*He appears.*]

L. C. J. What Questions would you ask him, my Lord?

L. Ruffel. He and I happened to be very conversant. To know whether he did ever find any thing tending to this in my Discourse.

L. C. J. My Lord calls you as to his Life, and Conversation, and Reputation.

Dr. Tillotson. My Lord, I have been many Years last past acquainted with my Lord *Ruffel*, I always judg'd him a Person of great Virtue and Integrity, and by all the Conversation and Discourse I ever had with him, I always took him to be a Person very far from any such wicked Design he stands charged with.

L. Ruffel. *Dr. Burnet*, if you please to give some Account of my Conversation.

Dr. Burnet. My Lord, I have had the Honour to be known to my Lord *Ruffel* several Years, and he hath declared himself with much Confidence to me, and he always upon all Occasions expressed himself against all Risings; and when he spoke of some People that would provoke to it, he expressed himself so determined against that Matter, I think no Man could do more.

L. C. J. Will your Lordship call any other Witnesses?

L. Ruffel. *Dr. Cox.*

Dr. Thomas Cox stood up.

Dr. Cox. My Lord. I did not expect to have been spoken to upon this Account. Having been very much with my Lord of late, that is, for a Month or six Weeks before this Plot came out, I have had Occasion to speak with my Lord in private, about these publick Matters: But I have always found that my Lord was against all kind of Risings, and thought it the greatest Folly and Madness, till things should come in a parliamentary Way. I have had Occasion often to speak with my Lord *Ruffel* in private, and having myself been against all kind of Risings, or any thing that tended to the Disorder of the Publick, I have heard him profess solemnly, he thought it would ruin the best Cause in the World to take any of these irregular ways for the preserving of it; and particularly my Lord hath expressed himself occasionally of these two Persons, my Lord *Howard* and Colonel *Rumsey*: One of them, Colonel *Rumsey*, I saw once at my Lord's House,

and

and he offered to speak a little privately. But my Lord told me he knew him but a little: I told him he was a valiant Man, and acted his Part valiantly in *Portugal*. He said he knew him little, and that he had nothing to do with him, but in my Lord *Sbaftsbury's* Business: He said, for my Lord *Howard*, he was a Man of excellent Parts, of luxuriant Parts, but he had the Luck not to be much trusted by any Party. And I never heard him say one Word of Indecency or Immodesty towards the King.

L. Ruffel. I would pray the Duke of *Somerfet*. to speak what he knows of me.

D. of Som. I have known my Lord *Ruffel* for about two Years, and have had much Conversation with him, and been often in his Company, and never heard any thing from him, but what was very honourable, loyal, and just.

L. C. J. My Lord does say, that he has known my Lord *Ruffel* for about two Years, and hath had much Conversation with him, and been much in his Company, and never heard any thing from him, but what was honourable, and loyal, and just, in his Life.

Foreman of the Jury. The Gentlemen of the Jury desire to ask my Lord *Howard* something upon the Point my Lord *Anglesey* testified, and to know what Answer he makes to my Lord *Anglesey*.

L. C. Bar. My Lord, what say you to it, that you told his Father he was a discreet Man, and he needed not to fear his Engagement in any such thing?

L. Howard. My Lord, if I took it right, my Lord *Anglesey's* Testimony did branch itself into two Parts, one of his own Knowledge, and the other by Hearsay; as to what he said of his own Knowledge, when I waited upon my Lord of *Bedford*, and endeavoured to comfort him, concerning his Son, I believe I said the Words my Lord *Anglesey* has given an Account of, as near as I can remember, that I looked upon his Lordship, as a Man of that Honour, that I hoped he might be secure, that he had not entangled himself in any thing of that Nature. My Lord, I can hardly be provoked to make my own Defence, lest this noble Lord should suffer, so willing I am to serve my Lord, who knows I can't want Affection for him. My Lord, I do confess I did say it; for your Lordship well knows under what Circumstances we were: I was at that Time to outface the thing, both for myself and my Party, and I did not intend to come into this Place, and act this Part. God knows how it is brought upon me, and with what Unwillingness I do sustain it; but my Duty to God, the King, and my Country, requires it; but I must confess I am very sorry to carry it on thus far. My Lord, I do confess I did say so; and if I had been to visit my Lord *Pemberton*, I should have said so. There is none of those that know my Lord *Ruffel*, but would speak of my Lord *Ruffel*, from those Topicks of Honour, Modesty, and Integrity, his whole Life deserves it. And I must confess, I did frequently say, there was nothing of Truth in this, and I wish this may be for my Lord's Advantage. My Lord, will you spare me one thing more, because that leans hard upon my Reputation? and if the Jury believe that I ought not to be believed, for I do think the Religion of an Oath is not tied to a Place, but receives its Obligation from the Appeal we there-

in make to God, and, I think, if I called God and Angels to witness to a Falshood, I ought not to be believed now: But I will tell you as to that; your Lordship knows, that very Man that was committed, was committed for a Design of murdering the King; now I did lay hold on that Part, for I was to carry my Knife close between the Paring and the Apple; and I did say, that if I were an Enemy to my Lord *Ruffel*, and to the Duke of *Monmouth*, and were called to be a Witness, I must have declared in the Presence of God and Man, that I did not believe either of them had any Design to murder the King. I have said this, because I would not walk under the Character of a Person. that would be perjured at the Expence of so noble a Person's Life, and my own Soul.

L. Ruffel. My Lord *Clifford*.

L. C. J. What do you please to ask my Lord *Clifford*?

L. Ruffel. He hath known my Conversation for many Years.

L. Clifford. I always took my Lord to be a very worthy honest Man; I never saw any thing in his Conversation to make me believe otherwise.

L. Ruffel. Mr. *Gore*.

Mr. *Luton Gore*. I have been acquainted with my Lord several Years, and conversed much with him; in all the Discourse I had with him, I never heard him let any thing fall, that tended in the least to any Rising, or any thing like it: I took him to be one of the best Sons, one of the best Fathers, and one of the best Masters, one of the best Husbands, one of the best Friends, and one of the best Christians we had. I know of no Discourse concerning this Matter.

L. Ruffel. Mr. *Spencer*, and Dr. *Fitz-Williams*.

Mr. *Spencer*. My Lord, I have known my Lord *Ruffel* many Years, I have been many Months with him in his House; I never saw any thing by him, but that he was a most virtuous and prudent Gentleman, and he had Prayers constantly twice a Day in his House.

L. C. J. What, as to the general Conversation of his Life? My Lord asks you, whether it hath been sober.

Mr. *Spencer*. I never saw any thing but very good, very prudent, and very virtuous.

L. Ruffel. What Company did you see used to come to me?

Mr. *Spencer*. I never saw any but his near Relations. or his own Family. I have the Honour to be related to the Family.

Then Dr. Fitz-Williams stood up.

L. Ruffel. If it please you, Doctor, you have been at my House several Times, give an Account of what you know of me.

Dr. *Fitz-Williams*. I have had the Knowledge of my Lord these fourteen Years, from the Time he was married to his present Lady, to whose Father, eminent for Loyalty, I had a Relation by Service; I have had Acquaintance with him both at *Stratton*, and *Southampton-Buildings*; and by all the Conversation I had with him, I esteemed him a Man of that Virtue, that he could not be guilty of such a Crime as the Conspiracy he stands charged with.

L. C. J. My Lord, does your Lordship call any more Witnesses?

L. Ruffel.

L. *Ruffel*. No, my Lord, I will be very short. I shall declare to your Lordship, that I am one that have always had a Heart sincerely loyal and affectionate to the King, and the Government, the best Government in the World. I pray as sincerely for the King's happy and long Life as any Man alive; and for me to go about to raise a Rebellion, which I looked upon as so wicked and unpracticable, is unlikely. Besides, if I had been inclined to it, by all the Observation I made in the Country, there was no Tendency to it. What some hot-headed People have done there, is another thing. A Rebellion can't be made now as it has been in former Times; we have few great Men. I was always for the Government, I never desired any thing to be redressed, but in a parliamentary and legal Way. I have been always against Innovations, and all Irregularities whatsoever; and shall be as long as I live, whether it be sooner or later. Gentlemen, I am now in your Hands eternally, my Honour, my Life, and all; and I hope the Heats and Animosities that are amongst you will not so bias you, as to make you in the least inclined to find an innocent Man guilty. I call to witness Heaven and Earth, I never had a Design against the King's Life in my Life, nor never shall have. I think there is nothing proved against me at all. I am in your Hands. God direct you.

Mr. *Sel. Gen.* My Lord, and you Gentlemen of the Jury, the Prisoner at the Bar stands indicted for High Treason, in conspiring the Death of the King. The Overt-act that is laid to prove that Conspiracy and Imagination by, is the assembling in Council to raise Arms against the King, and raise a Rebellion here. We have proved that to you by three Witnesses. I shall endeavour, as clearly as I can, to state the Substance of the Evidence to you, of every one of them, as they have delivered it.

The first Witness, Colonel *Rumsey*, comes, and he tells you of a Message he was sent of to Mr. *Sheppard's* House to my Lord *Ruffel*, with several other Persons who he was told would be there assembled together: And the Message was to know what Readiness they were in, what Resolutions they were come to concerning the Rising at *Taunton*. By this you do perceive, that this Conspiracy had made some Progress, and was ripe to be put in Action. My Lord *Shaftsbury*, that had been a great Contriver in it, he had pursued it so far, as to be ready to rise. This occasioned the Message from my Lord *Shaftsbury* to my Lord *Ruffel*, and those noble Persons that were met at Mr. *Sheppard's* House, to know what the Resolution was concerning the Business of *Taunton*, which you have heard explained by an Undertaking of Mr. *Trenchard's*: That the Answer was, they were disappointed there, and they could not then be ready, and that my Lord *Shaftsbury* must be content. This Message was delivered in Presence of my Lord *Ruffel*; the Messenger had notice my Lord *Ruffel* was there; the Answer was given as from them all, That at present they could not be ready, because of that Disappointment. Colonel *Rumsey* went farther; and he swears there was a Discourse concerning the surprising of the Guards; and the Duke of *Monmouth*, my Lord *Grey*, and Sir *Thomas Armstrong*, went to see what Posture they were in, whether it were feasible to sur-

prise them, and they found them very remis; and that Account they brought back, as is proved to you by Mr. *Sheppard*, the other Witness, that it was a thing very feasible. But to conclude with the Substance of Colonel *Rumsey's* Evidence, he says, my Lord was privy to it, that he had Discourse among the rest of it, though my Lord was not a Man of so great Discourse as the rest, and did talk of a Rising. He told you there was a Rising determined to be on the 19th of *November* last, which is the Substance of Colonel *Rumsey's* Evidence.

Gentlemen, the next Witness is Mr. *Sheppard*, and his Evidence was this: He swears that about *October* last, Mr. *Ferguson* came to him of a Message from the Duke of *Monmouth*, to let him know, that he and some other Persons of Quality would be there that Night; that accordingly they did meet, and my Lord *Ruffel* was there likewise; that they did desire to be private, and his Servants were sent away; and that he was the Man that did attend them. He swears there was a Discourse concerning the Way and Method to seize the Guards; he goes so far, as to give an Account of the Return of the Errand the Duke of *Monmouth*, my Lord *Grey*, and Sir *Thomas Armstrong*, went upon, that it was feasible, if they had Strength to do it. Then he went a little farther, and he told you there was a Paper read, that in his Evidence does not come up to my Lord *Ruffel*; for he did not say my Lord *Ruffel* was by, and I would willingly repeat nothing but what concerns the Prisoner. This therefore Colonel *Rumsey*, and Mr. *Sheppard*, agree in, that there was a Debate among them how to surprise the Guards, and whether that was feasible; and Mr. *Sheppard* is positive as to the Return made upon the View.

The next Witness was my Lord *Howard*: He gives you an Account of many things, and many things that he tells you are by Hear-say. But I cannot but observe to you, that all this Hear-say is confirmed by these two positive Witnesses, and their Oaths agree with him in it; for my Lord *Shaftsbury* told him of the Disappointment he had met with from these noble Persons that would not join with him; and then he went from my Lord *Shaftsbury* to the Duke of *Monmouth*, to expostulate with him about it, (for my Lord *Shaftsbury* then was ready to be in Action) and that the Duke said he always told him he would not engage at that Time: This thing is confirmed to you by these two Witnesses. Colonel *Rumsey* says, when he brought the Message from my Lord *Shaftsbury*, the Answer was, They were not ready, my Lord must be contented.

Next he goes on with a Discourse concerning my Lord *Shaftsbury*, (that does not immediately come up to the Prisoner at the Bar, but it manifests there was a Design at that Time) he had 10,000 brisk Boys (as he called them) ready to follow him upon the holding up his Finger: But it was thought not so prudent to begin it, unless they could join all their Forces: So you hear in this they were disappointed; and partly by another Accident too, my Lord *Howard* had an Apprehension it might be discovered; that was upon the Proclamation that came out forbidding Bonfires, to prevent the ordinary Tumults that used to be upon those Occasions. Then my Lord *Howard* goes on, and comes particularly to my Lord

Lord *Ruffel*; for upon this Disappointment, you find, my Lord *Shaftsbury* thought fit to be gone. But after that, the Design was not laid aside; for you hear, they only told him all along, they could not be ready at that Time, but the Design went on still to raise Arms, and then they took upon themselves to consult of the Methods of it; and for the carrying it on with the greater Secrecy, they chose a select Council of Six, which were the Duke of *Monmouth*, my Lord of *Essex*, my Lord *Howard*, my Lord *Ruffel*, Mr. *Hambden*, and Colonel *Sidney*. That accordingly they met at Mr. *Hambden's*, (there was their first Meeting) and their Consultation there was, how the Insurrection should be made, whether first in *London*, or whether first in the Country, or whether both in *London* and in the Country at one Time. They had some Debates among themselves, that it was fittest first to be in the Country; for if the King should send his Guards down to suppress them, then the City, that was then as well disposed to rise, would be without a Guard, and easily effect their Designs here.

Their next Meeting was at my Lord *Ruffel's* own House, and there their Debates were still about the same Matter, how to get in *Scotland* to their Assistance; and in order to that, they did intrust Col. *Sidney*, one of their Council, to send a Messenger into *Scotland* for some Persons to come hither, my Lord *Melville*, Sir *Hugh Cambell*, and Sir *John Cockram*. Accordingly Col. *Sidney* sends *Aaron Smith* (but this is only what Col. *Sidney* told my Lord afterwards, that he had done it); but you see the Fruit of it. Accordingly they are come to Town, and Sir *Hugh Cambell* is taken by a Messenger upon his Arrival; and he had been but four Days in Town, and he had changed his Lodging three times.

Now, Gentlemen, this is the Substance of the Evidence that hath been produced against my Lord *Ruffel*. My Lord *Ruffel* hath made several Objections, That he was accidentally at this Meeting at Mr. *Sheppard's* House, and came about other Business; but I must observe to you, that my Lord *Ruffel* owned, that he came along with the Duke of *Monmouth*, and, I think, he said, he went away with him too. You observe what Mr. *Sheppard's* Evidence was: Mr. *Ferguson* came to tell him the Duke of *Monmouth* would come; and accordingly the Duke of *Monmouth* did come, and brought his Companion along with him, which was my Lord *Ruffel*; and certainly they that met upon so secret an Affair, would never have brought one that had not been concerned. Gentlemen, there are other Objections my Lord hath made, and those are in Point of Law; but before I come to them, I would observe what he says to the second Meeting. My Lord does not deny, but that he did meet both at Mr. *Hambden's* House, and my Lord's own: I think my Lord said they did meet only to discourse of News; and my Lord *Howard* being a Man of excellent Discourse, they met for his Conversation. Gentlemen, you can't believe that this designed Meeting was for nothing; in this close secret Meeting, that they had no Contrivance among them. You have heard the Witness, he swears positively what the Conversation was, and you see the Fruit of it, Sir *Hugh Cambell's* coming to Town, and absconding when it is discovered. Now my Lord *Ruffel* insists upon it, that admitting these Facts be proved

upon him, they amount to no more than to a Conspiracy to levy War, and that that is not Treason within the Statute of 25 E. 3. and if it be only within the Statute of the 13. of this King, then 'tis out of Time, that directs the Prosecution to be within six Months: The Law is plainly otherwise. The Statute of the 13th of this King I will not now insist upon, though I believe if that be strictly looked into, the Clause that says the Prosecution shall be within six Months, does not refer to Treason, but only to the other Offences that are highly punishable by that Statute. For the Proviso runs thus:

13 Car. 2. Provided always, that no Person be prosecuted for any of the Offences in this Act mentioned, other than such as are made and declared to be High Treason, unless it be by Order of the King's Majesty, his Heirs or Successors, under his or their Sign Manual, or by Order of the Council Table of his Majesty, his Heirs or Successors, directed unto the Attorney General for the Time being, or some other Council learned to his Majesty, his Heirs or Successors, for the Time being: Nor shall any Person or Persons, by virtue of this present Act, incur any the Penalties herein before mentioned, unless he or they be prosecuted within six Months next after the Offence committed, and indicted thereupon within three Months after such Prosecution; anything herein contained to the contrary notwithstanding.

This Word (Nor) is a Continuation of the former Sentence, and the Exception of High Treason will go through all, and except that out of the temporary Limitation of Treason: But this is High Treason within 25 E. 3. To conspire to levy War, is an Overt-act to testify the Design of the Death of the King. And the Error of my Lord *Coke* hath possibly led my Lord into this Mistake. But this, Gentlemen, hath been determined; it was resolved by all the Judges in the Case of my Lord *Cobham*, 1 Jac. A Conspiracy to levy War against the King's Person, (as this was a Conspiracy to seize the Guards) what does that tend to but to seize the King? And that always hath been taken to be High Treason. But there are some things called levying of War in Law, that are not so directly against the King, as if a Number of Men go about to levy Men to overthrow all Inclosures, this by the generality of the Intent, and because of the Consequences, is accounted levying War against the King. A Conspiracy therefore to levy such a War, which by Construction only is against the King, perhaps that may not be such an Overt-act, as to testify the Imagination of the Death of the King; but other Conspiracies to raise War against the King have always so been taken. 'Tis the Resolution of all the Judges in my Lord *Dyer's* Reports, the Case of Dr. *Story*: A Conspiracy to invite a foreign Prince to make an Invasion, though no Invasion follow, is an Overt-act to prove the conspiring the Death of the King; and as it has been so taken, so it hath been practised but of late Days. In the King's Bench I take it the Indictment against *Plunket* that was hanged, he was indicted for conspiring against the Life of the King, and his Charge went no farther than for raising of Arms, and inviting the French King

King in, and he suffered. This is acknowledged by my Lord *Coke*; for he himself said in the Paragraph before that out of which this Advice to my Lord *Ruffel* is extracted, that a Conspiracy to invite a foreign Prince to invade the Kingdom, is a Conspiracy against the Life of the King. And in the next Paragraph, he says an Overt Act of one Treason cannot be an Overt Act of another Treason. But constant Practice is against him in that: For what is more common than to indict a Man for imagining the Death of the King, and to assign the Overt Act in a Conspiracy to raise Arms against the King? And sometimes they go on and say, Did levy War against the King. Now by my Lord *Coke's* Rule, levying War, unless the Indictment be particular for that, is not an Overt Act for the compassing the Death of the King; but the contrary hath been resolved by all the Judges, in the Case of Sir *Henry Vane*, and it is the constant Practice to lay it so in Indictments. It would be a strange Construction, if this should not be High Treason. 'Tis agreed by every body, to take the King Prisoner, to seize the King, that is a compassing of the Death of the King; and to sit in Council to conspire to effect that, that is an Overt Act of the Imagination of the Death of the King: Now no Man can distinguish this Case from that: And this Consultation amounted to all this, for plainly thither it tended. The Consultation was to seize upon the King's Guards; that could have no other Stop but to seize upon the King's Person, and bring him into their Power. As to the killing of the King, I am apt to think that was below the Honour of the Prisoner at the Bar; but this is equal Treason: If they designed only to bring the King into their Power, till he had consented to such things as should be moved in Parliament, 'tis equally Treason as if they had agreed directly to assassinate him. Therefore I think there is nothing for you to consider, but to see that the Fact be fully proved; and I see nothing that hath been said by my Lord *Ruffel*, that does invalidate our Evidence. He hath produced several Witnesses, Persons of Honour; my Lord *Anglesey* he tells you of a Discourse my Lord *Howard* had with my Lord of *Bedford*; that he told my Lord of *Bedford* that he needed not to fear, for he had a wife and understanding Son, and could not think he should be guilty of any such thing as was laid to his Charge. This is brought to invalidate my Lord *Howard's* Testimony. Gentlemen, do but observe, my Lord *Howard* was as deep in as any of them, and was not then discovered: Is it likely, that my Lord *Howard*, that lay hid, should discover to my Lord of *Bedford*, that there was a Conspiracy to raise Arms, and that he was in it? This would have been an Aspersion upon my Lord of *Bedford*, that any such thing should have been said.

Mr. *Edward Howard* is the next, and he proves, That my Lord *Howard* used solemn Protestations, that he knew nothing of this Conspiracy. I did observe that worthy Gentleman in the Beginning of his Discourse (for it was pretty long) said first, that he had been several times tempting my Lord *Howard* to come over and be serviceable to the King; and if he knew any thing, that he would come and confess it. Why, Gentlemen, Mr. *Howard*, that had come to him upon these Errands formerly, and had

thought he had gained him, I conceive you do not wonder if my Lord *Howard* did not reveal himself to him, who presently would have discovered it, for, for that Errand he came. But if my Lord had had a Design to have come in and saved his Life, he would have made his Submission voluntarily, and made his Discovery: But my Lord tells nothing till he is pinched in his Conscience, and confounded with the Guilt, (being then in Custody) and then he tells the whole Truth, that which you have heard this Day.

Gentlemen, this hath been all that hath been objected against the Witnesses, except what is said by Dr. *Burnet*; and, he says, that my Lord *Howard* declared to him, that he believed there was no Plot, and laughed at it. Why, Gentlemen, the Dr. would take it ill to be thought a Person fit to be intrusted with the Discovery of this; therefore what he said to him signifies nothing, for 'tis no more than this, that he did not discover it to the Dr.

But the last Objection (which I see there has been a great many Persons of Honour and Quality called to) is, that 'tis not likely my Lord *Ruffel* should be guilty of any thing of this kind, being a Man of that Honour, Virtue, and so little blameable in his whole Conversation. I do confess, Gentlemen, this is a thing that hath Weight in it. But consider, on the other hand, my Lord *Ruffel* is but a Man, and hath his human Frailties about him. Men fall by several Temptations; some out of Revenge, some by Malice, fall into such Offences as these are: My Lord *Ruffel* is not of that Temper, and therefore may-be these are not the Ingredients here. But, Gentlemen, there is another great and dangerous Temptation that attends People in his Circumstances, whether it be Pride or Ambition, or the cruel Snare of Popularity, being cried up as a Patron of Liberty. This hath been a dangerous Temptation to many, and many Persons of Virtue have fallen into it, and 'tis the only way to tempt Persons of Virtue, and the Devil knew it; for he that tempted the Pattern of Virtue, shewed him all the Kingdoms of the World, and said, *All these will I give thee, if thou wilt fall down, and worship me.* Tho' he be a Person of Virtue, yet it does not follow, but his Virtue may have some weak Part in him; and I am afraid, these Temptations have prevailed upon my Lord: For I cannot give myself any Colour of Objection, to disbelieve all these Witnesses who give in their Testimony. I see no Contradiction, no Correspondence, no Contrivance at all between them. You have plain Oaths before you, and I hope you will consider the Weight of them, and the great Consequence that did attend this Case, the Overthrow of the best Government in the World, and the best and most unspotted Religion, which must needs have suffered; the greatest Liberty, and the greatest Security for Property, that ever was in any Nation, bounded every way by the Rules of Law, and those kept sacred. I hope you will consider the Weight of this Evidence, and consider the Consequences such a Conspiracy, if it had taken Effect, might have had. And so I leave it to your Consideration upon the Evidence you have heard.

Mr. *Serg. Jeffries*. My Lord, and you Gentlemen of the Jury, This Cause hath detained your Lordship a long time, by reason of so many Witnesses

nesses being called, and the Length of the Defence made by the Prisoner at the Bar; and if it had not been for the Length, I would not have injured your Patience by saying any thing, Mr. Solicitor having taken so much Pains in it. It is a Duty incumbent upon me, under the Circumstances I now stand, to see if any thing hath been omitted, that hath not been observed to you; and I shall detain you with very few Words.

Gentlemen, you must give me Leave to tell you, 'tis a Case of great Consequence, of great Consequence to that noble Person, that now is at the Bar, as well as to the King; for it is not desired by the King, nor by his Council, to have you influenced in this Matter by any thing but by the Truth, and what Evidence you have received. You are not to be moved by Compassion or Pity; the Oath you have taken is to go according to your Evidence; and you are not to be moved by any Insinuations, that are offered by us for the King, nor by any Insinuations by the Prisoner at the Bar; but the Truth, according to the Testimony given, must be your Guide. How far the Law will affect this Question, that we are not to apply to you; for that we are to apply ourselves to the Court, (they are the Judges in point of Law) who will take so much Care in their Directions to you, that you may be very well satisfied you will not easily be led into Error. For the Instances that have been put, I could put several others; but I will take Notice only of one thing, that that noble Person at the Bar seems to object. Gentlemen, it is not necessary there should be two Witnesses to the self-same Fact at the self-same Time; but if there be two Witnesses tending to the self-same Fact, tho' it was at several Times, and upon several Occasions, they will be in point of Law two Witnesses, which are necessary to convict a Man for High Treason. Gentlemen, I make no Doubt this thing is known to you all, not only by the Judgment of all the Judges in *England*, but the Judgment of the Lords in Parliament, when I doubt not the Prisoner at the Bar did attend in the Case of my Lord *Stafford*, wherein one Witness gave an Account of a Conspiracy in *England*, *Turberville* of another in *France*; and by the Opinion of all my Lords the Judges approved in Parliament, that was enough, and he was convicted.

The Question is, Whether we have sufficiently proved this Matter? Gentlemen, I must tell you, we rake no Gaols, nor bring any profligate Persons, Persons that wanted Faith or Credit before this Time. I must tell you, that notwithstanding the fair Notice that hath been given to the Prisoner at the Bar, (that you see he hath taken an Advantage of it, he hath given an Account of a private Conversation, which my Lord *Howard* had before that noble Person that was Witness, since he was taken) he has not given you in any Proof hitherto; nay, I say, he has not pretended any thing in the World: Wherefore you, Gentlemen, that are upon your Oaths, should take it upon your Consciences, that two Men, against whom there is no Objection, should come to damn their own Souls to take away the Life of this Gentleman, when there is no Quarrel, no Temptation, wherefore these Gentlemen should come in the Face of a Court of Justice, in

the Face of such an Auditory, without Respect to that infinite Being, to whom they appeal for Confirmation of the Truth of their Testimony: And if they had the Faith of Men or Christians, they must necessarily conclude, that if they did swear to take away a Man's Life that was innocent; God would sink them down presently into Hell. Gentlemen, in the next place, I must acquaint you, that the first Witness, Colonel *Rumsey*, it is apparent, that he was taken Notice of by the Prisoner as a Man fit to be trusted; he was engaged by my Lord *Shaftsbury*: But, says he; would any Man believe, that that Man, that had received so many Marks of the King's Favour, both in Advantage to his Estate, his Honour, and Person, could be ever contriving such an hellish Design as this? Gentlemen, if you will argue from such uncertain Conjectures, then all Criminals will come off. Who should think, that my Lord of *Effex*, who had been advanced so much in his Estate and Honour, should be guilty of such desperate Things! which had he not been conscious of, he would scarcely have brought himself to that untimely End, to avoid the Methods of publick Justice. Colonel *Rumsey* tells you, my Lord *Shaftsbury* was concerned in this Conspiracy. I am sorry to find, that there have been so many of the Nobility of this Land, that have lived so happily under the benign Influence of a gracious Prince, should make so ill Returns. Gentlemen, I must appeal to you, Whether in your Observation you found Colonel *Rumsey* to be over-hasty, and an over-zealous Witness? He did not come as if he came in Spite to the Prisoner at the Bar; you found how we were forced to pump out every thing; but after he had been pressed over and over again, then he came to it: So that I observe to you, that he was an unwilling Witness.

Gentlemen, give me Leave to observe to you; the Prisoner at the Bar, before such time as Mr. *Sheppard* came up and gave Evidence against him, says he, I came only by Accident, only to taste a Parcel of Wine. Mr. *Sheppard*, when he comes up, he tells you, there was no such Design. *Ferguson*, that was the Person he kept Company with; the Reverend Dean, and the rest of the Clergy of the Church of *England*, they were not fit to be trusted with it; but this independent Parson, *Ferguson*, he gives Notice of the Coming of these Persons; and in pursuance of this Notice, they all come, they come late in the Evening, not in the Posture and Quality they use to go; for you find they had not so much as a Coach. Is it probable they came to taste Wine? Wherefore did they go up into a Room? Wherefore did they order Mr. *Sheppard*, that none of the Boys should come up, but that the Master must fetch the Sugar and Wine himself? Wherefore you may perceive the Action they were upon; there were only to be such Persons as had an Affection for such a Cause. You find, pursuant to what Colonel *Rumsey* says, that there was a Direction to take a View of the Guards, that Sir *Thomas Armstrong* comes back; and makes this Report: Says he, I have taken Notice, they are in such an idle careless Posture, that it is not impossible to surprize them. This Mr. *Sheppard* he does not come, nor does he appear to you to come here out of any vindictive Humour, to do the Prisoner at the Bar any Hurt.

In the next place, we have my Lord *Howard*; he comes, and positively tells you, after he had given an Account, (for you observe there were two Parts to be acted in this horrid Tragedy; there was first the scoundrel Sort of People were to be concerned to take away the Life of the King and the Duke, the great Persons were to head the Party in the Rising) they put themselves in proper Postures, each of them consenting to something of the Surprize, inasmuch as you observe, that Sir *Thomas Armstrong*, and some other Persons, might not be trusted. They come and resolve themselves out of a general Council, and they meet in a particular Council of six, looking upon themselves as the Heads of the Party: And I must tell you, many of them, (we live not in an Age of such Obscurity, but we know them) how fond have they been of the Applause of the People! As that Person encouraged himself Yesterday, they were *Liberatores Patriæ*, that could murder the King and the Duke.

My Lord, I must take Notice, that this noble Lord is known to have an Intimacy with him; you observe with how much Tenderness he is pleased to deliver himself, how carefully he reports the Debates of the particular Consults of the Persons to be intrusted in the Management; he tells you, that noble Lord, the Prisoner at the Bar, was pitched upon, and *Algernon Sydney*, a Man famous about the Town; for what? To call in Parties from some of his Majesty's other Dominions, Persons we know ripe enough for Rebellion, to assist. Pursuant to this, you find Persons sent of a Message for some to come over, whereof some are in hold: So that for all dark and obscure sort of Matters, nothing can be brought better to Light, than this, of taking all Matters together, with the concurring Circumstances of Time and Place.

Gentlemen, I must confess this noble Lord hath given an Account by several honourable Persons of his Conversation, which is a very easy Matter. Do you think, if any Man had a Design to raise a Rebellion against the Crown, that he would talk of it to the Reverend Divines, and the noble Lords, that are known to be of Integrity to the Crown? Do you think the Gentleman at the Bar would have so little Concern for his own Life, to make this Discourse his ordinary Conversation? No, it must be a particular Consult of six, that must be entrusted with this. I tell you, 'tis not the Divines of the Church of *England*, but an Independent Divine, that is to be concerned in this; they must be Persons of their own Complexion and Humour: For Men will apply themselves to proper Instruments

Gentlemen, I would not labour in this Cause; for far be it from any Man to endeavour to take away the Life of the Innocent! And whereas that noble Lord says, he hath a virtuous good Lady, he hath many Children, he hath Virtue and Honour he puts into the Scale; Gentlemen, I must tell you on the other Side, you have Consciences, Religion; you have a Prince, and a merciful one too; consider the Life of your Prince, the Life of his Posterity, the Consequences that would have attended, if this Villainy had taken Effect. What would have become of your Lives and Religion? What would have become of that Religion we have been so fond of preserving?

Gentlemen, I must put these things home upon your Consciences. I know you will remember the horrid Murder of the most pious Prince the Martyr, King *Charles* the First. How far the Practices of those Persons have influenced the several Punishments since, is too great a Secret for me to examine. But now I say, you have the Life of a merciful King, you have a Religion, that every honest Man ought to stand by, and I am sure every loyal Man will venture his Life and Fortune for. You have your Wives and Children. Let not the Greatness of any Man corrupt you; but discharge your Consciences both to God and the King, and to your Posterity.

L. C. J. Gentlemen of the Jury, the Prisoner at the Bar stands indicted before you of High Treason, in compassing and designing the Death of the King, and in declaring of it by Overt-acts, endeavouring to raise Insurrections, and popular Commotions, in the Kingdom here. To this he hath pleaded, Not guilty. You have heard the Evidence, that hath been against him; it hath been at large repeated by the King's Counsel, which will take off a great deal of my Trouble in repeating it to you again. I know you cannot but take Notice of it, and remember it, it having been stated twice by two of the King's Counsel to you; 'tis long, and you see what the Parties here have proved. There is first of all Colonel *Rumsey*, he does attest a Meeting at Mr. *Sheppard's* House, and you hear to what Purpose he says it was; the Message, that he brought, and the Return he had; it was to inquire concerning a Rising at *Taunton*; and that he had in Return to my Lord *Shaftsbury* was, that Mr. *Trenchard* had failed them, and my Lord must be contented; for it could not be that time. You hear, that he does say, that they did design a Rising; he saith there was a Rising designed in *November*, I think he saith the seventeenth, upon the Day of Queen *Elizabeth's* Birth. You hear he does say, there was at that Meeting some Discourse concerning inspecting the King's Guards, and seeing how they kept themselves, and whether they might be surpris'd; and this, he says, was all in order to a Rising. He says, that at this, my Lord *Ruffel* was present. Mr. *Sheppard* does say, that my Lord *Ruffel* was there; that he came into this Meeting with the Duke of *Monmouth*, and he did go away with the Duke of *Monmouth*, as he believes. He says, there was some Discourse of a Rising or Insurrection, that was to be procured within the Kingdom; but he does not tell you the Particulars of any thing, he himself does not. My Lord *Howard* afterwards does come and tell you of a great Discourse he had with my Lord *Shaftsbury*, in order to a Rising in the City of *London*; and my Lord *Shaftsbury* did value himself mightily upon 10000 Men he hoped to raise; and a great deal of Discourse he had with my Lord *Shaftsbury*. This he does, by way of Inducement, to what he says concerning my Lord *Ruffel*. The Evidence against him is some Consults, that there were by six of them, who took upon them, as he says, to be a Council for the Management of the Insurrection, that was to be procured in this Kingdom. He instances in two, that were for this Purpose, the one of them at Mr. *Hambden's* House, the other at my Lord *Ruffel's* House. And he tells you at these Meetings, there was some Discourse of providing
Treasure.

Treasure, and of providing Arms; but they came to no Result in these Things. He tells you, that there was a Design to send for some of the Kingdom of *Scotland*, that might join with them in this thing. And this is, upon the Matter, the Substance of the Evidence, that hath been at large declared to you by the King's Counsel, and what you have heard. Now, Gentlemen, I must tell you, some things it lies upon us to direct you in.

My Lord excepts to these Witnesses, because they are concerned, by their own shewing, in this Design: If there were any, I did direct (some of you might hear me) Yesterday, that that was no sufficient Exception against a Man's being an Evidence in the Case of Treason, that he himself was concerned in it; they are the most proper Persons to be Evidence, none being able to detect such Counsels but them. You have heard my Lord *Ruffel's* Witnesses, that he hath brought concerning them, and concerning his own Integrity and Course of Life, how it has been sober and civil, with a great Respect to Religion, as these Gentlemen do all testify. Now the Question before you will be, Whether upon this whole Matter you do believe my Lord *Ruffel* had any Design upon the King's Life, to destroy the King, or take away his Life; for that is the material Part here. 'Tis used and given you (by the King's Counsel) as an Evidence of this, that he did conspire to raise an Insurrection, and to cause a Rising of the People, to make as it were

a Rebellion within the Nation, and to surprize the King's Guards, which, say they, can have no other End, but to seize and destroy the King; and 'tis a great Evidence (if my Lord *Ruffel* did design to seize the King's Guards, and make an Insurrection in the Kingdom) of a Design to surprize the King's Person. It must be left to you upon the whole Matter: You have not Evidence in this Case as there was in the other Matter, that was tried in the Morning, or Yesterday, against the Conspirators to kill the King at the *Rye*. There was a direct Evidence of a Consult to kill the King, that is not given you in this Case: This is an Act of contriving Rebellion, and an Insurrection within the Kingdom, and to seize his Guards, which is urged an Evidence, and surely is in itself an Evidence, to seize and destroy the King.

Upon this whole Matter, this is left to you. If you believe the Prisoner at the Bar to have conspired the Death of the King, and in order to that, to have had these Consults, that these Witnesses speak of, then you must find him Guilty of this Treason, that is laid to his Charge.

Then the Court adjourned till Four o' Clock in the Afternoon, when the Jury brought the said Lord Ruffel in Guilty of the said High Treason.



CXX. The Trial of JOHN ROUSE*, at the Old Baily, for High Treason, July 13. 1683.



JOHN Rouse, and William Blague, being set to the Bar, and having held up their Hands, the Indictment was read, as follows:

London. The Jurors for our Sovereign Lord the King, upon their Oaths, present, That John Rouse, late of London, Gent. and William Blague, late of London, Gent. as false Traitors, against the most Illustrious and Excellent Prince, our Sovereign Lord Charles II. by the Grace of God, of England, Scotland, France and Ireland King, their natural Lord; not having the Fear of God in their Hearts, nor weighing the Duty of their Allegiance, but being moved and seduced by the Instigation of the Devil; and the true Duty, and natural Obedience, which true and faithful Subjects of our Sovereign Lord the King, towards him our said Lord the King, do bear, and of Right ought to bear, wholly withdrawing; and with their whole Strength intending the Peace and common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move and stir up, and the Government of our said Lord the King within this Kingdom of England to subvert, and our said Lord the King from his Title, Honour and Kingly Name of the Imperial Crown of this his Kingdom of England to put down and de-

prive, and our said Lord the King to Death and final Destruction to bring and put, the second Day of March, in the Year of the Reign of our Sovereign Lord Charles II. King of England, &c. the Five-and-thirtieth, and divers other Days and Times, as well before as after, at the Parish of St. Michael Bassishaw, in the Ward of Bassishaw, London, maliciously and traiterously, with divers other Traitors, to the Jurors aforesaid unknown, did conspire, compass, imagine and intend our said Lord the King, their Supreme Lord, not only of his Kingly State, Title, Power and Government of this his Kingdom of England to deprive and throw down; but also our said Lord the King to kill, and to Death to bring and put; and the ancient Government of this his Kingdom of England to change, alter, and wholly to subvert, and a miserable Slaughter amongst the Subjects of our said Lord the King through his whole Kingdom of England to cause and procure, and Insurrection and Rebellion against our said Lord the King to move, and stir up, within this Kingdom of England; and to fulfil and perfect the said most horrible Treasons, and traiterous Conspiracies, Imaginations and Purposes aforesaid, the said John Rouse, and William Blague, then and there, and divers other Days and Times, as well before as after, as false Traitors, maliciously, traiterously and ad-

* Burnet's History of his own Times, Vol. I. p. 559.

wisely, they did assemble, meet together, and consult between themselves, and with the said other Traitors, to the Jurors aforesaid unknown, and with them did treat of the taking and seizing the Tower of London, and of and for the executing and perfecting their Treasons, and traitorous Compassings, Imaginations and Purposes aforesaid: And that they the said John Rouse, and William Blague, as false Traitors, maliciously, traiterously and advisedly, then and there, and divers other Days and Times, as well before as after, they and either of them did undertake, and to the said other Traitors did promise for themselves to be aiding and assisting in the Execution of the Treasons and traitorous Compassings, Imaginations and Purposes aforesaid; and in providing Arms and armed Men to fulfil and perfect the said Treasons, and traitorous Compassings, Imaginations and Purposes aforesaid. And the said most wicked Treasons and traitorous Compassings, Imaginations and Purposes aforesaid, to fulfil and bring to pass, they the said John Rouse, and William Blague, as false Traitors, maliciously, traiterously and advisedly, then and there, did procure and prepare Arms, to wit, Blunderbuffes, Carbines and Pistols, against the Duty of their Allegiance, against the Peace of our Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statutes in that Case made and provided, &c.

Cl. of Cr. What sayest thou, John Rouse? Art thou guilty of this High Treason, whereof thou standest indicted, or Not guilty?

Rouse. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Rouse. By God and my Country.

Cl. of Cr. God send thee a good Deliverance. What sayest thou, William Blague? Art thou guilty of this High Treason, whereof thou standest indicted, or Not guilty?

Capt. Blague. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Capt. Blague. By God and my Country.

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

Friday, July 13. in the Afternoon, the Court being met, and Proclamation made,

Cl. of Cr. Set John Rouse, and William Blague, to the Bar. You the Prisoners at the Bar, these good Men, that you hear called, are to pass between our Sovereign Lord the King upon Trial of your several Lives and Deaths; if you will challenge them, or any of them, your Time is, as they come to the Book to be sworn, before they are sworn. *Nicolas Charlton.*

Capt. Blague. I hope I shall only speak for myself.

L. C. J. Yes, you shall be heard.

Sir Francis Pemberton.

Rouse. My Lord, I have had no Liberty so much as sending for my Wife. Monday Morning they gave me Notice of Trial; but I have had no Advantage of that Notice: I presumed it is meant we should have the Liberty of Subjects: But though Notice was then given, yet I had not the Liberty of sending for any body till Wednesday: It was eight or nine of the Clock on Wednesday Night, that one came and told me, I should have no Liberty of Counsel, unless I had it from the Court; and Yesterday Morning I found, that Captain Blague and I were joined in one Indictment, which alters the Case, with Submission to the Court. What Time I

have had for Trial has been so short, I have not been able to get my Witnesses ready. I desire nothing but as an *Englishman*.

L. C. J. As an *Englishman*? You can demand no Time to prepare for Trial; for those that will commit Crimes, they must be ready to answer for them, and defend themselves. 'Tis Matter of Fact you are charged with; you knew long ago what you were to be tried for; for you were taken up, and charged with High Treason. You might then reasonably consider what kind of Evidence would be against you: If you be an innocent Person, you may defend yourself without Question: But if you have done an ill Thing, the Law does not design to give you Time to shelter yourself under any Subterfuge, or make any Excuse, or to prepare any Witnesses to testify an untrue thing for you.

Rouse. My Lord, I only beg a little Time, I don't design to make any Evasion. That I am innocent, I thank God I am.

L. C. J. We can't give you any farther Time, unless the King pleases; we are bound to try those he brings before us.

Mr. Serg. Jefferies. Because Captain Blague does not desire to be joined to the other; we that are for the King are contented, that Rouse be tried first.

Then Captain Blague was taken away, and after several Persons challenged by Rouse. the Jury that were sworn, were

Robert Beddingfield,
John Pelling,
William Windbury,
Theophilus Man,
John Short, senior.
Thomas Nicholas,

Jur' { Richard Hoare,
Thomas Barnes,
Henry Robbins,
Henry Kempe,
Edward Radcliff,
Edward Kempe.

Cl. of Cr. John Rouse, Hold up thy Hand. You of the Jury, look upon the Prisoner, and hearken to his Cause; he stands indicted, — *Prout antea* to his Indictment *Mutatis mutandis*; upon this Indictment, he hath been arraigned, and thereunto pleaded *Not guilty*; and for his Trial, put himself upon his Country, which Country you are; your Charge is to inquire, &c.

Mr. Jones. May it please your Lordship, and you Gentlemen of the Jury, the Prisoner at the Bar stands indicted for High Treason, in conspiring the Death of the King; and in order thereunto, consulting how to seize the Tower; and in providing of Arms, in order to destroy the King, and subvert the Government: If we prove it upon him, you are to find him guilty.

Mr. Serg. Jefferies. The Prisoner at the Bar was (as you have been acquainted) in that horrid Conspiracy, whereof several of the Conspirators have been brought to Trial, and received a Verdict surely according to Evidence. The Prisoner at the Bar did bear a Proportion among the rest. It does occur to your Memories, there were several Undertakers, that undertook several Stations; some whereof were to undertake the blackest Part of this horrid Villainy, by the taking off the King and his Royal Highness his Brother; others (in order to the same Design) were to seize upon the King's Guards, and so to deprive him of all manner of Defence whatsoever; and to prevent all Persons to make any Defence against them, as you heard, there was another Part to be acted; therefore the Town was

was to be divided into several Divisions; I think there were twenty; but the most numerous and beneficial Parts were thought to be about *Wapping*. A particular Part of the Evidence was, that the Tower was to be seized, and the King's Arms there; I know you observed, that they took Notice of a particular Place of the Tower, that was most capable of Access. This *Rouse* is a Gentlemen very well known, 'tis not the first time he hath been at this Bar: He was here at a time, when the common Justice of the Nation could not be obtained in this Place, insomuch that the Judges who came to execute Justice, had more Reason to fear being executed upon the Bench, than the Prisoner at the Bar. It may easily appear how far Mr. *Rouse* was concerned, (I don't love to aggravate Matters, he has Crimes enough) he was reckoned Pay-master to this Rabble, he was to take care to manage those Persons, that were to seize upon the Tower. He is a Man of great Skill in that Subject, a Doctrine wherein he was well tutored under a Lord you heard mentioned this Morning; but he is in his Grave, and so I shall say no more of him. We shall give you an Account of a Design he had how to compass this Business. *Black-heath* was looked upon as a very convenient Place, where there was to be a Golden Ball; for which the Seamen were to play in great Numbers, and he that won the Prize was to have the Golden-Ball; but his Eye was upon the Tower all this while. He thought to allure these silly Seamen by the Advantage of the honourable winning of this Ball; and when they were freighted with the Success of this Meeting, then it was proper to attack the Tower. We shall prove the other Prisoner, that was at the Bar, engaged with this Prisoner at the Bar. We shall not only prove this, but that Mr. *Rouse* hath been always of an Inclination against the Government. We shall call you Witnesses, that he hath undertaken to dispute by what Authority the King comes to govern in *England*; that he hath said, *he had forfeited his Government*; that he told an ordinary Miscreant, one of his Levellers, *that he had as much Right to the Crown as he had*. My Lord, if we prove this Matter to your Lordship, and the Gentlemen of the Jury, it will be high time for us to endeavour to preserve the Crown upon that Royal Head, upon which all loyal Men desire it should flourish as long as the Sun and Moon endure.

Mr. *Burton*. Call *Thomas Leigh*.

[*Who was sworn.*

Mr. *Jones*. Pray give us an Account what you know concerning Mr. *Rouse*.

Mr. *North*. Of any Design against the King, and providing Arms.

Rouse. If you please, my Lord, one Word before he speaks: I have an Exception against him. I wonder with what Confidence you can look in my Face at this time?

King's Counsel. Nay, nay, speak to the Court.

Rouse. My Lord, he is a Person, that before he was taken up, was sworn by two Persons to have a Hand in the Plot; one was Mr. *Keeling*, the other Mr. *How* of *Old-street*; and then being taken up, and conscious to himself, that he was guilty of such notorious Crimes, and knowing I was pretty well acquainted with him, he was deadly afraid I should come and swear against him, and thereupon he took the Boldness to swear against me first.

Mr. *North*. My Lord, he hath offered nothing of Objection.

Rouse. I suppose, with Submission to the Court, without he have his Pardon, he is no Evidence in this Case.

Mr. *Serg. Jefferies*. Come tell us all you know.

Mr. *Leigh*. If it please you, my Lord, I have been concerned in this Conspiracy, I know something of it; but I believe Mr. *Rouse* knows a great deal more. Mr. *Rouse* takes me to the *King's-head* Tavern in *Switbin's Alley*, where after some time, Mr. *Goodenough* came, where there was a Club of Men, that were in the Conspiracy. I had seen Mr. *Goodenough* before; he acquainted me, that there was an Apprehension our *Rights* and *Privileges* were invaded; and it was time to look to ourselves; for *Poperly* was designed; and *Arbitrary Power*; and therefore he desired to know, Whether I would engage in that Affair to prevent it? And withal he told me, the City of *London* and *Middlesex* was divided in twenty Parts; and he asked me to engage in one Part. I told him, my Acquaintance did not lie where I lived; but I would get a Part where my Acquaintance was. I acquainted Mr. *Rouse* and Mr. *Goodenough* what Men I had spoke to. Mr. *Goodenough* told me, the Design was to set up the Duke of *Monmouth*, and kill the King and the Duke of *York*; but that all Parties must not know of it: But that we must tell some People, here was like to be a foreign Invasion, and ask them, What Readiness they were in? And if we found they were like to be compliant in that, then we might discourse with them about the other Matter. I discoursed with several Men about this Affair: And he told me, the Lord Mayor and Aldermen were to be killed immediately, (especially the present Lord Mayor, Sir *John Moore*) and their Houses plundered, and there would be Riches enough, and that would help to maintain the Army; and we went on further in this Discourse. Then I acquainted Mr. *Rouse* with this Business; but he knew of it before; and he did tell me, he could provide Arms for an hundred Men, and said, Nothing was to be done unless the King was seized; saying; We remember since *Forty One* the King went and set up his Standard; therefore (says he) we will seize them, that they shall not set up their Standard. But (says he) I am for seizing them, but not for shedding their Blood. Mr. *Rouse* went off with that Discourse; says he, I must speak with Mr. *Goodenough*, and some of those that are principally concerned. Mr. *Rouse* acquainted me, that it was a very convenient thing to have a Ball played upon *Black-Heath*, and to that End we must speak to some Sea Captains; and (says he) I will engage Ten, and they shall manage that Affair, and he that wins the Ball take it. But when they have so done, every Captain shall take his Party, and tell them, they have other Work; and then go with Long-boats and Arms, and seize the Tower. I acquainted Mr. *Goodenough* with this, and Mr. *Goodenough* asked me the Charge of the Golden Ball. Mr. *Rouse* had told me, it would be Ten or a Dozen Pounds: Mr. *Goodenough* said, If it was Forty Pounds, he would be at the Charge of it all. Several such Discourses Mr. *Rouse* hath, in my Hearing, spoke to several Men at the *King's-head* Tavern. I understood I was sworn against; I heard of it at the *King's-head* Tavern, in his Company and

and Mr. *Goodenough's*. Mr. *Rouse* directed me to go to the *Sun Tavern* near *Moorgate*, and he would come to me; and there Mr. *Rouse* and Mr. *Goodenough* came to me; and Mr. *Rouse* told me, I should lie at his House. Mr. *Rouse* cut off my Hair; and went to Mr. *Bateman's* and fetched me a *Perriwig*; Mr. *Rouse* and I went several times to view the Tower, and took Mate *Lee* along with us. So Mate *Lee* directed us to *Traitors-Bridge*; and he said, that was an easy Place, and he would undertake to do it with an hundred Men, so they had but Hand-granadoes. We had, some time before that, appointed to meet at *Wapping*, to speak with the Sea Captains. Mr. *Rouse* met the first Day in order to this Business at the *Amsterdam Coffee-house*, and there Mr. *Rouse* met with two Sea Captains (as he told me) that were to officiate in this Business, and the two Captains he took to the *Angel and Crown* in *Thread-needle-street*. A small time after, about an Hour and a Half, or thereabouts, Mr. *Rouse* came, (I am not positive whether Mr. *Goodenough* was there or no) and told me, he had spoke to both the Sea Captains, and they were willing; but one was going to *New Jersey*, and therefore the Work must be done before he went, or he could not assist. Another time he appointed Mate *Lee* to meet at the *Anchor* in *Wapping*. I did speak to Mr. *Goodenough*, but he did not meet us, so that we could not go down that Day; but Mr. *Rouse* always undertook that Business to get ten Sea Captains, and get Arms for an hundred Men. After I was sworn against, and went to Mr. *Rouse's* House, the next Day Mr. *Nelthrop* and Mr. *Goodenough* came to me to Mr. *Rouse's*; says Mr. *Rouse*, Be not discouraged, let the Business go on. I was directed by Mr. *Nelthrop* and Mr. *Goodenough*, whenever I was taken into Custody, I should deny all, and it could not touch my Life. I thank him for his Kindness; I lay well, and eat well, at his House, my Lord; but however I will tell the Truth. We met afterwards several times, and went to Captain *Blague's*, and the rest of the Company, but at different Places. We had an Account, that Mr. *Goodenough* was in the North raising Men, and that the Duke of *Monmouth* was thereabouts, and that a Deliverance should be wrought for all this.

L. C. J. About what time was this?

Mr. *Leigh*. In last *June*. The Design was so laid, that I was told it was to be done in a Fort-night. They never agreed on a Way or Method of killing the King; but they told me, they had a thousand Horse ready in the Country, and that there was five hundred Horse, or thereabouts, ready in the Town; and that the King should be killed coming from *Windsor*. Now they were contriving how to send Arms, that they might not be suspected, to some private Place; they were to be sent in Trunks to some private House, and there they were to arm themselves in the Night; and some Brickmen were to go to *Windsor* to know when the King came, and give Information; and so they were to set upon him in some convenient Place, and both were to be taken off together, the King and the Duke; and Mr. *Rouse* said, Take them off, and then no Man can have Commission to fight for them.

Mr. *Serg. Jefferies*. He is a Politician every Inch of him.

Mr. *Jones*. What did he employ you to do?

Mr. *Leigh*. I was employ'd by Mr. *Goodenough*

to make all the Friends I could in this Engagement. I went into *Spital-fields* and engaged some Weavers and other People. They promised me a Gratuity, but I never had any thing.

Mr. *Serg. Jefferies*. If Mr. *Rouse* has a mind to ask him any Questions.

Rouse. I will, my Lord.

L. C. J. Propose your Questions to the Court.

Rouse. I ask him, by the Oath he has taken; Whether ever I spake with him of any Design against the King and Government? I ask you, Whether you did not begin with me?

L. C. J. You hear his Question; answer it.

Mr. *Leigh*. For that I answer, That Mr. *Rouse* was the first Man, that ever I heard propose, that the King and the Duke should be secured; and there is another thing come into my Mind; Mr. *Rouse* hath been a Traveller, he did presume to say, and has said to me, and in Company, that the King was sworn in *France* and *Spain* to bring in *Popery* and *Arbitrary Power* in so many Years, and therefore it was no Sin to take him off; and he told me, he had it under his own Hand.

Rouse. It was impossible, my Lord.

Mr. *Serg. Jefferies*. I do believe it. I do not believe he thought thee fit to be a Secretary.

L. C. J. Look you, if you would have any thing asked him, propose it to me.

Rouse. What Place was it I began to speak of any thing of this Design?

Mr. *Leigh*. The *King's-head*.

Rouse. Who was with us?

Mr. *Leigh*. Mr. *Goodenough* and several others.

Rouse. Was it discoursed of before them?

Mr. *Leigh*. No, You never discoursed of it before them.

Rouse. You discoursed of going an Hay-making in the Country; says you, I will trust them one alone; but, says you, I am under an Oath of Secrecy, not to communicate it but to one at a time, but I make bold to acquaint you with it: I give you an Account what I heard from his own Mouth.

L. C. J. Look you, what you heard from him will signify nothing, unless you are able to make Proof of it by other Witnesses: If you will ask him any Questions, you shall. We will hear what you can say for yourself at last: But you must not evade the King's Evidence with any Discourse at random.

Rouse. Did I ever put you upon any thing of this Nature? Did you not tell me there was a Design to overturn the Government; but you would not shed Blood?

Mr. *Leigh*. I will answer: I can't be positive, whether I came to Mr. *Rouse*, or he to me. I had been in his Company several times before, and whether he discoursed it first to me, or I to him, I cannot tell; but when that Point was discoursed, he was very zealous to get ten Captains, and that the Ball might be play'd, and the Tower taken.

Rouse. Did ever Mr. *Goodenough*, and you and I, meet upon such an Account?

Mr. *Leigh*. Yes, at the *King's-head Tavern*.

Rouse. I can take my Oath, I never saw Mr. *Goodenough* but twice in your Company, and I never knew you till *May* last.

Mr. *Serg. Jefferies*. You came to a very strict Alliance by that time it came to *June*.

Mate Lee sworn.

Mr. Serg. *Jefferies*. Tell my Lord and the Jury what you know, the whole Truth, and nothing but the Truth.

Lee. The whole Truth I will tell. About a Week before *Midsummer*, or thereabouts, I met Mr. *Rouse*, I think it was in *Pope's-head Alley*, going to look after Captain *Blague*: Says Mr. *Rouse*, I have something to say to you, but he did forbear speaking it then; so I went to the *King's-head Tavern* by the *Exchange*; we went into a little Room. Says he, There is something I would have you do. What's that? says I. Says he, Can't you get some Seamen fitting to make Commanders of Ships? I did not understand Mr. *Rouse's* Meaning in it; but I thought Mr. *Rouse*, being in Employment, might put me in, being destitute of Employment, as well as other Men. So after we did appoint to meet at *Wapping*, at the Sign of the *Blue Anchor* in *Wapping Dock*. Says Mr. *Rouse*, If I come not at Ten of the Clock, do not look for me. Says he, Can you get no Men, that are fit to make Commanders of Ship? Says I, I have no Acquaintance with any; I do not know but two or three: But, says I, I will see what I can do. I waited for Mr. *Rouse* and Mr. *Leigh* next Day (both were to come). The next Day I asked him, What he intended by the Commanders of the Ships? Where would he have those Ships? He answered, Some of the King's Men of War, that lay at *Deptford* and *Woolwich* to make Guard-ships. Says I, What will you do, if you have no Powder and Shot? If you could take the *Tower*, then you might provide them with every thing fitting. Says Mr. *Rouse*, We must secure the *Tower* and *Whitehall* both, or we can do nothing. Says I, Mr. *Rouse*, where is your Oath of Allegiance then, that is to the King? Says he, We will secure the King, that he shall come to no Damage, and he shall remain King still. If Mr. *Rouse* hath any thing to object against what I say, I desire to hear it: I speak nothing but the Truth.

Mr. Serg. *Jefferies*. Did you meet with him at any other time?

Lee. This was the first time he put out any such thing to me, concerning any such Contrivance.

Mr. Serg. *Jefferies*. Did you meet with him afterwards?

Lee. Yes, we had some Discourse, it was to the same Effect; but it signifies nothing; and my Memory being shallow, I do not exactly remember it. I know I must give an Account of this, before a greater Court than this.

Mr. *Barton*. Mr. *Corbin*.

Mr. Serg. *Jefferies*. I did acquaint you, my Lord, that there was Occasion to make use of Evidence against the Prisoner at the Bar; I gave you an Account how that Evidence was not received. Now I desire to give you Proof, that the continual Inclination of this Man's Heart was the *Killing* of the King, and *Destruction* of the Government.

Mr. Thomas Corbin sworn.

Mr. Serg. *Jefferies*. Pray, Sir, tell my Lord, and the Gentlemen of the Jury, what Meetings

you had heretofore with the Prisoner about the Year *Eighty-one* or thereabouts. See whether you know him.

Mr. *Corbin*. What I have to say against Mr. *Rouse*, is only what I gave in Evidence to the Court before.

Rouse. When was that?

Mr. *Corbin*. In *Eighty-one*.

L. C. J. Pray, what do you know of him? Don't tell us what you gave in Evidence; but you are on your Oath to speak Truth, not what you said then.

Mr. *Corbin*. My Lord, some few Days before the Members for the City of *London* went for *Oxford*, I happened to appoint a Gentleman (one Mr. *Wyat*) to meet me at Mr. *Leech's* in *Cornhill*. Mr. *Rouse* came by, I knew him very well; he was concerned in the Commission for disbanding the Army as well as I. He came in, and saluted not only me, but the Master of the Shop, with, *How do you do?* He enter'd into Discourse, and said, he intended to go for *Oxford*, and that he had agreed with the Coffee-men about Town, to furnish them with News: Says he, There are several Gentlemen resorting to your Shop; it would do well, if you had it. Says Mr. *Leech*, What shall I give you? Says he, If you will go to the Tavern, we will agree it over a Glass of Wine. But Mr. *Rouse* told me, he had a Kindness to beg of me; and (says he) I would have you engage some of your Friends to deliver them speedily to such a Person I shall appoint, *de die in diem*; for, says he, if they be delivered by the ordinary Letter-carrier, they won't turn to Account, nor give Satisfaction. By-and-by Mr. *Wyat* came in, (that I was to meet at the *Stationers*): Mr. *Wyat* asked me, What I thought of the Sessions? Mr. *Rouse* made Answer, he did foresee it would be a very short Sessions. Says he, These frequent Prorogations and Dissolutions of the Parliament won't avail him; for whatever the King has, the Parliament gave him, and they may take it away when they please. One bid him have a care what he said; and he reply'd, *The King had forfeited his Crown, and had no more Right to it than he had*.

L. C. J. Mr. *Rouse*, if you would ask him any Questions, pray direct yourself to us, and we will ask them.

Rouse. I desire he may be asked, What was said before and after?

L. C. J. Can you tell him? Do you know there was any previous or subsequent Discourse to this, that might any way alter it?

Rouse. It was the same Question propounded in *Eighty-one*.

Mr. *Just. Withins*. Pray, did he say the King had forfeited his Crown?

Mr. *Corbin*. Yes, and when he was rebuked for it, he reiterated it.

Mr. Serg. *Jefferies*. We will trouble your Lordship but with one Piece of Evidence more; only to give you an Account Mr. *Rouse* is a Man very well known in the City of *London*; yet when there were Officers came to seize him, he had forgot his Name of *Rouse*, and did not remember it. Swear *William Richardson* (which was done). Pray, tell my Lord and the Jury, Whether you were at the taking of this Mr. *Rouse*, and what Name he went by?

Mr.

Mr. *Richardson*. I was upon the Fourth of July Instant, to search for one *Armiger*, and coming to Widow *Hay's* Coffee-house, (I think they call it) the Widow told me, there was no Man in the House: I went down the Street, and came back again, and one said, he saw a Man go into the Garden: Says he, Do you stay here, and I will go and see: He saw this Gentleman: Says he, What is your Name? He said, *Johnson*: I asked him, and he said, *Johnson*. I told him, We must have an Account of him. Some said, they did not know him. We went to the *Half-Moon Tavern* in *Aldersgate-street*; he sent for other Men; they said, they did know him; but they could say nothing in his Behalf.

Mr. Serg. *Jefferies*. Is that the Man, *Johnson*?

Mr. *Richardson*. That is the Man, that said his Name was *Johnson*.

L. C. J. Look you now, Mr. *Rouse*, this is your Time to speak for yourself: What have you to say to this, that is charged upon you? You hear the first Witness does say, That you would have engaged him in a Design of raising of Men; and you told him, you designed to surprise the Tower; and to that Purpose he survey'd it with you; and you told him what your Design was you met Mr. *Goodenough* about; it was to raise Men. *Goodenough* was for killing the King; you, it seems, at first, was but for securing the King, and making him do what you please; but afterwards, it was come to an higher Matter; and then you had found out a way to engage some Captains to seize the Tower, and others were to seize *Whitball*; both were to be done at once. What say you to this, (here are three Witnesses, that testify very strongly against you) and the Device you had to get Men to *Blackbeath* to secure the Tower?

Rouse. My Lord, I stand here for my Life; it never enter'd into my Heart, nor came out of my Mouth; but he came to me several times about it, and I opposed it. At last he dogg'd me so often, that he gave me Occasion to ask him the Meaning of it. The first Place I saw him in, was the *King's-Head* (as he saith truly) in *Switbin's-Alley*. There were several Persons, (as they met there every Day upon their private Occasions) that is true. He asked me a strange Question, (that was the first Time that I heard of it) Whether I was willing to oppose a foreign Invasion, that was like to be made speedily? And, Whether I would engage in the Defence of it? And this he did two or three times afterwards. To which I replied, Sir, I and every honest Man are bound (as we are Subjects, and have taken the Oaths of *Supremacy* and *Allegiance*) to engage in such a Thing you put me upon, that was, to engage against a foreign Invasion. The next time, he asked me, How far I would assist, if such a thing should fall out as a foreign Invasion. I wonder'd to hear it so often repeated; I answer'd, I never had but one Sword for several Years, tho' I have had Occasion for many in other Countries; but I make no Question but by the Assistance of my Friends, to raise an hundred Arms, that was my very Expression: But withal I demanded, What he meant by Invasion? And that I insisted upon several times: For, says I, I know of none, and I hope, there is none like to be. I took an Account of this in Characters, and have acquainted his Majesty and the Council with it. He replied to me: Says he, I wonder you are a Stranger to

such a Thing. 'Tis true, says he, that is the Word goes up and down: But, says he, there is another Kind of Invasion meant by some Men. I asked him, What other Invasion do you mean? He answered presently, Don't you know? Are you a Stranger in *England*? In *Israel*? Says he, there in an Invasion upon our Rights and Liberties, and all we have: Whereupon I was a little startled. This was at the *King's-Head Tavern*. Another time I desired him to explain his Meaning, being a Stranger to it, when I expressed my Readiness to serve the King upon such an Occasion in those Words. They that know me, know that I am not in the Capacity of raising an hundred Arms; but I intended it, as God knows, in Opposition to a foreign Invasion: But, I thank God, I took Characters Day by Day, and with a Resolution Day by Day to discover it: But he has got the Stat of me, for fear I should swear against him. He insisted still upon it, That our Rights and Liberties were invaded; and that was the Invasion all along intended; and that was the way to hook in Persons, only upon that Pretence of a foreign Invasion. I asked him, In what Manner he meant Invasion? Says he, What with their Doctrines on one hand, and Oppression on the other, they lie so heavy, that we can't bear it no longer. Says I, What do you mean by this? What Course do you think of? What can you propound to yourself to extricate yourself out of these Troubles you so much complain of? To which he answered, You are a Stranger to what is a-foot, and hath been a-foot a great while. Do you not know the Persons that are engaged in the Design? (I was a little inquisitive to know what was meant by the Persons) No, (says I) positively, I know not what you mean; I am a perfect Stranger to these Persons, and this Design; and I wished him, and all others, (as they were Men and Christians) that they would take care of opposing the Government they lived under, that was my very Words. Says he, that we have considered very well, and how to secure the Two Things; and, says he, you shall see we will do it dexterously, without shedding a Drop of Blood: Nay, says he, not the Blood of the Duke of *York*, though he be the veriest Dog in *England*. I desired him to explain himself. He answered, The Mischief of it is, we can't agree among ourselves; for it was *Us* and *We* at every Word; so I concluded he was of the Cabal and Club, that met together on this Design (that hath come before your Lordship); and I am pretty confident there was such a hellish Design, though, I thank God, I had no Hand in it. Said I, Who are the Persons? Pray declare the Bottom of this Story you come to me about, one Day after another. With much ado, he told me, Mr. *Goodenough* was one. After this Discourse, I never saw Mr. *Goodenough* but twice; once was at the *King's-Head Tavern*, where I believe was twenty; the second time, was a Day or two after I saw the Proclamation, and his Name in it. So much I speak of Mr. *Goodenough*. I asked him the Names of the other Persons, that were engaged in this Design; and says he, I must conceal them, for I am under an Obligation: But the first time I saw the Proclamation against Colonel *Rumsey* and the others, says he, I was deadly afraid I was in the Proclamation; but (says he) all these Persons are concerned, and several others. Thereupon he told

told me, that when they met they came to this Resolution of seizing the Tower, the Aldermen, and taking of London. Says I, Pray, what Money have you to carry on this? Money! Oh, says he, we don't want Money; says he, Mr. *Goodenough* hath assured me there is 40,000 l.

L. C. J. Look you, you invert all his Discourse: He hath sworn it against you. Have you any Evidence in the World? You are not in a Capacity to swear against him.

Rouse. My Lord, he hath turned it upon me, he spake to me always in private.

L. C. J. Look you, you have fixed but upon one Person, here was *Mate Lee*, that gives a very shrewd Evidence against you; Did he come and teach you? Did he use these Words?

Rouse. My Lord, I have nothing to say against *Mate Lee*, I hope he is an honest Man. But I having a Design to discover this whole Thing, and having so much out of *Leigh* the Dyer——

L. C. J. What did you use these Words to him for then?

Rouse. To satisfy the Gentlemen that put me upon it, that I might come to the Bottom of the Design.

Mr. Just. With. You say you know a great deal more: How came it to pass you never told the King one Word of this till after you was taken?

Rouse. I have told it since I was taken.

Mr. Sol. Gen. Pray, when you had got to the Bottom of all this (as you call it) why did you deny your Name?

Rouse. I did not deny my Name.

Mr. Serg. Jefferies. He hath as many Names as he has Designs, and they are abundance.

Rouse. I did not know they were Officers. I did not think there was any Obligation upon me to tell every Man my Name.

L. C. J. You hear what Evidence is given against you concerning your Discourse in *Eighty One*; which tho' it be not the Thing for which you are directly called in Question, yet if you could clear yourself of it, it would import you much, for that does shew your Spirit, and that you have had a long while a Design against the King's Life, if that be true; therefore it would be very fitting that you purged yourself of it, and that you could some way or other give an Answer to what you said, *That the King had forfeited his Crown, and had no more Right to it, than one of those sorry Persons you spoke to: And to say the Parliament might take away the King's Authority.* These are strange Treasonable Expressions.

Rouse. My Lord, tho' this Thing be revived, which was out of Doors two Years since, and I suppose it is well known to your Lordship, who was then upon the Bench. As I was told, there was a Word in the Indictment called *Colloquium*: He was asked what Discourse passed before: But if *Mr. Corbin* would remember himself, I do confess I did say these Words; but the Words that followed before.

Mr. Just. With. What do you mean, the Cart before the Horse?

Rouse. *Mr. Wyat* was urging of several Discourses, the Popish Grandeur in deposing Kings; and I gave this Answer, in these Words: *Sir, (says I) if it were in the Power of any Pope to depose the King, then he might as well take away the Crown off the King's Head; but he hath no such*

Power; if he had that Power, says I, then the Crown of England is yours as much as his.

Mr. Sol. Gen. What was the *Colloquium*, when you said the Parliament might take it away?

Rouse. I never said that.

L. C. J. I have heard a great deal of your Discourse: If you think you can make any of it good by Witnesses to your Advantage, call them.

Rouse. My Lord, I have not had Time to collect my Witnesses. How can it be supposed I should call Witnesses? I don't know whether they are here. Here are Witnesses called to prove a Matter, whereof upon a Trial two Years past I was acquitted.

Mr. Just. With. Pray do not go away with that, here are two Witnesses since.

L. C. J. You were told, that was not the Thing laid to your Charge now, that does only shew the Temper of your Spirit, and how your Inclinations have been all along. Look you, this you are now charged with, is a Design to *Seize and Kill the King*, and to that Purpose to have enter'd into a Conspiracy with *Goodenough* and others, for the raising of Men, and the making of a *Rebellion and Insurrection* here in the Kingdom; whereby you might have seized not only the King, but his Fort here, the *Tower*, and made yourselves Masters of his Ships, and so enter'd into a perfect War with him in his own Kingdom, to the Destruction of himself and the Government. You hear what the Witnesses say against you.

Rouse. I do declare, in the Presence of God Almighty, before whom I must stand, it never enter'd into my Heart.

Mr. Jones. If that would do, we should have none hanged.

Rouse. I appeal to your Lordship, and this Honourable Court, whether 'tis likely for me, who am such a silly Person, to engage in such a devilish Design, especially being concerned with no Person in the World about it; for I declare, if I was upon ten thousand Oaths, I never had any Discourse with any Person in the World about it. In the next Place, I never was in any Meeting, though I have heard of several darkly that they met in *London*, and in several Clubs, but I could never find out the Places. I desire to ask him, whether he knows with whom I did concern myself.

L. C. J. Look you, did you never meet him with any Company concerning any of these Treasonable Designs that you have spoken of?

Mr. Leigh. I will give your Lordship and the Jury an Account. *Mr. Rouse* acquainted me he could make ten Sea-Captains; I acquainted *Mr. Goodenough* with it. He told me he would have a Golden Ball, and told me the Charge. We went to the *Angel and Crown Tavern*, from thence he came to meet *Mr. Goodenough*, to tell him what he had said to these Captains. The next Day he met *Mr. Goodenough*; and *Mr. Goodenough*, *Mr. Rouse*, *Mr. Pachin*, and I, went from *Joseph's Coffee-house* in *Exchange-Alley*, and he discoursed about getting of these Captains.

Rouse. Who was present?

Mr. Leigh. We never discoursed the Matter jointly, but singly with one Man. *Mr. Rouse* and *Mr. Goodenough* went into a Room apart above Stairs, and discoursed this Matter (as I believe) half an Hour.

Rouse. How do you know what Discourse I had with Mr. *Goodenough* when you was not present?

Mr. Leigh. Mr. *Goodenough* thanked me for bringing him acquainted with you.

L. C. J. How do you know what Discourse they had?

Mr. Leigh. I know only what Mr. *Rouse* told me; Mr. *Rouse* told me, that he would engage ten Sea-Captains; that a Ball should be play'd, and every Man take his Dividend.

L. C. J. Did he tell you he had discoursed this with Mr. *Goodenough*?

Rouse. Did I tell you so?

Mr. Leigh. Yes, Sir.

L. C. J. You speak of several in Company, one *Pachin* and others.

Mr. Leigh. We went from the *King's-head* Tavern, for there was Company we did not like, tho' we discoursed there but of *Hay-making*, and getting Men to help the Country People.

L. C. J. What did you mean by that?

Mr. Leigh. That was to get Men for this Business.

L. C. J. What did he say the Intention was of raising these Men?

Mr. Leigh. Mr. *Rouse* hath frequently and often acquainted me, that the King had taken an Oath in *France* and *Spain* to bring in *Popery* and *Arbitrary Power* in so many Years, and that he had not done it, made the *Popish* Party angry, but that he would do it.

L. C. J. Well, what Design was there in raising of Men, and seizing the *Tower*?

Mr. Leigh. He told me all things must be done together. The King and the Duke must be seized, for that was the principal Work.

Rouse. It never enter'd into my Heart. Be pleased to ask him if he was not arrested by one *Keeling*, and what was the Account of it.

Mr. Leigh. No.

Rouse. I mean sworn against.

Mr. Leigh. I will give your Lordship an Account of it. Mr. *Goodenough*, Mr. *Rouse*, Mr. *Pachin*, and I, had been at the *King's-head* Tavern; a Man came and told me, a Man had been at my House, and that one swore against me, and it would be dangerous to go home. A while after comes one *Armiger*, and he told me, Mr. *Bateman* was gone one Way, and he another, to seek for me, and desir'd me to have a Care of myself. With that Mr. *Rouse*, Mr. *Goodenough*, and Mr. *Pachin*, came out to me. Mr. *Rouse* directed me to go to the *Sun* Tavern at *Moorgate*, and I went; Mr. *Rouse*, Mr. *Goodenough*, and Mr. *Pachin* came to me. I told them I would meet my Wife, but they would not let me go on by any means, but sent one Mr. *Thomas*, a Coffee-man, for my Wife. She came and told me, Mr. *Goodenough* had sworn against several People, or he was sworn against. I went to Mr. *Rouse's* House, where Mr. *Goodenough* came to me. Mr. *Rouse* would have had Mr. *Goodenough* staid there all Night: Mr. *Goodenough* sent for his Wife, to know if his Brother had sworn; she acquainted him, he had not sworn: Mr. *Rouse* invited him to lie with me. He shewed me, behind the Bed, a Window to go into another Man's Room, to make my Escape, if any Man should come to search the House. I lay there on *Saturday*. Mr. *Goodenough* and Mr. *Nelthrop* came to me; Mr. *Goodenough* told me, he had lain at Mr. *Nelthrop's* all Night, but he had seen his

Brother, and he had not sworn against me: I heard that Mr. *Keeling* had sworn against me, and did say, in Discourse, if I did light of *Keeling*, I would kill him.

Rouse. I desire to ask him another Question: When he was told he was sworn against, what did he say?

L. C. J. He tells you before-hand, that he said he would kill *Keeling*, if he could meet him.

Rouse. He says Mr. *Goodenough* and *Nelthrop* came to my House; ask him if I was in the House, or saw Mr. *Goodenough*?

Mr. Lee. I am not positive whether he saw them together, but that he saw Mr. *Goodenough* there the *Friday* Night, for he invited him to lie with me.

L. C. J. Pray, what was your Reason in putting Mate *Lee* upon the inquiring out Men to make Masters of Ships?

Rouse. To satisfy the Gentleman, because he told me, there was such a Design in hand, to get to the Bottom of that Design, that so his Majesty might come to no Damage. Pray, my Lord, How could I acquaint the King, or any Justice of Peace, what he meant by it, unless I understood it?

L. C. J. Have you any thing more to ask? Or would you have any Witness called?

Rouse. My Lord, 'tis my Unhappiness, I have no Witnesses.


Mr. Serg. Jefferies. He hath confessed the Treason enough.

L. C. J. Look you, Gentlemen of the Jury. You hear that this Person at the Bar is indicted for High Treason, in conspiring the King's Death, and declaring this by Overt-acts, that is, endeavouring to raise Men here for to seize the *Tower*, and to make an Insurrection here, and a Rebellion within the Kingdom: You hear two positive Witnesses of what they have heard from him: He did endeavour, says *Lee*, to bring him into it, and he told him the whole Design, he did declare to him the Manner how they intended to seize the King, and the Duke of *York*: Mr. *Goodenough* was one of the Persons that confederated with him, one of them, but several others they had. They had covert Terms to disguise this, by getting the Country People in their Harvest. He told them of a Design he had to get the Seamen, a Thousand of them together, to seize the *Tower* and *Whitehall*, both at a Time. And you hear that Mate *Lee* had the same Discourse in Substance with him, of endeavouring to seize the *Tower*, and get Arms, for to seize the King's Ships, to raise a thousand Persons for the effecting of this. All these Things you have heard proved against him; he gives no Answer to any of them, but only tells you, that in Truth he did not say these Things to them; but they, that is the first, *Lee*, said these Things to him. He hath no Evidence at all of it. You hear likewise (which does agree with this Case) the Testimony by the other Person concerning his Discourse in *Eighty-one*: How he said, The King had forfeited his Crown, and had no Right to it; but the Parliament gave him his Authority, and might take it away. All these Discourses they favour of a wicked Spirit as can be in the whole World. I must leave it to you, whether you believe him guilty.

The Jury presently gave their Verdict that he was guilty.



CXXI. *The Trial of WILLIAM BLAGUE, at the Old Bailey, for High Treason, July 13. 1683. 35 Car. II.*

 *William Blague* having been arraigned on *Thursday July 12.* pleaded Not guilty, and put himself upon his Country, was brought to the Bar again *Friday July 13.* He made no Challenges, and the former Jury was sworn.

Robert Beddingfield,
John Pelling,
William Windbury,
Theophilus Man,
John Short, sen.
Thomas Nicholas,

Jur'

Richard Hoare,
Thomas Barnes,
Henry Robbins,
Henry Kempe,
Edward Raddish,
Edward Kempe.

Clerk. Gentlemen of the Jury, look upon the Prisoner, and hearken to his Charge. He stands indicted by the Name of *William Blague,* late of *London, Gent.* that he, together with *John Rouse,* &c.

Mr. North. Gentlemen, you that are sworn; the Prisoner at the Bar is charged with compassing the Death of the King, and conspiring to raise War and Rebellion, to destroy the Government, and take Possession of it; that he did conspire with one *Rouse,* and several others not yet known, to bring these Things to pass, and, being join'd together, to seize the *Tower,* and to provide several Arms: To this he hath pleaded Not guilty, &c.

Mr. Serg. Jefferies. My Lord, and you Gentlemen of the Jury, we shall not need to trouble you much with the Prisoner at the Bar, for this Prisoner, with him that went before, were to undertake that Part of this horrid Conspiracy relating to the seizing the *Tower,* because the same Witnesses that were against the former, are against the Prisoner at the Bar. We shall not need to trouble you with the History, we will cause our Witnesses to prove it. — Do you hear, *Leigh?* you must tell my Lord and the Jury what the Prisoner at the Bar was concerned in.

L. C. J. What do you know of any treasonable Practices of his?

Mr. Leigh. I will acquaint your Lordship, and the Gentlemen of the Jury, that *Capt. Blague* and *Mr. Rouse* were frequently at the Tavern. I presume many times they came in about Business, and sometimes there were Discourses to carry on this Conspiracy. *Mr. Rouse* told me, he had acquainted *Capt. Blague* with it, about getting ten Sea Captains; *Captain Blague* told him, they had better engage one or two Ships to shoot Mortar-pieces into the *Tower,* which would presently destroy it; and discoursing with *Captain Blague* about the Affair, he told me he would be ready in a Fortnight or three Weeks.

Capt. Blague. My Lord, Will you please to ask what Time that was?

L. C. J. You shall have any Question asked by-and-by.

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Capt. Blague. Very well.

Mr. Leigh. *Capt. Blague* told me, he would be ready in a Fortnight or something more, and he had an Intention to lay in about fourteen Guns in his own Ship that he had bought, he would have twenty-four in it, and lay it on *Southwark Side,* against the *Tower.* He would venture his Ship, but they must see they were provided with Money for the Seamen. I acquainted *Mr. Goodenough* with this, and *Mr. Goodenough* desired to speak with *Capt. Blague;* I told *Capt. Blague* of it, and we took Coach at *Stocks-market,* and went to the *King's-head* in *Chancery-Lane,* where we met with *Mr. Richard Goodenough,* and *Mr. Francis Goodenough.* *Capt. Blague* asked, what Money they had provided; they said, about 40,000 *l.* says *Capt. Blague,* the Seamen will swallow that up immediately.

L. C. J. What did *Capt. Blague* say?

Mr. Leigh. *Mr. Goodenough* and *Capt. Blague* discours'd about the Matter at the *King's-head Tavern* at *Chancery-Lane End,* and the Discourse about the Matter was, how to seize the *Tower;* he then told them again, the only Way was to do it with Mortar-pieces, that he would venture his own Ship, and provide two hundred Men.

L. C. J. What did he say about Money?

Mr. Leigh. He asked what Money was provided, he said, there was about 40,000 *l.* then he said, that would be easily swallowed. *Mr. Goodenough* said, that there would be more provided at any time. *Captain Blague* and *Mr. Goodenough,* both of them, drank a Glass or two of Wine together, and so at that time we parted. I met with *Captain Blague* again, and he bid me, for God's sake, don't discourse before my Mate such a-one, but my Mate *Lee* is a very honest Fellow: Said he, I will undertake, once in twenty times, to dismount them six Guns that face towards *Surrey Side,* which I understood to be about *Traitors-Bridge,* he would undertake to dismount them. What Discourse *Captain Blague* and *Mr. Goodenough* had apart I can't tell, but *Mr. Goodenough* told me, he would get some other Captains to engage in that Affair. That Business was left to him and I, and I was desired to be frequently with *Captain Blague,* for the managing this Affair of the *Tower;* and, says he, I have had a Commission, tho' not in *England,* by Land as well as by Sea.

L. C. J. Will you ask him any thing, Sir? Now he shall be asked any thing that you will propose. First, You do propose to him, about what Time this Meeting was. What say you to that?

Mr. Leigh. If it please your Lordship, I believe it was toward the latter End of *May,* or the Beginning of *June.*

Capt. Blague. If you please, my Lord, I will give you a Journal or Narrative of all my Proceedings.

5 B 2

L. C. J.

L. C. J. Will you ask him any more than that?
Capt. Blague. No, my Lord.

Mr. Serg. Jefferies. We will call Mate Lee. This Mate Lee was the Man that might not be trusted. — Mate Lee, Tell my Lord, and the Gentlemen of the Jury, what Discourse you have had with the Prisoner at the Bar, Captain Blague, about seizing the Tower.

Mate Lee. I shall, Sir. The first Discourse that ever I understood, was one Time he and I was riding in a Coach, says Capt. Blague, One of these Days we shall have a Ball to tofs. I did not know the Meaning of this Ball, till afterwards Mr. Rouse and Mr. Lee and I came together, and he told me of tossing a Ball upon Black-beath. Then I began to understand it. And after this, I can't tell whether it was before that, Captain Blague and I walking before the Tower, and discoursing of this, my Way was to scale the Tower, and take it that way; says Captain Blague, the best Way is to shoot Mortar-pieces on Southwark Side; this was all the Discourse.

Mr. Serg. Jefferies. Can you say any thing about the Ship?

Mate Lee. Nothing about the Ship, but about Mortar-pieces on Southwark Side.

Mr. Serg. Jefferies. What Time was that?

Mate Lee. I cannot be positive, about six Weeks ago, or less.

Mr. Serg. Jefferies. The first Time was in the Coach?

Mate Lee. That was about the Ball, I did not understand it, only tossing up a Ball, I did not understand the Meaning of it, till afterwards Mr. Rouse and Mr. Leigh and I came together.

L. C. J. How came you to discourse with him concerning the best Way of taking the Tower?

Mate Lee. Mr. Rouse and Mr. Leigh and I, and Captain Blague had been together. We discours'd about taking the Tower. And we had this Discourse among ourselves, which was the best Way to take the Tower; my Approbation was Scaling-ladders, and Hand-granadoes, that was the best Way; Captain Blague's Way was with Mortar-pieces on Southwark Side.

L. C. J. To what Intent was this Discourse, had you had any former Discourse with any Persons?

Mate Lee. Not at all, if it please your Lordship. The first Discourse I had was with Mr. Rouse and Mr. Lee.

L. C. J. And was that about taking the Tower?

Mate Lee. To surprise the Tower, and Mr. Lee and Mr. Rouse and I went down to view the Tower.

L. C. J. Then afterwards Captain Blague came in about the Way to take it?

Mate Lee. This Discourse with Captain Blague, about the Tower, was between him and I. I don't remember it in any other Company.

L. C. J. What was your Business with Captain Blague?

Mate Lee. My Business was, with Capt. Blague, to be his Mate, and I was conversant with him at the Exchange, the Coffee-house, and the King's-head Tavern. And we had Discourse about these Things.

L. C. J. Come Captain Blague, would you have him asked any Question?

Capt. Blague. My Lord, otherwise I had gone to Sea soon after I came home, but so it was, that I had an Occasion for Pennsylvania, and New York, and coming one Day to the Exchange, I

met Mr. Rouse, whom I had not seen in sixteen or seventeen Years before, for Mr. Rouse made a Voyage to Virginia with me about twenty Years ago. Now, my Lord, meeting with Mr. Rouse, I had an Occasion then to take up two or three hundred Pounds, and knowing Mr. Rouse was a Broker, I did employ him to procure it me, but he did not; however, daily I came to him to dispatch that Affair, and Mr. Rouse being a Man for a Tavern, I went to the King's-head Tavern, and the Sun Tavern, if he was not at one Place I found him at another, in order to perfect this Business. So, my Lord, when I came into his Company, several People used to be with him that I never saw in my Life, and Mr. Rouse would say, Sit down a little, and I will go with you presently; so I would sit down, and drink a Glass of Wine, and go to the Places where the Affair was to be managed; after I had done thus several Days, and to no Purpose, I did it myself. Now, my Lord, Mr. Rouse in that Time brought me acquainted with Goodenough, because Goodenough was in his Company, and Mr. Leigh, not that I ever saw Mr. Goodenough in my Life before, and not as Mr. Lee says, that I ever was with him at the Dragon.

Mr. Leigh. The King's-head Tavern in Chancery-Lane.

Capt. Blague. I was just coming home when Mr. Leigh was going to meet with Mr. Goodenough, and I went in there, and took a Glass of Wine, and bid him farewell, and so went home. When I was with Mr. Rouse, I was asking, what People they were that were in his Company, he said, very honest Men, drank a Glass of Wine and went away, and still I found them together. I was saying to this Mr. Leigh here, if you will go along with me, you shall give me as much for your Passage as any of the rest of the Passengers do. Now, at this Time, my Ship was not in my Possession; this very Day three Weeks I had it in my Possession, and now at this very Day she is in the Carpenter's Hands, who is here now, I suppose.

L. C. J. Well; go on.

Capt. Blague. Now, Sir, whereas Mr. Leigh reports, that I discours'd with Mr. Goodenough concerning any publick Affairs, or any thing tending to the Disturbance of the Peace, then am I not a Christian. Besides, Sir, I did not speak twenty Words, or ten Words at the Time, but Your Servant, Sir, or Here's to you, in a Glass of Wine; and this I do speak in the Presence of God Almighty. And when I came into a Room, I never staid longer than Mr. Rouse, for my Business was with him, and so went about my own Affairs. As for Mr. Goodenough, I believe, I was three times in his Company before I could remember his Name; I would ask Rouse several times, What do you call that Man? But in reference to the Tower, that Mr. Leigh speaks of, that must be touched at; I do remember very well, I shall by no means palliate it, if I were presently to die; coming up from the Ship, we were coming by Water, indeed I should have had Possession of the Ship a Fortnight before, if they had done me Justice; I had two or three hundred Pounds for them before; but coming from the Ship, we were coming up by Water by the Tower, I don't know how it was, I spake it to the Water-man, This Place is not well fortified, and if any Occasion should happen, this Place lies in more Peril and Jeopardy than any Place of the Tower, and so it does. It is an easy Matter for any

any to give their Sentiments, whether they be accepted of or no. This is the very Thing I said, and then they were talking of a *French War*, and the like. Then I said, you silly Fools, if they should take it, it is but going over a t'other Side, and throwing half a dozen Bombo's to them, and set them out again. But, however, Mate *Lee*, if he remember, I told him the same Thing at that same Time; and I told Mr. *Leigh*, it was a Pity, a thousand times, that Place was not better fortified. But as to what Mr. *Leigh* says, to have two hundred Men in a poor Pink, I have refused several in that very Ship, because I could not stow an hundred Men, Women and Children, and that I should press two hundred Men in that Ship, that will not hold. And besides, it is a Pink, let any one look upon her, and see whether that Ship be fit or no to take in two hundred Men. But whereas they say I had Arms, and such Things, I bought the Ship and Arms together, I had four Blunderbuffes, two Javelins, and Half-pikes, that is all.

L. C. J. You forget to answer several things; you had Discourse about a Bank of Money.

Capt. Blague. A Bank of Money, my Lord, I never discours'd of. And as to the Ball that my Mate speaks of, my Lord, I know no more what it means to this very Day, than one that never saw a Ball.

L. C. J. Look you, Sir, you were with Mr. *Leigh*, this Mr. *Leigh* has sworn; he says, you told him, that you would undertake to get two hundred Men, and you had bought fourteen Pieces of Ordnance already, and that you would within a Fortnight's Time, do you remember, bring your Ship to *Southwark*, and be ready to beat down that Part of the *Tower*.

Capt. Blague. My Lord, I have told you already, the Ship was not mine to bring till this Day three Weeks.

L. C. J. That was within Compass, for they tell you this Discourse was about a Month ago.

Capt. Blague. It was in *May*, my Lord, they talk of.

L. C. J. No, they speak of about a Month ago, you were to have them in a Fortnight's Time—What says the first *Leigh*, what Time does he speak of?

Mr. Leigh. If it please your Lordship, he said, his Ship would be ready in a Fortnight's Time, or thereabouts.

L. C. J. How long was that ago?

Mr. Leigh. About a Month or five Weeks.

L. C. J. To what Purpose did you meet Mr. *Goodenough* so often, to discourse about this Matter of the *Tower*?

Capt. Blague. My Lord, I never met with him at all, but when I came to Mr. *Rouse* about this Business of the two hundred Pounds.

L. C. J. Mr. *Leigh*, What say you concerning his Inquiry for Money?

Mr. Leigh. If it please your Lordship, Mr. *Goodenough* and the Captain met at the *King's-head* Tavern, they met several times apart, out of Company, and discours'd of the Business apart. Mr. *Goodenough* asked me for the Captain many times; I told him what the Captain said to me. Mr. *Goodenough* took the Captain out, and discours'd him about this Affair. Mr. *Goodenough* hath told me several times, the Captain would be very serviceable. The Captain asked, what Money there was; I told him about 40,000*l.* and he

said, that would be quickly gone. I inquired of Mr. *Goodenough* again, and Mr. *Goodenough* told me, there was more Money in *Holland*.

L. C. J. What Money was he to have?

Mr. Leigh. Two hundred Men — The Captain says, I named him before the King and Council to be at a Meeting at the *Green-Dragon* Tavern. It is true, I did acquaint the King and Council, that Mr. *Rouse* had Business at the *Green-Dragon* Tavern. But this was at the Time of my absconding, I could not tell where to meet him again.

L. C. J. What Guns did he say he had provided?

Mr. Leigh. If it please your Lordship, he said, he had fourteen Guns in the Ship, and would make them up twenty-four: He would undertake in twenty Shot, to dismount them Guns.

L. C. J. Where was this Discourse you had with him about this two hundred Pound?

Mr. Leigh. If it please your Lordship, it was at several times, one was with Mr. *Goodenough* at the *King's-head* at the Corner of *Chancery-Lane*.

L. C. J. Look you, Sir, by the Oath you have taken, did he undertake to raise Men, and to assist with his Ship in taking the *Tower*?

Mr. Leigh. If it please your Lordship, he told me, he would so do it. He told me, he would have twenty-four Guns.

Jury. Did the Captain tell you so?

Mr. Leigh. Captain *Blague* that is here.

Capt. Blague. My Lord, in reference to the two hundred Men, this is the Thing that I would answer, I could not stow one hundred Men, Women and Children.

L. C. J. Two hundred Men, he says, for this Service.

Capt. Blague. Yes, my Lord, I mean so. Who can you have to say so besides yourself?

Mr. Leigh. If it please your Lordship, this Discourse was only with Mr. *Rouse*, Mr. *Goodenough*, *Capt. Blague* and I.

Capt. Blague. My Lord, Mr. *Leigh* said before the King and Council, that he was never along with me but once, and of what I said then, he could tell only he was there when I went to look Mr. *Rouse*. How can these two Expressions go together?

Mr. Leigh. My Lord, as to that before the King and Council, I did say, I was not apart with Captain *Blague* and Mr. *Goodenough*, at the *King's-head* Tavern, but Captain *Blague* and Mr. *Goodenough* were there several times, and they were apart by themselves; and that I had Discourse with Captain *Blague* and Mr. *Goodenough*, and came with them once to the *King's-head* Tavern.

L. C. J. What did Captain *Blague* tell you of what Discourse he had with Mr. *Goodenough*?

Mr. Leigh. Captain *Blague* did tell me, that we must have a great Care, or else we should be all ruined, and that his Ship should be ready, and always encouraged me. And, says he, when I have done the Business, I have been a Captain ashore in another Country, I have been in Commission in another Country ashore, and can tell how to manage Men ashore as well as aboard. Another Thing was, after all this, some time, when I understood I was sworn against, I was indeed, the Captain says right, to have gone with him a Passenger, and was with him several times,

I gave

I gave him a Report how the *Tower* might be taken by Ladders and Granadoes, and he told me, that *Nelthrop's* Brother came to see him, and did inform me, that neither Mr. *Goodenough* nor his Brother was taken, and that the Duke of *Monmouth* was in the Country, and quickly would come.

L. C. J. Who told you this?

Mr. *Leigh*. Captain *Blague*.

Mr. *Serg. Jefferies*. This is a pretty Matter to smirk at, Captain.

Capt. *Blague*. I will assure you, Sir, there is no Truth in it.

Mr. *Serg. Jefferies*. Would you smile the Witnesses out of their Oaths?

L. C. J. Look you, Mate *Lee*, What say you to this? In your Judgment and your Thoughts, was the Discourse concerning taking the *Tower* in a jesting way?

Mate *Lee*. No, an't shall please your Lordship, I was in earnest in discoursing of it; my Way was, as I told your Lordship before, Scaling-ladders and Hand-granadoes.

L. C. J. Had you any Talk before of surprising the *Tower*?

Mate *Lee*. No, my Lord, by nobody but Mr. *Rouse* and *Leigh*.

L. C. J. What had they spoken to you concerning surprising the *Tower*?

Mate *Lee*. Mr. *Rouse* spoke to me of getting some Seamen, that might be fit to make Masters of Ships; and I asked him, what he would do with those Seamen to make Commanders of Ships? He said, to put them aboard the King's Men of War, and make Guard-ships of them: I said, what can you do with them to make Guard-ships, when there is neither Powder, Shot, nor Ammunition? But, said I, if you can take the *Tower*, you may do well enough: So that our Discourse was about taking the *Tower*.

L. C. J. Was Captain *Blague* with you then?

Mate *Lee*. What Discourse we had about taking the *Tower* was between ourselves.

L. C. J. How came you to discourse concerning this?

Mate *Lee*. This was our common Discourse. I suppose the Inflation might be by Mr. *Rouse*. I was acquainted with Mr. *Rouse*, by going with Captain *Blague*; this was my first Discourse with Mr. *Rouse* and Mr. *Lee* together.

L. C. J. Who was with you when you discours'd it at first?

Mate *Lee*. There was only Mr. *Rouse* and Mr. *Leigh*; I can be positive that Captain *Blague* was not: But this Captain *Blague* did say, when I gave my Way of taking the *Tower* by Scaling-ladders, and Hand-granadoes; No, says Captain *Blague*, it is a better Way to have Mortar-pieces over the Water, and shoot into the *Tower*.

Mr. *Serg. Jefferies*. Hark you, Friend, did *Leigh* or *Rouse* tell you, that *Blague* was made privy to it?

Mate *Lee*. I understood nothing of it, but what we discours'd together; for I was acquainted with none of the Cabal, but Mr. *Rouse* and Mr. *Leigh*.

L. C. J. What did you discourse about?

Mate *Lee*. About taking the *Tower*. I won't mince it, I am upon my Oath.

L. C. J. Therefore we would have the Truth out of you.

Mate *Lee*. I did gather from Mr. *Rouse* and Mr. *Leigh*, that the Intention was to take the *Tower*.

L. C. J. Give some Account how you and *Blague* came to discourse of such a thing as this is, and in order to what Design.

Mate *Lee*. The Design was to take the *Tower*.

L. C. J. Did *Blague* and you discourse it to this Purpose?

Mate *Lee*. Captain *Blague* and I discoursed it to that Purpose of taking the *Tower*.

Mr. *Sol. Gen.* Did you discourse of it as a thing that might be done, or that was intended to be done?

Mate *Lee*. We did discourse of it as a thing that might be done, or was intended to be done.

L. C. J. Now, Captain *Blague*, if you have any thing to ask him, you may.

Capt. *Blague*. Ask him, whether there were any Projections or Provisions made for the taking it; and whether or no there was any Resolution taken, that the *Tower* should be taken.

Mate *Lee*. An't shall please your Lordship, the King's Majesty asked me, when I said what Captain *Blague* said, about taking the *Tower* with Mortar-pieces; If it please your Majesty, said I, I don't know whether there was any such thing discours'd, that I did not hear.

L. C. J. Well, was there any thing provided or designed in order to it?

Mate *Lee*. An't please your Lordship, there was nothing of Men or Guns provided, that I did know or hear of.

Mr. *Serg. Jefferies*. How many times did you talk with Captain *Blague* about this?

Mate *Lee*. Several times.

L. C. J. Had you any Order from any other Persons for to discourse Captain *Blague* in order to this?

Mate *Lee*. No, an't shall please your Lordship, to the best of my Knowledge I had no Order; for they were commonly together, Captain *Blague*, Mr. *Rouse*, and Mr. *Leigh*, and I came to them when I had Business with Captain *Blague*.

L. C. J. Did you ever discourse this thing with Captain *Blague* before them?

Mate *Lee*. I cannot be positive in that.

Mr. *Sol. Gen.* Did those other Persons, that you said you discoursed with, engage you?

Mate *Lee*. Mr. *Rouse*, and Mr. *Leigh*, and I went out to view the *Tower*, how it might be taken.

Mr. *Sol. Gen.* Did they engage you?

Mate *Lee*. Yes, they did engage me.

Jury. My Lord, we desire to have the Witness asked, Whether the Captain knew he went to view the *Tower*.

L. C. J. Had he any Intimation you went to view the *Tower*?

Mate *Lee*. My Lord, I can't be positive in that: Some time after we met the Captain, and did tell the Captain, we had view'd the *Tower*; but I don't remember what Observations we made.

Mr. *Serg. Jefferies*. Nor what he said to you?

Mate *Lee*. No, nor what he said to me upon it.

L. C. J. Look you, Mr. *Lee*, Mate *Lee*, the Captain told you of this Ball that was to be thrown upon *Blackbeath*: How long ago was it?

Mate *Lee*. An't please your Lordship, I cannot be positive, it was five or six Weeks ago, I think it was the last time I rid along with him to the *King's-head* Tavern. I went to *Chancery-Lane*, and you gave me Coach-hire for nothing, and then you spoke of tossing up the Ball.

L. C. J. What was it he said?

Mate *Lee*. This was all, I did not know his Meaning, neither did he express his Meaning. He was saying, to the best of my Remembrance, We shall see a Ball toss'd up. I don't remember he said upon *Blackbeath*; the Confirmation of it was by Mr. *Rouse* and Mr. *Leigh*; then I came to understand what the Ball did mean.

Sir *James Butler*. With his Lordship's Leave, Did you speak first to the Captain about the *Tower*, or did he speak to you? Was it your Motion to him, or his to you?

Mate *Lee*. I don't know but it might be my Motion to him.

Sir *James Butler*. Then, my Lord, give me Leave to ask another. How were these Mortar-pieces to be brought up, to be planted on *Southwark Side*, to play upon the Wall of the *Tower*?

Mr. *Serg. Jefferies*. That was t'other Man, Sir *James*.

L. C. J. Is there any thing more that you would have asked of any of these Witnesses? or have you any Witnesses of your own?

Capt. *Blague*. My Lord, the Witnesses that I have, in reference to the Number of Men, are here. I desire, my Lord, you will be pleased to order them to come in, to know upon what Account I shipped them.

Jury. My Lord, pray let us ask t'other *Leigh* one Question.

L. C. J. The first *Leigh*.

Jury. We desire to know, whether he heard any thing of the Ball, or tossing it?

L. C. J. He hath told you a long Story of it.

Mr. *Leigh*. The Story of *Blackbeath* I acquainted you with it, about Mr. *Rouse*. There was a golden Ball to be play'd upon *Blackbeath*, a thousand Sea-men to be at the playing of this Ball, ten Sea Captains to manage these thousand Sea-men, and after the Play was over, every Captain to take his Division apart, and treat them with Punch, and after that was done, to tell them they had other Work to do, and to have Long-boats and Arms ready, to go and seize the *Tower*.

Jury. Did Captain *Blague* acquaint you with this?

Mr. *Leigh*. Mr. *Rouse* told me, Captain *Blague* was acquainted with it: I never discoursed with Captain *Blague* about it. Captain *Blague* told me, the best way was to set a Ship on t'other Side, and shoot Mortar-pieces into the *Tower*.

L. C. J. What would you have Mr. *Wright* asked?

Capt. *Blague*. My Lord, please to ask him upon what Account he was shipped.

L. C. J. Was you shipped upon the Captain's Ship, and upon what Account?

Mr. *Wright*. An't shall please your Honour, I was shipped upon him almost four Months and three Weeks ago.

L. C. J. Upon what Account?

Mr. *Wright*. I was shipped upon him upon the Account of *New York, England and Holland*.

L. C. J. Well, what Use do you make of this Evidence?

Capt. *Blague*. Only, my Lord, if you please to ask the rest, whether I have shipped any more Men, or spoke with any more than these are.

Mr. *Wright*. An't like your Honour, I have waited upon the Captain ever since I have been shipped: I have waited upon him in *London*, at the Coffee-house, about Business: Since I have belonged to him, I was in Pay, altho' we had not a Ship

in Possession: Sometimes at the Mayor's Court Office, Mr. *Briggs*, sometimes with Mr. *Rouse*, who had something to do for Captain *Blague*. I kept at the Coffee-house commonly every Day from eight or nine a Clock in the Morning. Sufficient Persons know me in *London*: I have kept at the Coffee-house from nine or ten a Clock in the Morning till four or five in the Afternoon, and so I have satisfied him about what People have inquired after him.

Capt. *Blague*. Call *Robert Chappel*.

L. C. J. Captain *Blague*, What would you have him asked?

Capt. *Blague*. Carpenter, declare to my Lord how long you have been with me, and upon what Account I shipped you?

Chappel. Four Months and an half.

L. C. J. What besides?

Chappel. We were to go to *New York*. I have been shipped four Months and an half to go to *New York*: We came to the Coffee-house in *Birchin-Lane*.

L. C. J. Well.

Chappel. We have had the Ship a Month in our Hands next *Monday*.

L. C. J. Is she fitted?

Chappel. No, she is not fitted.

L. C. J. Was she in a Condition to have done any Service upon the Water?

Capt. *Blague*. Carpenter, do you hear what my Lord says?

Chappel. The Ship is a small Vessel, about an hundred and fifty Tun, between that and an hundred.

Capt. *Blague*. My Lord asks you, if she be in a Condition to do Service:

L. C. J. Was she capable to do any Service upon the Water?

Chappel. No Service at all upon the Water she could do three Weeks ago.

Mr. *Serg. Jefferies*. A Ship of one hundred and fifty or two hundred Tun, would hold a great many People; she was to lie still; that was the Mischief.

Chappel. We haled her down to the Carpenter's Yard; she is now in a Condition to work.

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

Capt. *Blague*. Doctor, upon what Account were you shipped?

Bellinger. For *New York, England and Holland*.

Capt. *Blague*. When were you shipped?

Bellinger. Seven Weeks ago.

L. C. J. When were you to begin your Voyage?

Bellinger. I belonged to the Captain before he had a Ship.

L. C. J. But when did you reckon to begin your Voyage?

Bellinger. That I cannot tell.

Capt. *Blague*. My Bill upon the Exchange doth specify it, Sir.

Jury. Pray, my Lord, will you ask if he have any Guns aboard, and how many?

L. C. J. What say you? What Guns are there about the Ship?

Bellinger. Fourteen, Sir, and four wooden ones.

L. C. J. What are they?

Bellinger. Six above Deck, four in the Hold.

Capt. *Blague*. They are Saker Guns.

L. C. J. Saker?

Capt. *Blague*. Yes, Sir ——— *Richard Clarke*, What Voyage had we?

Clarke.