

involved in the same Guilt, and equally a Principal in the Murder: But, Gentlemen, Mr. Recorder, I believe, will tell you, that the only Matter for your Inquiry will be, Whether the Prisoners were concurring in the Murder of the Deceased, and present at the Strangling of him; for if so, whether *Mahony*, Mr. *Goodere*, or another in fact strangled him; it will in consideration of Law be the same thing, and the Act of Strangling will be as much imputable to each of them, as if they had both assisted in putting the Cord about the Neck of the Deceased, and been his actual Executioners; nor will it be material whether they strangled him with a Rope, a Handkerchief, or their Hands, so the kind of Death be proved. And, Gentlemen, as to the Crime set forth in the Indictment, I have Matter, in my Brief, for a very heavy Charge against both the Prisoners, but distinguished against the Prisoner Mr. *Goodere* with this black Characteristick, that he was Brother of the Deceased, and, as such, bound by the Ties of Blood and Nature, to have preserved his Person from Violence; and yet, Gentlemen, I am afraid it will appear, that his Brother died by his Procurement, and in his Presence, which is the same, in effect, as if he had perished by his Hand. But as it would ill become me to aggravate in a Case of this nature, I shall only state to you the most material Passages relating to the Murder of that unfortunate Gentleman, and leave the rest to come from the Mouths of the Witnesses themselves. And, Gentlemen, (as I am instructed) there had been a long and very unhapy Difference between the deceased Sir *John* and his Brother the Prisoner, owing to various Occasions; and amongst others, to Sir *John's* having cut off the Entail of a large Estate in *Worcestershire*, to which Mr. *Goodere* (as the next Remainder-man) would have otherwise stood intituled, in default of Issue of Sir *John*. Gentlemen, this Misunderstanding by degrees grew to an inveterate Grudge and Hatred on the part of Mr. *Goodere*; which was so rooted in his Heart, that it at length worked him into a formed Design of destroying his Brother, and making away with him at all hazards and events. The great Difficulty was, how to get Sir *John* into his Power, for he generally travelled armed; nor was it easy to get together a Sett of Fellows, so base and desperate, as to join with him in the carrying off his Brother. But, unfortunately for the Deceased, the Prisoner, Mr. *Goodere*, having been lately honoured by his Majesty with the Command of the *Ruby* Man of War, happened, in *January* last, to lie stationed in *King-road*, (as much within the County of *Bristol*, as the *Guild-hall* where this Court is sitting.) Sir *John* (who was advanced in years, and very ailing) had, it seems, been advised to come to *Bath* for the Recovery of his Health: And having occasion to transact Affairs of Consequence at *Bristol* with Mr. *Jarrit Smith*, Mr. *Goodere* took this Opportunity of laying a Snare for his Brother's Life, as you will find by the Event. He applies to Mr. *Smith*, and taking notice to him of the Misunderstanding between himself and his Brother, pretends a sincere Desire of Reconciliation, and desires Mr. *Smith*, if possible, to make up the Breach between them; and Mr. *Smith* promised to do his utmost towards effecting a Reconciliation, and was as good as his Word; for, by his Interest and Persuasions, he at length prevailed

upon Sir *John* to see and be reconciled to his Brother. And Sir *John* having appointed *Tuesday* the 13th of *January* last in the Morning for calling on Mr. *Smith* at his House in *Colledge-green*, Mr. *Smith* soon made his Brother, Mr. *Goodere*, acquainted therewith; and no sooner was he informed of it, but he begun to take his Measures for the executing his wicked Scheme against his Brother's Life. For on *Monday* (the Day before Sir *John* was to be at Mr. *Smith's*) Mr. *Goodere*, with the other Prisoner *Mahony*, (his inseparable Agent and Companion in every Stage of this fatal Business) went together to the *White Hart*, an Ale-house near the foot of the *Colledge-green*, in the View of, and almost opposite to Mr. *Smith's*, in order to see if it was a fit Place for their desperate Purpose: and finding it to be so, Mr. *Goodere* commended the Pleasantness of the Closet over the Porch, and said he would come and breakfast there the next Day. And accordingly the next Morning (which was *Tuesday* the 13th) Mr. *Goodere*, with his Friend *Mahony*, and a Gang of Fellows belonging to the Privateer called the *Vernon*, whom they had hired to assist them in the way-laying and seizing of Sir *John*, (but whom, one would have thought, the Name of that gallant Admiral should have inspired with nobler Sentiments) came to the *White Hart*, where having ordered they should have what they would call for, he went himself to breakfast in the Closet over the Porch, from whence he had a full View of Mr. *Smith's* House, whilst the others posted themselves below on the Look-out for Sir *John*; and it was not long before he came on horseback to Mr. *Smith's*: But his Stay was very short, being obliged to go to *Bath*; however, he promised Mr. *Smith* to be in *Bristol* again by the *Sunday* following. He was seen from the *White Hart* by Mr. *Goodere* and his Spies upon the Watch; but having a Servant, and riding with Pistols, they did not think proper to attempt the seizing of him then; but, as he rode down the Hill by *St. Augustine's Back*, Mr. *Goodere* called out to *Mahony* in these Words, *Look at him well, Mahony, and watch him, but don't touch him now.* And in fact, Gentlemen, the Prisoners and their Companions followed and watched Sir *John* a considerable way. Afterwards Mr. *Smith* acquainted the Prisoner Mr. *Goodere*, that his Brother was to be with him on the *Sunday* following; and little thinking that an Interview between Brothers could be of a fatal Tendency, advised him to be in the way, that he might bring them together: Which Advice the Prisoner observed with but too great Punctuality, taking care, in the Interim, to lay such a Train, as that it should be hardly possible for his Brother to escape falling into his Hands. He ordered the Man of War's Barge to be sent up for him on the *Sunday*, accordingly it came up about 2 or 3 that Afternoon; of which Mr. *Goodere* being informed by one *Williams*, a Midshipman, whom he had ordered up in it, he enquired of *Williams*, if he knew the River, and *Brick-kilns* going down it? And *Williams* telling him he did, Mr. *Goodere* ordered him to get all the Boat's Crew together, and be sure to place the Barge at the *Brick-kilns*, and leave but two or three Hands to look after the Barge, and bring all the rest of the Men to the *White Hart* Ale-house, and wait for him there, for he had a Certain Person coming on board. Accordingly, Gentlemen, *Williams* and

most of the Barge-men came to the Place of Rendezvous at the *White Hart*, where *Mabony*, with several of the Privateer's Men (I believe, all, or most of the same Gang that had been there on the Watch the *Tuesday* before) were also met by Mr. *Goodere's* Orders to way-lay and seize Sir *John*, and stood at the Window on the Look-out, in order to watch his coming out of Mr. *Smith's*. Thus, the Ambuscade being laid, the Prisoner Mr. *Goodere* goes to Mr. *Smith's* about three in the Afternoon, (the Hour at which Sir *John* had appointed to be there;) he went directly towards his Brother Sir *John*, and kissed him, (what kind of Kiss it was, will best appear by the Sequel) and observed to him with an outward Shew of Satisfaction, that he looked in better Health than he had formerly done. Mr. *Smith* was so good to drink Friendship and Reconciliation between the two Brothers: Mr. *Goodere* pledged it in a Glass of Wine, which he drank to his Brother Sir *John*; and Sir *John* (being under a Regimen) offered to pledge him in Water, little thinking his Brother designed to end their Differences, by putting an End to his Life. But that, Gentlemen, you'll soon see was the sole End he had in view; for Sir *John* in about half an Hour taking his Leave, Mr. *Goodere* was following him, Mr. *Smith* stopt Mr. *Goodere*, saying, *I think, I have done great things for you.* Says Mr. *Goodere*, *By God this won't do;* and immediately followed his Brother: And meeting some of the Sailors whom he had posted at the *White Hart*, says to them, *Is he ready?* and being answered, *Yes*, he bid them make haste. *Mabony*, and the other Fellows who were on the Look-out at the *White Hart*, seeing Sir *John* go down *St. Augustine's Back*, immediately rush'd out, and (as they had been ordered by Mr. *Goodere*) seiz'd Sir *John* as their Prisoner. Just then Mr. *Goodere* himself was come up, and had joined his Companions, and shewed himself their Ring-leader: For (according to my Instructions) he gave them positive Orders to carry Sir *John* on board the Barge, and they but too exactly observed the Word of Command. They hurried on Sir *John* with the utmost Violence and Precipitation, forcing him along, and even striking him in the Presence of his Brother, and (as the *Romans* used to do their Malefactors) dragged him through the publick Way. The poor unfortunate Creature made repeated Outcries of Murder, that he was ruined and undone, for his Brother was going to take away his Life. He made what Resistance he could, and called aloud for Help, but all was to no purpose. Several Persons indeed followed them, and asked what was the matter? but they were answered by Mr. *Goodere* and his Associates, that the Person they were haling along was a Murderer, had killed a Man, and was going to be tried for his Life. The most of this Ruffianly Crew being armed (it seems) with Bludgeons and Truncheons, obliged the People who came about to keep off; holding up their Sticks at them, and threatening to knock them down. Gentlemen, when they had thus forced Sir *John* towards the End of the Rope-walk, Mr. *Goodere* (who all along bore them Company, and animated them as they passed along) bid them make more Dispatch, and mend their Pace. Accordingly they took up Sir *John*, and carried him by main Force a considerable way, then set him down again, and pushed and

halled him along, till they had got him to the *Slip*, (opposite to the *King's Head*.) Sir *John* cried out, *Save me, save me, for they are going to murder me.* There the Barge came up, and the Prisoner Mr. *Goodere* had his Brother forced on board, and with *Mabony* and the rest went also into the Barge. Sir *John* then called out, *For God's sake run to Mr. Smith, and tell him, I am going to be murdered, or I am an undone Man.* And crying out that his Name was *Dineley*, Mr. *Goodere* stopt his Mouth with his Hand, to prevent his telling his other Name: And though Sir *John* was in an ill State of Health, yet his hard-hearted Brother forcibly took his Cloak from off his Back, and put it upon himself: And having thus got him into his Power, he ordered the Men to row off, telling his Brother, that now he had got him into his Custody, he would take care of him, and prevent his making away with his Estate. But, Gentlemen, in fact, so little did he think himself concerned in what Sir *John* did with the Estate, that he was of Opinion, no Act of Sir *John's* could affect it longer than his Life; and that it must necessarily devolve to him (as the next in Remainder) on his Brother's dying without Issue. And this, Gentlemen, he declared to Mr. *Smith* but a few Days before. And indeed his Brother at once saw what kind of Prevention it was he meant; *I know*, says he to Mr. *Goodere*, (soon after his being forced into the Barge) *you intend to murder me this Night, and therefore you may as well do it now, as carry me down.* Poor Gentleman, his Heart misgave him, that the Design of this base and daring Outrage was to make the Ship his Prison, one of his Cabbins his Slaughter-house, and the Sea his Grave, and therefore he made it his Choice to be thrown overboard in the River (where his Body might be found) rather than buried in the Ocean. The Prisoner *Goodere* denied, indeed, he had any such Design, but yet could not refrain from the usual Exhortation to dying Persons, that HE WOULD HAVE HIM MAKE HIS PEACE WITH GOD. At the *Redcliff* the Privateer's Men were set on shore; and, I think, about Seven in the Evening the Barge reached the *Ruby Man of War*, then in *King-road*. Mr. *Goodere* had, in their Passage, talked of bleeding and purging his Brother to bring him to his Senses, pretending he was a Madman; for he knew very well that very few of his own Men would have assisted him in such an Enterprize, had they not been under a Belief that his Brother was really mad. And to keep up such a Notion, as soon as he had got him on board the *Ruby*, he hurry'd him down what, I think, they call the *Gangway*, into the Purser's Cabin, making an Apology, that he had brought a mad Fellow there; then ordered two Bolts to be clapt on the Cabin-door, for the making his Prison more secure; which was accordingly done. And now having made his Brother a Prisoner, his next Step was to destroy him. He took *Mabony* with him into his own Cabin, and there the cruel Means of murdering his Brother were concerted between them. They agreed to strangle him; and engaged one *White* (who is hereafter to stand to the Justice of his Country) to assist them in the Butchery. I should have told you, Gentlemen, that it is usual in Ships of War to place a Centinel over Persons under Arrest; and accordingly one was placed by Mr. *Goodere's* Order with a drawn Cut-

las in his Hand at the Door of the Cabbin where Sir *John* was confin'd. This Centinel, about twelve at Night, was relieved by one *Buchanan*. It was impossible for the Prisoners to put their wicked Design in Execution whilst this *Buchanan* remained at the Cabbin Door; so, to remove that Obstacle, Mr. *Goodere*, (after having been in close Conference with *Mahony* and *White*) comes down to the Purser's Cabbin, takes the Cutlas from *Buchanan*, and orders him on Deck, posting himself at the Door of the Purser's Cabbin, with the drawn Cutlas in his Hand. I shall open none of the Circumstances disclosed by *Mahony* in his Confession, as being no Evidence against Mr. *Goodere*, but it will be made appear to you in Proof, that *Mahony* and *White* came to the Purser's Cabbin whilst Mr. *Goodere* stood posted at the Door of it; that they were let into the Purser's Cabbin by Mr. *Goodere* himself. *Mahony* in particular was seen by one *Macguiness* (who kept watch in the Gun-Room) to go into the Purser's Cabbin, Mr. *Goodere* at the same time standing Centinel at the Door of it, and waving his Cutlas at *Macguiness*, to make him keep back. He did so; but Mr. *Goodere* waved the Cutlas at him a second time, and bid him keep back. Then, Gentlemen, it was that Mr. *Goodere* and his two Accomplices effected the cruel Murder of his unfortunate Brother. *Mahony* was heard to bid him not stir for his Life; and then in conjunction with *White*, whilst Mr. *Goodere* stood watch for them at the Cabbin Door (which Mr. Recorder will tell you was the same as being actually within it) fell on this unhappy Gentleman, as he lay in the Cabbin: And one of them having half throttled him with his Hands, they put a Rope about his Neck, and at length strangled him. Great were his Agonies, and long and painful the Conflict betwixt Life and Death. He struggled violently, and kicked against the Cabbin, crying out several times very loud, *Murder! must I die! help, for God's sake; save my Life, here are twenty Guineas, take it*: For he well knew they were strangling him by his Brother's Order, and therefore offered them a Bribe to spare his Life, but the Ruffians were relentless and inexorable. The Ship's Cooper (one *Jones*) and his Wife lying in the adjoining Cabbin, heard his dying Out-cries, and the Noise occasioned by his kicking; his Cries too were heard by others far beyond the Cabbin-Door. Nature at length gave way, and he expired under these Cruelties. Then *Mahony* called for a Light, that they might all have the Evidence of their Eye-sight that Sir *John* was actually dead; and (which is a shocking Circumstance in the Case) Mr. *Goodere* himself handed them in the Candle on that Occasion. *Buchanan* perceiving the Light disappear, was coming to him with another; but Mr. *Goodere* waved his Cutlas at him to stand off. Such, Gentlemen, was the fatal Conclusion of this tragical Business. What was seen by the Cooper and his Wife after the Candle's being handed in, with regard to rifling the Deceased, I choose should come from their own Mouths. The Murder being thus effected, Mr. *Goodere* locked the Door, and withdrew to his own Cabbin; *Mahony* and *White* were, by his Order, put aboard the Yawl, and sent to *Bristol*. They did not fly the City, Gentlemen, depending that their Fellow-Murderer would some-how smother this Deed of Darkness, and take care of their Security for the sake of his own: But Divine Providence ordered otherwise.

The honest Cooper, though he durst not give the Alarm whilst the Murder was committing, for fear of sharing the same Fate with Sir *John*, yet, as soon as he could with Safety, made a Discovery of the whole that he had heard and seen. 'Twas concluded Mr. *Goodere* had made away with his Brother; which too evidently appeared on the Cooper's forcing open the Purser's Cabbin-Door, where Sir *John* lay murdered, and thereupon the Cooper had the Resolution to seize the Murderer, who remained on board (though his Captain.) He pretended Innocence; and when brought by Warrant before Mr. Mayor and other of the City Magistrates, publickly declared he did not then know that his Brother was murdered, and went so far as to deny his having had any Hand in either the seizing, detaining, or murdering him. But, Gentlemen, if my Instructions don't mislead me, we shall fix the thing at least as strongly upon Mr. *Goodere* as *Mahony*, and more strongly upon them both than I am willing to open it. We shall therefore call our Witnesses, and, upon the whole of the Evidence on both sides, appeal to your Judgments, and to your Consciences, whether both the Prisoners, by the Parts they bore in this horrid Action, have not forfeited their Lives to the Justice of their Country as Accomplices in Guilt, and Principals in the Murder of the unfortunate Sir *John Dingley Goodere*.

Mr. *Shephard*. Mr. Recorder, I beg leave, before the Witnesses are examined, to say, that there are a great many Circumstances in the Case laid before this Court, and I don't know how material it may be for the Witnesses to withdraw, and not be in the hearing of each other during the time of Examination; I submit it to you, as it is usually done in Cases of this nature, whether it ought not to be done in this Case, where it appears from the Gentleman's own Opening, there are Variety of Circumstances. I doubt not, Sir, but that you will see equal Justice done between the King and Prisoner.

Mr. *Recorder*. It cannot be insisted on as a Matter of Right that the Witnesses be examined apart; but it is generally so ordered, if it is desired. I hope, Sir, you will observe too, that the Prisoner hath no Right to be heard by Counsel, unless in Matters of Law. If any such Matter arise, I shall be ready to hear you.

Mr. *Vernon*. If Mr. *Shephard* moves this as a Matter of Right, I would just remind him of what Lord Chief Justice *Treby* says in *Peter Cook's* Trial, that it is not of Necessity that the Witnesses should be examined apart at the Instance of the Prisoner, though an Indulgence generally granted. Sir, the Crown, perhaps, has a Right to such Examination, but not the Prisoner. We have a great Number of Witnesses, all of whom attend here on the publick Service, (and some of them Persons of Figure;) and it would, I doubt, be casting a sort of Blemish on their Credit to examine them apart. Could that Gentleman shew the least Glimmering of Suspicion as to the Fairness of our Witnesses, they ought in Justice to withdraw; but as they are free from the least Imputation in that respect, I see not why they should be incommoded, and hope he will not contend for it.

Mr. *Shephard*. I own it is not of Necessity that the Witnesses be examined apart in favour of the Prisoners, nor do I intend to throw any Imputation on the Witnesses; but by Mr. *Vernon's* Opening, some of them appear to be Witnesses

nesses who were concerned in taking away the deceased Gentleman to the Ship, and all these, I suppose, are intended to be called as Witnesses. I own it is a Matter of Indulgence, and I dare say, Sir, that you will indulge a Prisoner, in these unfortunate Circumstances, the Benefit of making the best Defence he can.

Mr. Recorder. Let the Witnesses withdraw. Officers, clear the Way.

Mr. Vernon. We hope, Sir, it is not intended that all our Witnesses in general should withdraw without Distinction.

Mr. Farrit Smith, (Solicitor for the Prosecution.) We desire there may be a Room for our Witnesses, where they shall be together, or I may lose half my Witnesses. I am myself a Witness, Mr. Recorder, must I withdraw?

Mr. Recorder. No, you shall not go out.— Who do you call first, Mr. Vernon?

Mr. Vernon. Cryer, call *Thomas Chamberlayn* Esq; (Mr. *Chamberlayn* sworn.) I think, Sir, you have been for some time acquainted with Mr. *Goodere*, the unhappy Gentleman at the Bar.

Mr. Chamberlayn. A late Acquaintance.

Mr. Vernon. Pray, Sir, will you give an Account to Mr. Recorder and the Jury, whether Mr. *Goodere*, at any time, and when, desired your Interposition with Mr. *Farrit Smith* to bring about a Reconciliation between him and his Brother Sir *John Dineley Goodere*?

Mr. Chamberlayn. Yes, Sir, he did. The Captain applied to me to go to Mr. *Smith* to interpose for him with Sir *John*; and I did apply.

Mr. Vernon. Pray, Sir, how long was it before this unhappy Affair happened?

Mr. Chamberlayn. About three Weeks, I believe.

Mr. Vernon. And did Mr. *Smith* undertake that good-natur'd Office?

Mr. Chamberlayn. Mr. *Smith* said, he should be ready to do it, and promised me to do all he could in the Affair.

Mr. Vernon. When you applied to Mr. *Smith*, was you alone, or was Mr. *Goodere* with you?

Mr. Chamberlayn. I went first alone; afterwards Capt. *Goodere* went with me to Mr. *Smith's* House.

Mr. Vernon. What was the Occasion of your going to Mr. *Smith's*?

Mr. Chamberlayn. To intreat him to use his good Officers to get a Reconciliation between Sir *John* and the Captain.

Mr. Vernon. Be pleased, Sir, to tell us what passed on that Occasion, and whether Mr. *Goodere* acquainted Mr. *Smith* with the Nature of the Misunderstanding between him and his Brother.

Mr. Chamberlayn. Yes, Sir; that they had been both at Law a great while, and spent a great deal of Money, and therefore Mr. *Goodere* was willing to have Mr. *Farrit Smith* to reconcile the Matter between them, to prevent the Ruin of the Family, and many more such Expressions as these.

(Mr. *Farrit Smith* sworn.)

Mr. Vernon. Mr. *Smith*, will you give an Account of what you know of this fatal Business.

Mr. Farrit Smith. Some few Weeks before this Murder happened, Mr. *Chamberlayn* applied to me, and told me, that Mr. *Goodere* (the Prisoner at the Bar) desired that I would use my utmost Endeavour with Sir *John Dineley Goodere* to be friends and reconciled with Mr. *Goodere*,

and that I would suffer him to bring Mr. *Goodere* to my House. I told him, I often heard Sir *John* say, that there had been warm Disputes between them, but would make use of all my Endeavours to reconcile them, and that it was pity they should live in hatred, as they were the only two Brothers. Some time after Mr. *Chamberlayn* brought Mr. *Goodere* to my House, where they staid about a Quarter of an Hour, when Mr. *Goodere* gave me Thanks for the Promise I had made to Mr. *Chamberlayn*, and he then desired I would do all I could to promote a Reconciliation. I told him, I should be glad to be a happy Instrument of that sort; and that the first time I saw Sir *John* I would speak to him on the Affair, and endeavour to prevail on him to meet Mr. *Goodere*. The Captain said, if any Man in England could do it, I could. I told him, I hoped to succeed. Mr. *Chamberlayn* and Mr. *Goodere* went away. Some little time after they were gone, I saw Sir *John*, and told him, that Mr. *Goodere* had applied to me to do all I could to reconcile them. Sir *John* seemed to speak much against it at first, and thought it would be to no Purpose; for that he had been a real Friend to the Captain, who had used him very ill; but at last he was pleased to pass a Compliment on me, and said, I can't refuse you any thing you ask of me. He then mentioned several Things the Captain had said; and in particular told me, that at the Death of Sir *Edward Goodere* his Father, Mr. *Goodere* the Prisoner had placed several Persons in the House where Sir *Edward* lay dead, in order to do him some Mischief, and he apprehended to take away his Life.

Mr. Shephard, I must submit it to the Court, that what Sir *John* said at that Time is not matter of Evidence.

Mr. Recorder. It is not Evidence, but perhaps it is introductory to something Mr. *Smith* has further to say; if it be not, it should not have been mentioned.

Mr. Farrit Smith. And that he had endeavoured to set aside a common Recovery, and made strong Application to the Court of Common-Pleas for that Purpose.

Mr. Shephard. Whether this be Evidence, I insist upon it in point of Law that it is not, and it may have an Effect on the Jury.

Mr. Recorder. I will take Notice to the Jury what is not Evidence. Go on Mr. *Smith*.

Mr. Farrit Smith, After Sir *John* had repeated several Stories of this sort, he concluded at last (as I told you before) and why, Mr. *Smith*, if you ask it of me, I can't refuse. I saw Mr. *Goodere* soon after, and told him I had seen Sir *John*, and talked with him, and he was pleased to tell me, that he would see him, and bid me contrive a convenient Place to bring them together. I told Mr. *Goodere* about the Attempt to set aside the Recovery. I wonder, said Mr. *Goodere*, he should mention any Thing of that, for I can set it aside when I please. I told him, I thought he could not; for, said I, I have had a good Opinion on it, and am to lend a large Sum of Money upon the *Worcestershire* Estate. He said, I wonder that any body will lend him Money upon that Estate, I am next in Remainder, and they will run a Risque of losing their Money I do assure you; and he cannot borrow a Shilling on it without my Consent: but if my Brother was reconciled, then, if we wanted Money, we might do it together,

gether, for he cannot secure it alone. He told me, that he should take it as a great Favour, if I could fix a Time as soon as I could to bring them together. Soon after I saw Sir *John*, and he told me he was very deaf, and was advised to go to the *Bath*, and then appointed to be with me on *Tuesday* the 13th of *January* last in the Morning, when he would talk with me about the Business of advancing the Money on his Estate. After this I saw Mr. *Goodere*, and told him that I had seen his Brother; that he was to be with me on *Tuesday* the 13th of *January* last, and desired him to be in the Way, for Sir *John* was always very punctual to his Appointment; and if Business or any Thing happened to prevent him, he always sent me a Letter. Mr. *Goodere* thanked me, and told me he would be in the way: and on the *Tuesday* Morning Sir *John* came to me on Horseback, just alighted, and came into my Office. I asked him to sit down, which he refused, saying his Head was bad; that he must go for *Bath*, having been advised to go there for some time, and then he did not doubt but he should be better. I told Sir *John*, that his Brother knew he was to be in Town, therefore hoped he would sit down a little, for that I had promised him to bring them together. He said, I can't now; but you shall see me again soon, and then I may do it. I asked him, when shall I see you again, to finish the Business you and I are upon, the Writings are ready, name your own Time, the Money will be paid? He appointed to be with me on *Monday* Morning to settle that Business; and said, I shall come to Town the *Saturday* or *Sunday* before, and when I come I will let you know it: He then mounted his Horse and rid off. Shortly after (as I was going to the *Tolzey*) at, or under *Blind-gate*, I met Mr. *Goodere*, and told him I was glad to see him, and that his Brother had been in Town. He said, he had seen him, and thought he looked better than he used to do. I told Mr. *Goodere*, that his Brother had appointed to be with me *Monday* Morning next on Business, and I expected him to be in Town either the *Saturday* or *Sunday* before. I then had many Compliments from Mr. *Goodere*, and he said, how good it would be to make up the matter between him and his Brother. I heard nothing of Sir *John* being in Town till *Sunday* the 18th of *January* last in the Morning, when he sent me a Letter to let me know that he came to Town the Night before, and would be glad to call upon me at any time I would appoint. I sent him for Answer, that I was to dine from Home, but would return, and be at Home at Three o'Clock that Afternoon. And as I was passing by, I stopt the Coach at Capt. *Goodere's* Lodgings in *Princes-Street*. I asked if he was at Home? found him alone, and then shewed him Sir *John's* Letter. He read it, and asked the Time I appointed. I told him Three o'Clock that Afternoon. Said he, I think my Brother writes better than he used to do. I said, Mr. *Goodere*, I think it would be best for you to be accidentally on Purpose at that Time at my House. No, says he, I don't think that will be so well, I think it would be better for you to send for me. I returned to my House, and my Servant told me that Sir *John* had called, and that he would be here again presently. Whilst my Servant was telling this, Sir *John* came in; I took him by the Hand, and asked him how he

did? I thank God, says he, I am something better; and after I have settled this Affair with you, I will go to *Bath* for some Time, and then, I hope, I shall be better. I said, Capt. *Goodere* is waiting, I beg you will give me leave to send for him; you know you said you would see him. With all my Heart, says Sir *John*, I know I gave you leave. I then sent down a Servant to Captain *Goodere's* Lodgings, to let him know that Sir *John* was with me, and desired him to come up. The Servant returned, and said, here is Captain *Goodere*; on which I said, Sir *John*, please to give me leave to introduce your Brother. He gave me leave; Captain *Goodere* came in, went directly and kissed him as heartily as ever I had seen any two Persons who had real Affections one for the other. I desired them to sit down. Sir *John* sat on one side of the Fire, and Captain *Goodere* on the other, and I sat between them. I called for a Table and a Bottle of Wine, and filling a full Glass, I said, Sir *John*, give me leave to drink Love and Friendship. Ay, with all my Heart, says Sir *John*; I don't drink Wine, nothing but Water; notwithstanding, I wish Love and Friendship. Captain *Goodere* filled a Bumper, and pledged it, spoke to his Brother, and drank Love and Friendship, with his Brother's Health. We sat some time, all seemed well, and I thought I could have reconciled them. The Cork lying out of the Bottle, Captain *Goodere* takes up the Cork in his Hand, put it into the Mouth of the Bottle, and struck it in very hard. I then said, though Sir *John* will not drink Wine, you and I will. No, says Captain *Goodere*, I will drink Water too, if I drink any more; and there was no more drank. After they had talked several things (particularly Captain *Goodere* of the Pleasantness of the Situation of the Estate in *Herefordshire*, and Goodness of the Land) in a very pleasant and friendly way, Sir *John* rose up, and said, Mr. *Smith*, what time would you have me be with you To-morrow morning? I appointed nine o'clock. He said, Brother, I wish you well; then said to me, I will be with you half an Hour before. Sir *John* went down the Steps the Captain was following; I stopt him, and said, pray don't go, Captain, let you and I drink a Glass of Wine. No more now, I thank you, Sir, said he. I think, said I, I have done great Things for you. He paused a little, and said, *By God, it will not do*; and in a very short time the Captain went very nimbly down the Steps. I followed him to the Door, and observed him to go after Sir *John* down the Hill; and before he turned the Church-yard Wall, to be out of my Sight, I observed some Sailors come out of the *White Hart* Ale-house within view of my Door, and they ran up to Captain *Goodere*. I heard him say, *Is he ready?* (I thought he meant the Boat) They said, *Yes*. He bid them make haste. Then they ran very fast towards the lower Green, one of them having a Bottle in his hand; Captain *Goodere* went very fast down the Hill, and had it not been by mere accident I should have followed him, (but some People think 'twas well I did not) for I promised my Wife to return to the House where we dined in *Queen's Square*, where I went soon after.

Mr. *Recorder*. Mr. *Smith*, did they all go towards the lower Green?

Mr.

Mr. Jarrit Smith. No, Sir; but some towards the Butts on St. *Augustin's Back*. Sir *John* went that way, and Captain *Goodere* followed him; but the Men who came out of the Alehouse went towards the lower Green some of them. About 5 o'clock in the Evening, as I was riding up the Hill towards the *Colledge-green*, I observed a Soldier look'd hard at me into the Coach, as if he had something to say, and seem'd to be in a Confusion. I walked into the Court, the Soldier with me, and then he said, I am inform'd, Sir, your Name is Mr. *Jarrit Smith*. Yes, says I, it is. (What I am now going to say, Mr. Recorder, is what the Soldier told me.) He told me, that as he was drinking with a Friend at the *King's Head* Ale-house at the *Lime-kilns*, he heard a Noise, and ran out to see what was the matter, when he saw a Person dressed (as he described) like Sir *John's* Dress.

Mr. Vernon. Pray, Sir, how was Sir *John* dressed?

Mr. Jarrit Smith. Sir *John* was dressed in Black Clothes, he had a ruffled Shirt on, a Scarlet Cloak, a Black Velvet Cap (for the sake of keeping his Ears warm) and a broad-brimm'd Hat flapping. He described this exactly, and told me likewise, that the Captain of the Man of War and his Crew had got the Person into Custody, and by force had put him on board the Man of War's Barge or Boat lying near the *Slip*, by the *King's Head*; that the Gentleman cry'd out, for God's sake, if you have any Pity or Compassion upon an unfortunate Man, go to Mr. *Jarrit Smith*, and tell him how I am used: and that the Captain hearing him cry out, stopt his Mouth with his Hand.

Mr. Recorder. What did the Soldier desire of you?

Mr. Jarrit Smith. The Soldier desired me to inquire into it, for that he did not know the Intention of taking off a Gentleman in that way.

Mr. Recorder. Did you do any thing on that Request of the Soldier?

Mr. Jarrit Smith. Yes, Sir; it immediately occurred to me, that Sir *John*, when he left my House, told me that he was going to his Lodgings. I went to his Lodgings, (which was at one Mr. *Berrow's* near the Mint) I there asked for him, and related the Story I had heard; they told me they had not seen him since he went to my House.

Mr. Vernon. Mr. *Smith*, Sir, will you inform us by what Name the unfortunate Gentleman (you are speaking of) was commonly called.

Mr. Jarrit Smith. Sir *John Dineley Goodere*; his Mother was a *Dineley*, and there came a great Estate from her title to him, which occasion'd his being called by the Name of *Dineley*.

Mr. Vernon. When Sir *John* went from your House on *Tuesday*, was he alone, or had he any Attendants with him?

Mr. Smith. Sir *John* was well guarded; he had Pistols, and I think his Servant had Pistols also.

Mr. Vernon. I think you told us but now, that Sir *John* was to be with you on the *Sunday*; pray, when did you let Mr. *Goodere* know it, Sir?

Mr. Smith. I met Captain *Goodere* that very Day at *Blind-gate*, and told him of it; and he said, he had met his Brother himself.

Mr. Vernon. Pray, Sir, did Mr. *Goodere* tell you, to whom the Estate would go on Sir *John's* Death?

Mr. Smith. Yes, he has often said he was the next Remainder Man, and that the Estate would come to himself, on his Brother's Death.

Mr. Recorder. Well, Mr. *Goodere*, you have heard what Mr. *Smith* hath said, have you any Questions to ask him?

Mr. Shephard. Mr. Recorder, what I have to ask of you, with Submission, in behalf of Mr. *Goodere*, is, that you will indulge Counsel to put his Questions for him to the Court, and that the Court will then be pleas'd to put them for him to the Witnesses. It is every day's Practice at the Courts of *Westminster*, *Old Bailey*, and in the Circuit.

Mr. Vernon. This, I apprehend, is a matter purely in the Discretion of the Court, and what can neither in this or any other Court of criminal Justice be demanded as a Right. The Judges, I apprehend, act as they see fit on these occasions, and few of them (as far as I have observed) walk by one and the same Rule in this particular: some have gone so far, as to give leave for Counsel to examine and cross-examine Witnesses; others have bid the Counsel propose their Questions to the Court, and others again have directed that the Prisoner should put his own Questions: The Method of Practice in this point, is very variable and uncertain; but this we certainly know, that by the settled Rule of Law the Prisoner is allowed no other Counsel but the Court in Matters of Fact, and ought either to ask his own Questions of the Witnesses, or else propose them himself to the Court. I have one more Question to ask of Mr. *Smith* before we part with him.

Sir, I think you was present when Mr. *Goodere* was brought to *Bristol*, after his Brother's being killed, I'd be glad to know whether you then heard him say any thing, and what concerning this foul Business?

Mr. Smith. I was present when Mr. *Goodere* was brought to *Bristol* after this Murder happened, when he was asked (before the Justices) about the seizing, detaining and murdering Sir *John Dineley*; and he then directly answered, that he did not know that his Brother was murdered or dead. He was then asked in relation to the manner of seizing him, and carrying him away; he said he knew nothing of it till he came to the Boat, and when he came there he saw his Brother in the Boat; but he did not know that his Brother had been used at that rate.

Mr. Shephard. Mr. *Smith*, Sir, you are speaking about Sir *John*; by what Name did you commonly call him?

Mr. Smith. Sir *John Dineley Goodere*.

Mr. Recorder. Mr. *Goodere*, have you any Questions to ask, Mr. *Smith*?

Samuel Goodere. Yes, Sir. Mr. *Smith*, I ask you, what Sir *John Dineley's* Business was with you, and how much Money was you to advance?

Mr. Smith. Five Thousand Pounds, Sir; and I told him that I was satisfied that it was a good Title?

Samuel Goodere. I ask you, if you knew him to be a Knight and Baronet.

Mr. Smith. I can't tell, I never saw the Letters Patent.

Samuel Goodere. Can't you tell how you stiled him in the Writings?

Mr. Vernon. I am very loth to interrupt Mr. *Goodere*, but must submit it, Sir, that this Question is extremely improper, because personal Knowledge is by no means legal Evidence of his Brother's having been a Baronet; for Baronetage must be derived from Letters Patent: Neither can I see, Sir, (with great Submission) how it would be at all material

terial in this Case, whether the Deceased was a Baronet, or not. By the Indictment the Prisoners stand charg'd with the Murder of one Sir *John Dineley Goodere*, and the Witness *Mr. Smith* proves that the Party whom we shall shew to have been murdered, commonly went by that Name.

Mr. Shephard. With great Submission, Mr. Recorder, I think it a very material Question in point of Law: Upon the face of the Indictment it appears, that he is described by the Name of Sir *John Dineley Goodere*, in a Declaration for the King, the Party ought to be set forth with his Additions and Titles, the Persons committing the Fact, as well as the Person on whom it was committed: The Deceased is described by the Name of Sir *John Dineley Goodere*, and if he was a Baronet by Patent, it's not his Title, and it amounts to the same as if they had mistaken the Christian Name; if the Deceased was a Baronet, then he is improperly described, and then the Prisoners can't be found guilty on this Indictment. The Question before you, Sir, is, Whether this Question was proper to be asked the Witnesses?

Mr. Recorder. Can I presume him to have been a Baronet, or can I admit of parol Evidence to prove him so?

Mr. Vernon. Mr. Recorder, I beg leave to be heard in answer to this Observation of *Mr. Shephard's*, which I apprehend to be one of the most extraordinary I have ever heard from a Gentleman of the long Robe, and am bold to say the learned Gentleman who made it (if in earnest) is much mistaken in it, and in the Doctrine he hath advanced concerning it. With great Deference to your Judgment, Sir, I speak it, his Objection (if I apprehend it rightly) is, that the Person mentioned in the Indictment to have been murdered, is there described by the Name of Sir *John Dineley Goodere* only, and that by the Evidence it appears the Person murdered was Sir *John Dineley Goodere* Baronet; and he would from thence infer, that there is a Mistake in the Description of the Person murdered, and a Variance between the Indictment and the Evidence. Our Baronets, 'tis well known, are but of modern Institution, and their Creation by Patent from the King, as the Fountain of Honour; and whoever reads *Lord Coke's* 12th Report, will find it to have been resolved, at a learned Conference in the Time of *James* the First, That the King could erect such a Dignity by Patent descendable to the Heirs Male of the Body, as a Fee conditional and forfeitable for Felony.—But that where a Baronet is murdered, it is necessary to set forth his Name (or more properly Title of Dignity) in the Indictment, I must take the liberty to deny: The Difference, which I apprehend has been always taken and allowed, is between the Indicttee or Person charged by the Indictment with committing the Offence, and the Person on whom the Offence is laid therein to have been committed. 'Tis indisputably true, that the Indicttee's Addition (whether of Title or otherwise) must be set forth in the Indictment; but what is the Reason? Why, because it is expressly so required by the Statute of the 1st of *Henry* the 5th, which directs, that in Indictments and Writs where Process of Outlawry is awardable, the Estate, Degree or Mystery of the Defendant shall be superadded to his Name, to prevent troubling one Person for another. But, Sir, with great Submission, that Statute was never taken to extend to any other but the Defendant. All the Law requires, as to the Person on whom the

Offence is laid to have been committed, is a convenient Certainty in the Description of him; and surely a Description by the right Christian and Surname is such, and sufficient to ascertain the Person murdered, especially where it does not appear there was any other of the same Name. In the Indictment against *Coke* and *Woodburne* on the *Coventry* Act, for disfiguring *Mr. Coke's* Brother-in-Law *Mr. Crispe*, and which was settled with great Advice, the Person disfigured is described as here, one *Edward Crispe* only; and all the modern Precedents of Indictments at the *Old Baily* are silent, as to the Addition of the Person on whom the Offence is said to be committed; and it is certainly best and safest to omit it. *Lord Coke* in his first Institute lays it down, that a Person may have divers Surnames, and that a Purchase by either of them is sufficient, and yet but one of them is his true Name; which shews the Law is not so over-curious in the manner of describing Persons: and, if I mistake not, it has been held that even the Indicttee himself can take no Advantage of a Mistake of his Surname, if his Christian Name be right, and he be otherwise described with convenient Certainty. Besides, Sir, this is begging the Question; for it does not appear in Proof that the Deceased was a Baronet, he might for aught appear judicially to the Court have been baptized by the Name of Sir *John*. Baronetage as a Patent-Dignity we know is Matter of Record, which is a thing proveable only by itself; therefore if they would have taken any Advantage of it, they should have had the Letters Patent of Creation, or an Exemplification of them, at least *En Poigne*, (as the Law terms it) ready to produce in Court: and for an Authority in Point, Sir, I beg leave just to mention the Case of Sir *Richard Grabme* (Titular Lord *Preston*); he was indicted as a Commoner, and objected that he was a Lord, and as such triable by his Peers. But *Lord Chief Justice Holt*, and other Judges then present, acquainted him they could take no judicial Notice of his being a Lord (though they themselves called him so out of Courtesy when they spoke to him) unless he produced the Patent of Creation, or a Copy of its Inrollment, because Matter of Record; so his Objection vanished, and so I hope will this Gentleman's. Had we called the Deceased in the Indictment Sir *John Dineley Goodere* Baronet, then, Sir, we should probably have been told, that we had failed in Proof of the Identity of the Person, for that the Baronetage was in its Creation annexed to and made a Concomitant on the Patentee's Surname of *Goodere*, and waited only on that Name, and that the Deceased, considered as a Baronet, was not of the maternal Name of *Dineley*, and so upon the matter no such Person as Sir *John Dineley Goodere* Baronet ever in *Rerum Natura*.

Mr. Shephard. Mr. Recorder, *Mr. Vernon* says it does not appear that Sir *John Dineley* was a Baronet, and that we ought to produce the Letters Patent to shew him such; I think it a pretty hard Objection, considering that by Law a Prisoner cannot look into his Indictment, nor have a Copy of it, in order to be advised thereon. Here it comes out only on hearing the Indictment read, and the Person killed is therein described by the Name of Sir *John Dineley Goodere* only, without adding the Title Baronet; so that it was impossible for us to be prepared with the Letters Patent, or with any Evidence of his being a Baronet; therefore humbly hope we are proper in asking this Question of the Witness *Mr. Smith*, who was so conversant with
the

the deceased Gentleman, had the Perusal of his Writings, all his Title-Deeds lay before him, so that he cannot but know the Certainty of his Title and Degree.

Mr. Recorder. It is a great Mistake to say, that it is necessary to set forth in the Indictment the Addition of the Person on whom the Offence is supposed to be committed; the Law requires no such thing, and the Prisoners suffer no manner of Inconvenience by leaving out the Addition; because on this Indictment if they should happen to be acquitted, or should be convicted of Homicide under the Degree of Murder, they may plead that Acquittal or Conviction in bar of a second Prosecution for the same Fact, with an Averment that the Party mentioned in both Indictments, though under different Descriptions, was one and the same Person: It is sufficient that the Deceased is described by his Christian Name, and the Surname by which he was commonly called. The Question proposed to the Witnesses is improper; for it is not at all material in the present Case, whether Sir *John* was a Baronet, or no. I would not deny the Prisoners any Advantage they are by Law intitled to, but I cannot admit of Evidence which can serve only to amuse.—*Mr. Goodere*, Have you any more Questions to ask this Witness? *Mahony*, have you any Questions to ask? [Both silent.]

(*Morris Hobbs* sworn.)

Mr. Vernon. *Mr. Hobbs*, I think you are the Landlord of the *White-Hart* Alehouse.

Hobbs. Yes, Sir.

Mr. Vernon. Pray whereabouts is the House?

Hobbs. Over-against *St. Augustine's* Church.

Mr. Vernon. Can you see *Mr. Jarrit Smith's* House from the Window of yours?

Hobbs. Yes, Sir, very plain.

Mr. Vernon. I presume you are not unacquainted with the Prisoners Faces?

Hobbs. I have seen the Prisoners several times.

Mr. Vernon. I would not lead you in your Evidence, but would be glad you'd give an Account to *Mr. Recorder*, and the Jury, whether *Mr. Goodere* (the Gentleman at the Bar) applied to you about coming to your House; if so, pray tell us when it was, and upon what Occasion?

Hobbs. The 12th of *January* (which was on *Monday*) *Captain Goodere* and *Mahony* came to my House; *Captain Goodere* asked my Wife, Have you good Ale here? She said, yes; he also asked, What Place have you over head? I answered, a Closet, a Place where Gentlemen usually sit to look out. Will you please to let me see it? says he. Yes, Sir, said I. I went up to shew it, he and *Mahony* went up; the Captain said it was a very fine Prospect of the Town; he asked for a Pint of Ale, I drew it, and he gave it to *Mahony*, he drank it: and then the Captain asked my Wife, whether he might have a Dish of Coffee made to-morrow Morning? Sir, said she, 'tis a thing I don't make use of in my way; but, if you please, I will get it for you. Then he told her, he would be there to-morrow Morning by about Nine o'clock. *Mahony* was by then.

Mr. Vernon. Did you hear this Discourse pass between your Wife and *Mr. Goodere*?

Hobbs. Yes, I did, and then the Captain paid for his Pint of Ale, and went away; and the next Morning (being *Tuesday* the 13th of *January*) he came again to my House before my Wife was up, and I was making the Fire, (for I keep no Servant.) I did not know him again, I thought he was ano-

ther Man; says he, Landlord, can't you open them Windows in the Parlour? I told him, I would, and so I did; he looked out, and I thought that he had been looking for somebody coming from Colledge Prayers. He asked where my Wife was? Says I, she is a-bed; because, said he, I talked with her about having some Coffee for Breakfast. I told him, she should come down presently, but I had much rather he would go down to the Coffee-house, where he would have it in order. No, says he, I will have it here. My Wife came down, he asked if he might go up stairs where he was before; he went up, and by and by *Mahony* and three Men more came in; I did not know *Mahony's* Name: When they came in, the Captain was above stairs, he directed me to make his Men eat and drink whatever they would, and he would pay for it; I brought them Bread and Cheese, they eat what they pleased; *Mahony* went backwards and forwards, up stairs and down several times; he went out, but where, or what for, I did not know.

Mr. Vernon. Did *Mahony*, when he went up stairs, go in to *Mr. Goodere*?

Hobbs. Yes, several times; *Mahony* put the Coffee, and some Bread and Butter, and made the Toast, and done every thing for the Captain, I thought he had been his Footman. When the Captain had breakfasted, and had made the Men welcome, he shifted himself, (some Porter brought fresh Clothes to him). By and by a Man rid along, who, I believe, was *Sir John Goodere's* Man, with Pistols before him; I heard somebody say that it was his Man: and soon after the Captain had shifted himself, *Mahony* went out about a Quarter of an Hour, and came back sweating, and went up to the Captain; and I looking out of the Window saw the Man on horseback, and leading another Horse, (which I took to be his Master's); and by and by *Sir John* mounted, and rid down between my House and the Church; and I had some glimpse of him, and heard the Captain say, look well at him, but don't touch him.

Mr. Recorder. This you heard the Gentleman above stairs say to the four Men below?

Hobbs. Yes, Sir, he spake those Words to the four who came in.

Mr. Vernon. Did *Sir John* and his Man appear to have any Arms?

Hobbs. Yes, Sir, they had both Pistols before them.

Mr. Vernon. Those Men that were along with *Mahony*, do you know what Ship they belong'd to?

Hobbs. There was a young Man, I believe something of an Officer, came to my Wife, and asked her, Is the Captain of the Man of War here? She answered, that she did not know; but there was a Gentleman above, and there were six other Men besides in the other Room in another Company, which I did not know belonged to the Captain, until he order'd six Pints of Ale for them. The Captain ordered Entertainment for ten Men.

Mr. Vernon. Where were those six Men?

Hobbs. In the Kitchen; they did not belong to the Man of War, nor were not in Company with the other four.

Mr. Vernon. Now, will you proceed to give an account what followed upon *Mr. Goodere's* saying, Look well at him, but don't touch him.

Hobbs. As soon as *Sir John* went down the Hill, this *Mahony* stept up to the Captain and came down again, and he and the other three in his Company

went down the Hill, and the Captain followed them; the Clothes which the Captain pulled off were left in the Room; when the Captain was going out at the Door with his Sword and Cloak, I thought I was pretty safe of my Reckoning, because of his Clothes being left. The Captain said at the Door, Landlady, I will come back and pay you presently.

Mr. *Vernon*. How long was it before Mr. *Goodere* returned to your House?

Hobbs. He came again in about a Quarter of an Hour: When he came again, he went up stairs, changed a Guinea, he asked what was to pay? I told him four Shillings and one Penny half-penny, and then went away. About an Hour and a half after *Mabony* and the other came again, sweating, and said they had been a Mile or two out in the Country. *Mabony* asked Credit for a Tankard of Ale, and said his Master would come up on *Saturday* following, and then he would pay for it: Well, said I, if he is to come up on *Saturday*, I will not stand for a Tankard of Ale; but if he don't come, how shall I have my Reckoning? Says *Mabony*, I live at the *Scotch Arms* in *Marsh-street*. Well, said I, I will not deny drawing you a Tankard of Ale, if you never pay me. Said he, you had best get the Room ready against *Saturday*, and make a Fire, and just dust it.

Mr. *Vernon*. Pray, when Mr. *Goodere* went away from your House, was he in the same Dress as when he came first there that Day?

Hobbs. No, Sir. When he came there he had a light-coloured Coat, and he looked like a Country Farmer at his first coming in; but when he was out, he had a Scarlet-Cloak on, wore a Sword, and had a Cane in his Hand; a Porter brought him the Things.

Mr. *Vernon*. Do you know any thing of what happened on the *Sunday* following?

Hobbs. Yes, Sir; the *Sunday* Morning *Mabony* came to my House, having Trousers and a short Jacket and Leather-Cap on, asked for a Quart of Ale, this was *Sunday*: My Wife said, don't draw any more upon tick. *Mabony* gave a Six-pence and paid for it, and said, See that the Room be clear, the Captain will be up in the Afternoon, and then he'll be here: And as he was going out of the House, he said to me, if you fortune to see that Gentleman go up with the black Cap before that time, do you send a Porter to me to the *Scotch Arms*. I told him I had no Porter, and could not send. About 3 o'clock in the Afternoon, when he came again with a Person who had a scalled Face, and one or two more, a Man who lodged in the House came and told me, that they wanted to go up stairs; but I would not let them, because it was in Service-time: They all went into the Parlour, and had a Quart of Ale, and when that was drunk, *Mabony* called for another; and then eight or nine Men more came and called for Ale, and went into the Parlour, but still kept looking out; and one of them being a little Fellow, I don't know his Name, kept flammng the Door together, ready to break the House down. Says I, don't break my House down about my Ears, don't think you are in *Marsh-street*; then the little Fellow came up as if he was going to strike me, as I was coming up out of the Cellar with a Dobbins of Ale in my Hand, for a Gentleman going to the Colledge: I saw this Gentleman (pointing to the Prisoner *Samuel Goodere*) and the Deceased walk down the Hill; I looked after them, and so did *Mabony*; and

then all those Men rushed out, and followed them. *Mabony* paid the Reckoning, and went away; I ran in to see after my Tankard, for I was more afraid of losing that than the Reckoning. And that is all I do know from the Beginning to the End.

Mr. *Vernon*. How long did he continue at your House on the *Sunday*?

Hobbs. I believe, Sir, an Hour and an half; and there was some or other of them still looking out, and waiting at the Door.

Mr. *Recorder*. You say that *Mabony* desired you that if you saw the Gentleman in the black Cap go by, to send a Porter; who did you apprehend that Gentleman to be?

Hobbs. The Gentleman that rode down the *Tuesday*.

One of the *Jury*. To what Place was you to send the Porter?

Hobbs. To the *Scotch Arms* in *Marsh-street*, where *Mabony* lodged, if the Gentleman in the black Cap did go up to Mr. *Smith's*.

Mr. *Vernon*. I think, you say, you saw Mr. *Goodere* on the *Sunday* go down the Hill, after the Gentleman in the black Cap.

Hobbs. I did, Sir; but nobody at all was with him.

Samuel Goodere. Did you see me at all that Day?

Hobbs. Yes, Sir, I saw you go into Mr. *Jarrit Smith's*; and when you came down the Hill, after the Gentleman in the black Cap, you called out to *Mabony* and his Company, and bid them to look sharp.

Samuel Goodere. Did you see any body with me that Day? I was not at your House that Day.

Hobbs. I did not say you were; but as you was going to Mr. *Jarrit Smith's*, I heard one of your Men say, there goes our Captain, or else I had not looked out.

Mabony. I beg leave, my Lord, to ask him who it was that the Captain bid *Mabony* to look sharp to?

Hobbs. The Gentleman with the black Cap.

Mr. *Recorder*. Was the Gentleman in the black Cap, at whose going by they all rushed out, the same Gentleman whom you had seen before go to Mr. *Jarrit Smith's*?

Hobbs. Yes, Sir; but *Mabony* gave Half a Crown for my Reckoning, and as they rushed out so hastily, I was afraid they had taken away my Tankard; for which Reason I went to look after it, and saw no more.

(*Thomas Williams* sworn.)

Mr. *Vernon*. Mr. *Williams*, I think you belonged to the *Ruby* at the time when this melancholly Affair happened?

Thomas Williams. Yes, Sir.

Mr. *Vernon*. What Station was you in?

Thomas Williams. I was ordered to walk the Quarter-deck.

Mr. *Vernon*. Will you give an Account of what you know in relation to the ill Treatment of Sir *John Dineley Goodere*? tell all you know about it.

Thomas Williams. I came up on *Sunday* the eighteenth Day of *January* last for my Commander, went to his Lodgings, he was not at home; I was told there, that he dined that day at Dr. *Middleton's*, and he was just gone there. I went to Dr. *Middleton's* after him, and he was just gone from thence; I then returned to his Lodgings, and found him there; I told him the Barge was waiting for his

his Honour. He ask'd me if I knew the River, and if I knew the Brick-yard at the *Lime-kilns*? I told him that I knew the *Lime-kilns*, and at last I recollected that I did remember the Brick-yard he meant. That is well enough, says he. While I was there, *Mahony* came up to him, and the Captain desired of me to go down stairs, for he wanted to speak to *Mahony* in private. I went down stairs, by and by *Mahony* came down and went away; then I went up to Captain *Goodere* again, when he directed me to get all the Hands together, and go down into the Barge, and, says he, let it be landed at the Brick-yard. He asked me if I knew the *White Hart* in the *Colledge-green*? I told him I did, and he directed me to take eight Men up with me to the *White Hart*, and let two remain in the Boat, for I have a Gentleman coming on board with me. I did as I was ordered; and when I came to the *White Hart*, I saw *Mahony*, and some of the Privateer's Men with him there in a Room; I did not like their Company, I went into the Kitchen, I asked the Landlord to make me a Pint of Toddy, he asked me whether I would have it hot or cold, I told him a little warm; he was going about it, but before it was made, *Mahony* and the Privateer's Men rushed out of the House: I seeing that, followed them, they had the Gentleman in possession before I came to them, and were dragging him along. I asked them what they were at? One of the Privateer's Men told me, if I did not hold my tongue, he would throw me over the Key River, and immediately Captain *Goodere* came there himself: The Privateer's Men asked what they should do with him, and he directed them to take him on board the Barge. I followed them down the Butts, the Gentleman cried out Murder, Murder! Mr. *Stephen Perry* the Anchor-smith came out of his House, and asked me what was the matter; I told him I did not know: *Mahony* said he was a Murderer, he had killed a Man on board the Man of War, and that he had run away, they had carried him before a Magistrate, and he was ordered back to the Man of War to be tried by a Court Martial.

Mr. Recorder. Was the Captain within hearing at the time *Mahony* said that?

Thomas Williams. He was just behind.

Mr. Recorder. Was he within hearing?

Thomas Williams. He was; and when they had brought him into the Barge, Captain *Goodere* desired to have the Cloak put over Sir *John* to keep him from the Cold, but Sir *John* said he did not want a Cloak, neither would he have it. The Privateer's Men wanted me to put them on the other side the Water, but I said I would not without the Captain's Orders. They asked the Captain, and he directed me to do it, and I put them ashore at the *Glass-house*, and just as we came over against the *Hot-Wells*, there was a Gentleman standing whom Sir *John* knew, to whom Sir *John* cried out, Sir, do you know Mr. *Jarrit Smith*? But before he could speak any more, the Cloak was thrown over him to prevent his crying out, and the Captain told me to steer the Barge on the other side, until we got clear of the noise of the People; and when we was got clear, he directed me to steer the Boat in the middle, as I ought to do. I obeyed his Orders.

Mr. Recorder. Who threw the Cloak over him?

Thomas Williams. The Captain. And the Captain being as near to Sir *John* as I am to your

Lordship, Sir *John* asked the Captain what he was going to do with him? Says the Captain, I am going to carry you on board to save you from Ruin, and from lying rotting in a Goal.

Mr. Vernon. And what Reply did Sir *John* make to that?

Thomas Williams. He said, I know better things, I believe you are going to murder me; you may as well throw me overboard, and murder me here right, as carry me on board Ship and murder me. No, says the Captain, I am not going to do any such thing, but I would have you make your Peace with God. As I steered the Boat, I heard all that passed. We brought Sir *John* on board between seven and eight o'clock, he could hardly go up into the Ship, he being so benumbed with Cold; he did go up of his own accord, with the Mens Assistance.

Mr. Vernon. How was he treated on board the Man of War?

Thomas Williams. Sir, I don't know how they treated him after he went on board the Ship, I was excused from watching that Night, so I went to my Hammock; but after I was got out of my first sleep, I heard some People talking and walking about backwards and forwards: I was surprized; at last I peeped out of my Hammock, and asked the Centinel what was o'clock? he said, between Two and Three. And then I saw Captain *Goodere* going down the Ladder from the Deck towards the Purser's Cabbin, but for what Intention I know not, I believe he came from his own Cabbin.

Mr. Recorder. Whereabout is the Purser's Cabbin?

Thomas Williams. The Purser's Cabbin is in a place called the *Cock-pit*, the lower Steps of the Ladder is just by the Door of the Purser's Cabbin.

Mr. Recorder. And it was that Ladder you saw the Captain go down, was it?

Thomas Williams. Yes, Sir, it was.

Mr. Vernon. Mr. *Williams*, you have not told us all the Particulars of Sir *John*'s Treatment between the seizing and carrying him to the Barge.

Thomas Williams. One of the Men had hold of one Arm, and another the other, and a third Person was behind shoving him along.

Mr. Vernon. Where was Captain *Goodere* then?

Thomas Williams. He was just behind him.

Mr. Vernon. How near was he to him.

Thomas Williams. Sometimes he was as near to him as I am to you.

Mr. Recorder. How many were there in the Company, do you think, in the Rope-walk, when they were carrying Sir *John* along?

Thomas Williams. There were five of the Privateer's Men, and *Mahony* made six, and there were nine belonging to the Barge; about sixteen in all.

Mr. Recorder. At what distance was you?

Thomas Williams. At a pretty great distance; I walked just before them; I saw them take him along in the manner I have said; I heard Sir *John* cry out Murder several times as he went, as they took him along the Rope-walk.

Mr. Recorder. Mr. *Goodere*, will you ask *Williams* any Questions?

Samuel Goodere. What side of the Gun-room did you lie in?

Thomas Williams. The Star-board side of the Gun-room.

Samuel Goodere. Why then it was impossible for you, as you lay in your Hammock, to see any body go down to the Cock-pit.

Thomas Williams. Not at all, Sir; the Gunner's Cabbin comes out further than ever was known of that fort.

Samuel Goodere. Are there any other Cabbins besides the Purser's in the Cock-pit? did you ever examine them how strong they are, and what Partitions are there between them?

Thomas Williams. I don't know any other Cabbin but the Purser's in the Cock-pit; the Cooper lies in the Slop-room.

Samuel Goodere. Was you never in the Doctor's Cabbin?

Thomas Williams. No, never in my Life.

Samuel Goodere. Do you know where-about the *Ruby* lay, when you brought that Gentleman on board, where did you apprehend the Ship was?

Thomas Williams. I did not know the Situation of the Ship, I had no business to know that; I was but a Foremast-man.

(*Samuel Trivett* sworn.)

Mr. Vernon. Will you give an Account to Mr. Recorder and the Jury of what you know relating to this Business.

Samuel Trivett. On Sunday the eighteenth of January last I was at a Publick House in the Rope-walk, I heard a Noise of People cryed Damn ye, stand off, or else we will knock your Brains out; I stepp'd up, and asked what Right they had to carry a Man along after that manner? I followed them; their Answer was, it was a Midshipman who had committed Murder, and they were taking him down to the Ship to do him Justice: other People likewise followed enquiring what was the matter: the Gentleman was behind, and ordered them to make more haste.

Mr. Vernon. Look upon the Prisoner at the Bar, Mr. *Goodere*; is that the Gentleman that ordered them to make more haste?

Samuel Trivett. I believe that is the Man, my Lord: On the Gentleman's ordering them to make more haste, five or six of them caught him up in their Arms, and carried him along, and as they were got down about the Corner of Mr. *Brown's* Wall, he insisted upon their making more dispatch, and then they hurried him as far as Captain *Osborn's* Dock. By that time his Clothes were ruffled, and shoved up to his Arm-pits; they put him down, and settled his Clothes, and then I saw his Face, and knew him to be Sir *John Dineley*: He cried out Murder several times, and said, they were taking him on board to kill him, he believed. As they were going with him along, he cried out to Mrs. *Darby*, for God's sake assist me, they are going to murder me. I told Mrs. *Darby*, it was Sir *John Dineley*: She said, she knew him; the Cloak was then over his Face. As they got him further, he called out to a little Girl, to get some body to assist him for they were going to murder him. They pushed him along to Mrs. *New's* House, and made a little Stop there, and then they brought him to the Water-side, where was a Boat; they put out a Plank with Ledges nailed across; he was ordered to go on board the Boat; they got him on board, and put him to sit down in the Stern-sheet: then he cried out, for God's sake, Gentlemen, if any of you know Mr. *Farrist Smith* in the *College-green*, tell him my name is Sir *John Dineley*. One of the Men put his Cloak and covered him, and before he could say any more, that

Gentleman (pointing at the Prisoner *Goodere*) took his Hand and put it on his Mouth, and would not let him speak any further, and ordered the Boat to be pushed off, which was done; and the Tide making up strong, the Boat got almost to the other side. I heard that Gentleman (pointing as before) say, Have you not given the Rogues of Lawyers Money enough already? Do you want to give them more? I will take care that they shall never have any more of you; now I'll take care of you.

Mr. Recorder. Prisoners, will either of you ask this Witness any Questions?

Samuel Goodere. No; I never saw the Man before in my Life.

(*Thomas Charnbury* sworn.)

Thomas Charnbury. On Sunday the eighteenth of January last, between the Hours of four and five in the afternoon, I was on board the Ship called the *Levant*, lying in Mr. *Thompson's* Dock; I heard a Noise coming over the Bridge of the Dock, and I saw a Man in a scarlet Cloak, and a parcel of People, some before and some behind, guarding of him, and he made a noise. I went towards them, to see what was the matter, and at Mr. *Stephen Perry's* Counting-house (they rested) I asked, what was the matter? They said, he had killed a Man on board a Man of War; that he had run away; and they had had him before a Magistrate, and he was ordered on board the King's Ship to be carried round to *London* to take his Trial. Mr. *Perry* (on hearing the Noise) came out and saw him; says Mr. *Perry*, Gentlemen, do you know what you are about? I would not be in your Coats for a thousand Pounds, for it is *Esq;* *Goodere*. They threatened to knock down any that should come near; a Fellow, I take him to be *Mabony*, came up to me, and threatened to knock me down several times. They took and carried him as far as Captain *James Day's* Lofts and Warehouse, where he keeps his Hemp; and there they rested him again, and threatened to knock down any that should come near them. Then said *Mabony*, Damn ye, here comes the Captain. Immediately I turned about, and saw a Gentleman with his Cane poised in one hand, and his Sword in the other, he had a dark shag Coat and yellow Buttons, whom I take to be that Gentleman the Prisoner at the Bar. They took up the Man in the scarlet Cloak again, and carried him so far as coming out from the lower *College-green* into the Rope-walk: the Prisoner *Goodere* came up to them, and ordered them to mend their Pace; they took him up again, and carried him as far as *Brown's* Garden, at the lower end of the Rope-walk, as fast as they could well carry him, where they settled his Clothes, and in the mean while the Prisoner *Goodere* came up to them again, and ordered them to mend their Pace. With much difficulty they got him between the Gate and Stile, and carried him as far as the Warehouse at the Corner of the Glass-house, there they rested and settled his Clothes again: Then they took him up and carried him down to the *Lime-kilns*, as far as the lower part of the Wall below Madam *New's*; and then brought him down to a Place opposite to the *King's Head*, and then they put him on board a Boat (I take it the Man of War's Barge) having ten Oars, and they handed him in. After, the Prisoner *Goodere* went into the Boat after him, and set Sir *John* on the Starboard side, and the Prisoner *Goodere* on the Larboard side; then Sir *John* cried out, Murder! you Gentlemen that are on shore, pray tell Mr. *Farrist Smith* that my
Name

Name is *Dineley*, and before he could say *Goodere*, the Gentleman took up the Flap of the Cloak, threw it over the Face of Sir *John*, and stopp'd his Mouth; and, says he, I will take care of you, that you shall not spend your Estate; and ordered the Barge to be put off: And then he took the Gentleman's Cloak from his Shoulders, and puts it on his own.

Mr. Recorder. Who was it that stopp'd his Mouth with the Cloak?

Mr. Charnbury. That Gentleman the Prisoner at the Bar. The Boat was so full, had so many People in it, that they were obliged to row but with eight Oars: And when they proceeded down the River, it being about three quarters Flood, and the Gentleman continually crying out, they went out of sight, and I saw no more of them.

(*Mrs Darby* sworn.)

Mr. Vernon. Mrs. *Darby*, I think, you live at the *Lime-kilns*.

Mrs. Darby. Yes, Sir, I do.

Mr. Vernon. What do you know of this tragical Affair?

Mrs. Darby. I saw Sir *John Dineley* forced along between two Men, he crying out Murder, Murder, for the Lord's sake save me, save me, for they are going to kill me!

Mr. Vernon. Pray what were they doing to him at that time?

Mrs. Darby. Forcing him along, Sir; one had him under one Arm, and another under the other.

Mr. Vernon. Did you then know him to be Sir *John Dineley Goodere*?

Mrs. Darby. Yes, Sir; last Summer we mended his Chair for him. I knew him very well.

Mr. Vernon. You say you knew Sir *John*; pray did you know this Gentleman? (pointing to *Mr. Goodere*.)

Mrs. Darby. There were a great many other Persons there; they told me that the Captain of the Man of War was there behind them, which I believe to be the Gentleman at the Bar: He was dressed in a dark Drabb-coloured Coat, and his Waistcoat trimmed with Gold.

Mr. Vernon. What further did you see pass?

Mrs. Darby. I saw them hurrying him on board the Boat, but I did not go any further than over-against my own Door; but when they were turning the Boat, I heard him cry out, but what he said I know not.

(*William Dupree* sworn.)

Mr. Vernon. Give an Account of what you know of this Matter.

William Dupree. On Sunday the eighteenth of January last I was at the Sign of the *King's Head*, upon the right-hand side of the *Red Lion* as you go down to the *Hot Well*, with a Friend of mine, a Man that works with me, drinking a Pint of Ale; there was a young Woman, she was reading at the Window. She said, she heard a great Outcry, we heard the same, we went out, saw a Company of Men forcing a Gentleman along; I saw Captain *Goodere* the Prisoner at the Bar coming behind them: when they came down to *Scriggins Slip*, they gave out a Report, that the Gentleman had murdered a Man on board a Man of War, and they were taking him on board for Justice. They put him on board the *Yawl*, and Captain *Goodere* stood by whilst they did it. The Gentleman cried out, for God's sake go and acquaint Mr. *Jarrit Smith*, for I am undone, they will murder me. I went

into the House again; the People advised me to go to Mr. *Jarrit Smith*, and inform him of it: as I came home I called at Mr. *Smith's*, and told him what I had seen and heard, and he told me he would see about it.

Mr. Vernon. I'd be glad to know whether upon the Gentleman's crying out you saw any thing, and what, done to him.

William Dupree. I saw the Captain, the Prisoner at the Bar, put his Hand and stop his Mouth.

Mr. Vernon. Are you positive you saw that?

William Dupree. Yes, I am.

(*Theodore Court*, Master of the Ship sworn.)

Mr. Vernon. Will you tell Mr. Recorder and the Jury what you know concerning the Death of Sir *John Dineley Goodere*?

Theodore Court. On the eighteenth of January last, being Sunday, the Barge went up to fetch Captain *Goodere* from *Bristol*, and about seven of the clock in the Evening he came on board, and when he came into the Gangway, says he, how do you all do, Gentlemen? Excuse me, Gentlemen, from going the right way to-night, for I have brought an old mad Fellow on board, and I must take care of him. I saw a Gentleman with a black Cap coming up the Ship's side, and his Groans shocked me, so that I could not help him; he looked much surprized as a Person used ill: As soon as he was on board, he was taken into custody, and carried by the Captain's Orders down to the Cock-pit, and put into the Purser's Cabbin, and a Centinel ordered upon him; and I saw him no more at that time. Next Morning I was told that the Captain's Brother was murdered, and that the Captain had given *Charles White* and *Mahony* leave to go on shore.

Mr. Recorder. By whose Direction was he put into the Purser's Cabbin?

Theodore Court. The Captain himself went down, and see them put him in.

Mr. Vernon. Whereabout in the Ship is the Purser's Cabbin?

Theodore Court. In the Cock-pit.

Mr. Vernon. Was it a Place where Gentlemen who came on board commonly lay?

Theodore Court. No, nobody had laid in it for a considerable time. The next Morning the Cooper met me, and said, here is fine doings to-night, Mr. *Court*! Why, what is the matter, said I? Why, said he, about three o'clock this Morning they went down and murdered Sir *John*. The Ship was in an Uproar; the Cooper said, if Mr. *Perry* (the Lieutenant) did not secure the Captain, he would write to the Board: We had several Consultations in the Ship about it. The Captain sent for me to breakfast with him, I accepted of his Invitation: I can't say but he behaved with a very good Name to all the People on board. About Ten o'clock Mr. *Perry*, myself, and the other Officers, with the Cooper, consulted about securing the Captain. Mr. *Perry* caution'd us not to be too hot; for, said he, if we secure the Captain before we know Sir *John* is dead, I shall be broke, and you too. We sent for the Carpenter, and desired him to go down and open the Cabbin-door, the Centinel who stood there having said it was lock'd; the Carpenter went down, opened the Cabbin-door, and came up and said Sir *John* was murdered; and that he lay on his Left-side, with his Leg up crooked. I told them, Gentlemen, there is nothing to be done before the Coroner comes; and therefore we must not touch him: Whereupon the Door was ordered to be fastened

fastened up: We then consulted how to take the Captain, and a Method was agreed on for that purpose. And as soon as the Captain was taken, he declared he was innocent of it, that he knew not that his Brother was murdered. When the Coroner came, I saw the Deceased, and my Heart ached for him.

Mr. Recorder. Who was it put the Centinel upon Sir John?

Theodore Court. The Captain ordered it to be done.

Mr. Vernon. Is it usual to place a Centinel at the Purser's Cabbin-Door?

Theodore Court. No, it is not; unless there be somebody there under Confinement.

Mr. Vernon. Is there any other Cabbin near the Purser's?

Theodore Court. Yes, there is the Slop-Room just by; there the Cooper and his Wife lay that Night: there is just a little Partition of about half-inch Deal, parting the Slop-Room from the Place where Sir John lay confined.

Mr. Vernon. Pray, will you tell us whether any, and what Discourse passed between Mr. Goodere and you, about sailing; and when it was?

Theodore Court. Sir, in the Morning he asked me, will the Wind serve to sail? He said, he had another pressing Letter from the Lords of the Admiralty to sail as soon as possible. I told him, that the Wind was West-South-West, and that we could not go out to Sea; for no Pilot would take charge of the Ship, I believed. And as this is a Harbour where a Pilot is allowed, I don't pass for this Place; otherwise I must have observed his Orders.

Mr. Vernon. Did he acquaint you how far, or to what Part, he would have you sail?

Theodore Court. Yes, he said, if he got no further than the *Holmes*, he did not care; and asked me, if it was safe riding there. I told him, it was not; for it was foul Ground for such a Ship as ours.

Mr. Recorder. Mr. Goodere, will you ask this Witness any Questions?

Samuel Goodere. What Cabbins are there in the Cock-pit?

Theodore Court. I know no Cabbins there but the Purser's Cabbin and the Slop-Room, &c.

Mr. Vernon. Call Mr. Williams.

(*William Williams* sworn.)

Mr. Vernon. Mr. Williams, have you any Watch in your possession belonging to Mr. Goodere.

William Williams. I have a Watch in my Possession.

Mr. Vernon. Please to produce it, and let us know how you came by it.

William Williams. I had it from a Vault in *Back-street*.

Mr. Vernon. How came it to be searched for there?

William Williams. The Night this thing was under Examination, I was at the Council-House, and *Culliford* who keeps the Brockware Boat on the *Back*, was there under Examination; he then reported that there was a Watch and some Money left in his House: Upon which a Person was sent down, and *Culliford's* Wife at first denied the Watch, but not the Money; but at last, after close Examination, she confessed that she had thrown the Watch into the Vault. Upon which, by the Order of Mr. Alderman *Day*, I, with a Mason, opened the Vault; where, on Search, I found the

Watch, and took it out. Here is the Watch; but whose it is, I know not.

Mr. Vernon. Now I desire that Watch may be shewn to Mr. Court. [The Watch is delivered to Mr. Court.]

Mr. Vernon. Now you have looked upon the Watch, tell us if you can, whose it was.

Theodore Court. I can't swear positively to it; but I believe it was the Captain's Watch, he had such a one.

Mr. Vernon. Did Mr. Goodere use to carry a Gold Watch about him?

Theodore Court. The Captain did not usually wear a Gold Watch; but I have seen such a Watch as this is, hanging up in the Captain's Cabbin. I believe it to be the same.

Mr. Recorder. Mr. Court, you was asked by Mr. Goodere, how many Cabbins there are in the Cock-pit?

Theodore Court. There is the Steward's Room, the Purser's Cabbin, and the Slop-Room.

Samuel Goodere. Where is the Steward's Room?

Theodore Court. That is the Place where the Centinel stands; and there is a Place on the other Side where the Surgeon lies.

Samuel Goodere. What Persons were in that Place that Night, do you know?

Theodore Court. The Surgeon, I suppose.

Samuel Goodere. What other Persons were in any other of the Cabbins that Night?

Theodore Court. The Cooper and his Wife.

Samuel Goodere. Has the Cooper a Wife?

Theodore Court. I believe so.

Samuel Goodere. How long before the nineteenth of January did you new-moor the Ship?

Theodore Court. Thursday the fifteenth of January.

Samuel Goodere. How were the Bearings then?

Theodore Court. (Looking on his Journal) *Posset-Point* West and by South, *Denny-Island* North-west and by West, distant by Computation about four Miles: And the Point to the Westward of the *Hole's* Mouth South-South-East.

Mr. Recorder. Were those the Bearings on the Eighteenth too?

Theodore Court. I know no Difference; it is said here, *ditto* 18th: if there had been any Variation, I should have taken notice of it.

Mr. Vernon. In what Part of the River did the Ship lie when Sir John was murdered?

Theodore Court. She lay in *King-Road*.

Samuel Goodere. Do you know the *Denny*?

Theodore Court. Yes, I do.

Samuel Goodere. Suppose there was a strait Line drawn from the South Corner of that Island to the North part of the Water of *Avon*, would the Ship *Ruby* have been on the East or West part of that Line?

Theodore Court. As to that I am not a Judge, unless I saw a strait Line drawn.

Mr. Recorder. Mr. Court, how long did the Ship continue in this Mooring?

Theodore Court. I new-moor'd the Ship the Sunday following.

Samuel Goodere. Did the Wind then blow Easterly or Westerly?

Theodore Court. The Wind blew hard Westerly the Sunday.

Samuel Goodere. As to the Distance from the *Denny*, I believe, you are right enough; but I have a Gentleman here who hath taken a Survey of the River: and the Situation of the Ship, as it lay Sunday

day the eighteenth of *January*, was in the River *Severn*, very far Eastward of the Water of *Avon*.

Mr. Vernon. Mr. Recorder, by Mr. *Goodere's* present Enquiries, he seems to be putting his and his Fellow-Prisoner's Defence on the Points of the Compass; I hope he has some better Point to go on: for if not, these I doubt will stand him in very little stead. It appears in Proof, that the Ship was stationed in *King-road*, when this Murder was committed: Now *King-road*, we all know, has been all along reputed and allowed to be within the local Limits of the City and County of *Bristol*; and the City Process runs thither, which shews it to be within the Franchise of the City; and the Sheriffs of *Bristol* do there constantly execute Writs and other Procefs from above, which shews it to be within their Bailiwick as a County, whose Bounds and Circuit are best ascertained and pointed out by Reputation and consentaneous Usage, which stand as perpetual Monuments of their Limits, after other Marks are effaced or obscured by Time.

Mr. Shephard. I don't at all question but this City has great Powers, and its Limits are undoubtedly set forth by Charter.

Mr. Vernon. I should be very sorry to find the Jurisdiction of a City (whose Rights are dear to me as my own) shaken by a Side-wind, and hope an Attempt of this nature will not be suffered.

(*Duncan Buchanan* sworn.)

Mr. Vernon. I think you was one of the Company that was at the *White-Hart* upon *Tuesday* the twelfth of *January* last?

Duncan Buchanan. Yes, Sir.

Mr. Vernon. Will you give Account by whose Directions you came up there?

Duncan Buchanan. On *Tuesday* the thirteenth Day of *January* last the Boat and Barge were ordered up to *Bristol*; but upon what account, I knew not. I was ordered to go to the *White-Hart* to attend the Captain, and there was *Mahony* and the Privateer's Men drinking hot Flip. I knew nothing of what they were upon. I saw a Gentleman come out of Mr. *Smith's*, I suppose it was Sir *John Dineley Goodere*; he mounted his Horse, and had Pistols before him, and his Servant followed him with Pistols also. Then some of the Men ran out; and Captain *Goodere* went out after them, and ordered them to follow the Gentleman. I staid there till the Captain came back again; and I know nothing more of what was said or done then.

Mr. Vernon. Will you give an Account what happened on the *Sunday* following?

Duncan Buchanan. On *Sunday* the eighteenth Day of *January* about seven o'clock in the Evening the Barge came along-side the Ship with the Gentleman in it, I stood in the Gang-way to receive him; when he came up, I heard him to make a moan, and the Captain said I have brought a Madman on board, bring him along, I will bring him to his Senses by and by. I saw them take him along the Gang-way; you must not mind what he says, said the Captain; and he was ordered down to the Purser's Cabbin; I was ordered Centinel there. About twelve o'clock the Captain sent for me to come up to him, and I laid down my Sword and went up, and *Mahony* was there with him; and there was a Bottle

of Rum and a Glas before them: the Captain asked me to drink a Dram, I thanked him and drank. He asked me how his Brother was? I told him he groaned a little; says the Captain, I know the Reason of that, he is wet, and I am coming down by and by to shift him with dry Stockings: so I left the Captain and *Mahony* together. Some time after the Captain came down to me, as I was at my Post at the Purser's Cabbin; he asked if his Brother made a noise? I told him no: upon which the Captain listened a little time at the Door, and then said, give me the Sword, and do you walk upon deck; for I want to speak to my Brother in private. Soon after this, *Mahony* went down, and very soon after *Mahony* was down, I heard a great struggling in the Cabbin, and the Gentleman cry out Murder! I then thought the Gentleman had been in one of his mad Fits; but now I suppose, they were then strangling him. As I was walking to and fro in the Gun-Room, I looked down, and saw the Captain take the Candle out of the Lanthorn, which was hanging up there, and he gave the Candle into the Cabbin.

Mr. Recorder. Where was Mr. *Goodere* when you heard the Cry of Murder?

Duncan Buchanan. In the Cock-pit by the Purser's Cabbin-Door, with the Sword in his Hand.

Mr. Recorder. What time of the Night was this?

Duncan Buchanan. Between two and three o'clock; I lighted a Candle at the Lanthorn in the Gun-Room, and was going down to the Captain with it, as supposing him to be without Light; and as I was going down with it, the Captain held up his Sword, waved it, and said, go back and stay where you are.

Mr. Recorder. You said, that Sir *John Dineley* cried out Murder! was that before you offered the Candle to the Captain?

Duncan Buchanan. Yes, Sir; it was before.

Mr. Recorder. How long?

Duncan Buchanan. About a Quarter of an Hour.

Mr. Recorder. How long did the Cry of Murder continue?

Duncan Buchanan. About three or four Minutes: Soon after the Captain had ordered me to keep back, he called for a Candle, and I carried one down, and he gave me the Sword, and bid me stand upon my Post; and, said he, if my Brother makes any more noise, let him alone and send for me; and he locked the Purser's Cabbin-Door, and took the Key away with him: And in the Morning the Doctor's Mate, the Cooper and I consulted together about it; and I was willing to know, if Sir *John* was dead, or not? And when we peeped into the Cabbin, we saw him lying in a very odd sort of a Posture, with his Hat over his Face, and one of his Legs lay crooked: upon which, we concluded he was dead.

Mr. Recorder. How long was you off your Post from first to last?

Duncan Buchanan. I can't tell exactly.

Mr. Recorder. Recollect as well as you can.

Duncan Buchanan. About three quarters of an Hour.

Mr. Recorder. And could you see who was at the Purser's Cabbin-Door all that time?

Duncan Buchanan. Yes, Sir; I saw the Captain stand at the foot of the Ladder at the Door, with a drawn Sword, from the time I went up to the

time I came down again; he locked the Door, and carried the Key away with him.

Mr. *Vernon*. Pray, were there any Bolts on the Purser's Cabbin-Door?

Duncan *Buchanan*. Yes, there were Bolts on the Door; they were put on soon after Sir *John* came on board: Sir *John* was in that Cabbin when they were put on.

Mr. *Vernon*. You say you heard a Noise and Outcry of Murder, how far was you from the Cabbin-Door when you heard that Cry of Murder?

Duncan *Buchanan*. I was walking to and fro the Gun-room.

Mr. *Vernon*. How far is that from the Purser's Cabbin-Door?

Duncan *Buchanan*. As far as I am from you.

Mr. *Vernon*. Whom did you see go into the Purser's Cabbin to Sir *John*?

Duncan *Buchanan*. I saw *Mahony* go in there.

Mr. *Vernon*. Did you see any other Person go in besides *Mahony*?

Duncan *Buchanan*. No, I did not; I saw *Mahony* go in just before the Cry of Murder, but no other Person.

Mr. *Vernon*. Do you know any thing about securing the Captain?

Duncan *Buchanan*. Yes, I will tell you what happened then. We went and secured him. As soon as he was laid hold of, he cried out, Hey! hey! what have I done? We told him his Brother was murdered, and that he had some Concern in it. He said, what if the Villains have murdered my Brother, can I help it? I know nothing of it.

Samuel *Goodere*. Did you see me in the Cabbin at all?

Duncan *Buchanan*. No, Sir, I don't say you was in the Cabbin.

Mr. *Recorder*. Mr. *Goodere*, the Witness does not say he saw you in the Cabbin, but at the Door, and with a Sword in your Hand, and that you handed in a Light after the Cry of Murder was over.

Samuel *Goodere*. I could not have been in the Cabbin without *Buchanan's* seeing me go in, because he stood at the Bulk-head of the Gun-room.

Mr. *Recorder*. *Mahony*, will you ask this Witness any Questions?

Matthew *Mahony*. Are you certain that I was in the Cabbin when you heard the Groans?

Duncan *Buchanan*. I am positive you was there in the Purser's Cabbin, when I heard the Murder cried out.

(Daniel *Weller* sworn.)

Mr. *Vernon*. I think you are the Carpenter belonging to the *Ruby* Man of War.

Daniel *Weller*. Yes, Sir, I am.

Mr. *Vernon*. Give an Account to Mr. *Recorder* and the Jury of what you know relating to this Business.

Daniel *Weller*. The eighteenth of *January* last, about seven o'clock in the Evening, the Captain came on board in the Barge; as I attended him, I observed he seemed in a pleasant Humour, he came upon the Deck at once, and said he had brought a poor crazy Man on board, who had been the Ruin of himself and Family, and that he had now brought him on board to take care of him: He took him down to the Cock-pit, and having been there a little while, one of my People came and asked for some Bolts;

I asked, what for? He told me, it was to put on the outside of the Purser's Cabbin-door, to bolt the crazy Gentleman in. I gave him a Bolt; after he had nailed it on, he came and wanted another: I had another, gave it to him, and went down to see the Bolts put on. Sir *John* cried out, What are you doing, nailing the Door up? I answered, No. I ordered the Door to be opened, to turn the Points of the Nails. The Door being opened, Sir *John* asked whether the Carpenter was there? I told him I was the Man. The Centinel told me no-body must go in there; however, I went in, while they turned the Points of the Nails. Sir *John* bid me sit down, and asked me, what does my Brother mean by bringing me on board in this manner, to murder me? No, Sir, says I, I hope not, but to take care of you. He asked me, if his Brother told me that he was mad? I saw no more of him till next Morning.

Mr. *Vernon*. And what did you see then?

Daniel *Weller*. Next Morning the Lieutenant sent me down to see if Sir *John* was dead. I went down, and asked the Centinel for the Key; he told me the Captain had been there in the Night, and had taken away the Key in his Pocket. I broke open the Cabbin-Door, and Sir *John* was lying on one side dead, with his Right Leg half up bent, his Hat was over his Face, with Blood bespattered about his Mouth and Nose. I went directly up, and told the Lieutenant of it.

Mr. *Recorder*. By whose Orders did you put the Bolts on the Door?

Daniel *Weller*. One of my People came to me for Bolts, and told me he was ordered by the Captain to put the Bolts on; and none of them ever came for any thing to be done, without an Order of an Officer.

(Edward *Jones* sworn.)

Mr. *Vernon*. Mr. *Jones*, I think you are the Cooper of the Ship *Ruby*.

Edward *Jones*. Yes, Sir.

Mr. *Vernon*. Was you on board upon *Sunday* the eighteenth of *January* last?

Edward *Jones*. Yes, Sir, I was.

Mr. *Vernon*. In what Cabbin did you lie that Night?

Edward *Jones*. I had no Cabbin, but I made bold to lie in the Slop-Room that Night, having my Wife on board.

Mr. *Vernon*. Pray what is that you call the Slop-Room?

Edward *Jones*. It is like a Cabbin.

Mr. *Vernon*. How near is the Slop-Room to the Purser's Cabbin?

Edward *Jones*. Nothing but a thin Deal-Partition parts it from the Purser's Cabbin.

Mr. *Vernon*. Will you relate to Mr. *Recorder* and the Jury, what you know about the Murder of Mr. *Goodere's* Brother: Tell the whole you know concerning it.

Edward *Jones*. About *Wednesday* or *Thursday* before this happened, the Captain said to me, Cooper, get this Purser's Cabbin cleaned out, for he said he expected a Gentleman shortly to come on board. I clean'd it out; and on *Sunday* Evening the Gentleman came on board, when the People on Deck cried, Cooper, shew a Light. I brought a Light, saw the Captain going down the Cockpit Ladder, the Gentleman was halled down; he complained of a Pain in his Thigh by their halling him on board. The Captain asked

asked him if he would have a Dram? he said no; for he had drank nothing but Water for two Years. The Captain ordered *Mahony* a Dram, he drank it: He also ordered one *Jack Lee* to put two Bolts on the Purser's Cabbin-Door. The Gentleman walked to and fro the Purser's Cabbin while they were nailing the Bolts on. He wanted to speak with one of the Officers. The Carpenter told him he was the Carpenter. Says the Gentleman, Do you understand what my Brother *Sam.* is going to do with me? and said, his Brother had brought him on board to murder him that Night. The Carpenter said he hoped not, but what was done was for his Good. The Captain said, they must not mind what his Brother said, for he had been mad for a Twelvemonth past. And the Captain went up again, and went into the Doctor's Room. I went to Bed about eight o'clock. Some time about eleven of the clock at Night I heard the Gentleman knock, and said, he wanted to ease himself; to which the Centinel gave no manner of heed. Is it not a shame, said he, to keep a Gentlemen in after this manner? At last some other Person spoke to the Centinel, and says, why don't you go up and acquaint the Captain of it, that the Gentleman may ease himself? Soon after *Mahony* comes down with a Bucket, for the Gentleman to ease himself. *Mahony* sat down in the Cabbin, and he and the Gentleman had a great deal of Discourse together: The Gentleman said he had been at the *East-Indies*, and told what he had got for his Merit; and *Mahony* said, some by good Friends. I heard the Gentleman, after *Mahony* was gone, pray to God to be his Comforter under his Afflictions. He said to himself, he knew that he was going to be murdered, and prayed that it might come to light by one means or another. I took no notice of it, because I thought him a crazy Man. I slept a little, and about two or three o'clock my Wife waked me. She said, Don't you hear the Noise that is made by the Gentleman? I believe they are killing him. I then heard him kick, and cry out, Here is twenty Guineas, take it; don't murder me; must I die! must I die! O my Life! and gave several Kecks with his Throat, and then he was still. I got up in my Bed upon my Knees, I saw a Light glimmering in at the Crack, and saw that same Man *Mahony* with a Candle in his Hand. The Gentleman was lying on one side. *Charles White* was there, and he put out his Hand to pull the Gentleman upright. I heard *Mahony* cry out, Damn ye, let us get his Watch out; but *White* said he could not get at it. I could not see his Pockets. *White* laid hold of him, went to rumbling him up to get out his Money, unbutton'd his Breeches to get out his Watch; I saw him lay hold of the Chain; *White* gave *Mahony* the Watch, who put it in his Pocket; and *White* put his Hand into one of the Gentleman's Pockets, and cursed that there was nothing but Silver: But he put his Hand in the other Pocket, and there he found Gold. *White* was going to give *Mahony* the Gold: Damn ye, says *Mahony*, keep it till by and by.

Mr. Recorder. In what Posture did Sir *John* lie at that time?

Edward Jones. He lay in a very uneasy manner, with one Leg up; and when they moved him, he still remained so; which gave me a Suspicion that he was dead. *White* put his Hand

in another Pocket, took out nothing but a Piece of Paper, was going to read it; Damn ye, said *Mahony*, don't stand to read it. I saw a Person's Hand on the Throat of this Gentleman, and heard the Person say, 'tis done, and well done.

Mr. Recorder. Was that a third Person's Hand, or the Hand of *Mahony* or *White*?

Edward Jones. I cannot say whether it was a third Person's Hand or not. I saw but two Persons in the Cabbin. I did not see the Person, for it was done in a Moment. I can't swear I saw any more than two Persons in the Cabbin.

Mr. Recorder. Did you take notice of the Hand that was laid on Sir *John's* Throat?

Edward Jones. I did.

Mr. Recorder. Did it appear to you like the Hand of a common Sailor?

Edward Jones. No; it seemed whiter.

Mr. Vernon. You have seen two Hands held up at the Bar, I would ask you to which of them it was most like in colour?

Edward Jones. I have often seen *Mahony's* and *White's* Hands, and I thought the Hand was whiter than either of theirs; and I think it was neither of their Hands by the Colour of it.

Mr. Recorder. Was Sir *John* on the Floor, or on the Bed?

Edward Jones. On the Bed; but there was no Sheets: It was a Flock-bed, and nobody had lain there a great while.

Mr. Vernon. How long did the Cries and Noise which you heard continue?

Edward Jones. Not a great while; he cried like a Person going out of the World, very low. At my hearing it I would have got out in the mean time, but my Wife desired me not to go, for she was afraid there was somebody at the Door that would kill me.

Mr. Vernon. What more do you know concerning this Matter, or of *Mahony* and *White's* being afterwards put on shore?

Edward Jones. I heard some talking that the Yaul was to go to shore about Four of the Clock in the Morning, and some of us were called up, and I importuned my Wife to let me go out. I called, and asked who is Centinel? *Duncan Buchanan* answered, It is I. Oh, says I, is it you? I then thought myself safe. I jump't out in my Shirt, went to him, says I, there have been a devilish Noise To-night in the Cabbin, *Duncan*, do you know any thing of the Matter? they have certainly killed the Gentleman, what shall us do? I went to the Cabbin Door where the Doctor's Mate lodged, asked him if he had heard any thing To-night? I heard a great Noise, said he. I believe, said I, they have killed that Gentleman. He said, he believed so too. I drew aside the Scuttle that looked into the Purser's Cabbin from the Steward's Room, and cried, Sir, if you are alive speak. He did not speak. I took a long Stick, and endeavoured to move him, but found he was dead. I told the Doctor's Mate, that I thought he was the proper Person to relate the Matter to the Officer, but he did not care to do it then. If you will not, I will, said I. I went up to the Lieutenant, and desired him to come out of his Cabbin to me. What is the Matter? said he. I told him I believed there had been Murder committed in the Cock-pit upon the Gentleman who was brought on board last Night. Oh! don't say so, says the Lieutenant. In that Interim, whilst we were

talking about it, Mr. *Marsh* the Midshipman came, and said, that there was an Order to carry *White* and *Mabony* on shore. I then swore they should not go on shore, for there was Murder committed. The Lieutenant said, Pray be easy, it can't be so; I don't believe the Captain would do any such thing. That Gentleman there, Mr. *Marsh*, went to ask the Captain, if *Mabony* and *White* must be put on shore? And Mr. *Marsh* returned again, and said, that the Captain said they should. I then said, it is certainly true that the Gentleman is murdered between them. I did not see *Mabony* and *White* that Morning, because they were put on shore. I told the Lieutenant, that if he would not take care of the Matter, I would write up to the Admiralty, and to the Mayor of *Bristol*. The Lieutenant wanted to get the Captain to drink a Glass of Wine; the Captain would not come out of his Cabbin: Then the Lieutenant went in first, I followed him. I told the Captain that my Chest had been broke open, and I desired Justice might be done. Then I seized him, and several others came to my Assistance.

Mr. Recorder. Mr. *Goodere*, do you ask Mr. *Jones* any Questions?

Samuel Goodere. Do you know whether the Midshipman was sent away on the King's Business or else only to put those two Men on shore?

Edward Jones. I know not; you was the Captain of the Ship.

Mr. Recorder. *Mabony*, will you ask this Witness any Questions?

Mabony. Did you see me lay Hands on the Gentleman?

Edward Jones. Yes I did, as I have already related.
(*Margaret Jones* sworn.)

Mr. Vernon. Mrs. *Jones*, pray acquaint Mr. Recorder and the Jury what you know about the Murder of Sir *John Dineley Goodere*, (the Gentleman ordered by Mr. *Goodere* into the Purser's Cabbin.)

Margaret Jones. About seven o'clock in the Evening, the eighteenth of last *January*, the Captain (having been on shore) came on board, and came down into the Cock-pit, and asked if the Cabbin was clean? My Husband answered, Yes. On which the Captain gave Orders to bring down the Gentleman; and the Captain said to the Doctor, Doctor, I have got an old mad Fellow here, you must doctor him up as well as you can. They brought the Gentleman into the Cabbin, the Captain asked him how he did now? The Gentleman complained that he had a great Pain in his Thigh, he was hurted by the Mens halling him as they had done. The Captain asked him if he would drink a Dram of Rum? He answered, No; for he said he had drank nothing but Water for two Years past. The Captain gave a Dram to several Persons there; and he gave Orders for some Sheets to be brought; and he said to *Mabony*, As his Clothes are wet, do you pull them off: And the Gentleman said to *Mabony*, Don't strip me, Fellow, until I am dead. The Gentleman said, Brother *Sem.* what do you intend to do with me? The Captain told him, that he brought him there to save him from rotting in a Goal. About ten o'clock *Mabony* was left there; the Gentleman desired him to go; but *Mabony* said, I have Orders to abide here to take care of you. The Gentleman said to *Mabony*, I can abide by my self. Before the Captain went away, he bid *Ma-*

bony to see if his Brother had any Knife about him. The Gentleman gave up his Knife to *Mabony*, desired him to care of it, for it was his Son's Knife. The Gentleman asked about the Knife several times in the Night. About twelve o'clock I went to sleep; about two o'clock I awoke again: I heard the Gentleman talk to *Mabony*, but *Mabony* advised the Gentleman to go to sleep. He said, I cannot sleep. They talked together a great while. *Mabony* said, I am to go on shore in the morning, and if you have any Letters to send to *Bristol*, I will carry them for you. I heard somebody say to the Gentleman, You must lie still, and not speak a Word for your Life. Some Minutes after I heard a great Struggling; who it was, I don't know. The Gentlemen cried out, Murder, help for God's sake! and made several Kecks in his Throat as though somebody was stifling him. I shook my Husband, told him that somebody was stifling the Gentleman. I heard two People in the Cabbin whispering; I don't know who they were. The Gentleman cried out Murder again, Help for God's sake! He said, I have twenty Guineas in my Pocket, here take it; must I die! Oh my Life! And just about that time, before he was dead, somebody from the Outside offered to come into the Cabbin: But I heard one of the Persons on the Inside say, Keep out, you Negro; and then a great Noise was made, I thought the Cabbin would have been beat down. Some few Minutes after the Gentleman had done struggling, a Candle was brought; I soon got up and looked through the Crevice: I saw a Man, who I believe to be *White*, take the Gentleman by the Coat, and pulled him upright. I saw *Mabony* with a Candle in his Hand; I observed the other to put his Hand in the Gentleman's Pocket. One of them said, Damn ye, pull out his Watch. Then I saw the Person take hold of the Watch-string and pull it out, and he said to the other, Here 'tis, take it, and put it into thy Pocket. Then one of them put his Hand in another Pocket, and took it out, said, here's nothing but Silver; and then he searched another Pocket, and said, here it is; and pulled out a Green Purse: Soon after that, the Door was unbolted, I heard a Person say, Where shall I run? who I believe was *Mabony*; and the other, *Charles White*, said, Follow me, Boy. And they went to go upon Deck through the Hatch-hole, which is an uncommon way: And that is all I know.

Mr. Recorder. Mr. *Goodere* and *Mabony*, do either of you ask this Witness any Questions?

Samuel Goodere. No.

Matthew Mabony. No.

(*James Dudgeon* sworn.)

Mr. Vernon. Mr. *Dudgeon*, I think you are the Surgeon's Mate belonging to the *Ruby*?

James Dudgeon. Yes, Sir.

Mr. Vernon. Give Mr. Recorder and the Jury an account what you know relating to this Matter.

James Dudgeon. I am very sorry that I should come on this Occasion against Captain *Goodere*, because he ever behaved towards me in a genteel manner. The Week before this happened, I was told by one of the Officers, that the Captain was going to bring his Brother on board; and on *Sunday* the eighteenth of *January*, about the dusk of the Evening the Barge came down to the Ship. I was at that time walking the Quarter-deck:

some

some of our People seeing the Barge a coming, they said, our Captain is coming on board with his Brother sure enough; but instead of coming up the Quarter-deck, the Captain went down upon the Main-deck, and I still kept walking on the Quarter-deck, expecting to see the Gentleman when he went into the Great Cabbin; but I afterwards found that he was ordered down to the Cock-pit. Soon after, I went down there myself; and the Captain being there, said, Doctor, I have brought a Madman to you, I don't know what we shall do with him, but we must make the best of him that we can; and *Mahony* came down likewise: The Captain sent his Steward for a Bottle of Rum, *Mahony* had a dram of it. The Captain asked Sir *John*, if he would have one? Sir *John* replied, no; for, said he, I have not drank any thing of that nature for two Years past: he groaned several times. There was then one *Cole* at the Foot of the Ladder, to whom also the Captain gave a Dram: then there was a Centinel put upon the Cabbin-door; but *Cole* asked the Captain if he might go in, and the Captain said he might. The old Gentleman made a noise as the Captain went up the Ladder; the Captain told him, we have now brought you on board, and will take care you shall want for nothing. After the Captain was gone, *Cole* wanted to go in, but the Centinel would not let him; telling him, that his Orders were to let none in but *Mahony*: however *Cole* went up, and got leave of the Captain to go in, and he did go in. Soon after this, the Captain came down again to the Cock-pit, and came into my Place, and sat down; and after talking of things promiscuously, he said, he believed it would be proper for me to go and feel his Brother's Pulse; or else, Doctor, he said, do you chuse to leave it alone till To-morrow Morning? I made answer, that To-morrow Morning might be the best time; because the Gentleman may be much confused, by being brought down on the Water. Come, said he, let us go in now; for I believe, it will be as well. If you please, Sir, said I, I will; so the Centinel opened the Door, and we both went in. Immediately after, the Captain went out again, and forthwith the Door was shut upon me; which very much surpris'd me, to think that the Captain should leave me with a Madman, and I observed the Captain to peep through: I then asked the Gentleman what he mostly complain'd of, and felt his Pulse; he then made some Groans, and told me, that he had got a great cold last Week at *Bath*, and that he felt a severe Pain in his Head. I was going to ask him some more Questions, but the Captain called me, and said, Don't ask him any more questions, but only feel his Pulse. Then the Centinel opened the Door, and I came out, and the Captain and I went into my Place again. Well, Doctor, said he, how do you find his Pulse? Why, Sir, said I, his Pulse are very regular. Why, said he, I believe he was pretty much hurried upon the Water. Then the Captain went up the Ladder, and a little while after he came down again; there were two Midshipmen with me in my Place, and when the Captain came in, they went to go out, but he desired one of them to stay, for he had something to say to him, because he was to go up for Letters in the Morning: so we sat down, and talked of various things; but I informed the Captain, that the old Gentleman have had hard Lodging To-night. Why,

said he, I would put another Bed in there, and have given him clean Sheets, but he would not hear any thing of this kind. Then said he to me, Doctor, I believe it will not be amiss to take an Inventory of every thing he has about him, for fear it should be reported that he is robbed. I replied, Sir, it may not be amiss. By and by *Cole* came tumbling down the Ladder, the Midship-man opened the Curtain to see who it was; Captain, said he, that is *Cole*; and I then told that *Cole* had been drunk a great Part of that Day. Soon after that the Captain opens the Curtain, and sees *Mahony* stand by the Centry. *Mahony* said he, I thought you had been about the thing which I sent you to do; which, I take to be getting the Money out of the Gentleman's Pocket. No, Sir, said he, I chuse to do it after he is asleep. Very well, said the Captain. Then the Captain spoke to the Midship-man, and said, Mr. *Marsh*, you are to go up for Letters to-morrow, and if any one takes notice of what was done to-day, you may tell the People that it is my Brother, and he is very much disordered in his Brains, and I have got him on board in hopes of getting Relief for him. Sometimes, Doctor, says he, he can talk as well as you or I; but at other times, he is very much out of order. About eight o'clock I was for going to bed, but did not till an Hour and a half after; and about that time Sir *John* was making a great noise, and asking who is without the Door, what must I do my affairs in the Cabbin, what a shame is it, will not you let me have any thing to do it in? But nobody made any Reply. Upon which I said to the Centinel, why don't you answer the Gentleman, are not you ashamed of it? Upon which, I suppose, one went up to the Captain, and he came down, and said, he was sorry that the Gentleman should make such a Disturbance; but he hoped, that the first Night would be the worst: Upon which the Captain went up, and *Mahony* went in; and I heard the Gentleman and him talking together, and he asked *Mahony*, what his Brother was going to do with him? What, says he, does he say, I am mad? Formerly I used to be so, but now I have not tasted any thing stronger than Water these two Years, But, said he, to be sure these Fellows are not Sailors, who attacked me this day; they are not Sailors, for if so, they are sadly degenerated from what Sailors were formerly; for I myself have been at Sea, and might have been a Commander. About half an Hour after Ten, I fell asleep, but was very uneasy. About twelve the Centinel was sent for to go up to the Captain, but soon came down again; and about half an Hour after two I awaked, hearing some stir in the Cock-pit; and I heard *Mahony's* Voice in the Cabbin, saying, Lie still, and sleep, Sir. In a short time after that I heard a Struggle, and Sir *John* cried out, here is twenty Guineas for you, take it; must I die? And it seemed to me by his speaking, that they were stifling his Mouth. Upon which the Person who stood Centry on the Cabbin turned the Key, whereupon *Mahony* cried out in a terrible pucker, Damn ye, keep the Door fast. Upon which I spake, and said, What is the matter, what a noise is that? And the Person who stood Centinel made answer, Nothing at all, nothing at all; so I lay still a while, and all was pretty quiet. A little time after that, *Mahony* called for a Light and the Cabbin-door was opened, and a Light handed

handed in; the Cock-pit was then in Darkness, so all was quiet again for some time. Soon after that the Cabbin-door was opened again, and I heard as if two or three People were coming out of the Cabbin, and heard *Mabony* say, Which way shall I go? And somebody made answer, You may go through the Hatch-hole. He repeated the Question, Which way shall I go? And the other answered, By the Ship-side. I then thought somebody had been murdering Sir *John* sure enough, and they are carrying off his Body that way; at the same time a Person stept up the Cock-pit Ladder, and I heard the Captain's Voice, and he said, Centry, if he makes any more noise, let me know it; but I thought within myself, that he was past that. After this was past, all was pretty quiet, and the Centinel kept walking without my Room: I was cautious of speaking to him, not knowing who he was; but soon after one of the Captain's Servants came down to the Store-room for Liquor, and he asked the Centry whether he had made any noise lately? To which he reply'd, you may tell the Captain that the Gentleman hath been at the Lock. About half an Hour after, the Person who was upon the Watch came to me, and asked, If I had any Commands on shore, for the Boat was going up? I told him no; but, perceiving by his Voice who it was, I called him to come to me in the dark, and I whisper'd and said to him, Mr. *Heathorne*, here hath been a hellish Cabal to-night, I believe they have murdered the Gentleman; doth *Mabony* go on shore? He answered, that he did; then, said I, the thing is done. I then asked who was the Centry without my Door, and he told me; whereupon I called the Centry to me, and asked him, what noise and cabal is this that hath been here to-night? He said, he did not know; but the Captain, said he, hath been down several times to-night, and that he had taken the Sword from him. Just after this, in came *Edward Jones* the Cooper, and his Wife, shaking and trembling; and said, *White* and *Mabony* had murdered the Gentleman sure enough. I told them, I did believe they were both going on shore; and I would, said I, have you tell the Lieutenant what you saw of the matter, and let him know that I am of the same opinion with you: but do you first go into the Steward's Room and draw the Scuttle, and then you'll see whether he is dead, or no. Upon which they went and drew the Scuttle, and a Cat fled in their Face, and they found the Gentleman lay in the same posture as *White* and *Mabony* left him. I then bid them go and tell the Lieutenant the matter, that those Fellows might be prevented from going ashore; but yet, said I, we can't stop them neither, seeing they have the Captain's Orders. Then went *Jones* up forthwith, and, I believe, told the Lieutenant; and I also stept up to him just after, and told him, that I believed Sir *John* was actually murdered; for said I, there have been a terrible noise in the Cock-pit to-night, and the Captain himself was there this Morning when 'twas almost three o'clock, and the Men that were with him are going on shore. The Lieutenant answered, that he could not stop these Men from going ashore, because the Captain hath given them leave; so, said he, we must let it alone till Morning, to see whether the Gentleman is dead, or no. About eight o'clock in the Morning I went to him again; but he told me it was best to defer it till we did

see whether the Captain sends down to him, or not. It is, said he, no way proper for us to think of seizing the Captain, till we see that the Gentleman is actually dead, and have reason to think he is murdered. When the Captain's Breakfast was ready, he sent for the Lieutenant and me to come and breakfast with him: accordingly we did; and soon after there was a Shore-boat came towards us, and then Mr. *Chamberlayne* came on board, and went to the Lieutenant's Cabbin; and the Lieutenant told that Gentleman, that they were then going to seize the Captain, for it was believed that he had been accessory to the Murder of his Brother. Immediately a Message was brought by one of the Men, that Sir *John* was dead: upon which the Captain was forthwith seized by eight or ten Men.

Mr. *Vernon*. How far was your Cabbin from the Purser's?

James Dudgeon. I can't say certainly, but believe about three Yards.

Mr. *Vernon*. Did you view the Body of the Deceased whilst he lay dead in the Purser's Cabbin?

James Dudgeon. I did.

Mr. *Vernon*. And did you find any visible Marks of Violence upon him?

James Dudgeon. Sir, I saw no Rope, but he had a Neck-cloth about his Neck, and there were some Marks in his Neck, which looked like the scratching of Nails; and I believe that he was strangled, the Blood came out of his Nose and Mouth.

(*William Macguinis* sworn.)

Mr. *Vernon*. Was you on board the *Ruby* Man of War at the time when this matter happened?

William Macguinis. Yes, Sir, I was.

Mr. *Vernon*. Then give an account of what you know concerning it.

William Macguinis. The Night in which the Gentleman came on board, I was appointed to be the Centinel at twelve o'clock; but when the Gentleman came on board, I was in my Hammock. I was called up to stand Centry in the Gun-room; and (please you, my Lord) I had not been long on my Post before I saw the Captain come down; and soon after I saw *Mabony*, that Man there (pointing at the Prisoner *Mabony*) also come down. I stopt him, and asked him where he was going? Damn your Blood, you Son of a Bitch, what is that to you; how busy you make yourself? And when he came to the bottom of the Cock-pit-Ladder, I heard him say to another Man, Come here, this is the way? But who it was he spake to, I know not. This was a little after two o'clock. The Captain espied me, he made towards me, and waved his naked Cutlash, and said, Stand back! stand back!

Mr. *Vernon*. Where was Mr. *Goodere*, when he advanced towards you, and bid you stand back?

William Macguinis. The Captain was down in the Cock-pit then.

Mr. *Vernon*. Had he any thing in his Hand?

William Macguinis. Yes; he had a Cutlash. *Duncan Buchanan* had been standing Centinel in the Cock-pit, but was released by the Captain.

Mr. *Vernon*. What more did you see?

William Macguinis. I saw *Mabony* go into the Purser's Cabbin, and afterwards, I saw the Captain and *Mabony* come up again from the Cock-pit.

Mr. *Vernon*. About what time?

William Macguinis. I believe it was then about three o'clock.

Mr.

Mr. Recorder. Mr. Goodere and Mabony, do either of you ask this Witness any Questions?

Samuel Goodere. No.

Matthew Mabony. No.

(Mr. Walker sworn.)

Mr. Vernon. I think you are the City Mason?

Walker. I am.

Mr. Vernon. Look upon that Watch, and give an Account how you came by it?

Walker. I found it in the Necessary-house, at the Brockware-Boat, a Public-house on the Back.

Mr. Vernon. Who kept that Public-house at the time you found the Watch?

Walker. One Culliford.

Mr. Vernon. Was it accidentally, or upon Search that you found the Watch?

Walker. I searched for it in the Necessary-house, by the Justices Orders; when I found it, the Case was in one Place, and the Watch in another, about a Yard apart.

(Sarah Culliford sworn.)

Mr. Vernon. Look upon that Watch, Mrs. Culliford; you live at the Sign of the Brockware-Boat on the Back, do you not?

Sarah Culliford. Yes, Sir.

Mr. Vernon. Do you take that to be the same Watch, that was found by Mr. Walker, the City Mason, in your Necessary-house?

Sarah Culliford. Yes, Sir; I believe it is the same.

Mr. Vernon. From whom did you receive it, before it was thrown into the Necessary-house?

Sarah Culliford. I received it from Mabony's Hands, that Man there; (pointing to the Prisoner Mabony.)

Mr. Vernon. How long before he was apprehended?

Sarah Culliford. I had it in my Possession about two Hours before, and two Hours after he was taken up.

Mr. Vernon. And what became of it afterwards?

Sarah Culliford. This young Man (meaning the Prisoner Mabony) was drinking in my House, he pulled out the Watch, delivered it to me, and desired me to keep it for him until he did call for it: Some Time after I had Business to go out, I went into Town, and had the Watch in my Pocket; when I came back, my Children told me that the Constable had been there to search the House for it, which much surprized me; I went and threw the Watch into the Necessary-house, for fear I should come in Trouble.

(Jesias Fussell sworn.)

Mr. Vernon. Mr. Fussell, look on that Handkerchief, and give an Account from whom you had it, and when?

Jesias Fussell. I had this Handkerchief from Mabony, on the 19th of January last, the Night when we took him, I found it upon his Neck; when he was seized, he took it off; I took it out of his Hand, it was bloody then as it is now, I put it into my Pocket.

(Mr. John Mitchel, Chief Clerk to the Town-Clerk, sworn.)

Mr. Vernon. Mr. Mitchel, what Paper is that in your Hand?

Mr. Mitchel. The Examination of Matthew Mabony, the Prisoner at the Bar, taken before Henry Combe, Esq; Mayor.

Mr. Vernon. Did you see the Prisoner Mabony sign it in his Presence?

Mr. Mitchel. Yes, Sir.

Mr. Vernon. Did he do it voluntarily?

Mr. Mitchel. He did.

Mr. Vernon. Did you see Mr. Mayor sign that Examination?

Mr. Mitchel. Yes, I did.

Mr. Vernon. Then I desire it may be read?

Mr. Recorder. Read the Examination?

Clerk reads the Examination, in these Words:

City and County } to wit; THE voluntary Examination and Confession of Matthew Mabony, a Native of Ireland, aged about 21 Years. This Examinant confesseth and saith, That about sixteen or seventeen Days ago, and several times since, he was desired by Mr. Goodere, Captain of the Ruby Man of War, now lying at King-Road, in the County of the City of Bristol, to seize his, the Captain's Brother, Sir John Dineley Goodere, Bart. and bring him on board the said Man of War; and that on Tuesday last, this Examinant and the Crew belonging to the Man of War's Barge, and Edward Mac-Daniel, John Mac-Gravee, and William Hammon, Privateer's Men, were placed by the said Captain at the White-Hart Alehouse opposite St. Augustine's Church, in order to seize Sir John Dineley Goodere that Day; but it so happened, the Captain forbid them to do it then. And that on Sunday last, this Examinant, the said Barge's Crew, or the greatest Part of them, and George Best Cockstern of the Barge, the said Edward Mac-Daniel, John Mac-Gravee, William Hammon, and one Charles Bryer, Privateer's Men as aforesaid, were again placed at the White-Hart aforesaid, to seize the said Sir John Dineley Goodere, and waited there for some Time; and he coming out of Mr. Jarrit Smith's House, and coming under St. Austine's Church-Yard Wall, this Examinant and his Comrades pursued him, and near the Pump there, they came up with him, and told him there was a Gentleman wanted to speak with him; and he asking where the Gentleman was, was answered a little ways off, and he went quietly a little way, but no one appearing, he resisted and refused to go, whereupon this Examinant and Comrades sometimes forcibly halled and push'd, and at other Times carried him over St. Austine's Butts, Captain Day's Rope-walk, and along the Road to the Hot-Well, (Captain Goodere being sometimes a little behind, and sometimes amongst the Croud all the way) till they came to the Slip where the Barge lay. But Sir John was very unwilling to go, made the utmost Resistance, and cryed out Murder a great many Times; and when he was put into the Barge, called out and desired somebody would go to Mr. Jarrit Smith, and tell him of his ill Usage, and that his Name was Sir John Dineley. Whereupon the Captain clapt his Hand on Sir John's Mouth to stop his speaking, and told him not to make such a Noise, he had got him out of the Lion's Mouth (meaning the Lawyers Hands) and would take care he should not spend his Estate; and bid the Bargemen row away, which they did; and in their Passage to the Man of War, the two Brothers bicker'd all the Way: But when they came to the Man of War, Sir John went on board

board as well as he could, and the Captain took him down into the Purser's Cabbin, and staid a little Time with him, and treated him with a Dram of Rum, and then left him for a considerable Time. And in the Interim sent for this Examinant into his, the Captain's Cabbin, and there told this Examinant he must murder his Brother, for that he was mad, and should not live till Four o'Clock in the Morning; and this Examinant reasoning with him, and telling him he would not be concerned, and that he thought he had brought him there with Intent only to bring him to Reason, and take care that he should not spend his Estate in Law, and to have a perfect Reconciliation; but the Captain still insisting, that as this Examinant had taken him, he should do it; and this Examinant then saying, he was not able to do it of himself; the Captain replied, if this Examinant could get nobody else, he and this Examinant must do it themselves. And then ordered him to call one *Esba Cole*, and he being too drunk to undertake such an Affair, bid this Examinant call one *Charles White*, a very stout lusty Fellow, and the Captain gave him a Dram, and bid him sit down, and soon gave other Drams, and ask'd if he could fight, and told him here's a Madman, he must be murdered, and thou shalt have a handsome Reward. And this Examinant, the said *Charles White*, and the Captain, being all agreed to murder the said *Sir John Dingley Goodere*, the Captain then proposed the Method, and produced a Piece of Half-inch Rope of about nine Foot long, and *Charles White* having made a Noose in the Rope, the Captain said, applying himself to this Examinant and the said *Charles White*, You must strangle him with this Rope, and at the same time gave the Handkerchief now produced, that in case he made a Noise, to stop his Mouth; and said, I will stand Centinel over the Door whilst you do it; and accordingly instantly went out of his own Cabbin, and turned the Centinel from the Purser's Cabbin-Door, and let this Examinant and *White* into the Purser's Cabbin, where *Sir John Dingley Goodere* was lying in his Clothes on a Bed: The Captain having pulled to the Door, and standing Centinel himself, the said *White* first strangled *Sir John* with his Hands, and then put the Rope about *Sir John's* Neck, and halled it tight, and *Sir John* struggled, and endeavoured to cry out, but could not. And this Examinant confesses, that whilst *White* was strangling *Sir John*, this Examinant took care to keep him on the Bed, and when one End of the Rope was loose, this Examinant drew and held it tight; and thus each bore a part till *Sir John* was dead; and they having rifled the deceased of his Watch and Money, knock'd at the Door to be let out; and the Captain called out, Have you done? They replied, Yes. He opened the Door, and asked again, Is he dead? and being answered in the Affirmative, and having a Light, Iwore by God he'd be sure he was dead; and then went in himself, and returning, locked the Door and put the Key in his Pocket, and they all went together to the Captain's Cabbin again, and there this Examinant gave the Captain *Sir John's* Watch, and the Captain gave this Examinant his own Watch in lieu of it; and then the Captain gave them both some Money, and *White* afterwards gave this Examinant eight Guineas, as

part of the Money he took out of the Deceased's Pocket, and then the Captain ordered them to be put on shore in his own Boat. And further, this Examinant confesses, and saith, That before and after the Murder was committed, the Captain, *Charles White*, and this Examinant consulted what to do with the Corpse; and the Captain proposed to keep it two or three Days in the Ship, and as he expected to go to Sea, would sew it up in a Hammock, or something else, and there throw it overboard: And that before this Examinant and his Comrades were sent to seize *Sir John*, as is before set forth, they were ordered by Captain *Goodere*, that, if they met with any Resistance they should repel Force by Force, and were prepared with short heavy Sticks, or Bludgeons for that purpose.

Matthew Mahony.

Mr. Recorder. [Speaking to the Jury.] Gentlemen, you are to take notice, that this Confession is Evidence against the Prisoner *Mahony* alone, and so far only ought you to regard it. It is no Evidence, nor ought you to lay any Stress upon it, as against the Prisoner *Goodere*.

Mr. Vernon. Mr. Recorder, we have gone through with our Evidence of the Fact, and here we should have rested it, were it not that Mr. *Goodere*, by his strict Enquiry into the Spot where the Ship lay, seems to question whether it was within this County or not: A Question, which, I confess, I no more expected to hear of, than whether we ourselves are now within it. However to obviate all Pretence of that Kind, and give the Gentlemen of this Jury as full Satisfaction in the Point, as undoubtedly the Grand Inquest for the Body of this County had before they found the Bill, we shall beg leave to call a Witness or two, just to shew that *King-Road* has been constantly taken to lie within the City and County of *Bristol*; and that accordingly the Sheriff's Officers of *Bristol*, from time to time, have used to execute both the City and County Process in *King-Road*; which, I apprehend, will of itself be satisfactory Evidence, without entering into any other Disquisition of the County Limits. Call Mr. *Wint*.

(*John Wint* sworn.)

Mr. Vernon. Mr. *Wint*, what Officer are you in *Bristol*?

John Wint. I am an Officer to the Sheriff's of *Bristol*, and have been so for these thirty Years and upwards.

Mr. Vernon. Have you been used, as an Officer to the Sheriff's of *Bristol*, to serve Process in *King-Road*?

John Wint. I have served Process in *King-Road* forty or fifty Times.

Mr. Vernon. How far down the River?

John Wint. Very often down as far as *Passat Point*.

Mr. Recorder. What Kind of Process have you served there?

John Wint. Town Actions out of the Mayor and Sheriff's Court, and out of the Piepowder Court.

Mr. Recorder. Have you ever executed Process there which was directed to the Sheriff's of *Bristol*?

John Wint. Yes, Sir, I have served Sheriff's Warrants, or Writs, issued from above, out of

of the Court of *King's-Bench* and *Common-Pleas* to the Sheriffs of *Bristol*.

Mr. Recorder. Mr. Goodere, will you ask this Witness any Questions?

Samuel Goodere. Yes, Sir: Is all that is called *King-Road* within the Liberty of the City of *Bristol*?

John Wint. Yes it is.

Samuel Goodere. Are you sure of it?

John Wint. I know where the Ship *Ruby* lay was within the City of *Bristol*.

Samuel Goodere. How do you know that?

John Wint. Because I have been down with the Mayor to the *Holmes*.

Mr. Vernon. Call Mr. *Lowden*.

(Mr. *Lowden* sworn.)

Mr. Vernon. What Officer are you, Mr. *Lowden*?

Lowden. I have been an Officer in this City about nineteen Years: I have served Town Actions, Town Warrants, and Warrants made out upon Writs from the Courts of *Westminster-Hall*, and the *Admiralty*, in *King-Road*: And any Part of *King-Road* on the Southward of the *Demay*, we always take it to be in the Liberties of *Bristol*.

Mr. Vernon. Mr. Recorder, we have done.

Mr. Recorder. Mr. Goodere, and Matthew Mahony, the Counsel for the King has gone thro' with his Evidence, and now is your Time to enter upon your Defence.

Samuel Goodere. May it please your Lordship, I shall endeavour to give you and the Jury as little Trouble as possible. I shall call Evidence to prove that the Gentleman was a Lunatick, and disordered in his Senses, and I was doing my best to take care of him.

Call Mrs. *Gethins*.

Mr. Recorder. What do you call her to prove?

Samuel Goodere. I call her to prove that before my Brother was taken on board, I was to take an Upper-room of her to put him in, where he might be taken care of, to cure his Madness.

Mr. Recorder. What, Mr. Goodere, do you admit then that you did take your Brother on board?

Samuel Goodere. I do admit that I carried my Brother on board. I went in the Boat along with him.

(Mrs. *Gethins* sworn.)

Samuel Goodere. Mrs. *Gethins*, did I not speak to you a Fortnight or three Weeks before my Brother was taken on board the Ship, to have a Garret of you to put him in, and that Mahony was to have five Pounds a Month to take care of him?

Mrs. Gethins. The Prisoner Captain Goodere, did ask me if I had not a Garret to let him keep his Brother in, for that he was a Mad-man: And Captain Goodere never made it a Secret that he intended to take and keep his Brother as a Mad-man.

Samuel Goodere. Whether I did not tell you that Mahony was to take care of my Brother a Fortnight or three Weeks before he was taken on board? Speak to the time as near as you can recollect; and whether you knew that Mahony was to have five Pounds a Month, and that I made no manner of Secret of it, and that I endeavoured to take care of him as a Lunatick.

Mrs. Gethins. Sir, I have already said that you spoke to me about a Room to put your Brother in, but what you mention about Mahony, I know nothing of that.

Mr. Vernon. Pray is *King-Road* in the Road to your House?

Mrs. Gethins. No, Sir.

Mr. Vernon. Was your Garret a proper Place of Accommodation for a Gentleman, and one who was esteemed an *English* Baronet think you? Pray, do you keep a Mad-house, Madam?

Mrs. Gethins. No.

Mr. Vernon. Don't you think such a Confinement would have been the way to have made him mad?

Mr. Recorder. Was any Person as you know to have taken care of him in your Garret?

Mrs. Gethins. I have heard the Captain talk with his own Doctor about it.

Samuel Goodere. I shall give you and the Jury as little trouble as may be. I have an Evidence in Relation to Mahony and White's going away at Four o'Clock in the Morning, because it is charged that I sent them away. The Boat went away in the King's Service to bring Letters.

(Mr. *Marsh* sworn.)

Samuel Goodere. Did you go ashore in the Morning about the King's Business, or what Business did you go about?

Mr. Marsh. I had an Order about Eight o'Clock the Night Sir John was brought on board to go up in the Morning to *Bristol* for the Letters from the Admiralty, and about Four of the Clock in the Morning I was called up to go; but the Lieutenant seemed much disordered, and bid me come to him before I set out. I waited on the Lieutenant, and told him, that White and Mahony said they had Liberty to go on shore, that the Captain had given them Liberty to go; the Lieutenant said, he knew nothing of it. But as it is always my way, before I carry any body off, I said, I would go to the Captain and ask leave. I went to the Captain, and asked him, if White and Mahony had Liberty from him to go on shore? and he said, Yes, let them go.

Samuel Goodere. Mr. Marsh, did you go upon the King's Business, or on purpose to take up these Men?

Mr. Marsh. I went about the King's Business.

Mr. Vernon. But it was after Sir John was brought on board, that Mr. Goodere ordered you to go up?

Mr. Marsh. Yes, Sir, it was.

Mr. Vernon. Did any body else go up with you, besides Mahony and White?

Mr. Marsh. No, there did not.

Mr. Vernon. Did Mr. Goodere give you Orders to put them on shore in any particular Place?

Mr. Marsh. I will do Justice between Man and Man; the Captain did not give me Orders to put them on shore in any particular Place.

Mr. Vernon. Were they landed publicly or privately?

Mr. Marsh. I put them on shore at the *Gibb*, about six of the clock in the Morning.

Samuel Goodere. Now, may it please you, Sir, I shall shew that Mahony had business at *Bristol* that Day by Appointment, to receive some Wages

that was due to him; for which purpose I shall call Mr. Dagg.

(*Abel Dagg*, Keeper of *Newgate*, sworn.)

Samuel Goodere. Do you know any thing of Captain *Mervin*, and of *Mahony's* coming to *Bristol* on the *Monday* to settle an Affair with him?

Abel Dagg. There was one Captain *James Mervin* who sailed into this Port, and on his coming was charged as a Debtor in my House, at the Suit of some Gentleman in *London*, in an Action of three or four hundred Pounds. *Mahony* was one of his Sailors until he was prest, and he charged the said *Mervin* with an Action for his Wages. Captain *Mervin* had a desire to make up the matter with *Mahony*. I went to the Captain of the Man of War the *Tuesday* or *Wednesday* before this Affair happened, which was the first time I ever saw him, to the best of my knowledge: The Captain said he would meet me the *Monday* following, in order to accommodate the difference.

Mr. Vernon. Was *Mahony* appointed to meet you that Day, or not?

Mr. Recorder. Mind the Question, was *Mahony* to come that *Monday*?

Abel Dagg. The Captain made an Appointment, my Lord, to meet on the *Monday*; and I told Mr. *Taylor* the Attorney, that *Mahony* was to come on shore that day, to make up the matter between him and *Mervin*.

Mr. Vernon. I would ask you another Question; Had *White* too any Affair to make up at *Bristol*?

Abel Dagg. No, I know nothing of that.

Samuel Goodere. Now I call *Bridget King*.

Mr. Recorder. What do you call her for?

Samuel Goodere. Touching the Lunacy of Sir *John Dineley*.

(*Bridget King* sworn.)

Samuel Goodere. Mrs. *King*, will you give the Court an account of what you know of the Lunacy of my Brother Sir *John Dineley*.

Bridget King. P'le you, my Lord, I think he was mad; for he would get up at two or three of the clock in the Morning, and call his Servants up, and fall a singing; and then he would go to bed again, and swear it was but twelve o'clock at Night, and lie a-bed all Day. He would send his Boy out all over his Grounds to pick up Stones, and have the Wheelbarrow rattling about the Streets on a *Sunday*: he hath ringed the Bell to call his Servants up to his Bed-side, and when they were come up, he would ask them what they did there, and swear they were come to shoot him? He himself hath gone over all his Grounds on a *Sunday* to pick Sticks, and hath sent his Servants to Market when there was none; and he would be busy in every thing, and hang on the Pot himself; and he hath been quite raving mad.

Mr. Vernon. Did you live as a Servant with Sir *John*?

Bridget King. I lived as a Servant with him in *London*, and he came down for the Air to *Tockington*; he brought me down to go to *Bath*.

Mr. Vernon. How long did you continue with him?

Bridget King. A Twelvemonth, Sir.

Mr. Vernon. And how durst you venture to live so long with a Mad-man? He did not go mad for love of you, I hope? Have you lived any time in *Bristol*?

Bridget King. No.

Mr. Vernon. Then I suppose you came but now from *London*.

Bridget King. Yes, I did.

Samuel Goodere. Do you believe he was a Mad-man?

Bridget King. In the Actions that I have seen by him, I have reason to think he was a Mad-man.

(Mrs. *Mary Stafford* sworn.)

Samuel Goodere. Mrs. *Stafford*, will you tell his Lordship and the Jury what you know of Sir *John* being a Lunatick?

Mary Stafford. Sir *John* hired me for a House-keeper in *London*, and told me he had a great many Servants, and he wanted a House-keeper. When he brought me down, he ordered me to his Seat at *Tockington*; where, he said, he had a great deal of Company frequently. When I came there, I found there was nothing in what he had told me; for, instead of a great many Servants, he had but one: a poor old thattered House, ready to tumble down about one's ears, and the Household Goods all to pieces: he was a Mad-man; for if I had followed his Directions in any thing, I should have done mischief. He hath sent me and the rest of his Servants to *Thornbury* Market, when there was none; he hath ringed the Bell to call his Servants to come to his Bed-side to him, and when we have come up to him, he hath asked us, what we did there? Sir, said I, you called me up; he hath said, he did not: and after we had been there a quarter of an Hour, he would take a Knife, Fork, Glass-Bottle, or any thing that came in his way, to throw at us, asking of us, what did we come to rob him? And I was afraid of my Life, to live with him. I do believe he was a Mad-man, or else he would never have acted as he did: he would go into the Kitchen, and take the Pot and hang it on the Fire. I style him a Mad-man by his Actions.

Mr. Vernon. And must he therefore be hanged himself like a mad Dog, think you?

Mary Stafford. I know nothing of that, Sir.

Mr. Vernon. How long did you live with Sir *John*?

Mary Stafford. Three Months, Sir.

Samuel Goodere. Call Mr. *Robert Cock*.

Mr. Recorder. What do you call him to prove?

Samuel Goodere. My Lord, in order to prove Sir *John Dineley* a Lunatick. Mr. *Cock*, will you give an account to my Lord and the Jury what you know of the Lunacy of Sir *John Dineley*?

(*Robert Cock* sworn.)

Robert Cock. My Lord, I have known Mr. *Dineley* at *Charlton* for some Years; I have been several times in his Company; I have seen him do several Acts of Lunacy as a Mad-man.

Mr. Vernon. Where do you live?

Robert Cock. I live in *Cumberland*, when I am at home.

Mr. Vernon. Are you of any Business?

Robert Cock. I am an Officer belonging to his Majesty.

Mr. Vernon. What kind of Officer?

Robert Cock. A Salt Officer.

Samuel Goodere. I will not give your Lordship and the Jury much more trouble. I am entirely innocent; they have not proved that I was present at the Death of Sir *John Dineley*.

Mr.

Mr. Recorder. Don't deceive yourself; though they have not proved that you was actually in the Cabbin, when Sir *John* was murdered, yet they have given Evidence of that, which (if the Jury give Credit to) will amount to Presence in the eye of the Law.

Samuel Goodere. I shall now call some Witnesses to my Character, and likewise to shew how improbable it is, that I should be guilty of the Murder of my Brother. Call Mr. *Pritchard*.

(*Mr. Pritchard* sworn.)

Mr. Pritchard. I have known Mr. *Goodere*, the Prisoner at the Bar, many Years: He always bore the Character of a good Husband, a good Neighbour, and a kind Friend.

Samuel Goodere. I shall call a Person who saw the Will of Sir *John Dineley*; and then any body would think that I should be the maddest Man in the World to commit a Murder that I knew would be Forty Thousand Pounds Damage to me. It was my business, considering the Circumstance of the Will, and that I was Sir *John's* Heir at Law, at all events to preserve him. Call Mr. *Watkins*.

(Reverend Mr. *Watkins* sworn.)

Samuel Goodere. Mr. *Watkins*, did not you see or hear the Contents of Sir *John Dineley's* Will, and did you not tell me presently after the Will was made the Contents of it, and how long was that before his Death?

Mr. Watkins. It was above three Months, or half a Year before his Death, to the best of my Knowledge. It was so long ago, as you dined with me at *Croftborne*.

Samuel Goodere. Did you not inform me, that that Will did cut me off of every thing, and gave the Estate to the *Foots*; and that Sir *John* told you so?

Mr. Watkins. Sir *John* told me that he had made his Will, and had cut his Brother off from every thing; and that he had given the Estate to the *Foots*: of which I told Mr. *Goodere* soon after.

Samuel Goodere. How long ago?

Mr. Watkins. I can't tell exactly; about half a Year, or three quarters of a Year, it might be.

Mr. Vernon. They have been giving Sir *John* the Character of being a Lunatick; I think, Sir, you are Minister of *Croftborne*, and must, I presume, have been pretty conversant with Sir *John*, and a frequent Witness of his Behaviour in that Neighbourhood; be pleased therefore to speak what you know, as to his Sanity or Insanity of Mind.

Mr. Watkins. Sir *John's* Character in my opinion hath been very much misrepresented to the World. During my Acquaintance with him, I have found him to be a good Neighbour, and a kind Friend: He was a Man of strong Passions; if any one affronted him, he would let the Party know that he did resent it. All his Tenants of our Country, and those I have conversed with say, that he was one of the best of Landlords.

Mr. Vernon. I don't ask you, Sir, concerning his moral Character; but whether he was in his Senses, or not?

Mr. Watkins. In his Senses! I saw him last *Christmas*, he was making up his Accounts with several of his Tenants; he was then in very good Understanding.

Mr. Vernon. Pray did you ever know him visited with Lunacy?

Mr. Watkins. I never did; but on the contrary, I take him to have been a Man that always had his Senses in a regular Exercise.

Mr. Vernon. Do you know, Sir, whether there was any Misunderstanding between the two Brothers?

Mr. Watkins. There has been a long Misunderstanding between them.

Mr. Vernon. What have you heard the Prisoner Mr. *Goodere* say, in relation to Sir *John's* making his Will?

Mr. Watkins. I believe he told me; that Sir *John* had not power to make a Will: I told him it was my Opinion, if they would be reconciled together, Sir *John's* Will would not stand.

(*Mr. Thomas* sworn.)

Samuel Goodere. Mr. *Thomas*, how long have you known me, and what was my Character?

Mr. Thomas. I have known the Prisoner, Mr. *Samuel Goodere*, a great many Years, have very often been in his Company: I never found but that he ever behaved with all the Good-nature that possibly could be. I always took him to be a good-natured well-behaved Man, and he is a Man well-beloved in his Country.

(*Mr. Ashfield* sworn.)

Mr. Ashfield. I have known Mr. *Goodere* a great many Years, I never heard any ill of him till this Affair; he is reputed in the Country of a general good Character. I have been concerned for him in several Suits, I never knew any ill of him.

Mr. Vernon. Pray, Sir, what have you heard Mr. *Goodere* say, concerning his Brother's cutting off the Entail of his Estate?

Mr. Ashfield. I have heard Mr. *Goodere* say, that his Brother had no power to cut off the Entail, and that he would set the Recovery aside; I have heard him say that forty times.

Mr. Vernon. What is your opinion as to the Sanity or Insanity of Sir *John*?

Mr. Ashfield. I never thought him a Mad-man; I always thought him one of the best Understanding in the whole Family.

(Reverend Mr. *Rogers* sworn.)

Mr. Rogers. I have been acquainted with the Prisoner *Goodere* several Years, I know he hath behaved very well, done good Offices to all Mankind; and I never heard any other of him.

[*Mr. George Forcivill* sworn.]

Mr. Forcivill. The Prisoner *Goodere* hath been my Neighbour for fourteen or fifteen Years; he hath always behaved well in his Neighbourhood, and has a very good Character; he constantly attended his Church twice a Day *Sundays*, and would be there at Prayers almost every Day; he was always a sober Man, and a good-humoured Gentleman. I thought him to be a good Man.

Samuel Goodere. Mr. Recorder, I would not give you and the Jury any more trouble in relation to my Character; all I have to say further is, my being deprived of Evidence in my Behalf, by reason of my Disorder and the Sickness in the Goal, which hath prevented my Friends from coming to me to advise me about making my Defence; and also of having several Witnesses from on board the Ship, which might have been of great Service to me. I had an Order from the Lords of the Admiralty to require them to stay on shore, if I had occasion for them; but, as the Ship was gone before the Letter came to my hands, I have no occasion now to tell the Names of the Persons.

[Mr. Goodere held up the Letter in his hand, but the Court did not receive it.]

Mr. Frederick. Mr. Recorder, there have been several Aspersions published in the New-papers, to the prejudice of Mr. Goodere; there has been a Pamphlet also published, which I have here in my hand, intitled, *The Bristol Fratricide*; but I hope the Gentlemen of the Jury will take no notice of, nor be influenced by them against the Prisoner.

Mr. Vernon. I dare say they will have no Regard to any Book, but that on which they have been sworn: those who know them and their Characters, must certainly think so.

[The Jury declared they had never seen any such Pamphlet, or Papers.]

Mr. Vernon. Mr. Recorder, we must beg leave to ask Mr. Jarrit Smith's Opinion, as to Sir John's being a Lunatick, or not?

Mr. Jarrit Smith. Mr. Recorder, I am surpris'd to hear it said by some of Mr. Goodere's Witnesses, that Sir John Dineley Goodere was mad; I knew him fourteen or fifteen Years, and conversed with him both in Person and by Letter; but never discovered that he was in the least disordered in his Senses, I always took him to be a Man of sound Understanding. On the Sunday, the Day before his Death, he expressed himself with a great deal of Good-nature and Affection at the sight of his Brother.

Mr. Shephard. Mr. Recorder, with humble Submission, I am instructed to offer it in Evidence, that the Place where the Ship lay is not within this City and County of Bristol.

Mr. Vernon. We have already proved it to be within the County of Bristol; nor is there the least reason to apprehend, that Mr. Recorder will extend the Rule of *Boni Judicis est ampliare Jurisdictionem* to the extending of the County an Inch beyond its ancient and known Limits: He is too just to attempt it. On the other hand, we may depend he will not suffer the County-Limits to be abridged, but *servare Jus illæsum*; and (as he hath hitherto done) discountenance all Encroachments on the Rights and Franchises of Bristol.

Mr. Recorder. It has been proved, and indeed it can't be denied, that at the time the Fact in question was committed, the Ship lay in *King-road*; and I think the Evidence which has been given of the Exercise of Jurisdiction by the Magistrates of the City and County of the City in *King-road*, and of the Sheriff's Officers executing Process of all kinds there, amounts to a full Proof that *King-road* is within the Body of the County of the City of Bristol. It is the same sort of Proof by which the Bounds of every County in the Kingdom must be ascertain'd, the doing Acts in the Place in question by the Officers of the County, which must be done in that County, and no other.

Mr. Goodere. All *King-road* is not in Bristol. Will your Lordship please to admit me to call Mr. Hill? he is a Gentleman that has survey'd the Situation of the Place where the Ship lay, and will describe it.

Mr. Vernon. I am sorry to find Mr. Goodere driven to this Subterfuge in his Defence, I could wish he had one to make on the Merits; if he stands upon his Innocence, what need of all this Stir about the Station of the Ship, or where on Earth can he hope to be tried before a fairer, or more impartial Judicature than the present?

Samuel Goodere. Call Mr. Hill.

Mr. Recorder. Mr. Goodere, if you can shew

that any Part of *King-road* is, or ever was esteem'd to be in any other County than the County of the City of Bristol, I will hear you; otherwise it will be to no purpose to describe the Situation of the Ship, since it is admitted that she lay in *King-road*.—Mabony, have you any thing to say?

Mabony. I hope your Lordship will consider that I was a poor, press'd Servant, and I was drunk when I made the Confession, and I was frightned out of my Wits.

Mr. Recorder. You say you were drunk when you made the Confession; 'tis possible, that Night when you were first taken and brought before the Magistrates, you were in Liquor, but it seems your Confession was not taken 'till the next Day.

Mabony. My Lord, I was in *Bridewell*, I did not sleep a Wink the whole Night.

Mr. Recorder. Have you any Witnesses to call?

Mabony. No, please your Lordship, I am a Stranger here, I have no Witnesses to call.

Mr. Vernon. Mr. Recorder, I apprehend we are in a Case exceeding clear against both the Prisoners at the Bar; and, considering that Death and Life are in the Power of the Tongue, I am unwilling to reply, where Life is at stake; but, as Mr. Goodere seems to lay some Strefs on the Circumstance of his not being actually in the Cabbin, at the time his Brother was murder'd there, I beg, Sir, you will indulge me an Observation or two as to that single Point: Not that I imagine the least Doubt in Law can remain with Mr. Recorder, but being in the Case of a Capital Prosecution, I would leave no Objection unanswered that has the least Dependence on the Law; and I agree, Sir, that in order to bring Mr. Goodere within the Compass of the Indictment, he must appear to have been present, as an Abettor, at the Perpetration of the Murder. The Law is extremely clear in this Particular, but then it is as clear, that if several Persons are engaged in a Design of murdering another, and one of the Party stands upon the watch, at the Room or House-door, whilst the rest actually commit the Murder, he is, in the Judgment of the Law, present at the Murder, and as much a Principal in it as the rest: and the Law is the same, though he stood at a considerable distance from the Place where the Murder was committed, as at the Gate or the Lane's End; for it is not necessary he should be *in Conspectu*, if near enough at hand to embolden his Accomplices in the Murder, through the Hopes of present Assistance, or Security from the Person upon the watch. And so it is expressly laid down, in Lord Chief-Justice Hale's History of the Pleas of the Crown, in the Chapter of *Petit-Treason*; where he says, that if a Wife or Servant conspires with a Stranger to kill the Husband or Master, and be in the same House with the Stranger whilst he commits the Murder, the Wife or Servant is guilty of *Petit-Treason*, though not in the same Room where the Murder was committed. The same Doctrine is laid down in second *Hawkins's Pl. Cor.* 312. (whom as a living Author I cite, only for the sake of the Authorities he has been at great Pains in collecting.) And the Case of Lord Dacre is full in point: My Lord Dacre, with *Mansel* and several others, went by Night into another's Park, unlawfully to kill Deer; my Lord waited about the Park-Gate upon the watch, whilst the rest went a quarter of a Mile into the Park, where they met

met and killed the Keeper; Lord *Dacre*, though at so great Distance when the Keeper was killed, was adjudg'd a Principal in the Murder, and accordingly died for it. And agreeable to this, was likewise the Case of *Berry*, (the Porter of *Somerset-House*) who was concerned with *Green*, *Hill* and others, in the Murder of Sir *Edmund-Bury Godfrey*; some of them way-laid that worthy Magistrate, and having inticed him into the Yard leading to *Somerset House*, *Green*, *Hill* and others strangled him. *Berry* was one of their Gang, and whilst the others were committing the Murder, stood at a great distance from them on the watch, upon the Stairs leading to the upper Court of *Somerset-House*: he was indicted with *Green* and *Hill*, as being present and abetting the Murder, and upon this Evidence was convicted and executed. Gentlemen of the Jury, in the Case now before you, it is fully made out in Proof, that the Deceased was under one continuing armed Force, from the Instant of his being seized to that of his Death; and that his Brother (the Prisoner *Mr. Goodere*) put and kept him under that Force. Then, Gentlemen, *Mr. Goodere's* displacing *Buchanan* from the Cabbin-door, and placing himself there in his stead, with the drawn Sword in his Hand; *Mahony's* entering into, and being let out of the Cabbin, whilst *Mr. Goodere* kept Guard at the Door of it; *Mr. Goodere* waving his Sword at *Macguinis*, and handing in the Candle; the dying Outcries of his Brother (which could not but reach his Ears, thought not his Heart) and other black Ingredients in this dreadful Case, are an undeniable Proof that *Mr. Goodere* was concerned with *Mahony* and *White* as their Accomplice in his Brother's Murder, and took his Stand at the Cabbin-door with no other Intent than to embolden and assist them in the Perpetration of that cruel Act, and keep off others from coming to his Brother's Relief, or from disturbing them in the fatal Business they were about. Under which Circumstance he is guilty in the same degree as *Mahony*; and in the Eye of the Law looked upon to have been as much present at his Brother's Death (as an Abettor of the Murder) as if he had stood by the Bed-side and held the Sword over his Head, whilst *Mahony* was strangling him. So that, Gentlemen, I apprehend we have made good the Indictment against both the Prisoners, by clear and convincing Evidence; and therefore doubt not but their Guilt will stand recorded to future Ages by the Justice of your Verdict.

Mr. Shephard. *Mr. Recorder*, will you please to indulge me a Word as to the Point of Law? *Mr. Vernon* mentions, in the Case of the Park that he hath taken notice of, the Lord *Dacre* and his Party came by Night unlawfully to kill Deer, and therefore the Law presumed they all came with an intent to oppose all that should hinder them in that Design; and so when one killed the Keeper, it must be presumed the Act of all, because pursuant to that intent. But whether the present Case is circumstanced as that Case, ought to be considered. I do admit that *Mr. Goodere* was down in the Cock-pit at the time this Fact was done, and he was certainly obliged (as hath been observed) by the Law of Nature to take care of his Brother. But if he had no other Intention of carrying him on board the Ship, than to secure and take care of him as a Person whom

he looked upon as disordered in his Senses; and with a view of reducing him to Reason; then surely *Mr. Goodere's* Case is very different from the Lord *Dacre's*. And that *Mr. Goodere* did look upon his Brother to be so —

Mr. Recorder. *Mr. Shephard*, you are going off from the Point of Law to Matter of Fact; I shall charge the Jury, that if they believe *Mr. Goodere* stood at the Cabbin-door in order to prevent any Persons coming, who might have prevented the Murder, or to encourage those within the Cabbin in the Business they were about, they must find him guilty on this Indictment; otherwise they must acquit him.

Mr. Shephard. If he was not there with that Intention, he cannot be guilty; and in this Case no such Intention appears.

Mr. Recorder. His Intention is Matter of Fact; which must be left to the Jury on the whole Evidence.

Gentlemen of the Jury,

THE Prisoners at the Bar, *Matthew Mahony* and *Samuel Goodere*, stand indicted for the Murder of Sir *John Dineley Goodere*. And the Indictment charges that *Mahony* strangled him; and that the Prisoner *Goodere* was present, aiding and abetting him in the Fact. They are both charged as Principals in the Murder. For, Gentlemen, in the Eye of the Law, the Person who is present, aiding and abetting, is as much a Principal in the Murder, as the Person who actually commits the Fact. Whether the Prisoners, or either of them, be guilty in manner charged in the Indictment, you are to determine upon the Evidence you have heard.

The Evidence has been very long; but I will endeavour to lay the material Parts of it before you in such a light, as may best assist you in your present Enquiry.

'Tis out of all doubt, that Sir *John Dineley Goodere* was strangled on board the *Ruby Man* of War in *King-road*, in the Night between the eighteenth and nineteenth of *January* last. And therefore what pass'd at that time, which may affect the Prisoners, or either of them, as they stand charged on this Indictment, will deserve your principal Attention. But as the Prosecutors have (very properly I think) gone pretty far back in their Evidence, in order to shew by what means Sir *John* was got on board, it will be necessary for you to take that Part of the Evidence likewise into Consideration.

The first Witness is *Mr. Chamberlayne*, who tells you, that about three Weeks before the Murder happened, *Mr. Goodere* desired him to use his good Offices with *Mr. Jarrit Smith* a Friend of Sir *John's*, in order to bring about a Reconciliation between Sir *John* and him.

Mr. Smith tells you, that *Mr. Chamberlayne* did apply to him for that Purpose; and afterwards brought *Mr. Goodere* to his House on the same Errand: And that *Mr. Goodere* then repeated the same Request *Mr. Chamberlayne* had before made in his Behalf. He says he propos'd the matter to Sir *John*, who with some Difficulty consented to give *Mr. Goodere* a Meeting; which was fix'd for *Tuesday* the 13th of *January*, at *Mr. Smith's* House in the *Colledge-Green*, of which *Mr. Goodere* had timely Notice. That on *Tuesday* the 13th, Sir *John* rode up to his Door, and having just alighted

alighted and acquainted him that he could not at that time stay; but that the next Time he came to Town, which would be the *Saturday* or *Sunday* following, he would meet his Brother; he mounted his Horse, and went off, attended by his Servant, both armed with Pistols. He says, that on the same Day he met with Mr. *Goodere*, and acquainted him, that Sir *John* would be again at his House on *Saturday* or *Sunday*; and it was then agreed that Mr. *Goodere* should have notice when Sir *John* came. He says, that on *Sunday* Morning the 18th of *January* Sir *John* sent him word, that he would be at his House that Day, at any Hour he should appoint; and accordingly Three in the Afternoon was appointed. He says, that the same Morning he gave Mr. *Goodere* Notice of the Appointment. That in the Afternoon Sir *John* and Mr. *Goodere* met at his House, where mutual Civilities passed between them: That Sir *John* soon took his Leave, the Witness and Mr. *Goodere* waiting on him to the Door. He says, that he press'd Mr. *Goodere* to stay longer; and said to him, I hope I have done great Things. To which Mr. *Goodere* reply'd with some Emotion, By God this will not do; and immediately followed Sir *John* down the Hill. He says, that standing at his Door he observed a Company of Sailors gathering about Sir *John*, and heard Mr. *Goodere* say to them, Is *he* ready, or is *it* ready? (he is not, I believe, positive, what were the Words;) To which some of the Sailors answered, Yes, Sir. Whereupon the whole Company went hastily off, some towards the *Butts*, others towards the *Lower Green*; and Mr. *Goodere* follow'd them by the *Butts*. Mr. *Smith* had no Suspicion at that time that the Sailors were offering Violence to Sir *John*, and so made no farther Enquiry into the matter; 'till a Soldier, who is likewise produced as a Witness, told him what happen'd at the Barge.

The next Witness they produced is *Maurice Hobbs*, who, it seems, keeps the *White-Hart* Alehouse at the End of the *Colledge-Green*: And, Gentlemen, you will observe, that from the Front Windows of that House, one may have a View of Mr. *Smith's*. And he tells you, that on *Monday* the 12th of *January* last the Prisoners at the Bar came to his House; that Mr. *Goodere* desired to see an upper Room, over the Parlour, fronting the Street; and having seen it, said, he would come the next Morning and drink Coffee in that Room. Accordingly, the next Morning he came (early for that time of the Year,) before the Windows were opened, or Fires lighted; his Dress so different from what he wore the Day before, that the Witness did not at first recollect him. But, it seems, he changed his Clothes after he came thither. He seem'd willing to drink his Coffee in the Parlour; but being desir'd to walk up stairs, he went into the Room he had pitch'd upon the Day before. Soon afterwards the Prisoner *Mahony*, with three other Persons, came in; and after them, five or six more. These People, Gentlemen, were not all together in one Room; but they were all entertain'd at Mr. *Goodere's* Expence. The Witness tells you, that Mr. *Goodere* ordered they should be entertain'd; and at going away paid the whole Reckoning. He says, that while the Company was at his House, Mr. *Goodere* above stairs, and others below, Sir *John Dingley Goodere* rode by from Mr. *Smith's*, attended by his Servant; and

that as they pass'd by, Mr. *Goodere* called out to the People below, Look well at him, but don't touch him. He says further, that on *Sunday* the 18th of *January*, *Mahony* came to his House in the Morning, and desired him that if he saw the Gentleman in the black Cap (by which Description it appears Sir *John* was meant) go towards the *Green*, he would send a Porter to him at a Publick House in *Marsh-street*: That in the Afternoon *Mahony* came again, with a great many other People, all appearing by their Dress to be Sailors. And that as the Deceased walk'd by the House, they all rush'd out and went off. He goes, I think, no farther in his Evidence; for he seems to be too much concern'd for his Reckoning and his Tankard, to mind any thing that pass'd afterwards.

The next Evidence is *Thomas Williams*, who belongs to the *Ruby*. He says, that on *Sunday* the 18th, he brought up the Barge from *King-road*; and was order'd by Mr. *Goodere* to leave two Hands aboard the Barge, and take eight of the Crew to the *White-Hart* Alehouse on the *Colledge Green*, and there wait for him: for, said he, I have a Gentleman to go on board me. He accordingly went to the *White Hart* with his Men, and there found *Mahony* and four or five People belonging to the *Vernon* Privateer. He says, he had not been long there, before the Company rush'd out of doors: Upon which he followed, and found they had laid violent hands on the Deceased, and were carrying him on board the Barge; giving out, that he had murdered a Person on board the Ship, and that they were carrying him thither in order, as they pretended, to bring him to Justice. He tells you, that the Prisoner *Mahony* was very active in this Outrage; and that the Prisoner *Goodere* was present, seeing and hearing all that pass'd. He likewise gives you an Account of the Conversation that pass'd between Sir *John* and the Prisoner *Goodere*, after they were in the Barge; and, among other Things tells you, that upon the Deceased's saying, You are carrying me on board to murder me; the Prisoner *Goodere* answer'd, No, I don't intend to do so, but I would have you make your Peace with God. This Witness speaks little to what pass'd after they came on board the Ship; for, says he, I had been employ'd all Day, and went To-bed early. But he tells you, that in the Night he heard a very unusual Noise on board; and that about Two in the Morning, he saw the Prisoner *Goodere* go down the Ladder leading to the Purser's Cabbin.— You have heard, Gentlemen from the Witnesses, whom I shall mention presently, that the Murder was committed in this very Cabbin.

The Prosecutors then called several Witnesses, *Samuel Trivet*, *Thomas Charnbury*, Mrs. *Darby*, and *William Dupree*; who all speak to the manner of carrying Sir *John* from the *Colledge-Green* to the Place where the Barge lay.

These Witnesses agree in general, that he was treated with great Rudeness by the Company in whose Hands he was. But, as the Prisoner *Goodere* admits, that he did take his Brother on board; and, as *Mahony* endeavours to excuse the part he had in it, by alledging that he was under Command; I need not be very particular in repeating the Circumstances attending this part of the Affair. Only, Gentlemen, it may be proper for you to observe, that the Pretence

given out to blind the People who enquired into the meaning of this Outrage, was, that the Gentleman had committed a Murder on board the *Ruby*. And that when Sir *John* was on board the Barge, and calling out for Help to the People on shore, telling them his Name, and begging them to let his Friend Mr. *Jarrit Smith* know what had happen'd to him; the Prisoner *Goodere* at that instant stop't his Mouth. This Circumstance is prov'd by three of these Witnesses.

The next Set of Witnesses who have been called, are Persons belonging to the *Ruby*. And from them you have an Account of what pass'd from the time Sir *John* was brought on board to the time of the Murder.

The first is *Theodore Court*, the Master of the *Ruby*; and he tells you, that about seven in the Evening Sir *John* was brought on board, and immediately by Mr. *Goodere's* Order carried down into that part of the Ship which is called the Cockpit, and secured in the Purser's Cabbin, and a Centinel set on him. He tells you further, that Mr. *Goodere*, as soon as he came on board, said to him and the other Company present, I have brought a Mad-man on board. And, Gentlemen, you will observe, that the Ship's Crew were made to entertain an opinion, that Sir *John* was mad; says Mr. *Goodere*, don't mind what he says, he is mad. This, all the Witnesses agree in. And you may remember too, that when the poor Gentleman was dragg'd and hurried along towards the Barge, then he had murder'd a Man on board the *Ruby*. Now he is brought aboard, where that Pretence cannot serve, he is a Mad-man, and must be confin'd. This Witness was present the next Morning when the Purser's Cabbin was broke open, and Sir *John* was found there murdered: upon which, he says, Mr. *Goodere* was made a Prisoner. But he tells you, that before this, Mr. *Goodere* expressed a great Inclination to sail that very Morning; and upon his representing to him the Danger of attempting the *Bristol* Channel without a Pilot, he answer'd, if I can but get as low as the *Holms* I don't care.

This Witness was ask'd a Question by Mr. *Goodere*, touching the Place where the *Ruby* was moor'd, at the time the Fact in question was committed; and he says, that she then lay in *King-Road*, and has described her several Bearings to *Perts head* Point, the *Denny*, and the *Hole's* Mouth. But, Gentlemen, it will not be material in the present Case, in what part of *King-Road* the Ship then lay, if you are satisfied from the Evidence you have heard, that *King-Road* is in the County of this City, because it is admitted by the Prisoner; and indeed it is too plain to be denied, that the Ship was then in *King-Road*.

The next Witness is *Duncan Buchanan*, who was one of the Company at the *White-Hart* Ale-house, on *Tuesday* the 13th; and he confirms what *Hobbs* told you, that when Sir *John* and his Servant rode by, the Prisoner *Goodere* call'd to *Mahony* and the Company at the *White-Hart*, and bid 'em mind him well, but not to touch him. He says too, that Mr. *Goodere* at the same time order'd some of the Company to follow Sir *John*. He speaks much to the same purpose as the last Witness, touching the bringing Sir *John* aboard, and carrying him into the Purser's Cabbin; and adds, that two Bolts were put on the Out-side of the Cabbin Door by Mr. *Goodere's* Orders. He tells you, that he was the Centinel placed at the Cabbin-door by Mr. *Goodere*, who, you are to take notice, had then the Command

of the Ship; and says, that about Twelve at Night he was sent for into the Captain's Cabbin, where he found both the Prisoners at the Bar together. That Mr. *Goodere* enquir'd of him, whether his Brother made any noise, and said I believe he is wet in his Feet, I'll carry him a Pair of clean Stockings? That between One and Two the Prisoner *Goodere* came down to the Cock-pit, and listen'd some time at the Cabbin-door, where Sir *John* was; and soon afterward took the Sword from him, and order'd him up to the Deck; and stood himself as Centinel at the Door. He says, that being on Deck he saw the Prisoner *Mahony* go down the Ladder towards the Purser's Cabbin, and is positive he went into the Cabbin; the Prisoner *Goodere* standing at the same time Centinel at the Door. He tells you that a short time after this he heard a great noise and struggling in the Cabbin, a Person crying Murder, like one going into a Fit: that, I think, was his Expression. This Noise, he judges, continued four or five Minutes; and is positive that the Prisoner *Goodere* stood at the Door all that time, with the Sword in his Hand. He says, that after the Noise in the Cabbin ceas'd, he saw the Prisoner *Goodere* hand a Candle into the the Cabbin; and that he, seeing Mr. *Goodere* had no Light with him, lighted a Candle at the Lanthorn upon Deck, and was going to carry it down; upon which he says Mr. *Goodere* waved the Sword towards him, saying, Keep back, stay where you are. He says, that soon afterwards the Prisoner *Goodere* call'd for a Light, deliver'd back the Sword to him, lock'd the Cabbin-Door, and put the Key in his Pocket; and said, if my Brother makes any more noise, let me know of it.

The next Witness is *Daniel Weller*, the Carpenter of the *Ruby*: He agrees in the main with the two former Witnesses, touching the bringing Sir *John* aboard, the carrying him into the Purser's Cabbin, and putting the Bolts on the Door; and gives an account of the Conversation he had with Sir *John* in the Cabbin while the Bolts were fastening on: from which it seems natural to conjecture, that Sir *John* expected he should have soul play for his Life. He did not stay long with him; for it seems nobody was to visit the poor Gentleman but *Mahony*. He says, he broke open the Cabbin-Door next Morning, and found Sir *John* dead, and observ'd some Blood about his Mouth and Nose; which, Gentlemen, is what may be expected in case a Person is strangled.

The next Witness is *Edward Jones*, the Cooper of the *Ruby*; and he tells you, that on the *Thursday* before the Fact in question was committed, Mr. *Goodere* order'd the Purser's Cabbin to be clear'd out; for, said he, I shall bring a Gentleman aboard. He says, that soon after Sir *John* was brought aboard, Mr. *Goodere* came down to the Purser's Cabbin, and offer'd him a Dram of Rum, and also persuaded him to make use of some to chafe his Leg, which it seems had received some hurt that Day. He says, that Mr. *Goodere*, speaking of Sir *John* to the People present, said, Don't mind what he says, he'll be well enough again. He tells you, that about eight o'clock he went to bed in the Slop-Room, which, it seems, is parted from the Purser's Cabbin by a thin Deal Partition. That before he went to sleep, he heard what pass'd in the Cabbin, particularly the Discourse between Sir *John* and the Prisoner *Mahony*, which I need not repeat to you. And says likewise, that he heard Sir *John* praying to God to deliver him

him out of his present Distress, and expresses himself as a Man sensible of his present Danger, He tells you, that between Two and Three in the Morning, his Wife, who happened then to be aboard and in bed with him, waked him, and that he then heard a great Struggle in the Cabbin, Sir *John* crying out, as a Person in great Confusion and Distress, Here's Twenty Guineas, take it, take it, must I die? He says, that in a little time all was quiet, from which he concluded the Gentleman was dispatch'd; and then a Light was brought into the Cabbin; upon this he says, he got up upon his Knees, and peep'd through a Crevice in the Partition, and saw the Prisoner *Mabony* and one *Charles White* rifling the Pockets of Sir *John*, who was laid upon the Bed, in the Posture he has described to you, and motionless. He says, at this time he saw a Hand at Sir *John's* Throat, and heard a Person say, 'Tis done, and well done; he cannot say who the Person was whose Hand was at Sir *John's* Throat, but believes 'twas not the Hand of *White*, or *Mabony*, for it was a white Hand, and not like either of theirs. He says that he lay in fear of his own Life (as indeed I think he had great Reason) 'till about Four in the Morning, and then the Men belonging to the Yawl being called up, he got up too, and acquainted the Lieutenant with what passed, and consulted with him and others of the Officers about apprehending Mr. *Goodere*, which was afterwards done in the Manner you have heard.

The next Witness is *Margaret Jones*, Wife of the last Witness. And she gives much the same Account of the bringing Sir *John* aboard, and Mr. *Goodere's* offering him Rum, as her Husband does. And says farther, that Mr. *Goodere* talk'd of ordering Sheets for Sir *John's* Bed. But, Gentlemen, it does not appear to me that any Sheets were ordered, or indeed any sort of Refreshment provided for him, except a single Dram of Rum, which he refused, having forborn the Use of strong Liquors of all sorts for a considerable time. This Witness likewise gives an Account of the Conversation between *Mabony* and Sir *John*, and tells you, that when *Mabony* offer'd to pull off Sir *John's* Stockings, he said to him, Pray don't strip me till I am dead. She says, that about Two in the Morning she heard *Mabony* desire Sir *John* to compose himself to sleep; and soon afterwards the Light was put out, and she heard *Mabony* say, You must lie still and not stir for your Life; and immediately she says there was great struggling in the Cabbin, two Persons whispering, and Sir *John* crying Murder, and keeking in his Throat (as she expresses it) so that she concluded they were strangling him. At this time, she says, somebody on the outside of the Door offer'd to come in; upon which, those in the Cabbin said, Damn you Negro, keep out. She says, the Noise and Strugglings continued for a short time afterwards, and then all was quiet, and a Light was brought into the Cabbin. She then saw the Prisoner *Mabony*, and *Charles White*, the Person her Husband spoke of, rifling Sir *John's* Pockets. The particular Circumstances she mentions in this part of her Evidence I need not repeat. She says, that after this was over, they went out of the Cabbin, and the Door was lock'd and bolted; and she heard one of the Persons say, Which way shall I go, where shall I run? To which the other answered, Follow me, my Boy.

The next Witness is *James Dudgeon*, who, it seems, is the Surgeon's Mate. And he tells you, that when Sir *John* was brought aboard, he was carried directly to the Purser's Cabbin, and a Centinel placed over him. Says Mr. *Goodere* to this Witness, Doctor, I have brought a Mad-man on board, you must do the best you can with him; pray go and feel his Pulse now; or you may let it alone till to-morrow, the first Night will be the worst with him. The Doctor did go, but was told by the Centinel, that he had Orders to let no body in but *Mabony*; however, he went in and felt Sir *John's* Pulse, and found no Disorder there but what might be occasioned by the fatigue he had undergone that Afternoon. This Witness, who, it seems, lodg'd in a part of the Cockpit near the Purser's Cabbin, says, that about Two in the Morning he heard an unusual Stir in the Cock-pit, and overheard *Mabony*, who was in the Purser's Cabbin, say, You must lie still, don't stir; and immediately there was a great Bustle in the Cabbin, Sir *John* crying, Murder, and saying here's Twenty Guineas, take it, take it. He says, that by the Noise he heard, and from other Circumstances he has mention'd, he then apprehended that somebody was strangling the Gentleman. Before the Noise was quite over, he says he heard the Lock of the Cabbin go; upon which somebody within cry'd, Damn ye, keep the Door fast. The Witness hearing this, call'd out and enquired what was the Cause of the Noise; and he says that the Person who then stood at the Door answered, 'Tis nothing at all. He does not say who the Person was, but says he is sure that the Prisoner *Goodere* was in the Cock-pit while the Outcry was in the Cabbin. Soon after the Noise was over, he says, a Light was called for, and carried into the Cabbin; and in a little time he heard the Tread of People running out of the Cabbin, and is sure he heard the Prisoner *Mabony* say, Which way shall I go? To which Answer was made, You may go by the Ship-side. He says, about this time a Person stept up the Ladder from the Cock-pit, towards the Deck, and he then heard the Prisoner *Goodere* say, If my Brother makes any more Noise, let me hear of it. These Words, Gentlemen, if you believe *Duncan Buchanan*, were spoken to him at the top of the Ladder. It seems indeed probable, that Mr. *Goodere* was solicitous to know whether Sir *John* made any Noise or no, after this time; for this Witness tells you, that Mr. *Goodere's* Servant, some time afterwards, came to him to enquire whether he had lately heard any Noise in the Cabbin? Yes, says the Witness, I heard something at the Lock. This Noise the Witness supposes was occasioned by a Cat which had been lock'd in the Room. This Witness inspected the Body the next Morning, and tells you, that he found great Impressions about the Neck, and the Marks of Nails and Fingers on it; and upon the whole, is of opinion that Sir *John* died by Strangling. And, Gentlemen, whether a Rope was made use of in the Business, or whether it was done by thrusting their Fingers between the Neck and Cravat, and so straining the Cravat close about the Neck, will not be material; for though the Indictment charges that it was done with a Rope, yet if it appears on the Evidence, that the Deceas'd was strangled by any Means whatever, such Evidence will be sufficient to maintain the Indictment.

The next Witness, and the last that has been examined touching what was done on board the Ship, is *William Macguinis*, the Centinel at the Gun-room. And he tells you, that after Two in the Morning, the Prisoner *Goodere* went down into the Cock-pit; that soon afterwards the Prisoner *Mahony* push'd by him; he says he would have kept him back, but *Mahony* gave him ill Language and pass'd on, and call'd to another Person to follow him. He says, that *Duncan Buchanan* was ordered up to Deck, and that he saw Mr. *Goodere* standing at the Purser's Cabbin-Door with a Sword drawn in his Hand; and remembers, that when he offer'd to come near the Cabbin, Mr. *Goodere* order'd him to keep back: This was at the time the Noise and Outcry was in the Cabbin. He says further, he saw *Mahony* go into the Cabbin before the Noise was heard there; and, that about Three in the Morning, he saw both the Prisoners at the Bar go up the Ladder from the Cock-pit to the Deck together.

The Prosecutors then examined two Witnesses touching the Gold Watch which has been produced. One of them, *Sarah Culliford*, says that the Prisoner *Mahony*, the Day he was apprehended, deliver'd the Watch to her, desiring she would put it by for him; that she, upon hearing that *Mahony* was taken up for the Murder, in a Surprize, threw it into the Vault. The other Witness tells you, that he, by Order of the Magistrates, open'd the Vault and found the Watch there. This Watch the Prosecutors would fix upon the Prisoner *Goodere*, and to that end, it was shewn to *Theodore Court*, who was examin'd before, to other Points. And he says, he cannot be positive, but believes it to be Mr. *Goodere's* Watch, having often seen it, or such a one, hanging up in his Cabbin. The Prosecutors then produced a Handkerchief, which was taken out of *Mahony's* Pocket the Night he was apprehended; it appears to be a little bloody, but I don't see what use they make of that Circumstance.

The next Piece of Evidence the Prosecutors went to, was *Mahony's* Examination and Confession, which has been read to you. This, Gentlemen, is very proper Evidence, and ought to have its Weight with you, as far as it concerns *Mahony* himself; but with regard to the other Prisoner *Goodere*, you are to lay no manner of Stress upon it, it is no Evidence against him.

The Prosecutors then proceeded to shew, that *King-road*, where the *Ruby* lay at the time the Fact was committed, is within the County of *Bristol*. I think indeed that some Evidence of that kind was proper to be given, for your Satisfaction, and to that end they have called Mr. *Wint* and Mr. *Lowden*, two ancient Officers well known to you all. And they say, in general, that *King-road* has always been esteemed to be within the County of *Bristol*. And they go farther and say, that they have constantly, as Occasion required, executed Procces of all kinds in *King-road*; Warrants from the Mayor and Aldermen, Procces from the Mayor's and Sheriff's Court, and Warrants grounded on Writs from above, directed to the Sheriffs of *Bristol*. And, Gentlemen, I must say, that tho' another sort of Evidence might have been given, touching the Bounds of this County by Water, I know no Evidence so proper to prove the Bounds of any County, as the constant Exercise of Jurisdiction in the Place in question, where that sort of Evidence can be had.

I think, I have repeated to you the material Parts of the Evidence which has been given against the Prisoners at the Bar; and you will now consider what they have offered by way of Defence to this Charge.

As for *Mahony*, I do not hear him say any thing by way of proper Defence, nor has he called a single Witness. He hopes indeed, that it will be taken by way of Excuse, that he was a poor press'd Servant, and acted by Command. But, Gentlemen, if you believe the Evidence which has been given against him, no Command of any Superiour whatsoever (supposing that to have been an Ingredient in his Case) will excuse him.

Mr. *Goodere* says, that his Brother was a Lunatick, and that he being his only Brother, thought it his Duty to take Care of him in that Condition; that in order thereto he had endeavour'd to get a Lodging in this City, where he was to be confin'd under the Care of the Prisoner *Mahony*, who was to have 5*l.* a Month for his Attendance on him. That not being able to get a Lodging for the Purpose in the City, he took him on board the *Ruby*, in order to have him taken proper Care of there. He denies that he ever consented to the Murder, or had any Knowledge of it; and insists on the great Improbability there is that he should be concern'd in the Murder, since, he says, he knew that Sir *John* had cut off the Entail of the Family-Estate, and had actually made his Will, by which he had devised the Estate to another Branch of the Family. So that, says he, Sir *John* dying while this Will stands, I have no Chance for the Estate: whereas, as long as he lived, my Chance as Heir at Law continued; for he might have chang'd his Mind, and alter'd or destroy'd his Will.

The first Witness he call'd was Mrs. *Getbins*, who, I suppose, lets Lodgings in the City; and she says, that Mr. *Goodere* never made a Secret of his Design, of confining his Brother as a Lunatick; and that about three Weeks before this Matter happen'd, he spoke to her for a Garret in her House for that Purpose; but she remembers no Discourse the Prisoner had with her about *Mahony*.

Mr. *Goodere* then call'd two Witnesses in relation to something which was open'd against him, (but not directly prov'd by any of the Witnesses call'd by the Prosecutors) touching his sending *Mahony* and *White* away in the Yawl the Morning the Fact was committed.

They were Mr. *Marsh* and Mr. *Dagg*.

Mr. *Marsh* says, that on the *Sunday* in the Afternoon, after Sir *John* was brought aboard, he was order'd by Mr. *Goodere* to go up in the Yawl early the next Morning, to fetch Letters from the Post-Office; and he tells you that as he was setting out on *Monday* Morning he was inform'd by some of the Ship's Company, that *Mahony* and *White* were to go with him. Upon which he went to the Captain to have his Orders; for, said he, I never take any body ashore without leave. And he tells you, that Mr. *Goodere* did order him to take *White* and *Mahony* up in the Yawl. He says, that he had no Orders to land them at any particular Place; and that they were put ashore at the *Gibb*, the usual Place of Landing, about six in the Morning.

Mr. *Dagg* tells you, that *Mahony* had charg'd one *Mervin* in his Custody in an Action for Wages; that the *Wednesday* or *Thursday* before this Matter happened he waited on Mr. *Goodere* from *Mervin*, in order to accommodate Matters with *Mahony*: And that Mr. *Goodere* appointed to meet *Mervin* on that Affair the *Monday* following. He cannot say, that *Mahony* was to meet on that day (tho' indeed he says he did tell a Gentleman so) and knows not of any Business *White* had that day in *Bristol*.

Mr. *Goodere* next called three Witnesses to the Point of Sir *John's* Lunacy. The two first have lived with him as Servants, and they give you divers Instances of an extravagant unaccountable Behaviour

haviour in him; from which they conclude that he must have been a Madman. The other Witness says, that he knew Sir *John* for some Years; and in general says that from his Actions he took him to be mad.

He then called several Witnesses, Gentlemen of Worth, who have known him many Years; and they all agree in giving him a very good Character, as to his former Life and Conversation: and particularly say, that they always took him to be a good-natur'd, well-behav'd Man, and one that merited the Love and Esteem of his Neighbours. One of these Witnesses, Mr. *Forcevil*, says, that he was constant at Church on *Sundays* twice a Day, generally attended the Church-Service, and seldom missed attending at the Sacrament.

Another of these Witnesses, Mr. *Ashfield*, having given the Prisoner a good Character, was ask'd touching Sir *John*, particularly with regard to his Sanity; and he seems surpris'd to hear Sir *John* represented as a Mad-man; and tells you, that he always took him to be a Man of good Understanding: and goes so far as to say, that he took him to be the Man of the best Sense in the Family. He was ask'd, touching the Prisoner's having been inform'd of the Contents of his Brother's Will; and he tells you that the Prisoner was inform'd of the Purport of the Will; but adds, that the Prisoner declar'd that he did not value the Will: And says, that there had been a long Misunderstanding between the Brothers.

Mr. *Goodere* call'd a Witness (Mr. *Watkins*) to prove that he was inform'd of the Contents of Sir *John*'s Will. And he tells you, that about half a Year, or three quarters of a Year ago, he did inform Mr. *Goodere*, that Sir *John* had made his Will, and had given his Estate to the *Foots*; who, it seems, are Nephews to Sir *John* and the Prisoner. But he tells you, that the Prisoner then said, he thought Sir *John* had no Power to make a Will. He says, that in discourse about the Will, he spoke it to the Prisoner as his Opinion, that if Matters could be reconciled between Sir *John* and him, that Will would not stand long: For, Gentlemen, he likewise says, that there has been a long Misunderstanding between the Brothers. This Witness was likewise ask'd, touching Sir *John*'s Lunacy, and he seems surpris'd to hear that his Sanity is call'd in question; and gives him an advantageous Character in other Respects too.

This, Gentlemen, is the Substance of the Evidence that has been given on the one side and the other. And though the Evidence has been very long, and, as you observe, chiefly pointed at the Prisoner *Goodere*; yet with regard to your present Enquiry, the Matter after all will lie in a narrow compass. You observe, Gentlemen, the Indictment charges that he was present, aiding and abetting the Murder; and therefore however instrumental you may suppose him to have been in procuring the Death of Sir *John*, by carrying him on board, and treating him there in the manner you have heard; yet if you have not Evidence to induce you to believe that he was present, aiding and abetting at the Murder, he will not be guilty on this Indictment. But, Gentlemen, you must not be deceiv'd by the meer Sound of Words. It is not necessary, in order to render a Person guilty as a Principal in Murder or other Felony, that he should be in the same Room, or on the very spot where the Fact is committed, or even in sight or hearing of it: If he be engaged in the Design, and posts himself at the time of the Execution in a proper Station to give Assistance, if need be, or to prevent a Surprise whereby the Persons actually committing the Fact are encouraged in the Perpe-

tration of it, he is in the Eye of the Law present, aiding and abetting, and equally a Principal in the Fact with those who actually commit it. An Instance or two may make this Rule better understood. If several Persons agree to commit a Murder on the High-way, or in the open Fields, and one Party of them undertakes to see the Fact committed; the others disperse themselves to their several Stations, and stand upon the Watch to prevent a Surprise: they are all equally guilty, and in the Eye of the Law present at the Fact. So, if a Number of People agree to commit a Murder, and to that end break into a House, and then disperse themselves into several Rooms; or, if any of the Company stand without, and keep the Door while the Murder is committed within, they are all equally guilty, and in the Eye of the Law present. Nay, tho' the original Intention might be barely to commit a Robbery, yet, if in Prosecution of that Design a Murder is committed, the whole Company, those who stood upon the Watch, as well as those who committed the Fact, are all equally guilty and Principals in the Murder. And therefore, Gentlemen, if, upon the Evidence which has been given, you believe that the Prisoner *Goodere* did stand at the Door of the Purser's Cabbin while the Murder was committed, in order to encourage those within in the Perpetration of the Fact, or to prevent any Assistance which might have come, you must find him guilty. And, Gentlemen, I must observe to you, that it is proved by four Witnesses, that he was in the Cock-pit while the Cry of Murder was heard in the Cabbin. Two of these Witnesses are positive that he stood at the Cabbin-Door at that time with a drawn Sword in his Hand; and that while he was there posted, he order'd them to keep back. And one of the same Witnesses is likewise positive, that soon after the Cry of Murder ceas'd, Mr. *Goodere* handed a Candle into the Cabbin.

Mr. *Goodere* indeed has call'd several Witnesses, who have given him an advantageous Character; but, Gentlemen, I think it my Duty to tell you, that tho' Character ought to have its weight when Matters are in themselves doubtful, or where the Charge is supported by Witnesses of doubtful Credit; yet in clear Cases, and when the Credit of the Witnesses is not impeach'd, I think Character alone ought to weigh very little with you. And upon the whole, if you believe the Witnesses for the King, you must find him guilty; if not, you must acquit him.

As to *Mabony*, I think you can have no Difficulty if you believe the Evidence of *Jones* and his Wife, and lay any Strefs on his own Confession; and indeed he now rather endeavours to excuse than denies the Fact.

Then the Jury withdrew, to consider of their Verdict; and after a short space, return'd again.

Clerk of Arraigns. Gentlemen, answer, to your Names. *Christopher Bromadge.*

Christopher Bromadge. Here. [And so of the rest.]

Cl. of Arr. Gentlemen, are you all agreed of your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. The Fore-man.

Cl. of Arr. *Matthew Mabony*, hold up thy Hand! You of the Jury, look upon the Prisoner: How say you, is *Matthew Mabony* guilty of the Felony and Murder, whereof he stands indicted, or not guilty?

Jury. Guilty.

Cl. of Arr. What Goods or Chattels, Lands or Tenements had he at the Time of the said Felony and Murder committed, or at any Time since, to your Knowledge?

Jury.

Jury. None.

Cl. of Arr. Samuel Goodere, hold up thy Hand. You of the Jury, look upon the Prisoner: How say you, is Samuel Goodere guilty of the Felony and Murder, whereof he stands indicted, or not guilty?

Jury. Guilty.

Cl. of Arr. What Goods or Chattels, &c. (as before.)

Jury. None.

Cl. of Arr. Hearken to your Verdict, as the Court hath recorded it. You say that Matthew Mahony is guilty of the Felony and Murder, whereof he stands indicted: You say that Samuel Goodere

is guilty of the Felony and Murder, whereof he stands indicted; and that they, nor either of them, had any Goods or Chattels, Lands or Tenements, at the Time of the said Felony and Murder committed, or at any Time since, to your Knowledge; and so you say all.

Cl. of Ar. Keeper, take Matthew Mahony and Samuel Goodere the Prisoners from the Bar, and look to them; they stand convicted of wilful Murder.

Then the Court adjourn'd to the same Place the next Morning Eight o'Clock.

The Trial of Charles White, for the Murder of Sir John Dineley Goodere.

ON Friday the 27th of March 1741, Charles White was brought to the Bar of the Court, to be arraigned for the Murder of Sir John Dineley Goodere, upon an Indictment found by the Grand Jury for the City and County of Bristol on the Day preceding; and the Court proceeded thus:

Clerk of the Arraignment. Charles White, hold up your Hand. [Which he did.]

You stand indicted by the Name of Charles White, late of the Parish of St. Stephen, in the City of Bristol and County of the same City, Labourer, for that you and one Matthew Mahony, late of the same Parish, City and County, Labourer, not having the Fear of God, &c. on the nineteenth Day of January, in the fourteenth Year, &c. in and upon one Sir John Dineley Goodere, in the Peace of God, &c. then and there being, feloniously, voluntarily, and of your Malice afore-thought, did make an Assault; and that the said Matthew Mahony, a certain Cord of the Value, &c. about the Neck of the said Sir John then and there feloniously, voluntarily, and of his Malice afore-thought, did put and fasten: And that the said Matthew Mahony with the Cord aforesaid, by him so about the Neck of the said Sir John put and fastened, then and there, him the said Sir John feloniously, &c. did choak and strangle; of which said choaking and strangling of him the said Sir John by the said Matthew Mahony, in Manner and Form aforesaid done and perpetrated, he the said Sir John then and there instantly died. And that you the said Charles White, then and there feloniously, &c. was present, aiding, abetting, comforting and maintaining the said Matthew Mahony in Manner and Form aforesaid, feloniously, &c. the said Sir John to kill and murder; and so that you the said Charles White, in Manner and Form aforesaid, the said Sir John then and there feloniously, &c. did kill and murder, against the Peace, &c.

How say'st thou Charles White, art thou guilty of the Felony and Murder, whereof thou standest indicted, or not guilty?

Charles White. Not guilty.

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

Charles White. By God and my Country.

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

The Court proceeded in like manner as upon the Indictment against Mr. Goodere and Mahony; and the Names of the Jury sworn, were as follow:

John Nash. *William Williams.*

Joseph Wilson. *William Arnold.*

Samuel Cave. *John Willis.*

William Abraham. *Cornelius Sandford.*

William Jones. *John Taylor.*

Robert Moody. *Thomas Seed.*

Then Proclamation for Information was made, and the Jury charged with the Prisoner.

Mr. Vernon. May it please you, Mr. Recorder, and you Gentlemen of the Jury, I am Counsel for the King against the Prisoner at the Bar, who stands indicted for the Murder of Sir John Dineley Goodere; and the Indictment charges that one Matthew Mahony (who has already undergone the Justice of his Country) strangled the Deceased, and that the Prisoner at the Bar was present, aiding and abetting him in the Perpetration of that horrid Fact; and which (if true) will be the same in consideration of Law, as if the Prisoner had with his own Hands strangled the Deceased, and actually drawn the fatal Cord which put a period to his Life. Gentlemen, it is with an aking Heart I discharge this melancholy Task against the Prisoner, but criminal Justice must be administer'd as well as civil, and the great Safety of the Innocent is in the Punishment of the Guilty: And of this the Prisoner may be assured, that as he now stands at the Bar for his Life and Death, and unassisted by Counsel in Matter of Fact, I shall carefully confine my self to the Letter of my Instructions, without any Aggravation of Facts or Circumstances, and endeavour so to discharge my Duty on this melancholy Occasion, as that he may have nothing to fear but from Guilt, or to hope but from Innocence. And, Gentlemen, as I am instructed, Captain Samuel Goodere, late Commander of the Ruby Man of War, and Brother of the late unfortunate Sir John Dineley Goodere, having on Sunday the eighteenth of January last, with the Assistance of Mahony and other Ruffians, forcibly seized upon Sir John, and hurried him on board the Ruby, (which then lay stationed in King-road, within the Body of your County) with a design of murdering Sir John; the Prisoner (a private Mariner belonging to the Ruby) was pitch'd upon by the Captain as a Person fit to be concerned with Mahony in the Execution of that base and barbarous Design. And accordingly, on Monday the nineteenth about One in the Morning, the Prisoner was called up by Mahony to attend the Captain in his Cabin, which he did; and the Captain after plying the Prisoner pretty plentifully with Rum, propos'd to him the murdering of his Brother, in conjunction with Mahony; and no sooner said but done, Gentlemen: for this insatuated Wretch the Prisoner, influenc'd by the strong Delusion of Wickedness, and Temptation of mistaken Gain; and not content with his honest Wages, nor considering that the Wages of Sin are Death, gave at once into the monstrous Proposal for the sake of Plunder. In a word, Gentlemen, he readily followed Mahony into the Purser's Cabin, where Sir John lay confined; and as that unhappy Gentleman had from the time of first seizing him been treated as a Malefactor, so they executed him as such;

such; for *Mabony* seiz'd him by the Throat, and then fastening about his Neck a Rope, which they had brought with them for the purpose, strangled him in the Presence and with the Assistance of the Prisoner; and indeed without his Assistance, Sir *John* being strong and of an undaunted Spirit, would probably have been able to have defended himself against the Attack of *Mabony*. Gentlemen, no sooner had they robbed Sir *John* of his Life, but they fell to rifling him of his Watch and Money; they divided the Spoil between them, and then betimes in the Morning the Prisoner with his Accomplice *Mabony* made off from the Ship, and took refuge in this City; a very unfit Sanctuary for Ruffians and Murderers, considering the good Order and Government of the Place, and the constant Care of its worthy Magistrates in the due Execution of the Laws. But Justice pursued, and will, I doubt not, overtake him. He was apprehended, and made an early Confession of his Guilt, and comes now to answer for his Delinquency. Gentlemen, we shall call the Ship's Cooper and his Wife, who heard the Groans and Outcries of the Deceased, and were Spectators of what passed in the Purser's Cabin immediately after this Tragedy, and saw the Prisoner in the very Act of rifling the Deceased, almost at the instant of his Death. We shall also lay before you the Prisoner's own Confession, on his Examination before the Justices; and then, Gentlemen, we doubt not, but you will be of opinion, that by the Laws of his Country he ought to die for his Transgression, as some Atonement for his own Guilt, and an Example of Justice to others.

(*Edward Jones* sworn.)

Mr. *Vernon*. *Edward Jones*, tell Mr. Recorder and the Jury what you know concerning the Death of Sir *John Dineley Goodere*?

Edward Jones. On the 18th of *January* last, at night, I was in bed with my Wife in the Slop-room, next to the Purser's Cabin down in the Cockpit in the *Ruby Man of War*, then lying at *King-road*, and Sir *John Dineley* was then confined in the Purser's Cabin. I heard him pray to God to be his Comforter under his Afflictions; he said that he knew he was to be murdered there; and he prayed that it might come to light by one means or another. But I took no notice of him, because I thought him a crazy Man, as I had heard the Captain say he was. After that, I fell asleep; and, I believe, about two or three of the clock my Wife waked me, and said to me, Don't you hear the Noise that is made by the Gentleman? I believe they are killing him. I then heard Sir *John* kick, and cry out, Here is twenty Guineas, take it, take it; don't murder me; must I die! must I die! Oh my Life! and gave several Kecks with his Throat like a dying Man, and then he was still. I would have got out of bed, but my Wife persuaded me not, for fear I should be killed too. It was dark; but a Light was handed in to the Purser's Cabin, and then I got up upon my Knees, and I could see a Light glimmering through the Crack of the Boards; I saw *Mabony* with a Candle in his Hand, Sir *John* was lying on his Side. The Prisoner *Charles White* was there, and he pulled Sir *John* to turn him about, and *White* said he could not get the Watch out of his Pocket; and he tumbled him up to come at the Money, and unbuttoned his Breeches. I saw him get hold of the Watch-Chain; and *White* gave *Mabony* the Watch; and *White* put his Hand in one of the Gentleman's Pockets, and cursed that there was nothing but Silver; he put his Hand in another Pocket, and there he found the Gold; he offered it to *Mabony*,

but *Mabony* damned him, and bid him keep it till by and by. *White* pulled out a Piece of Paper from one of Sir *John's* Pockets, and was going to read it; but *Mabony* said, Damn ye, don't stay to read it now.

Mr. *Vernon*. Was Sir *John* dead in appearance when you saw them rifling his Pockets?

Edward Jones. As they were turning him about, one of his Legs was crooked, which made me think he was dead, and that they had killed him in the Dark. The next Morning I saw Sir *John* dead, lying in the Purser's Cabin, and I believe he was strangled.

Mr. *Recorder*. Prisoner, will you ask this Witness any Questions?

Charles White. Please you, my Lord, I desire you will ask Mr. *Jones*, whether Sir *John* was living or dead when he saw me in the Cabin first?

Mr. *Recorder*. Mr. *Jones*, the Prisoner asks you whether Sir *John* was living or dead when you first saw him in the Cabin?

Edward Jones. Sir *John* was dead when *White* turned him about, for they killed him in the dark. I heard two Voices.

Charles White. Whether *Edward Jones* saw any body strangling Sir *John* besides *Mabony*?

Mr. *Recorder*. The Witness does not say that he saw any body strangling Sir *John*, that he says was done in the Dark: but, he says, he heard two Voices in the Cabin, and as soon as the Light was brought in, he saw you rifling Sir *John's* Pockets.

Mr. *Vernon*. Call *Margaret Jones*.

(*Margaret Jones* sworn.)

Mr. *Vernon*. Mrs. *Jones*, will you give Mr. Recorder and the Jury an Account of what you know in relation to the Death of Sir *John Dineley Goodere*?

Margaret Jones. Yes, Sir. On the 18th of *January* last, at Night, I lay on board the *Ruby Man of War* with my Husband, and in the Purser's Cabin, next to where we were in bed, Sir *John* was under Confinement; the Captain said he was a Mad-man, and that he brought him there to save him from a Goal. About ten o'clock *Mabony* was left there with Sir *John*; Sir *John* desired him to go, but *Mabony* said he had Orders to stay there to take care of him. About 12 o'clock in the Night I went to sleep; about two o'clock I awaked, and heard the Gentleman talk to *Mabony*, and *Mabony* persuaded the Gentleman to go to sleep; the Gentleman said he could not: they talked together a good while. I heard somebody say to the Gentleman, You must lie still, and not speak a word for your Life; and then I heard a great struggling; who it was, I don't know. The Gentleman cried out, Murder! Help, for God's sake; and made several Kecks in his Throat, as though somebody was stifling him. I shook my Husband, and waked him. I heard two People in the Cabin whispering; the Gentleman cried out Murder again, Help for God's sake! he said, Here's twenty Guineas in my Pockets, take it, take it; must I die! Oh my Life! And somebody in the out-side offered to go into the Cabin; but one of them within said, keep out, you Negro; and then a great noise was made, as tho' the Cabin would have been beat down; and then a Candle was brought in. I got up and look'd through a Crevice: I saw a Man, I believe it was *White*, pulled the Gentleman upright. *Mabony* had the Candle in his Hand. I observed the other put his Hand in the Gentleman's Pockets; one of them said, Damn ye, pull out his Watch: I saw the Person take hold of the Watch-string, and pulled it out, and said to the other, Here thee take it; and then searched another Pocket, and said,

said, Here's nothing but Silver: but then he searched another Pocket, and said, Here it is; and pulled out a Purse. And soon after that I heard the Door unbolted, and then I heard *Mabony* say, Where shall I run? And another said, Follow me, Boy. And they went upon Deck through the Hatch-hold.

Mr. Vernon. Did you know the Voice of either of the two Persons whom you heard speaking to one another?

Margaret Jones. Yes, I knew *Charles White* to be one of the Men by his Voice. I knew his Voice when he said to *Mabony*, Follow me, Boy. I am certain the Prisoner at the Bar was in the Cabbin; I observed his Bulk, but could not look earnestly at him, being very much shocked and surpris'd; but my husband told me it was *Charles White*.

Mr. Recorder. *White*, will you ask this Witness any Questions?

Charles White. Please you, my Lord, to ask her, whether she can say that she ever heard my Voice in the Cabbin?

Mr. Recorder. Mrs. *Jones*, the Prisoner asks you, if you heard his Voice in the Cabbin?

Margaret Jones. I could not know his Voice in the Cabbin, for he spoke low; and when a Person whispers, the Voice is not so distinguishable: but as soon as he spoke aloud, I knew it to be his Voice.

Mr. Recorder. Did you see him in the Cabbin, Mrs. *Jones*?

Margaret Jones. My Lord, I did not see his Face, but by his Voice when he went out, I knew him to be the same Man.

Charles White. Please you, my Lord, to ask her, whether she ever heard me say, Follow me Boy, before?

Mr. Recorder. Mrs. *Jones*, you hear the Question, give an answer to it.

Margaret Jones. I never heard him say so before; but I knew his Voice perfectly well, having been acquainted with him for two Years.

Mr. Vernon. We must now desire that the Prisoner's Examination may be read. Cryer, swear *Mr. James Britten*, (second Clerk to the Town-Clerk.)
(*Mr. Britten* sworn.)

Mr. Vernon. *Mr. Britten*, what Paper is that?

Mr. Britten. The Examination of the Prisoner at the Bar taken before Mr. Mayor.

Mr. Vernon. Did you see the Prisoner sign it in Mr. Mayor's Presence?

Mr. Britten. Yes, I did.

Mr. Vernon. Did you see Mr. Mayor sign it?

Mr. Britten. Yes.

Mr. Vernon. Is that his Hand?

Mr. Britten. Yes.

Mr. Frederick, Counsel for the Prisoner. It is opened by *Mr. Vernon*, that this Examination contains the Prisoner's Confession of the Fact. I would ask *Mr. Britten*, Was the Confession voluntarily made or not? for, if it was not voluntarily, it ought not to be read.

Mr. Recorder. That is an improper Question, unless the Prisoner had insisted, and made it part of his Case, that his Confession was extorted by Threats, or drawn from him by Promises; in that Case, indeed, it would have been proper for us to inquire by what means the Confession was procured: But as the Prisoner alleges nothing of that kind, I will not suffer a Question to be ask'd the Clerk, which carries in it a Reflection on the Magistrate before whom the Examination was taken. Let it be read.

Cl. of Arr. Reads.

City and County of } to wit,
the City of Bristol. }

20 January, 1740.

The Examination of *Charles White*, a Sailor belonging to the *Ruby Man of War*, now lying in this Port, born in *Drogheda* in Ireland, aged about thirty-six Years.

THE Examinant voluntarily confesseth, and saith, That he hath been a Sailor on board the said Ship for about seventeen months last past; That about one of the clock in the Night of *Sunday* last, the eighteenth Instant, he was asleep in his Hammock on board the said Ship, and was called out by one *Matthew Mabony*, another Sailor on board the said Ship (and now in Custody) who told him that the Captain (meaning Captain *Samuel Goodere*, Commander of the said Ship) wanted to speak with him in his Cabbin; and accordingly he went to him: and when he came to him, the Captain asked him to sit down, and then gave him a Wine-Glass of Rum, and after that four or five more, and then asked him if he could kill a *Spaniard*? and this Examinant answered him, That he never did. Upon which the Captain told him, he had got a Job for him to do, if he would undertake it: And this Examinant ask'd him what Job it was? And the Captain told him, it was to make away with his Brother, whose Name (as this Examinant is informed) was *Sir John Dineley Goodere*, Bart. who was in the Purser's Cabbin on board the said Ship: and the said *Matthew Mabony* told this Examinant, that he must go with him to help do it. Whereupon the said Captain went out of the Cabbin first, *Mabony* followed him, and this Examinant went next; and when he came to the Purser's Cabbin-door, where *Sir John Dineley* was, the Captain was standing Centinel himself at the Door with a Cutlash in his Hand, and *Mabony* had entered the Cabbin, and this Examinant entered likewise, where *Mabony* was talking with the said *Sir John*, and had a piece of Rope, called three-quarter of an Inch Rope, in his Hand, about six Foot in length, and *Sir John* was lying on the Bed; and particularly *Mabony* ask'd *Sir John* how his Head was, and what he had got about it? and at last told him, it did not signify talking about it any longer, and then fell on him on the Bed, took hold of his Throat with his Hand (his Stock being on) and so strangled him with his Stock, and afterwards put the said Rope about his Neck, (which was prepared for the purpose, with a Noose in it, before it was brought out of the Captain's Cabbin) and then *Mabony* halled the Rope tight about his Neck; and upon this Examinant's asking him what he did that for? he said, For fear he should not be dead enough. And this Examinant took a Knife out of his Pocket, and cut it off his Neck, and threw it over-board. During all which time the Captain stood Centinel at the Door as aforesaid; and as soon as this Examinant had so cut the Rope off, the Captain handed a Candle to *Mabony*, who gave it to him, and *Mabony* took the Watch and Money out of *Sir John's* Pocket; and then the Captain ask'd them, Have ye done? meaning, (as this Examinant apprehended) murdered the said *Sir John*. And then came in himself, and this Examinant went through the Hold, and came upon Deck, where he walk'd for about the space of half a quarter of an Hour, and the Captain and *Mabony* went into the Captain's Cabbin together, and then this Examinant went into the Steeridge, and *Mabony* called this Examinant into the Cabbin, where the Captain had undressed himself in order to go to Bed; and there the Captain gave him five Guineas, and this Examinant had received

of the said Captain a six and thirty Shilling Piece of Gold before the said Sir *John* was murdered. And further this Examinant saith, That *Mabony* shewed the Captain the Watch he had taken out of Sir *John's* Pocket, and the Captain gave *Mabony* his own Watch, and kept Sir *John's* himself; and *Mabony* likewise shewed the Captain the Money he had taken out of Sir *John's* Pocket, who bid him keep it; and *Mabony* gave it to this Examinant, who put it in his Pocket, and he and *Mabony* shared the Money on the Fore-castle, and this Examinant had two Pieces to one, in consideration that *Mabony* had the Watch; and this Examinant believes they shared about thirty Pounds between them. And further, this Examinant saith, That the said Captain told him and *Mabony*, that they might go any where for three Weeks, and he would send them their Tickets. And lastly, this Examinant saith, That between four and five of the clock the same Morning the Man of War's Yawl was going to this City, and he and *Mabony* landed at the *Gibb* here. *Charles White.*

Mr. Recorder. Well, Prisoner, what have you to offer in your Defence?

Charles White. Please you, my Lord, I was in my Hammock between the Hours of Twelve and One, and this *Mabony* came to me and said, *Charles White, Charles White!* I said, what do you want? He said, Turn out. I asked him what he wanted of me now? He said again, Turn out, turn out. And with that I turn'd out, and went upon Deck to make Water, and while I was doing it, he told me that he wanted me to go with him. I asked him where he was going to bring me? But he led me into the Cabbin where the Captain was. When I came in, the Captain bid me sit down. I begged him to excuse me from taking so great a Freedom as that, in his Company. But at last I sat down, and I drank a Glass of Rum. Then the Captain ask'd me, whether I had ever kill'd a *Spaniard*? I told him, No, I never was engaged with one to kill him. Drink about, *Mabony*, said the Captain. With that we drank about, and finished a Bottle and a half in raw Drams. With that he said, come along with me. I ask'd him where he was going? I went with him, the Captain first, and *Mabony* after him; and they went below, and to what Intent I knew not, being quite in Liquor with drinking so much Rum. Said the Captain to me, when we came down, Tarry here 'till I call you. Soon after, *Mabony* came to me, and told me the Captain wants you. Then I went down into the Cabbin, and sat down in it, and *Mabony* and the Captain were talking together; but what they did I know not, for I never laid a Hand near the Gentleman.

Mr. Recorder. You say you were in the Purser's Cabbin, and do you not know what happen'd there?

Charles White. I cannot tell, Sir, what pass'd.

Mr. Recorder. If this Defence be true, how came you to be so unjust to your self, to make the Confession which has been read?

Charles White. Please you, my Lord, I was in Liquor, and did not know what pass'd between them, for I had not my Senses about me.

Mr. Recorder. Why, 'tis charg'd upon you, by the Cooper, that you examin'd Sir *John's* Pockets, and took out his Watch and Money, and a piece of Paper which *Mabony* persuaded you to throw away, as of no Consequence, or else to put it into your Pocket, and read it at another Time.

Charles White. Please you, my Lord, I know nothing of it; I have several Witnesses to my Character.

Mr. Recorder. Call your Witnesses.

(*Michael Smith* sworn.)

Mr. Recorder. How long have you known the Prisoner?

Smith. From a Child, Sir; we went to School together for eight Years.

Mr. Recorder. What do you know of him?

Smith. Sir, I never heard to the contrary but that he was an honest Man, and bore a good Character.

(*Theodore Court* sworn.)

Court. I never knew any Harm of the Prisoner until this unhappy Affair; but I have been inform'd, that since he hath been under Confinement, he hath told several People who have gone to see him, that if he can get clear of this, he will kill my Mate.

(*Edward Jones.*)

Edward Jones. I have known the Prisoner for three Years, but never knew any Harm by him; I was with him in the *West-Indies*, in the *King'sale* Man of War, but 'till this Misfortune happened, I never knew any Harm by him.

Mr. Recorder. Are you sure then, that you saw him in the Cabbin, rifling the Deceased's Pockets?

Edward Jones. Yes, my Lord, I am sure of that. (*William Macguinis* sworn.)

Macguinis. Please you, my Lord, I knew the Prisoner at the Bar ever since he was an Infant, I went to School with him, and never knew any Harm that he did before; I have often both eat and drank with him, and when he is sober, he is as good and civil a Man as need to be.

(*Daniel Wellar*, Carpenter of the Ship, sworn.)

Wellar. I have been about sixteen or seventeen Months with him, and he always behav'd himself well on board, and I never knew any Harm of him before; but his Voice is known from all the Men in the Ship.

Mr. Recorder. To what purpose do you say, that his Voice is known from all the Men in the Ship?

Wellar. Because they talked about his Voice oftentimes.

Mr. Vernon. If I apprehend him right, Sir, he speaks this in Confirmation of Mrs. *Jones's* Evidence, who swore she knew the Prisoner's Voice. Gentlemen, I was in hopes the Prisoner would have stood to his former Confession, instead of endeavouring to retract it, and have given Glory to God by a public Penitence and Sorrow for the Heinousness of his Crime, instead of putting on a Shew of Innocence against Proof so apparent of his Guilt. — Defence, I apprehend, he has made none; he has called indeed some Witnesses to speak to his Character; and Character, it must be admitted, is of weight, by way of balancing the Proofs, where the Fact is doubtful and uncertain; but when the Evidence is strong and pregnant, and Guilt stares the Prisoner in the Face, Character weighs not a single Grain in the Scale of Justice. How far the Prisoner's Character and early Confession of the Fact, with some Ingredients in his Case, may be of Service to him in another Place, is not the present Consideration; he stands now at the Bar for your Justice, not your Pity; and it fully appears in proof, that he was an Accomplice with *Mabony* in this barbarous Murder, as laid in the Indictment; so that Life ought to go for Life, by the Laws of God and Man, and I doubt not in the least, but that you will conscientiously discharge the Duty you owe to God and your Country, by going according to your Evidence, and finding the Prisoner guilty.

Mr. Recorder.

Gentlemen of the Jury, the Prisoner at the Bar stands indicted for the Murder of Sir *John Dinclly Goodere*. The Indictment charges, that

that the Deceased was strangled by one *Matthew Mahony*, and that the Prisoner was present, aiding and abetting him in the Fact.

To support this Charge, the Prosecutors have called two Witnesses, *Edward Jones*, and *Margaret* his Wife. *Edward Jones* says, that he lodged in the Night between the eighteenth and nineteenth of *January* last, in the *Ruby Man of War*, in the Slop-room, which adjoins to the Purser's Cabbin; where, he says, the Deceased was confined. He tells you, that about Two in the Morning he was waked by his Wife, and heard *Sir John* crying out, Here's twenty Guineas, take it, take it; don't murder me; must I die? He says *Sir John* gave several Kecks with his Throat like a Man expiring, and quickly after was still. He tells you, that then a Light being brought into the Cabbin, he got up and look'd through a Crevice in the Partition, and saw the Prisoner at the Bar engaged in rifling *Sir John's* Pockets, *Mahony* standing by with a Candle in his hand. He says, that *Sir John* was dead, as he believes, when the Prisoner was rifling his Pockets; and from what he observ'd the next Morning, that he was strangled.

Margaret Jones is something fuller in her Evidence, as to some Circumstances previous to the Murder; but in the main, agrees with her Husband touching the rifling of *Sir John's* Pockets after he was dead. She is sure *Mahony* held the Candle, and that another Person whom she takes to be the Prisoner at the Bar, was rifling his Pockets. She says, she had not a perfect view of him; but by his Bulk, and from what her Husband then told her, she concluded at the time, that it was the Prisoner at the Bar. She says further, that when *Mahony* and that other Person went out of the Cabbin, she heard *Mahony* say, Whither shall I run? The other answered, Follow me, my Boy. And then she says, she knew it was the Prisoner made that Answer, by his Voice. She says she knows the Prisoner's Voice perfectly well, having been acquainted with him two Years.

The Prosecutors then read the Prisoner's Examination, which contains a full Confession of the Fact, as laid in the Indictment.

You have heard, Gentlemen, what the Prisoner has said to this Charge. He admits that he went into the Purser's Cabbin, but says, that being much in Liquor, he knows nothing of what pass'd there; and denies that he had any Concern in the Murder. He called some Witnesses to his Character; and I must observe to you, that one of his Witnesses, *Daniel Wellar*, says, that the Prisoner's Voice is distinguishable from the Voices of all the Men in the Ship. This will give some Weight to *Margaret Jones's* Evidence, That she knew him by his Voice.

And, Gentlemen, upon the whole, if you believe the Evidence for the King, and give Credit to the Prisoner's Confession, you must find him guilty. Then the Jury withdrew, to consider of their Verdict; and after a short Space returned again.

Cl. of Arr. Gentlemen, answer to your Names: *John Nash*.

John Nash. Here. [And so of the rest.]

Cl. of Arr. Gentlemen, are you all agreed of your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. The Foreman.

Cl. of Arr. *Charles White*, hold up thy Hand. You of the Jury look upon the Prisoner; How

say you? is *Charles White* guilty of the Felony and Murder whereof he stands indicted, or not guilty?

Jury. Guilty.

Cl. of Arr. What Goods or Chattels, Lands or Tenements, had he at the time of the said Felony and Murder committed, or at any time since, to your knowledge?

Jury. None.

Cl. of Arr. Hearken to your Verdict, as the Court hath recorded it: You say, that *Charles White* is guilty of the Felony and Murder whereof he stands indicted, and that he had no Goods or Chattels, Lands or Tenements, at the time of the said Felony and Murder committed, or at any time since, to your knowledge; and so you say all.

Cl. of Arr. Keeper, take *Charles White* the Prisoner from the Bar, and look to him; he stands convicted of wilful Murder.

On *Saturday* the 28th of *March* the Prisoners were brought again to the Bar, in order to receive their Sentence; and the Court proceeded thus:

Cl. of Arr. Cryer, open the Court.

Cryer. Oyez, Oyez, Oyez; all manner of Persons that have any more to do before the King's Majesty's Justices of Oyer and Terminer, and general Goal-Delivery for this City and County, and were adjourned over to this Time and Place, draw near, and give your Attendance.

Cl. of Arr. Mr. Recorder, will you please that the Prisoners shall be called up to Judgment?

Mr. Recorder. Yes.

Cl. of Arr. Keeper, set *Matthew Mahony*, *Samuel Goodere*, and *Charles White* to the Bar; which was done.

Mr. Recorder. Ask them what they can say to hinder Judgment?

Cl. of Arr. *Matthew Mahony*, hold up thy Hand. Thou hast been indicted of Felony and Murder, thou hast been thereupon arraigned, thou hast pleaded thereunto not guilty, and for thy Trial, thou hast put thy self upon God and thy Country, which Country hath found thee guilty; what hast thou to say for thyself, why the Court should not proceed to give Judgment of Death upon thee, and award Execution according to the Law?

[He offered nothing, but begg'd for Time to prepare himself.]

Cl. of Arr. *Samuel Goodere*, hold up thy Hand. Thou hast been indicted of Felony and Murder, &c. what hast thou to say? &c.

[He offered nothing, but begged also for Time to prepare himself.]

Cl. of Arr. *Charles White*, hold up thy Hand. Thou hast been indicted of Felony and Murder, &c. what hast thou to say? &c.

[He offered nothing, but declared he was drawn into it, and begged for Transportation for Life.]

Cl. of Arr. Cryer, make Proclamation for Silence.

Cryer. Oyez; The King's Majesty's Justices straitly charge and command all manner of Persons to keep Silence whilst Judgment is giving, upon pain of Imprisonment.

[Then *Mr. Recorder* spoke to the Prisoners thus:]

Mr. Recorder. *Samuel Goodere*, *Matthew Mahony*, *Charles White*, and *Jane Williams*, you have been all convicted, upon very full Evidence, of one of the greatest Crimes human Nature is capable of; deliberate and wilful Murder. A Crime, which in all Ages, and through all Nations, hath been had in the highest Detestation. For however Mankind have differed in other Matters, they have been in one Sentiment concerning this Crime

and

* Convicted at the same Sessions for the Murder of her Bastard Child.

and the Demerits of it; as if they had been all Witnesses to the Promulgation of the Precept, *Whoever sheddeth Man's Blood, by Man shall his Blood be shed.*

But this Crime, great as it is, is capable of several Aggravations, arising from the Circumstances which attend it.

To lay violent Hands upon a Person who never gave his Murderer the least Offence, whom perhaps he never saw till the Moment he was mark'd out for Execution; and to do this for Hire, shews a Mind lost, I fear, to all the Impressions of Humanity.

But what then is the Case of one, who can procure all this Mischief, and involve others in this Guilt; especially if the Person to whom the Violence is offered, is near to him by the Ties of Blood or Friendship?

'Tis true, Murders of this kind are not very frequent; and less so in this Nation than in any other. But in the Case in which three of you are concerned, they all concur.

A Gentleman of Distinction is murdered by Persons, who, in a manner, were Strangers to his Face, and his only Brother aiding and abetting the Murder. I may say thus much, because your Country hath upon full Evidence found it so.

I will carry these Reflections no farther: I choose to leave that Part to your own serious Consideration.

I hope I need not persuade you to employ the Time you have to live, in making your Peace with God: I hope, I say, that a Sense of your own Condition hath already put you upon that Work. And pray don't suffer yourselves to be diverted from it by the Hope or Expectation of Mercy from the Crown. His Majesty's Disposition to Mercy is great; but his Love of Justice, and his Love to his People is still greater. And because I would not mislead you, nor have you deceive yourselves in a Case of this Importance, I think it my Duty to deal freely with you.

I do not see what room any of you have to expect Mercy.

You who have been the immediate Actors in this Affair, what have you pleaded in mitigation of your Crime? One says, he is a poor, press'd Servant; and the other, that he was drunk when the Fact was committed. Neither of those Excuses can avail you. You both undertook the Murder for Hire, rifled the Gentleman's Pockets, and shared the Plunder between you.

You had, perhaps, no Design upon the Gentleman's Life, till near the Time of Execution. This is no Excuse. It shews you were ready to shed innocent Blood at the first Call: That you yielded to the first Temptation. And if Drunkenness could be admitted as an Excuse for Crimes of this nature, this would be no World then of Virtue and Sobriety.

You, Sir, who have been the principal Actor in this Affair, what have you offer'd for your self?

You admit, that you employ'd a Number of People to seize your Brother, here in the Heart of the City, and in the Face of the Sun, and to carry him on board the Ship of which you had then the Command. This is too evident to be denied, and for that Reason only, I fear, 'tis admitted.

To give some Colour to this unparallel'd Outrage, you say, that your Brother was distracted, and that you took him on Board in order to put

him under Confinement. Admitting that your Brother was distracted, was the Place you carried him to, or the Hands into which you committed him, or the Treatment which he met with from them before he was got aboard the Barge, at all proper for his Case, or fit for a Brother to think of?

You called Mrs. *Getbins* to prove, that *Mahony* was to have had five Pounds a Month for looking after him at her House. She remembers nothing of *Mahony*. But, had that been proved, could it at all avail you to say, that for three Weeks before the Murder was committed, you intended to have confined him under the Care of the very Man who now appears to have murdered him?

Indeed, you have denied all Concern in the Murder, or the least Knowledge of it. But it hath been proved by three Witnesses, that you were in the Cock-pit while the Murder was committing, and might have heard the Noise and Struggle in the Cabbin, the Cry of Murder, and your Brother's dying Groans, as well as they did.

Nay, two of them are positive, that you stood Centinel at the Door, with a drawn Cutlash in your Hand, while the Fact was committing. One of them says that you delivered a Candle into the Cabbin, after the Cry of Murder ceased; and that you, soon after, lock'd the Door, and took the Key with you. And it is agreed on all hands, that when the Door was open'd the next Morning, your Brother was found there murdered.

Those Facts, with other Circumstances, are strong and pregnant Proofs of your Concern in the Murder; unless the Credit of the Witnesses could be impeached, which you have not attempted to do.

It was charged as a Circumstance against you, that after the Fact was committed, *Mahony* and *White* were sent ashore by you. This likewise you denied. But it came out of the Mouth of a Witness called by yourself, that they went up in the Yawl by Leave from you.

I have nothing more to do, before I proceed to that which the Duty of my Place obliges me to, than to exhort you all to make your Peace with God by a serious and hearty Repentance. His Mercy is infinite, and to that we must leave you. For the Judgment of this Court is, *That you, Samuel Goodere, Matthew Mahony, Charles White, and Jane Williams, go from hence to the Prison from whence you came; and from thence you shall be led to the Place of Execution, where you shall severally be hang'd by the Neck till you shall be dead. And the Lord have Mercy on your Souls.*

Then the Keeper carried away the Prisoners to the Goal, to be reserved till their Execution.

On *Wednesday* the 15th of *April* following, the Prisoners *Matthew Mahony, Samuel Goodere,* and *Charles White,* were executed at *Bristol,* according to the Sentence pronounced against them. They all confessed the Fact. The Body of *Mahony* is hung in Chains near the Place where the horrid Fact was committed.

At the same Court *Charles Bryan, Edward M'Daniel,* and *William Hammon,* were indicted, tried and convicted, for a Misdemeanour, in forcibly assisting and seizing Sir *John* in the Parish of *St. Augustine,* in the said City and County, and carrying him on board the Barge belonging to the *Ruby* Man of War; and were fined 40*s.* each, to be imprisoned for one Year, and then each to give Security for his good Behaviour for one Year more.

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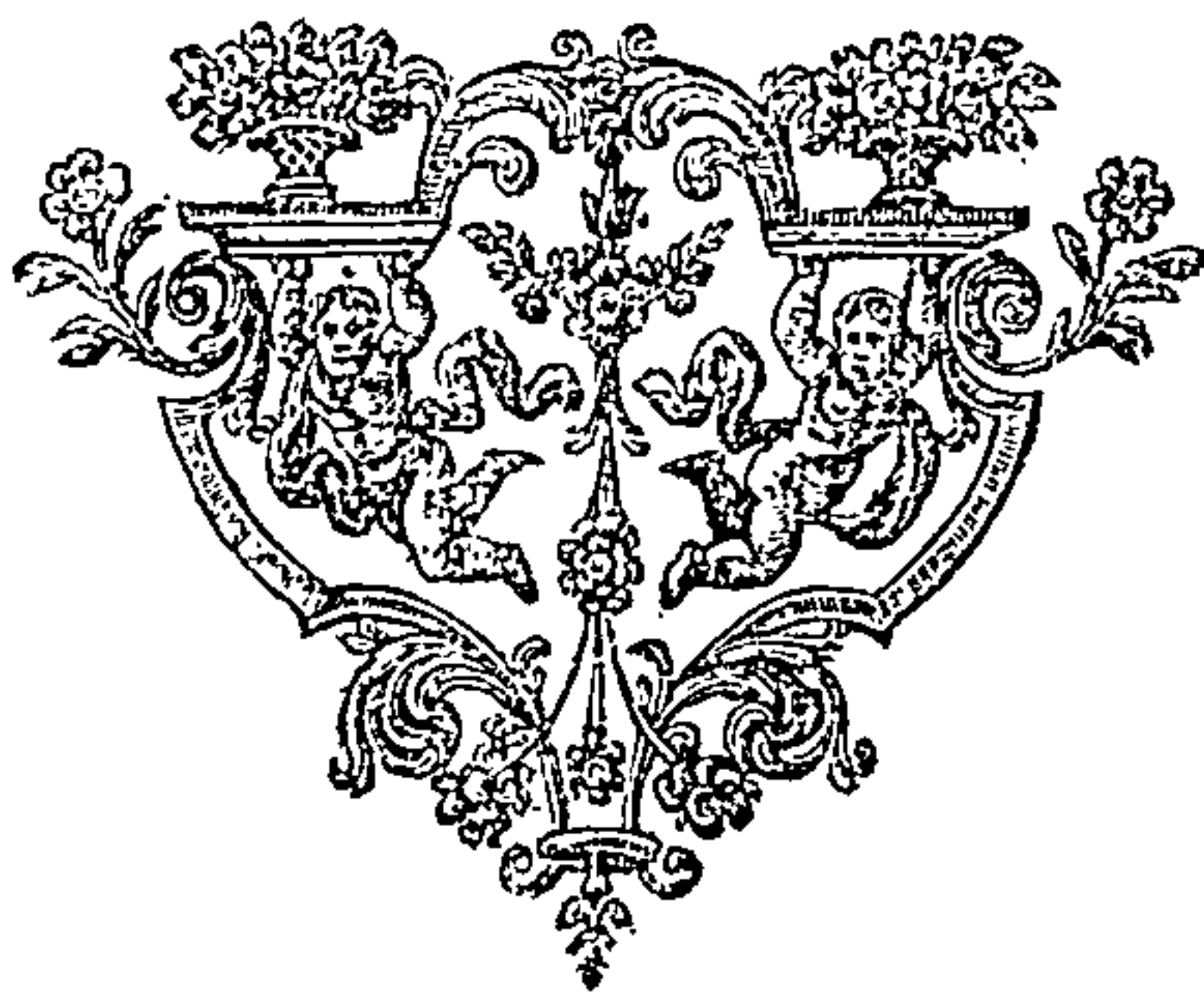
A P P E N D I X,

Containing several

R E C O R D S

Relating to the foregoing

Trials and Proceedings.



L O N D O N:

Printed in the Year MDCCXLII:



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A N A P P E N D I X,

CONTAINING

*Several RECORDS relating to the foregoing TRIALS
and PROCEEDINGS.*

THE Second and Third Trials in this Collection being for *Heresy* (a Crime heretofore very frightful, and punished with great Severity) it may not be amiss to state how the Law formerly stood relating thereto, and, since we have not the Precedents of the Process issued in those particular Instances, to give a Precedent of two in some others of the same Nature.

By the ancient ^a Law, Burning was the Punishment for Heresy; but the Party accused was first to be tried and convicted thereof by the Archbishop and the rest of the Clergy of his Province assembled in Convocation. After Conviction the Offender was delivered over into Lay-Hands, and the Sheriff of the County, by virtue of the Writ *de Heretico comburendo*, was to cause him to be burnt. *Brit. lib. 1. c. 17. Bro. Abr. tit. Heresy. Fitz. Nat. Brev. 595.*

The first Statute in relation to Heresy is the 5th of *Rich. II. cap. 5.* whereby it is enacted, That the Sheriffs and other Civil Officers should apprehend and imprison Persons suspected of Heresy, in order to their being tried by the Laws of Holy Church; and it being found inconvenient to summon the Convocation for the Trial of every Offender, a Statute was made the 2d of *Hen. IV. cap. 15.* empowering every Diocesan to imprison Persons suspected of Heresy in their respective Dioceses, and try them (so that such Diocesan proceeded judicially and openly against such Persons) and where any Person was convicted, he might be imprisoned at the Discretion of the Ordinary; or, if the Party refus'd to abjure his Errors, or, having abjured them, relaps'd, he was to be left to the Secular Arm; and the Sheriff (whom the Ordinary might call to be present at the Trial) was to cause the Party to be burnt in some high (or open) Place.

The Lord Chief Justice *Brook* (in his Abridgment, *Tit. Heresy*) says, that upon this Statute it

was resolved, That if a Person was convicted of Heresy in the Presence of the Sheriff, the Ordinary might commit him to the same Sheriff, and he was to cause him to be burnt without the Writ *de Heretico comburendo*; but if the Sheriff was absent, or if the Heretic was to be burnt in another County, in either of these Cases the Writ *de Heretico comburendo* must be first obtained, before the Sheriff could burn him.

Some Authors have wonder'd, Why the Writ *de Heretico comburendo* was issued for the burning of *Sawtre*, when by the last mentioned Act the Sheriff was empowered to execute Persons convicted of Heresy without that Writ: But the Wonder ceases, if we consider that the Sheriff could not proceed to execute the Offender by his own Authority, unless he was present at the Conviction; and though the Diocesan might call the Sheriff to attend the Trial, yet he might too convict the Offender in his Absence. And further, *Sawtre* was convicted by the Convocation; and it may be difficult to give one Instance where the Convocation called the Sheriff to assist at the Trial of an Heretic; and, if they had, such a Conviction was not within the Letter of the Act: Therefore, upon this Conviction, the Sheriff was under a Necessity of waiting for the Writ *de Heretico comburendo*, before he could execute him †.

By the 2d of *Hen. V. cap. 7.* all Civil Officers were to be sworn to assist the Ordinaries in extirpating Heresies; and one convict of Heresy was to forfeit his Goods and Chattels, and Fee-simple Lands.

By the 25th of *Hen. VIII. cap. 14.* the Act of the 2d of *Hen. IV.* is in part repealed; and it is thereby provided, That no Person shall be executed as an Heretic, without the Writ *de Heretico comburendo* first obtained.

By the 1st of *Eliz. cap. 1.* the abovesaid Statutes, as well as that other Statute of the first and second of *Phil. and Mar. cap. 6.* against Heretics, are repealed.

^a See *Whitlock's* Speech in behalf of *James Naylor*, Vol. II. p. 273. N^o. 53 See also *Hale's* H. P. C. Vol. I. p. 392. Note (b) and p. 394. and Note p. 709.

† The Writ for burning *Sawtre* seems to be a special Act of Parliament made for that purpose for it is tested *Per regem & concilium in parlamento*, which is to be intended of an Act of Parliament. See *S. Co. Rep. 19. a. Prince's Case.* See also *Hale's* Hist. P. C. Vol. I. p. 396.

And by the 29th of *Car. II. cap. 9.* the Writ *de Hæretico comburendo*, with all Proceedings thereon, and all Capital Punishments in pursuance of any Ecclesiastical Censures, are from thence forth utterly abolished.

So that at this day a Person convicted of Heresy is liable only to Excommunication, and such Pains and Disabilities as Persons standing excommunicated for any other Offence.

The Writ de Hæretico comburendo, for burning William Sawtre^b, convicted of Heresy in Convocation^c.

REX, &c. Majori & Vic' London salutem. Cum venerabilis Pater Thomas Archiepiscopus Cantuar' totius Angliæ Primas, & Apostolicæ sedis Legatus, de consensu & assensu, ac consilio Episcoporum, & confratrum suffragan' suorum, necnon totius Cleri provinciæ suæ in consilio suo provinciali congregat', juris ordinibus in hac parte requisit' in omnibus observat', Will' Sawtre, aliquando Capellanum in hæres' damnat', & per ipsum Willielmum præantea in forma juris abjurat', & ipsum Willielmum in hæresin prædict' relaps', per suam sententiam definitivam hæreticum manifestum pronunciat' & declarav', ac degradandum fore decreverit, & ab omni prærogativa & privilegio Clericali ea de causa realit' degradaverit, ipsumq; Will' foro seculari relinquendum esse decreverit, & realiter reliquit, juxta leges & canonicas sanctiones editas in hac parte, & sancta Mater Ecclesia non habet ulterius quod fac' in præmiss': Nos igitur, zelator justitiæ, & fidei catholicæ cultor, volentes Ecclesiam sanctam, ac jura & libertates ejusdem manutenere & defendere, & hujusmodi hæreses & errores de regno nostro Angliæ (quant' in nobis est) radicitus extirpar', ac hæreticos sic convictos animadversione condigna puniri; attendentesq; hujusmodi hæreticos, in forma prædict' convictos & damnatos juxta legem divinam & humanam canonica institutione, & in hac parte consuetudinar', ignis incendio comburi debere, Vobis distinctius quo possimus præcipimus, firmiter injungentes, quod præfat' Will' in custodia vestra existen', in aliquo loco publico & aperto infra libertat' civitatis prædict', causa præmissa, coram populo publice igni committ', ac ipsum in eodem igne realiter comburi fac' in hujus criminis detestationem, aliorumq; Christianorum exemplum manifestum; & hoc sub periculo incumbente nullatenus omittatis. Teste, &c.

The Form of the Warrant to the Lord Chancellor for issuing the Writ de Hæretico comburendo against Bartholomew Legatt, on a Conviction for Heresy before the Ordinary.

JAMES REX.

JAMES, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To our right-trusty and right well-beloved Counsellor, *Thomas Lord Ellesmere*, our Chancellor of England, Greeting. Whereas the Reverend Father in God, *John Bishop of London*, having judicially proceeded in

a Cause of Heresy against *Bartholomew Legatt*, of the City of *London*, in the Diocese of the said Bishop of *London*, concerning divers wicked Errors, Heresies, and blasphemous Opinions, holden, affirmed, and published by the said *Bartholomew Legatt*, and chiefly in these Thirteen blasphemous Positions following, *viz.* That the Creed called the *Nicene Creed*, and *Athanasius's Creed*, contain not a Profession of the true Christian Faith, or, that he will not profess his Faith according to the same Creeds; That Christ is not God of God begotten, not made, but begotten and made; That there are no Persons in the Godhead; That Christ was not God from everlasting, but began to be God when he took Flesh of the *Virgin Mary*; That the World was not made by Christ; That the Apostles teach Christ to be Man only; That there is no Generation in God, but of Creatures; That this Assertion, God to be made Man, is contrary to the Rule of Faith, and monstrous Blasphemy; That Christ was not before the Fulness of Time, except by Promise; That Christ was not God otherwise than anointed God; That Christ was not in the Form of God equal with God, That is, in Substance of God, but in Righteousness and giving Salvation: That Christ by his Godhead wrought no Miracle; That Christ is not to be pray'd unto: Wherein he the said *Bartholomew Legatt* hath, before the said Reverend Father, maintained his said most dangerous and blasphemous Opinions, as appeareth by many of his Confessions publickly made and acknowledged. For which his damnable and heretical Opinions, he is by definitive Sentence by the said Reverend Father *John Bishop of London*, with the Advice and Consent of other Reverend Bishops, Learned Divines, and others learned in the Laws, assisting him in Judgment, justly adjudged, pronounced, and declared to be an obstinate and incorrigible Heretick, and is left by them under the Sentence of the great Excommunication, and therefore as a corrupt Member to be cut off from the Church of Christ, and Society of the Faithful, and is to be, by our secular Power and Authority, as an Heretick punished, as by the *Significavit* of the said Reverend Father in God the said Bishop of *London*, bearing Date at *London* the third day of *March*, in the Year of our Lord 1611, in the Ninth Year of our Reign, and remaining in our Court of *Chancery*, more at large appeareth. And although the said *Bartholomew Legatt* hath, since the said Sentence pronounced against him, been often very charitably moved and exhorted, as well by the said Bishop, as by many grave and learned Divines, to dissuade, revoke, and remove him from the said blasphemous and heretical Opinions, yet he arrogantly and wilfully persisteth and continueth in the same. We therefore, according to our Regal Function and Office, minding the Execution of Justice in this behalf, and to give Example to others, lest they should attempt the like hereafter, have determined, by the Assent of our Council, to will and require, and do hereby authorize and require you our said Chancellor, immediately upon the Receipt hereof, to award and make out, under our Great Seal of *England*, our Writ of Execution, accord-

^b This Person was executed according to the Writ in the Year 1401, and was the first who was burnt in *England* for Heresy. See an Account of the Proceedings against him, and of his Execution, *Fox's Acts and Mon.* Vol. I. p. 586.

^c See *Fitz. Nat. Brev.* 594.

ing to the Tenor in these Presents ensuing; and these Presents shall be your sufficient Warrant and Discharge for the same,

The Writ de Hæretico comburendo.

REX Vicecomitibus London salutem. Cum Reverendus in Christo Pater Johannes, London Episcopus, nobis significavit, quod cum ipse in quodam hæreticæ pravitatis negotio contra quendam Bartholomeum Legatt, subditum nostrum civitatis London, dicti London Episcopi dioces' & jurisdic't', rite & legitime procedens per acta inactitata, deducta, proposita, & per confessiones ipsius Bartholomei Legatt coram præfato Episcopo judicialiter factas & recognitas, comperit & invenit præfatum Bartholomeum Legatt quamplurimos nefandos errores, falsas opiniones, hæreses & blasphemias execrandas, & scelerata dogmata catholicæ & orthodoxæ fidei & religioni, & sacrosancto Dei Verbo expressè contraria & repugnantia, scienter, maliciose, animoq; pertinaci, obdurato, planeque incorrigibili credere, tenere, affirmare, & publicare; idem Reverendus Pater London Episcopus, cum consilio & consensu tam Reverendorum Episcoporum & aliorum Theologorum, quam Juris etiam peritorum in judicio assiden' & assisten', eundem Bartholomeum Legatt, per sententiam suam definitivam, obduratum, contumacem, & incorrigibilem hæreticum pronunciavit, decrevit, & declaravit, eaque occasione tanquam protervum hæreticum, & membrum putridum & contagiosum, ab ecclesia Christi & fidelium communione recisum & amputatum fore. Cum igitur sancta mater Ecclesia non habeat quod ulterius facere & exequi valeat in hac parte, idem Reverendus Pater præfatum Bartholomeum Legatt, ut blasphemum hæreticum, brachio nostro seculari reliquit condigna animadversione plectend', prout per Literas Patentes præfati Reverendi in Christo Patris London Episcopi in hac parte superinde confect' nobis in Cancellar' nostram certificat' est. Nos igitur ut zelator justitiæ, & fidei catholicæ defensor, volentesq; Ecclesiam sanctam, ac jura & libertates ejusdem, & fidem catholicam manutenere & defendere, ac hujusmodi hæreses & errores ubiq; (quantum in nobis est) eradicare & extirpare, ac hæreticos sic convictos animadversione condigna puniri, attendentesq; hujusmodi hæreticum in forma prædict' convictum & damnatum juxta leges & consuetudines regni nostri Angliæ in hac parte consuet', ignis incendio comburi debere: Vobis præcipimus, quod dictum Bartholomeum Legatt, in custod' vestra existen', apud West-Smithfield in loco publico & aperto, ex causa præmissa, coram populo publice igni committi, ac ipsum Bartholomeum Legatt in eodem igne realiter comburi fac' in hujusmodi criminis detestationem, aliorumq; Christianorum exemplum manifestum, ne in simile crimen labantur; & hoc sub periculo incumbente nullatenus omittatis. Teste, &c.

Henry Hibirt.

The Writ for burning an Heretic in English.

THE King to the Sheriffs of London, Greeting. Whereas the Reverend Father in Christ, *John* Bishop of London, hath signified unto us, that when he in a certain Business of heretical Pravity against one *Bartholomew Legatt*, our Subject of the City of London, of the said Bishop of London's Diocese and Jurisdiction, rightly and lawfully proceeding by Acts enacted, drawn, proposed, and by the Confessions of the said *Bartholomew Legatt*, before the said Bishop judicially made and acknowledged, hath found the said *Bartholomew Legatt* very many wicked Errors, false Opinions, Heresies, and cursed Blasphemies, and impious Doctrines, expressly contrary and repugnant to the Catholick Faith and Religion, and the holy Word of God, knowingly and maliciously, and with a pertinacious, obdurate, and plainly incorrigible Mind, to believe, hold, affirm, and publish; the same Reverend Father the Bishop of London, with the Advice and Consent as well of the Reverend Bishops and other Divines, as also of Men learned in the Law, in Judgment sitting and assisting, the same *Bartholomew Legatt*, by his definitive Sentence, hath pronounced, decreed, and declared to be an obdurate, contumacious, and incorrigible Heretic, and, upon that Occasion, as a stubborn Heretic, and rotten contagious Member, to be cut off from the Church of Christ, and the Communion of the Faithful: Whereas the holy Mother Church hath not further to do and prosecute in this part, the same Reverend Father hath left the aforesaid *Bartholomew Legatt*, as a blasphemous Heretic, to our secular Power, to be punished with condign Punishment, as by the Letters Patents of the said Reverend Father in Christ the Bishop of London, in this behalf above made, hath been certified unto us in our Chancery. We therefore, as a Zealot of Justice, and a Defender of the Catholick Faith, and willing to maintain and defend the Holy Church, and Rights and Liberties of the same, and the Catholick Faith, and such Heresies and Errors every where, what in us lieth, to root out and extirpate, and to punish with condign Punishment such Heretics so convicted, and deeming that such an Heretic, in Form aforesaid convicted, and condemned according to the Laws and Customs of this our Kingdom of England in this part accustomed, ought to be burned with Fire; we do command you, that the said *Bartholomew Legatt*, being in your Custody, you do commit publickly to the Fire before the People, in a publick and open Place in *West-Smithfield*, for the Cause aforesaid; and that you cause the said *Bartholomew Legatt* to be really burned in the same Fire, in Detestation of the said Crime, for the manifest Example of other Christians, lest they slide into the same Fault; and this that you in no wise omit, under the Peril that shall follow thereon. Witness, &c.

The [forged] Indictment and Outlawry^d of Sir John Oldcastle, Lord Cobham, for High-Treason.

Hil. 1 Hen. V. Rot. 7: B. R.

ALIAS coram Gulielmo Roos de Hamlak, Henrico le Scrop, Gulielmo Crowmere Majore civitatis London, Hugone Huls & sociis Justic' Domini Regis, ad inquirend' per sacram' proborum & legal' hominum de civitate Domini Regis London, & suburbiis ejusdem, ac de com' Midd' tam infra libertates, quam extra, de omnibus & singulis prodicionibus & insurrectionibus, per quamplures subditos Domini Regis Lollardos vulgarit' nuncupatos, & alios in civitate, suburbiis, & com' prædictis factis & perpetratis, necnon de omnibus prodicionibus, insurrectionibus, rebellionibus, & feloniis in civitate, suburbiis, & com' præd' per quoscunque & qualitercunq; factis, sive perpetratis, & ad easdem prodiciones, insurrectiones, rebelliones, & felonias audiend' & terminand' secundum legem & consuetudinem regni Domini Regis Angliæ, per literas ipsius Domini Regis patentes, assign' apud West' die Mercurii proximo post festum Epiphaniæ Domini, anno regni Regis Henrici quinti post conquestum primo, per sacram' xii. jur' extitit præsentatum, quod Johannes Oldcastle de Coulyng in com' Kanc' chr' & alii Lollardi vulgar' nuncupat', qui contra fidem catholicam diversas opiniones hæreticas, & alios errores manifestos legi catholicæ repugnantes diu temerarie tenuerunt, opiniones & errores prædictos manutenere, at in facto minime perimplere valentes, quandiu regia potestas, & tam status regal' Domini nostri Regis, quam status & officium Prælatiæ dignitatis infra regnum Angl' in prosperitate perseverarent, falso & proditorie machinando, tam statum regni, quam statum & officium prælatorum, necnon ordines religiosorum infra dictum regnum Angl' penitus adnullare, ac Dominum nostrum Regem, fratres suos, prælatos & alios magnates ejusdem regni interficere, necnon nos religiosos, relict' cult' divinis & religiosis observanciis ad occupationes mundanas provocare, & tam ecclesias cathedrales, quam alias ecclesias & domos religiosas de reliquis & aliis bonis ecclesiasticis totaliter spoliare, ac funditus ad terram prosternere, & dictum Johannem Oldcastle regentem ejusdem regni constituere, quamplura regimina secundum eorum voluntatem, infra regnum prædictum, quasi gens sine capite, in finalem destructionem, tam fidei catholicæ & cleri, quam status & majestatis dignitatis regal' infra idem regnum ordinare, falso & proditorie ordinaverunt & proposuerunt, quod ipso insimul cum quampluribus rebellibus Domini Regis ignotis, ad numerum viginti millium hominum de diversis partibus regni Angl' modo guer-

rino arrivat', privatim insurgent', & die Mercurii proximo post festum Epiphaniæ Domini, anno regni Regis prædicti prædicto, apud villam & parochiam sancti Ægidii extra Barram veteris Templi London, in quodam magno campo ibidem unanimit' convenirent, & insimul obviarent pro nephando proposito suo in præmissis perimplend'; quo quidem die Mercurii apud villam & parochiam prædicti J. Oldcastle & alii in hujusmodi proposito proditorio perseverantes, prædictum Dominum nostrum Regem, fratres suos (videlicet, Thomam ducem Clarenciæ, Johannem de Lancastre, & Humfredum de Lancastre) necnon prælatos & magnates prædictos interficere, necnon ipsum Dominum nostrum Regem, & hæredes suos, de regno suo prædicto exhæredare, & præmissa omnia & singula, necnon quamplura alia mala & intolerabilia, facere & perimplere falso & proditorie proposuerunt & imaginaverunt, & ibidem versus campum prædictum modo guerrino arrivati' proditorie modo insurrectionis contra ligeancias suas equitaverunt ad debellandum dictum Dominum nostrum Regem, nisi per ipsum manu forti gratiose impediti fuissent. Quod quidem inditament' Dominus Rex nunc, certis de causis, coram eo venire fecit terminandum. Per quod præceptum fuit Vic', quod non omitteret, &c. quin caperet præfatum Johannem Oldcastle, si, &c. & salvo, &c. ita quod haberet corpus ejus coram Domino Rege apud Westmonasterium ad hunc diem, scilicet die Mercurii proximo post octavas sancti Hilarii, isto eodem termino ad respondendum Domino Regi de præmissis, &c. Ad quos diem & locum coram Domino Rege Vic', quod exigi faceret eum de com' in com' quousque utlagetur, si non, &c. & si, &c. tunc eum caperet, & salvo, &c. ita quod haberent corpus ejus coram Domino Rege in octavas sancti Johannis Baptistæ ex tunc proximum sequentem, ubicunque, &c. ad respondendum Domino Regi de prodicionibus & feloniis superius sibi impositis. Ad quas octavas sancti Johannis Baptistæ, an' regni R. Henrici quinti post conquestum secundo, Johannes Sutton & Jo' Michell' Vic' Mid', coram Domino Rege returnaverunt, quod ad com' Midd' centum apud Braynsford die Jovis proximo ante festum S. Barnabæ Apostoli, an' reg' R. Hen' quint' post conquestum secundo; & ad quatuor com' ex tunc ex proximo præcedentes, prædictus Johannes Oldcastle exactus fuit, & non comparuit; & quia ad nullum eorundem com' comparuit, ideo præsentibus Coronatoribus com' prædicti utlagat' fuit, per quod inquiratur de terra & catallis suis.

Rex versus Dominum Audley^e, for a Rape.

7 Car. I.

Wilts, ff. **J**uratores pro Domino Rege super sacramentum suum præsent', Quod Martinus dominus Audley, nuper de Fountell Gifford in comitatu Wilts, & Ægidius Broadway de Fountell Gifford prædict' in comitatu prædicto ge-

nerosus, timorem Dei præ oculis suis non habentes, sed instigatione diabolica moti & seducti, vicesimo die Junii, anno regni Domini nostri Caroli, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Regis, fidei defensoris, sexto, apud Fountell Gifford prædict' & comitatu prædicto, vi & armis, &c.

^d The Record appears to have several rasures in it. See Trials Vol. I. p. 36. N^o 3. and Fox's Acts and Mon. Vol. I. p. 655.
^e Vol. I. p. 388. N^o. 31. and Hut. Rep. 115.

in & super Annam dominam Audley, uxorem præfati domini Martini Audley, in pace Dei & dicti Domini Regis ibidem existent' insult' fecerunt. Et prædictus Ægidius Broadway prædictam Annam dominam Audley, vi & armis, contra voluntatem ipsius Annæ ad tunc & ibidem violenter & felonice rapuit, ac ipsam Annam ad tunc & ibidem contra voluntatem suam violenter & felonice carnaliter cognovit, contra pacem Domini Regis nunc, coron', & dignitat' suas, & contra formam statuti in hujusmodi casu edit' & provis'.

Et ultra, juratores prædicti dicunt super sacramentum suum prædict', Quod prædictus Martinus dominus Audley prædicto vicesimo die Junii, ann' sexto suprascripto, apud Fountell Gifford prædictam, in comitatu prædicto, felonice fuit præfens, auxilians, & confortans, abettans, procurans, adjuvans, & manutenens prædictum Ægidium Br. ad feloniam prædictam, in forma prædicta felonice faciend' & perpetrand', contra pacem dicti Domini Regis nunc, coronam & dignitatem suas, ac contra formam statuti prædicti.

Rex versus Dominum Audley^f, for Sodomy.

7 Car^o I.

Wilts, ff. Juratores pro Domino Rege super sacramentum suum præsent', Quod Martinus dominus Audley, nuper de Fountell Gifford in comitatu Wilts', Deum præ oculis non habens, nec naturæ ordinem respiciens, sed instigatione diabolica motus & seductus, primo die Junii, an' regni Domini nostri Caroli, &c. sexto, apud Fountell Gifford prædict' in dicto comitatu Wilts, in domo mansionali ejusdem Martini domini Audley, ibidem vi & armis in quendam Florence Fitz-patrick, yeoman, insult' fecit, & cum eodem Florence F. ad tunc & ibidem nequit',

diabolice, felonice, & contra naturam rem Venerem habuit, ipsumque F. ad tunc & ibidem carnaliter cognovit, peccatumque illud Sodomiticum detestabile & abominandum, Anglice vocat' Buggery (inter Christianos non nominandum) ad tunc & ibidem cum eodem Florence F. nequit' diabolice, felonice, & contra naturam commisit & perpetravit in magnam Dei omnipotentis displicentiam, ac totius humani generis dedecus, ac contra pacem dicti Dom' Reg' nunc, coronam & dignitat' suas, & contra formam statuti in hujusmodi casu edit' & provis'.

Rex versus Johannem Hampden^g, in the Case of Ship-Money.

Trin' 13 Car^o I. in Scacc^o.

Memorand', quod brev' Domini Regis nunc sub sigillo hujus Scaccar' per concess' Baron' hic emanavit in hæc verba:

ff. CAROLUS Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, fidei defensor, &c. Vic' Bucks salutem. Cum diversæ & separal' denar' summæ in schedul' huic brevi annex' spec', virtute brevis nostri sub magno sigillo nostro Angliæ geren' dat' quarto die Augusti, anno regni nostri undecimo, assessat' & onerat' fuer' super separal' person' in ead' schedul' nominat', in & versus provision' navis pro guerra, una cum apparat' & al' eid' pertin', in eod' brevi particular' mentionat'; quibus quid' separal' denar' summis sic assessat' & onerat', & non solut' & satisfact' existen', per breve nostrum de certiorar' geren' dat' nono die Martii, anno regni nostri duodecimo, sub magno sigillo nostro præd' emanat', nomina earund' separal' person' una cum separal' denar' summis super ipsos onerat', in cur' Cancellar' nostræ certificat' fuer'. Ac per breve nostrum de Mittimus sub eodem sigillo, geren' dat' quinto die instant' mensis Maii in Scaccar' nostr' miss' fuer' pro ulterior' process' super inde habend', prout per tenorem prædicti brevis geren' dat' quarto die Augusti, anno regni nostri undecimo, ac per prædict' breve de Certiorar' & certificat' super inde fact' in dictum Scaccar' nostrum miss', & ibid' de record' in custodia Rememorat' nostri remanen' plenius apparet, tibi præcipimus, quod non omit' propter aliqu' libertat' quin ea ingr', & per probos & legales homines de bal' tua scir' fac' præfat' separal' person' in dict' schedul' nominat' & spec', quod sint coram Baron' de Scaccar' nostro apud Westm' in octab' sanctæ Trinit'

proxim' futur', ad ostend' & proponend', siquid pro se habeant, vel dicere sciant, quare ipsi de præd' separal' denar' summis super ipsos modo & forma prædict' assessat', & non solut', in schedul' il' spec', onerari & inde satisfacere non deb' & ad ulterius faciend' & recipiend' in præmissis, quod cur' nostra tunc ibidem duxerit ordinand' & habeas ibi tunc hoc breve, & nomina eor' per quos eis sciri feceris. Teste Humfr' Davenport' Mil, apud Westm', vicesimo secundo die Maii, anno regni nostri decimo tertio. *Per rotulum.*

Memorandum de eodem anno Regis in recordor' rotulo termini Paschæ, Tenor schedul' præd' in brevi prædict' mentionat', quoad Johannem Hampden, sequitur in hæc verba: ff Schedul' de nominibus certar' personar' in com' Bucks, & cert' denar' summar' super ipsos assessat' & onerat' in & versus provision' navis de guerra, una cum apparat' & al' eid' pertin', virtute cujusd' brevis sub magno sigillo Angliæ, geren' dat' quarto die Augusti, anno regni Domini Reg' nunc Caroli undecimo, & in cur' Cancellar' Dom' Regis, virtute brevis de Certiorar' sub sigillo præd' eman', geren' dat' nono die Martii, anno regni sui duodecimo, certificat' esse insolut', ac per breve de Mittimus sub eodem sigillo in Scaccar' dict' Dom' Regis nunc missis pro ulterior' process' super inde faciend', prout per tenor' prædict' brevis geren' dat' quarto die Augusti, anno regni dicti Domini Regis nunc undecimo suprascripto, ac per breve de Certiorar', & certificat' superinde fact' in dictum Scaccar' nostr' miss', & ibidem de record' in custod' Rememorat' Dom' Regis reman' plenius apparet.

^f Vol. I. p. 388. N^o 31. and *Hut. Rep.* 115.

^g Vol. I. p. 505. N^o 37.

Stoake Mandivile, *ff.* Johann' Hampden Esq; Ad quem diem Anthonius Chester Baron', Vic' com' prædict', quoad præfat' Johannem Hampden retorn', quod per Nicolaum Aris, Robertum Alexander, Richardum Harrison, & Will'um Heyborne, probos & legales homines de ball' sua, sciri fecit, præfat' Johann' Hampden, inter al', quod sit coram Baron' infra script' ad diem & locum infra content', ad ostendend' & proponend' si quid pro se habeat, vel dicere sciat, quare ipse de prædict' summa super ipsum assessat', & non solut', in schedul' prædict' spec', onerari & inde satisfacere non debeat, prout ulterius sibi præcipitur: Et modo, scilicet a die sanctæ Trinitatis in tres septiman' venit hic præd' Johannes Hampden, in schedul' præd' nominat', in propria persona sua, & petit audit' brevis de Sciri facias præd', retorn' ejusdem, ac præd' schedul' eid' annexat', & ei leguntur; petit etiam audit' præd' brevis, geren' dat' quarto die Augusti, anno regni dicti Domini Regis nunc Caroli undecimo, in brevi de Sciri facias mentionat', & ei legitur in hæc verba:

ff. Carolus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, fidei defensor, &c. Vic' com' nostri Bucks, Ball' & Burgens' burgi & paroch' de Buckingham, Majori, Ball' & Burgens' burgi de Chipping-Wicombe, alias Wicombe, ac probis hominibus in eisdem burgis & paroch', & membris eorund', & in villis de Agmondesham, Wendover, & Marlow magna, ac in omnibus aliis burgis, villat', hamlet' & al' locis in dicto com' Bucks, salutem. Quia dat' est nobis intelligi, quod prædones quid', pirati, & mar' grassatores, tam nominis Christiani hostes Mahumetani, quam alii congregati, naves & bona ac mercim' non solum subditor' nostr', verum etiam suditor' amicor' nostr' in mari, quod per gent' Anglican' ab olim defend' consuevit, nefarie diripientes & spoliantes, ad libitum suum deportare, homines in eisdem in captivitate miserissima mancipantes: Cumque ipsos conspiciamus navigium indies præparantes ad mercatores nostros ulterius molestand', & ad regnum gravand', nisi citius remedium apponatur, eorumque conatui viriliter obvietur: Consideratis etiam periculis, quæ undique his guerrinis temporibus imminet, ita quod nobis & subditis nostris, defension' maris & regni omni festinatione, qua poterimus, accelerare convenit: Nos volentes defension' regni, tuitioni maris, securitati subditor' nostr', salva conductione navium & merchandizar' ad regnum nostrum Angliæ venien', & de eod' regno ad partes externas transeun', auxiliante Deo, providere; maxime cumque nos & progenitores nostri Reges Angliæ domini maris præd' semper hæcenus extiter', & plurimum nos tæderet, si honor iste regius nostris temporibus deperat, aut in aliquo minuatur; cumque onus istud defensionis, quod omnes tangat, per omnes debeat supportari, prout per legem & consuetudinem regni Angliæ fieri consuevit, vobis præfat' Vicecomiti, Ball', Burgens', Majori, probis hominibus, & omnibus aliis quibuscunq; supra mentionat' in burgis, villis, villat', hamlet', & locis suprædict', eorumque membris, in fide & ligeantia, quibus nobis tenemini, & sicut nos & honorem nostrum diligitis, necnon sub forisfactur' omnium quæ nobis forisfacere poteritis, firmiter injungend' mandamus, quod unam navem de guerra, portagii quadringint' & quinquagint' dolior', cum hominibus tam magistris peritis, quam marinar'

valentioribus & expertis cent' & octogint' ad minus, ac etiam tormentis tam majoribus quam minoribus, pulvere tormentario, ac hastis & telis, aliisque armaturis necessar' pro guerra sufficien', & cum duplici eskipamento, necnon cum victualibus usque ad primum diem Martii jam proxime sequent', ad tot homines competen', & abinde in vigint' & sex septiman' ad custag' vestra, tam in victualibus, quam in hominum salariis, & al' ad guer' necessar' per tempus illud, super defensionem maris in obsequio nostro in comitiva custodis maris (cui custod' maris ante præd' primum diem Martii commitemus) & prout ipse ex parte nostra dictaverit moratur', parari, & ad portum de Portsmouth citra dictum primum diem Martii duci faciatis, ita quod sint ibid' eod' die ad ultimum, ad proficiend' exinde cum navibus nostris, & navibus alior' fidelium subditor' nostr', pro tuitione maris, defensione nostrum & nostrorum, repulsioneque & debellatione quorumcunq; mercatores nostros, & alios subditos fideles prædict' in dominia nostra ex causa mercaturæ se diversantes, vel abinde ad propria declinantes super mare gravare seu molestare satagentium. Assignavimus autem vos Vic' com, nostr' Bucks, Ball' & Major' burgor' & paroch' prædict', aut aliquos duos vel plures vestrum, quorum te præfat' Vic' com' nostri Bucks unum esse volumus, infra trigint' dies post receptionem hujus brevis, ad assidend' quantum de custag' prædict' super præd' burgos de Buckingham & Chipping-Wicombe, alias Wicombe, cum membris eorund', separatim poni aut assideri debeat. Et si hujusmodi assessament' infra prædict' triginta dies per vos duos, vel plures vestrum fieri non contigerint, tunc assignavimus te præfat' Vic' com' nostri Bucks ad assessamen' hujusmodi super prædict' burgos & paroch', & membris eorund', faciend' prout rationabiliter vides faciend'; & volumus, quod de toto facto tu præfat' Vic' Bucks, sub sigillo tuo prædict' Majorem & Ballivos reddas certiores. Assignavimus etiam te præfat' Ball' burgi & paroch' de Buckingham, ad assidend' omnes homines in eodem burgo & paroch', & membris ejusd', & terr' tenentes, in eisdem navem vel partem navis prædict' non habentes, vel in eadem non deservientes, ad contribuend' expensis circa provision' præmissor' necessar'; & super prædict' burgum & paroch', cum membris ejusd' (sicut præfertur) assidend' & ponend', viz. quemlibet eor' juxta statum suum & facultates suas & portiones suas ipsis assessat' per districtiones, aliosve modos debitos levand' & collectores in hac parte nominand' & constituend', & omnes eos, quos rebelles & contrarios inveneris in præmissis carcere mancipand', in eodem moratur' quousque pro eod' deliberatione ulterius duxerimus ordinand'. Assignavimus etiam te præfat' Major' burgi de Chipping-Wicombe, alias Wicombe, ad assidend' omnes homines in eod' burgo & membris ejusdem, & terr' tenentes, in eisd' navem vel partem navis præd' non habentes, vel in eadem non deservientes, ad contribuend' expensis circa provision' præmissor' necessar'; & super prædict' burg', cum membris ejusd' (sicut præfertur) assidend' & ponend', viz. quemlibet eorum juxta statum suum & facultates suas, & portiones super ipsos assessat' per districtiones, aliosve modos debitos levand', & collectores in hac parte nominand' & constituend' & omnes eos, quos rebelles & contrarios inveneris in præmissis in carcere mancipand', in eod' moratur', quousque

usque pro eor' deliberatione ulterius duxerimus ordinand'. Et ulterius assignavimus te præfat' Vicecomitem com' nostr' Bucks ad assidend' omnes homines in præd' villis de Agmondesham, Wendover, & Marlow magna, & in membris eorund', & in omnibus aliis villis, villat', burgis, hamlet', & aliis locis in prædict' com' Bucks, & terr' tenentes in eisdem, navem vel partem navis præd' non habentes, vel in eadem non deservientes, ad contribuend' expensis circa provisionem præmissor' necessar', & super prædict' villas, villat', burgos, hamlet' & locos, cum membris eorund' (sicut præfertur) assidend' & ponend', viz. quemlibet eor' juxta statum suum, & facultates suas, & portiones super ipsos assessat' per distinctiones, aliosve modos debitos levand', & collectores in hac parte nominand' & constituend', & omnes quos rebelles & contrarios inveneris in præmissis carcere mancipand', in eod' moratur', quousque pro eor' deliberatione ulterius duxerimus ordinand'. Et ulterius vobis mandamus, quod circa præmissa diligenter intendatis, & ea faciatis, & exequamini cum effectu sub periculo incumbente. Nolumus autem quod colore prædict' mandat' nostr', plus de eisd' hominibus levari faciatis, quam ad præmissor' sufficiet expensas necessar', aut quod quisquam, qui pecuniam de contributionibus ad prædict' custag' faciend' levaverit, eam, vel partem inde aliquam penes se detineat, vel ad al' usus quovis quæsito colore appropriare præsumat, volentes, quod si plus quam sufficiat collect' fuerit, hoc inter solventes pro rata portionis ipsis contingen' exsolvatur. Teste me ipso apud Westm' quarto die Augusti, anno regni nostri undecimo. Petit etiam audit' prædict' brevis geren' dat' nono die Martii, anno regni dicti Domini Regis xii^o, in prædict' brevi de Sciri facias mentionat', & ei similiter legitur.

Carolus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, fidei defensor, &c. Vic' com' nostri Bucks, qui fuer' inter quartum diem Augusti anno regni nostri undecimo, & primum diem Martii tunc proxime sequent', Ball' burg' & paroch' de Buckingham, & Major' & Ball' burg' de Chipping-Wiccombe, alias Wiccombe, in dicto com' Bucks, qui fuer' inter tempus prædict', salutem. Per breve nostrum sub magno sigillo nostro Angliæ confect', geren' dat' prædict' quarto die Augusti, anno undecimo supradict', pro defensione regni, tuitione maris, securitate subditor' nostr', ac salva conductione navium & merchandizarum ad regn' nostr' Angliæ venien', & de eodem ad partes externas transeun', Vic' com' nostri Bucks, Ball' burgi & paroch' de Buckingham, necnon Burgens' ejusd' burgi, Major' & Ball' de Chipping-Wiccombe, alias Wiccombe, necnon Burgens' ejusd' burgi, & probis hominibus in eisdem burgis & paroch', & membris eorund', & in villis de Agmondesham, Wendover, & Marlow magna, ac in omnibus aliis villis, burgis, villat', hamlet', & aliis locis in dicto com' Bucks, mandavimus, quod unam navem de guerra portagii quadringent' & quinquagint' dolior', cum hominibus tam magistris peritis, quam marinar' valentioribus & expertis centum & octogint' ad minus, ac etiam tormentis tam majoribus quam minoribus, pulvere tormentatario, ac hastis & telis, aliisque armaturis necessar' pro guerra sufficien', & cum duplici eskippamento, necnon cum victualibus ad certum diem (in eod' brevi content') ad tot homines competen', & abinde in vigint' & sex septiman', ad custag' homi-

num & terr' tenen' burg', paroch', vill', villat', & al' locor' supra mentionat' in dicto com' Bucks, tam in victualibus, quam in hominum salariis, & al' ad guerr' necessar' per tempus illud, super defensionem maris moratur' parari, & ad portum de Portsmouth citra tempus in eod' brevi limitat' duci faceretis. Cumque etiam per idem breve assignaverimus Vic' com' nostri Bucks præd', Ball' burgi & paroch' de Buckingham præd', & Major' burgi de Chipping-Wiccombe præd', aut aliquos duos vel plures eorum, quor' Vic' dicti com' nostri Bucks unum esse volumus, infra certum terminum proxim' post receptionem brevis illius, ad assidend' quantum de custag' præd' super præd' burg' & paroch' de Buckingham, & super præd' burg' de Chipping-Wiccombe, alias Wiccombe, cum membris eorund', separatim poni seu assideri deberet. Cumque etiam per præd' breve nostrum assignaverimus Ball' burgi & paroch' de Bucking', & Majorem de burgo de Chipping-Wiccombe, alias Wiccombe, separatim & respectively, ad assidend' omnes homines in eisd' separal' burg' & paroch', & membr' eorund', & terr' tenentes in eisdem, navem vel partem navis præd' non habentes, vel in eadem non deservientes, ad contribuend' ad expens' circa provisionem præmissor' necessar'; & super præd' burg' & paroch' de Buckingham, & super præd' burg' de Chipping-Wiccombe, alias Wiccombe, cum membris eorund', sicut præfertur, ad tunc separatim & distinctively ponend', viz. quemlibet eorum juxta statum suum & facultates suas, & portiones super ipsos assessat', per distinctiones aliosve modos debitos levand', & collectores in ea parte nominand' & constituend' modo & forma prout in eodem brevi præcept' fuit. Cumque per idem breve nostrum ulterius assignaverimus Vic' dicti com' nostri Bucks ad assidend' omnes homines in præd' villis de Agmondesham, Wendover, Marlow magna, & in membris eorund', ac in omnibus aliis villis, villat', burgis, hamlet', & aliis locis in præd' com' Bucks, & terr' tenentes in eisd', ad contribuend' expensis circa provisionem præmissor' necessar', & ad cætera faciend' & exequend' modo & forma, quibus per breve illud præceptum fuit. Et quia nonnulli homines & terr' tenentes in prædict' com', burg', paroch', vill', villat', hamlet', & aliis locis, per separal' taxationes & denar' summas, per vos super ipsos respectively erga contribution' oneris præd', juxta exigen' brevis præd' posit' & assessat', nondum solverint nec satisfecerint, sed easolvere recusaver', & adhuc contradicunt, prout informamur: Cumq; nos nuper voluimus certiorari, tam de nominibus hominum & terr' tenent', qui ad contribuend' expensis supradict' assess' fuissent, ac denar' sic assess' non solvissent, quam de separal' portionibus vel denar' summis super ipsos imposit', vos tamen nihil in return' ejusdem brevis nostri misistis, in nostrum contemptum: Vobis igitur præfat' nuper Vic' com' nostri Bucks mandamus, sicut al' mandaverimus, quod tam de nominibus hominum & terr' tenent' in com' præd' per vos respectively virtute dicti brevis nostri assessat', quas denar' summis super ipsos sic assessat', quam nondum solver' nec satisfec', sed easolvere recusant, quas de separal' portionibus & denar' summis per vos præfat' nuper Vic' com' nostri Bucks super ipsos assessat', in script' reduct', cum omnibus ill' tangen', nos in cancellar' nostram sub sigillis vestris distincte & aperte, sine delatione, vel ad ultimum ante vicessimum

sextum diem April' proxime futuro, ubicunque tunc fuerit', reddat' certiores, una cum hoc brevi. Ac vobis præfat' nuper Ball' burgi & paroch' de Bucking', & Major' burg' de Chipping-Wicombe, al' Wicombe, mandamus, sicut aliis mandaverimus, quod tam de nominibus præd' hominum & terr' tenen' in burg' & paroch' de Buckingham, & burg' de Chipping-Wicombe, alias Wicombe, per vos respective virtute dicti brevis nostri superius primo mentionat' assess', quam de separal' denar' summis super ipsos assess', quas nondum solver' nec satisfecer', sed eas solvere recusant, quam de separal' portionibus & denar' summis per vos super ipsos respective assess' in scriptis fideliter reduct', cum omnibus illis tangen', nos in cancellariam nostr' præd' sub sigillo nostro distincte & aperte, sine delatione, vel ad ultim' ante prædict' vicessimum diem Aprilis proxime futur', ubicunque tunc fuerit', separatim reddatis certiores, una cum hoc brevi. Teste me ipso apud Westm' nono die Martii, anno regni nostri duodecimo. E Y R E.

Ad quem diem Petrus Temple & Heneagius Proby return' brev' præd' dors' sic: *ff.* Executio hujus brevis patet in quibusd' schedul' huic brevi annexat', quarum quidem schedul' tenor, quoad præfat' Johan' Hampden per præfat' Petrum Temple retornat', sequitur in hæc verba: *ff.* Ego Petrus Temple Mil' & Baronet', qui fui Vic' com' Bucks, viz. inter quartum diem Augusti, anno regni Domini nostri Caroli nunc Regis Angliæ, &c. undecimo, & vicessimum secundum diem Februarii tunc proxime sequen', quo die exivi ab officio meo Vic' com' præd', dicto Domino Regi in Cancellar' suam, virtute brevis ejusdem Domini Regis huic schedul' annex', certifico, quod virtute & secundum exigen' brevis ipsius Domini Regis e Cancellar' sua emanat, & ibidem de record' irrotulat', & Vic' dicti com' Bucks inter al' direct', geren' dat' quarto die Augusti, anno undecimo supradict', assessavi, Anglice *have assessed*, super separal' homines & terr' tenentes com' Bucks præd', quorum nomina subscribuntur, separal' portiones & denar' summas ad eor' particular' inferius posit' ad contribuend' expensis circa provisionem navigii in eod' brevi mentionat'; quas quidem portiones & denar' summas, sive aliquam inde parcell', ante exitum ab officio meo Vic' com' prædict', ad manus meas, vel ad manus collector' in ea parte, virtute brevis ult' mentionat' per me constitut', præd' homines & terr' tenentes, aut eor' aliquis, quor' nomina subscribuntur, non solverunt, sed eas solvere recusaver', viz. Stoake Mandivile, *ff.* John Hampden Esq; Et tenor al' schedul' per præfat' Heneag' Proby fidelit' return', & eid' brevi annex', sequitur etiam in hæc verba: *viz.* *There is to be accounted upon by the Assessors, High Constables, Petty Constables within the said County in general, which cannot be accounted for by Sir Peter Temple, being, as it conceived, short, Four Pounds.*

Ego Heneagius Proby Arm', qui fui Vic' com' Bucks inter vicessimum secundum diem Februar', anno Regni Dom' nostri Caroli nunc Reg' Angliæ, &c. undecimo, & ab eodem die & anno usque primum diem Martii tunc proxime sequen', dicto Domino Regi in Cancellar' suam, virtute brevis ejusdem Domino Reg' huic schedul' annex', certifico, quod homines & terr' tenentes com' Bucks præd', aut eor' aliquis, quor' nomina in quibusd' schedul' huic brevi annex' exprimuntur, qui assess' fuer' per Petrum Temple Mil'

& Baronet' nuper Vic' com' Bucks præd', dum in officio Vic' ejusd' com' steterit, in separal' denar' portionibus, & denar' summis ad eor' separal' nomina superius possit', ad contribuend' expensis circa provisionem navigii, virtute & secundum exigen' brevis ipsius Domini Regis e Cancell' sua emanat', & ibidem de record' irrot', Vic' dicti com' Bucks inter alios direct' geren' dat' quarto die Augusti, anno undecimo supradict', Heneag' Proby existen' Vic' prædict' com' Bucks proxime post exitum dicti Petri Temple Mil' & Baronet' ab officio Vic' ejusd' com', vel ad manus collector' in ea parte virtute brevis ultimo mentionat' constitut', non solver', sed eas solvere recusaverunt. Et ulterius præfat' Johannes Hampden petit similiter audit' præd' brevis de Mittimus, de quo in brevi de Sciri facias præd' fit mentio, & ei legitur in hæc verba.

ff. Carolus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, fidei defensor, &c. Thesaur' & Baronibus de Scaccario suo, salutem. Tenore cujusdam brevis nostri sub magno sigillo nostro Angliæ confect', geren' dat' quarto die Augusti, anno regni nostri undecimo, in rotulis Cancellar' nostræ irrotulat', per quod Vic' com' nostri Bucks, Ball' & Burgen' burgi & paroch' de Buckingham, Major', Ball', & Burgens' burgi de Chipping-Wicombe, alias Wicombe, ac probis hominibus in eisd' burgis & paroch', & membris eorund', & in villis de Agmondesham, Wendover, & Marlow magna, & in omnibus aliis burgis, villis, villatis, hamlet', & aliis locis in dicto com' Bucks, mandavimus, quod pro defensione regni, tuitione maris, securitate subditorum nostrorum, ac salva conductione navium & merchandizarum ad regnum nostrum Angliæ venien', & de eod' ad partes externas transeun', pararent unam navem de guerra portagii quadringent' & quinquagint' dolior', cum hominibus tam magistris peritis, quam marinariis valentioribus & expertis centum & octogint' ad minus, ac etiam tormentis tam majoribus quam minoribus, pulvere tormentario, ac hastis & telis, aliisque armaturis necessariis pro guerra sufficien', & cum duplici eskippamento, necnon cum victualibus ad certum diem, in eod' brevi content', ad tot homines competen', & abinde in vigint' & sex septiman', ad custag' hominum & terr' tenen' burgor', vill', villat', hamlet', & al' locor' supra mentionat' in dicto com' Bucks, tam in victualibus, quam in hominum salar', & al' ad guerram necessariis per tempus illud super defensionem maris in obsequio nostro, in comitiva custod' maris moratur', & ad portum de Portsm', circa tempus in eod' brevi limitat', duci facerent. Quodque respective assiderent omnes homines in præd' burg' & paroch' de Buckingham, & burg' de Chipping-Wicombe, alias Wicombe, & cæteris burgis, villis, villat', hamlet' & aliis locis in dicto com' Bucks, & membris eorund', & terr' tenentes in eisd', ad contribuend' expensis circa provisionem præmissor', & ad cætera faciend' & exequend', modo & forma prout per idem breve præcept' fuit; vobis mittimus præsentibus inter claus' breve, pro eo quod salus regni nostri Angliæ, & populi nostri ejusdem periclitabatur, quod e dicta Cancellar' nostra emanari narravimus, inter al' breviam ad hujusmodi provisionem & assessament' faciend' per singulos com', civitat', burg', vill', villat', hamlet', & locos regni nostri Angliæ & Walliæ, & membris eorund', e Cancellar' nostr' præd' nuper emanat', & ibidem similiter irrot'; ac etiam

etiam quod dictum al' breve nostrum ad certificand' nobis in eand' Cancellar', tam de nominibus hominum & terr' tenen' in præd' burg' & paroch' de Buckingham, & burg' de Chipping-Wicombe, alias Wicombe, & in cæteris burgis, villis, villat', hamlet' & locis dicti com' Bucks, qui de mandato nostro' præd' ad contribuend' erga provision' præmissor' assess' fuerint, ac de nar' super ipsos sic assess' non solver', quam de separal' portionibus & denar' summis super homines & terræ tenen' illos sic onerat' & imposit', necnon certificationes quasdam in scriptis, virtute brevis illius reduct', & in dictam Cancellar' nostram miss'. Vobis etiam mittimus præsentibus interclus', mandantes, quod inspectis brevibus & certificat' præd', ulterius inde pro levatione, collectione, & receptione omnium & singularum præd' denar' summar' de præd' contributionibus adhuc non solut', fieri fac', prout de jure & secundum legem & consuetudinem regni nostr' Angliæ fuerit faciend'. Teste meipso apud Westm' quinto die Maii, anno regni nostri tertio decimo. E Y R E. Sicut in eisdem brevibus, & schedul' eisd' annex', in Scaccar' dicti Dom' Regis certificat', & ibidem in custodi' Rememorator' ejusd' Dom' Regis de record' remanen' plenius continetur. Quibus lectis, auditis, & per ipsum intellectis, idem Johannes queritur, se colore separal' brev', return' eorund', & schedul' eisd' annexat', graviter vexat' fore & inquietat', & hoc minus juste; quia dicit, quod præd' separal' brev'ia superius mentionat', return' eorund', & schedul' eisdem annexat', materia in eisd' content', minus sufficien' in lege existunt ad onerand' ipsum Johannem Hampden de aut cum solutione præd' summi' vigint' solid' super ipsum in schedul' præd', modo & forma præd', taxat' & assessat', aut alicujus inde parcell', ad quæ ipse necesse non habet, nec per legem terr' tenetur respondere. Unde ob insufficien' præd' separal' brevium superius mentionat', return' eorund', schedul' eisdem annex', ac materiæ in eisdem brevibus ac schedul' content', ipse idem Johannes Hampden petit judicium, Si dictus Dominus Rex nunc ipsum de præd' vigint' solid', aut aliqua inde parcell', ulterius impetere, seu onerare debeat aut velit.

Robert Holborne.

Et Johannes Banks Mil', Attorn' Dom' Regis nunc general', qui pro eodem Domino Rege sequitur, præfens hic in cur' ad eund' diem in propria persona sua, dicit, quod præd' separal' brev'ia, & return' eorund', ac schedul' præd' eisdem annex', materiaq; in eisdem content', sufficien' in lege existunt ad præd' Johan' Hampden de præd' vigint' solid' super ipsum in forma & ex causa præd' assessat' onerand'; quam quidem materiam ipse dictus Attornat' dicti Dom' Regis general', pro eodem Dom' Rege paratus est verificare; quamq; materiam præd' Johannes Hampden non didicit, nec ad eam aliquammodo respondit, sed verificationem illam admittere omnino recusat: Pro eodem Dom' Rege idcirco petit judicium, & quod præd' Johannes Hampden de eisd' vigint' solid' oneretur, & inde satisfaciatur, &c.

Johannes Banks.

A Copy of the Judgment, as it is entred upon Record in pursuance of the said Motion, and according to the major Votes.

ET quia Barones hic se advisare volunt de & super præmissis, priusq' judicium inde red-

dant, dies dat' est præfat' Johanni Hampden eod' statu quo nunc hic in octab' sancti Michaelis, ut dicti Barones se interim de iisdem præmissis advisare possint, ac cum Justiciar' de utroq' banco inde deliberent, eo quod iidem Barones hic inde nondum, &c. Et super hoc concordat' est inter Barones hic, tam ex assensu dict' Attornat' dict' Domini Reg' general', quod dict' Attornat' præd' Johannis Hampden, & Consiliario: in lege peritor' ejusdem Johannis Hampden, quod aliqui legis periti, tam de consilio & parte dict' Domini Reg', quam de consilio & parte dict' Johannis Hampden, de præd' materia in lege, & cæteris præmissis in camera hujus Scaccarii, vulgariter nuncupat' *The Exchequer Chamber*, coram iisd' Baronibus, assidentibus eis Justiciar' de utroque banco, argumentari interim publice audiantur. Ad quas quid' octabas sancti Michaelis præd' Johannes Hampden venit hic ut prius. Et quia Barones hic ulterius se advisare volunt de & super præmissis, priusq' judicium inde reddant, dies ulterius dat' est præfat' Johanni Hampden, eod' statu quo nunc hic usq' in octab' sancti Hilarii, ut aliqui legis periti, tam de consilio & parte dict' Domini Reg', quam de consilio & parte dict' Johannis Hampden, de præd' materia in lege, & cæteris præmissis, in præd' camer' hujus Scaccarii, coram Baronibus præd', assidentibus eis præd' Justiciar' de utroque banco, argumentari interim publice audiantur; ac iid' Barones, cum iisd' Justiciar' inde deliberent, eo quod nullus in lege peritus, vel de consilio ipsius Domini Reg', vel de consilio dict' Johannis Hampden adhuc auditur, & Barones hic inde non advisantur, &c. Posteaq' medio tempore in præd' octab' sancti Michaelis, & præd' octab' sancti Hilarii, tum Attornat' & Solicitator ipsius Domini Reg', quam duo legis periti de consilio præd' Johannis Hampden, in præmissis existen' ex parte ejusd' Johannis Hampden, duodecim separal' diebus in præd' camer' Scaccarii, coram Baronibus hujus Scaccarii, assidentibus eis tunc ibid' præd' Justiciar' de utroq' banco, de præd' materi' in lege & cæteris præmissis (recitato tunc ibid' record' præd') ad largum & summat' argumentari quidq' inde ex utraq' parte dicere potuissent aut voluer', palam & singularim audit' fuer'. Et præd' Attornat' & Solicitator general' diversa & quamplurima record', brev'ia, commission', & præceden' tam hujus Scaccarii, quam cur' Cancellar', cur' de Banco Reg', ac de Commu' Banco, mater' in lege, & cætera præmissa in separal' brevibus return', & schedulis præd' content', ex parte dict' Domini Reg' proban', confirman', & manutenen', ad tunc & ibid' produxer', ostenser', & exposuer'; & ad præd' octabas sancti Hilari' præd' Johannes Hampden venit hic ut prius, & quia Barones hic ulterius se advisare volunt de & super præmissis priusquam judicium inde reddant, dies ulterius dat' est præfat' Johanni Hampden, eod' statu quo nunc hic, usq' a die Paschæ in quindecim dies, ut dicti Barones interim, cum præfat' Justiciar' de utroq' Banco ulterius deliberent, eo quod iidem Barones hic inde nondum, &c. Ad quem diem præd' Johannes Hampden venit hic ut prius, & quia Barones hic ulterius se advisare volunt de & super præmissis priusquam judicium inde reddant, dies ulterius dat' est eid' Johanni, eod' statu quo nunc hic, usq' in cro' sanctæ Trin', & dict' Barones interim cum præfat' Justiciar' de utroq' banco ulterius inde deliberent, eo quod iidem Justiciar' hic inde nondum, &c. Ad quem diem præd'

præd' Johannes Hampden venit hic ut prius, & super hoc visis præmissis, & per Barones hic plene intellectis, habitaque inde matura deliberatione cum præd' Justiciar' de utroque banco, ac post argumenta tam per eosd' Justiciar', quam per præd' Barones singulatim in præd' camer' Scaccarii publice inde fact', videtur inde Baronibus, ex advisamento Justiciar' præd', quod separal' bre-

via præd', & return' eorund', ac schedulæ præd' eisd' annex', ac mater' in eisd' content', sufficient' in lege existunt ad præfat' Johannem Hampden de præd' vigint' solid', super ipsum in forma & ex causa præd' assessat' onerand'. Ideo considerat' est per eosd' Barones, quod præd' Johannes Hampden de eisd' vigint' solid' oneretur, & exinde satisfaciet, &c.

Rex versus Harrison^h, for a Misdemeanour.

Trin' 14 Car' I. B. R.

Middx' ff. **A** Lias, scilicet die Jovis prox' post octab' sanctæ Trin' isto eod' termino, coram Domino Rege apud Westm', per sacrament' xii. jur' extitit præsentat', Quod cum cur' Domini Regis de Communi Banco est, & a tempore cujus contrar' memoria hominum non existit, fuit antiqua cur' de recordo dicti Domini Regis nunc, & progenitor' & antecessor' suor' Reg' & Reginar' Angliæ, pro administratione justitiæ subdit' hujus regni Angliæ, & aliis in communibus pl'itis per tot' regnum Angliæ præd' motis & emergentibus. Cumque est contra coron' & dignitat' Regiæ majestatis, necnon contra legem & consuetudinem hujus regni Angliæ, pro aliqua persona, vel aliquibus personis cur' præd', seu aliquos Justiciarios ejusd' cur', ead' cur' aperta existen', & Justiciar' cur' illius in cur' ill' præsentibus, & judicialiter sedentibus, disturbare. Cumq' Ric' Hutton miles est, & per diversos annos jam ult' elapsos fuit, & adhuc est, unus Justiciar' dict' Domini Regis nunc præd' cur' suæ; quidam tamen Thomas Harrison de Creek in com' Northampton Clericus, Deum præ oculis suis non habens, sed instigatione diabolica mot' & seduct', scum malitiose imaginans, atque in animo compassans, quibus modis possit præd' Ricardum Hutton Milit', & adtunc & adhuc un' Justic' Domini Regis nunc de Communi Banco præd' existen', multipliciter defamare & scandalizare, machinansque & malitiose intendens, quantum in ipso fuit, ipsum Ricardum Hutton in scandalum, ignominiam, contempt', & vilipend' inducere, ipsumq' Ricardum Hutton de vita sua, ac de bonis & catallis, terris, & tenementis suis pravitè & malitiose deprivare, necnon ad displacenciam & indignationem dict' Domini Regis nunc erga præfat' Ricard' Hutton incitand' & provocand', ac ipsum Ricardum Hutton pro proditore tam apud dict' Dominum Regem, & magnates hujus regni Angliæ, quam apud omnes liges subditos ejusd' Domini Regis haberi & existimari satagens, ac ad præd' cur' dict' Domini Regis nunc de Communi Banco, & Justiciar' dict' Domini Regis ejusd' cur', in cur' ill' præsent' existent', & judicialit' sedentibus, disturband', & administrationem justitiæ in cur' ill' impediend', quarto die Maii, anno regni Domini nostri Caroli, Dei gratia Angliæ, Scotiæ, Franc', & Hibern' Regis, fidei defensoris, &c. decimo quarto, apud civitat' Westm' in com' Midd', viz. in magna aula pl'itorum ibidem, cur' ipsius Domini Regis coram ipso Rege cur' Cancellar', & præd' cur' Communi Banco in præd' magna aula pl'itorum præd' apert', ac Justic' ejusd' Domini Regis in cur' præd' tunc ibidem præsentibus, & judiciali-

ter sedentibus, materias & causas Domini Regis, populi sui, ac regni sui Angliæ assidue attendent' & audient', legesq' regni præd' subdit' ipsius Domini Regis ministrant', præd' Thomas Harrison ad barram præd' cur' dicti Domini Regis de Communi Banco, adtunc & ibidem violenter, vi & armis, &c. accessit præd' cur' de Communi Banco adtunc & ibidem in præd' magna aula, ut præfertur, aperta existen', ac Ricardo Hutton Milit', & aliis Justiciar' dicti Domini Regis cur' de Communi Banco præd', in cur' illa tunc ibidem (ut præfertur) præsentibus, & judicialit' sedentibus, & præd' Thomas Harrison adtunc & ibidem, ex sua mera malitia, malo animo, & malevola intentione, in præsentia & audit' præfat' Justiciar' præd' cur' de Communi Banco, ac diversorum servien' ad legem, multor' viror' venerabilium, & alior' dicti Domini Regis fidelium subditor', falso, nequit', & malitiose præfat' Ricardum Hutton Milit' de alta prodicione accusavit, & adtunc & ibidem falso, nequit', & malitiose hæc scandalosa, venenosa, defamatoria Anglicana verba, palam, publice, & alta voce dixit, *I* (ipsum præfat' Thomam Harrison innuendo) *do accuse Mr. Justice Hutton* (præfat' Ricardum Hutton Milit', un' Justiciar' dicti Domini Regis de Communi Banco præd' innuendo) *of high Treason*, in dicti Domini Regis nunc, coron', dignitat', & Regiæ potestatis suæ læsionem & derogationem, & cur' suæ præd' contempt', & scandalum manifestum jurisque & legum ipsius Domini Regis regni sui præd', ac cur' de Communi Banco præd', & Justiciar' dicti Domini Regis, cur' illius, & administration' justitiæ in ead' cur', in nequissimum exemplum omnium aliorum malefactorum tali casu delinquent', & ad gravissimum scandalum, infamiam, dedecus, & final' destructionem præd' Ricardi Hutton Milit', & contra pacem dicti Domini Regis nunc, coronam, & dignitates suas, &c. Cum per quod præcept' fuit Vic', quon non omittat, &c. quin venire fac' eum ad respondend', &c. Cum & modo, scilicet die Veneris prox' post octabas sanctæ Trin' isto eod' termino, coram Domino Rege apud Westm' ven' præd' Thomas Harrison Clericus, custod' Henrici Hopkins Arm', guardian' prisonæ dicti Regis de la Fleete, virtute brevis dicti Regis de Habend' corpus ad subjc', &c. ei inde direct', ad barr' hic duct' in propria persona sua, qui committ' præfat' Marr', &c. Et statu' de præmissis eo alloquunt' qualiter se inde acquietari, dicit, quod ipse non est inde culpabil', & de hoc ponit se super patriam. Et Johannes Keeling Ar', Cleric' Coronæ, & Attornat' Domini Regis in cur' ipsius Regis, coram ipso Rege, qui pro eod' Domino Rege in